

Section 9: Labor Standards

Grantees must ensure that all construction contracts in excess of \$2,000 comply with all applicable federal labor standards and provisions. The grantee is responsible for monitoring contractors to ensure full compliance. The Construction Checklist (Appendix O) provides a step-by-step guide for grantees to monitor construction projects.

I. APPLICABLE FEDERAL STATUTES AND REGULATIONS

Section 110, Title I, Housing and Community Development Act of 1974, as amended (42 USC 5301) provides that: “All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with grants received under this title shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended, provided that this section shall apply to the rehabilitation of residential property only if such property is designed for residential use of eight or more units.”

Davis-Bacon Act (40 USC 276a - 276a-5) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration or repair contracts over \$2,000. (Residential rehabilitation contracts involving structures with less than eight (8) units are exempt.)

Copeland “Anti-Kickback” Act (47 USC 276(c)) requires that workers be paid at least once a week without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorizes in writing and deductions required by court processes. The Act also requires contractors to submit payroll records weekly along with Statements of Compliance to the contracting agency. The Copeland Act applies to all contracts covered by Davis-Bacon.

Contract Work Hours and Safety Standards Act - CWHSSA (40 USC 327 - 333) requires that workers receive “overtime” compensation at a rate of 1-1/2 times their regular hourly wage after they have worked 40 hours in one week. Overtime pay is not required for single contracts under \$100,000 under this Act; however, contractors must comply with the overtime requirements under the Fair Labor Standards Act which affects all contracts under Davis-Bacon.

Fair Labor Standards Act - FLSA (20 USC 201 et seq.) establishes a minimum wage rate, overtime, record keeping and other regulations that affect employers and laborers. The FLSA is enforced by the U.S. Department of Labor (DOL) and DOL is authorized to investigate any violations and to initiate court action against employers which may result in fines and/or jail terms, payment of double back pay and payment of attorney’s fees.

Title 29, Code of Federal Regulations (CFR), Parts 1, 3, 5, and 7 are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

Federal Labor Standards Compliance in Housing and Community Development Programs Administration and Enforcement Handbook (HUD Handbook No. 1344.1), contains policies and procedures to be used by grantees, contractors and subcontractors who are recipients of federal NSP funds to ensure compliance with applicable federal labor standards, statutes and regulations. Copies may be available by calling HUD at (800) 767-7468.

II. CONTRACTOR RESPONSIBILITIES

Contractors are responsible for paying all employees working on a federally funded project the appropriate Davis-Bacon wage rate. The Davis-Bacon wage decision has been provided to each contractor as part of the bid documents.

Electricians, plumbers, sheet metal companies, painters, roofers and other trade contractors are responsible for ensuring that an excessive number of “laborers” are not utilized on any CDBG funded projects. Davis-Bacon rules stipulate that persons performing the duties of a journeyman must be paid the appropriate Davis-Bacon wage rate and fringe benefits as indicated in the wage decision. The only exception to this is when a worker is enrolled in approved apprentice program. If a worker is using the “tools of the trade,” then that worker is performing the duties of the journeyman, which then entitles that person to the journeyman’s wages.

For any State funded NSP projects, no more than one laborer may assist a journeyman, unless that laborer is paid the journeyman’s wages. There will be no exceptions to this rule.

III. GRANTEE RESPONSIBILITIES

Grantees must develop a compliance and enforcement procedure that ensures all applicable labor standards requirements are met. The final responsibility for compliance rests with each grantee. The grantee should fully understand what is required for construction contracts before the process begins. In this way, there will be sufficient time to request technical assistance from Commerce to clarify questions. If these procedures are followed properly, you will enhance your efforts to provide sound fiscal, contractual and program control over construction activities.

Each grantee must designate a labor standards compliance officer. The labor standards compliance officer has overall responsibility for coordinating and ensuring compliance with all appropriate labor standards regulations and ensuring that an accurate filing system is maintained. The officer’s name must appear on the Request for Wage Determination Form (Appendix B), Verification of Contractor Eligibility Form CDBG-LS-02 (Appendix D) and the Notice of Start of Construction Form CDBG LS-03 (Appendix E).

The grantee must develop contracting procedures that comply with all federal labor standards provisions and compliance procedures. Briefly, the grantee must obtain applicable federal wage rate decisions, federal labor standards provisions and certifications. This information must be attached to the bid specifications and contracts. Each grantee must also monitor for contractor compliance. The following are more detailed procedures for ensuring compliance with applicable federal labor standards provisions and for coordinating these responsibilities with the equal opportunity provisions.

A. Appointing a Labor Standards Compliance Officer

The grantee's chief administrative officer (i.e., Mayor, City Manager, Chairperson) has the responsibility for appointing a labor standards compliance officer. The grantee must advise Commerce, in writing, of the name, address, and telephone number of the designated Labor Standards Officer, using the Request for Wage Determination (Appendix B). This person has overall responsibility to ensure compliance with all appropriate labor standards requirements and regulations, and that an accurate filing system is maintained. Failure to comply with labor standards requirements may result in liquidated damages, suspension of funds, wage restitution payments, investigative reports, termination of contractor's contract, and contractor debarment. The final responsibility for labor standards compliance rests with the grantee.

B. Obtaining Davis-Bacon Wage Rates

Grantees must obtain federal prevailing wage rates through Commerce. The grantee must mail/e-mail a Request for Wage Determination Form (Appendix B) to Commerce. This form is used to obtain Davis-Bacon wage rates from the U.S. Department of Labor (DOL). It must be properly completed by, the grantee's labor standards compliance officer. Requests for wage rates should include project details to ensure the correct wage rate is provided.

Please submit requests for wage rates to:

TOPEKA:

Kansas Department of Commerce
Small Cities CDBG Program
ATTN: Labor Standards Officer
1000 S.W. Jackson Street, Suite 100
Topeka, KS 66612-1354

Each grantee must submit the Request for Wage Determination form (Appendix B) to Commerce at least 15 days prior to advertising for bids to request Davis-Bacon wage rates. Federal wage rates shall be included in bid packages and in all contracts, and must be posted at or near the job site.

Rates for apprentices and trainees are not listed on Davis-Bacon wage determinations.

Additional classifications and wage rates are not required for apprentices, trainees and welders on Davis-Bacon covered contracts. Apprentices or trainees are permitted to work at less than the wage rates listed in the contract wage determination for the work they perform only if they meet the requirements of 29 CFR Part 5, Section 5.5(a)(4), such as being registered or certified in an appropriate apprenticeship or training program. Effective October 21, 1993, the "helper" classification, including elevator construction helper and elevator mechanic helper were omitted from the Davis-Bacon wage determination. Also, an additional classification is not required for welders since welding is considered incidental to the work of employees for whom classifications are issued.

Information on establishing an apprenticeship program may be obtained by writing or calling the following agencies:

Kansas Apprenticeship Program
Kansas Department of Commerce
1000 S.W. Jackson Street, Suite 100
Topeka, KS 66612
(785) 296-4161
www.kansas@apprenticeship.org

C. Requesting Wage Rates for Additional Worker Classifications

Though the U.S. Department of Labor endeavors to compile as complete a list as possible for all trades needed during the construction phase of projects, a number of trades and wage rates may not be included on a wage decision. In such an event, the labor standards officer will need to request and additional wage classification and rate from the Department of Commerce. The procedure is as follows:

1. Advise contractor(s) at pre-construction conference of the possibility that additional worker classifications may be required.
2. If additional worker classifications are identified during the pre-construction conference, a Request for Additional Classification and Rate Form (Appendix F) can be prepared for immediate submittal.
3. Submit the completed Request for Additional Classification and Rate Form (Appendix F) along with a letter from the contractor regarding the wage rate that is to be paid and the wage determination to the NSP/CDBG Labor Standards Officer. This information is then forwarded to DOL for review and final ruling.
4. Upon receipt of DOL's written response, Commerce will send a copy of DOL's ruling to the Grantee's Labor Standards office.

D. Preparing Bid Documents

The grantee may use a city employee or outside architect or engineer to prepare the technical bid specification. The specifications should provide complete and accurate descriptions of the specifications for materials, products and services to be provided or performed. The grantee must ensure that all applicable labor compliance provisions are included in the bid and contract documents (Guide to Contract Clauses Table, Appendix G). Also available is a Sample Bid and Contract Specification Forms Booklet. Contact your NSP/CDBG Field Representative for a free copy.

This booklet includes:

- a. Applicable Davis-Bacon Wage Rate Determinations.
- b. Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements.
- c. Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements.
- d. Federal Labor Standards Provisions - HUD 4010 (Appendix H).
- e. Conflict of Interest.
- f. Contract Work Hours and Safety Standards Act, if contract exceeds \$100,000.
- g. Federal bonding requirements apply to contracts in excess of \$100,000. The State CDBG program requires that contracts between \$25,000 - \$100,000 be protected through bonding security. The NSP program recommends that contracts under 25,000 be secured in some manner such as a line of credit, certificate of deposit, etc.
- h. Copeland "Anti-Kickback" Act.
- i. Equal Employment Opportunity requirements.

E. Advertising for Bids

Bids should be solicited from an adequate number of contractors and/or suppliers and the bid announcement must be publicly advertised. This notice should be published in at least one official newspaper of general circulation within the community 30 days before bid date or an adequate time to allow bid preparation. Grantees must retain a copy of the advertisements in a labor standards folder. Best faith efforts must be made to solicit bids from minority and women-owned businesses. Grantees are encouraged to use the KDOT website www.ksdot.org/ for the DBE Directory.

F. Ten Day Call to Confirm Wage Rates

Ten days prior to the bid opening date, the grantee shall contact Commerce by mail or e-mail, to confirm that the wage decision(s) previously issued are current. Grantee is required to furnish the information listed on the Ten Day Call Form (Appendix C). If modified wage rates are published, the grantee must secure the modification and issue an immediate addendum to all plan holders. This is critical because the grantee may be required to pay any difference if a modification was issued and employees were paid based on a prior wage determination. A copy of the wage decision and Federal Labor Standards Provisions – HUD – 4010 (Appendix H) must be physically included in all bid specifications and subsequent contracts and subcontracts.

G. Maintaining a Bidders' Log

Grantee must maintain a log of bidders who were sent or obtained bid documents. All sealed bids received during the bidding period should be logged in with the name of bidder(s), and time and date of receipt. All bids must be secured in a safe place. Late bids cannot be accepted for any reason.

H. Conducting the Public Bid Opening

All sealed bids shall be opened publicly at the time and place specified in the invitation to bid. All bids should be read aloud during this meeting and minutes of the meeting should be maintained which document the project, time and date of the bid opening, bids received and the bid amounts.

I. Reviewing Bids

The grantee shall review all bids to determine if they were legally and technically responsive. Bidders must be evaluated according to the evaluation criteria described in the bid announcement. Grantees should consider the experience of the firm, their past record of performance, capacity to perform within the stated time period, and the bid price. Award of a contract or rejection of all bids should occur within 30 days from the date of bid opening. All bidders should be notified, in writing, of the name of the successful bidder.

J. Verifying Contractor(s) Eligibility

Prior to awarding the contract, each grantee must obtain verification of eligibility from Commerce. This must be in writing using the Verification of Construction Contractor Eligibility (Appendix D). Upon receipt, Commerce will verify eligibility and return the original form to the grantee. It should be filed in the labor standards folder. Grantees are required to verify the eligibility of all contractors and sub-contractors working on the NSP funded project.

K. Preparing and Executing the Construction Contract

Prior to executing a construction contract, the grantee should review the contract documents to ensure that all federal and state labor standards contract provisions are included (see Sample Bidding and Contract Specification Forms Booklet provided separately). The contract must contain the current wage decision, federal labor standards provisions, contractor certifications, Section 3 Plan and other documents, as required.

L. Conducting a Pre-Construction Conference

A pre-construction conference is optional only if the selected contractor and sub-contractor have performed construction on past federally funded projects, and is/are familiar with the Davis-Bacon requirements. We recommend all grantees continue to conduct a pre-construction conference. A pre-construction conference will help the grantee acquaint the contractor and subcontractor, if applicable, with federal Davis-Bacon, EEO and related labor standards requirements. The grantee should explain the payment process, forms to be used, how to process additional classifications not included in the wage determination and how Commerce will monitor financial, labor and contract compliance. Minutes of this meeting should be prepared to document the items discussed (see Appendix I). At a minimum, the minutes should contain the project name, location, description, wage determination number, name of contractor and subcontractors, contract amount, date and place of conference, conference attendees and a summary of items discussed (e.g., labor standards and EEO requirements).

M. Notice of Start of Construction

The grantee must send a Notice to Proceed to the contractor officially notifying him/her to begin construction. A copy of the Notice of Start of Construction Form (Appendix E) must be sent to the NSP/ CDBG Field Representative.

N. Monitoring On-Site Construction and Posting

The contractor shall erect a weatherproof bulletin board, in an area accessible by all employees. The following items must be posted:

- Copy of applicable Federal Wage Decision.
- “Equal Employment Opportunity is THE LAW” poster (English and Spanish).
- Notice to Employees-Working on Federal or Federally Financed Construction Projects” poster (WH Publication 1321).
- “Job Safety and Health Protection” Poster.
- Notice - Employee Polygraph Protection Act poster (WH Publication 1462).

O. Reviewing Weekly Payroll Records

Once construction is underway, the grantee shall monitor for labor compliance by obtaining and reviewing weekly certified payroll reports of the general contractor and subcontractor, accompanied by the Statement of Compliance Form WH-348 (Appendix Lb), and checked against the wage decision. Payroll Form WH-347 (Appendix La) is the recommended payroll format. Instructions for completing Payroll Form WH-347 (Appendix La) are found as Appendix Lc. A contractor may use an appropriate optional payroll form, if it provides the required information.

1. Grantees should establish a standard procedure for conducting compliance reviews, including:
 - a. Check for posting of the correct wage rate determination and required posters at the job site.
 - b. Payrolls must be obtained and examined promptly. The grantee's labor standards compliance officer shall insist upon prompt submission of all payrolls seven days following the end of the work week. No payments should be made to any contractor who has not submitted payroll forms for work for which the contractor is requesting payment.
 - c. "No Work" payrolls. "No work" payrolls may be submitted whenever there is a temporary break in work on the project. For example, if the contractor is not needed on the project temporarily but will be returning to the job in a couple of weeks, payrolls should continue to be submitted indicating no work. However, if the contractor will not be working on the project for an extended period of time, a short note may be sent to the grant administrator to let him/her know about the break in work and to give an approximate date when the contractor will return to the project. If a note is sent, the contractor *does not* need to send "no work" payrolls. The payroll reports must be numbered consecutively; however, the numbering should continue where the last payroll report stopped.
 - d. Payrolls should be date-stamped upon receipt, dated and initialed by the grantees labor standards compliance officer upon review. When examining payrolls, only employee classifications appearing on the wage determination decision are to be used. The payrolls shall be examined upon receipt so that any necessary corrective action may be initiated before the problem multiplies, and may be resolved while the workers are still available. Special attention should be given during the early stages of construction in order to determine whether the contractor(s) is meeting his/her responsibilities regarding payroll. Payrolls must be retained for four years by the grantee, following completion of the project and then destroyed unless an investigation, disputed compliance action or appeal remains outstanding.
 - e. Ensure that all subcontractors are submitting payrolls.
 - f. Ensure that any trainee/apprentice employees have met the DOL requirements for use of these job titles.
 - g. If any classification not in the wage determination decision is being used, require the contractor to submit information needed to add the classification to the decision.

- h. Review the deductions to ensure they do not exceed the authorized amount. The Statement of Compliance Form WH-348 (Appendix Lb) must describe the payment of fringe benefits and reasons for any deductions.
1. Owners of companies (primary contractors) who work on the job must report hours and days worked, but do not have to report their rate of pay. Please refer to letter LR – 96 – 01 on page 9-46.
 2. Owner/Operators (Mechanics) with no employees must be reported on the payroll of the contractor for which he or she is performing work. The name, work classification, actual hours, and effective hourly wage rate, and the wage payment for each operator must be reported on a weekly basis.
- i. Ensure that overtime is paid for work over 40 hours weekly (overtime is not required for work over eight hours daily).

Overtime is calculated at time and one half (BASIC RATE OF PAY) plus fringes. Example: For an employee who worked 44 hours on a covered contract as an electrician, where the wage determination rate for an electrician is \$12.00 (basic hourly rate) plus \$2.50 in fringe benefits.

If the employer paid \$12.00 in cash wages and \$2.50 in fringe benefits, the electrician would receive:

44 hours x \$ 2.50	=	\$110.00 in fringe benefits
44 hours x \$ 12.00	=	\$528.00 for prevailing wages
4 hours x (1/2 x \$12.00)	=	<u>\$ 24.00 (\$6.00 x 4) overtime</u>
		\$662.00

- j. Addresses and Social Security Numbers: Each worker's address and social security number, or at least the last four digits of the social security number, must be reported on the first payroll on which his/her name appears.
- k. Classification and Wage Rates: Classification and wage rates reported on the payroll shall be compared with the corresponding items on the applicable wage decision to determine whether the rate reported is at least equal to the rate required by the decision. If a lesser wage rate is found, the contractor must document full restitution to workers affected and provide evidence of same to the grantee.

- l. Deductions: Deductions shall be reviewed for nonpermissible deductions. Permissible deductions include medical or hospital care, pensions or retirement, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance or accident insurance, vacation, child support, spousal support or holiday pay.
- m. The Statement of Compliance Form - Appendix Lb must be signed by the owner, officer, or designated employee of the contractor.
- n. Confidentiality of Records: In order to protect the personal privacy interests of employees, copies of weekly payrolls containing the worker's salary, work hours, exemptions, address and social security number shall not be released to outside parties under the Privacy Act of 1974.

P. Employee Interviews

Employee interviews must be conducted during the course of construction of CDBG projects. Employers whether prime or subcontractor, must make their employees available to be interviewed. Employee interviews are used to double check the Davis-Bacon wage rates paid to employees. The information reported on the employee interview sheet will be compared to the applicable Davis-Bacon wage rate for the project. The grantee should use the Record of Employee Interview Form (Appendix M) to document interviews with workers. Grant Administrators will not be required to interview every employee working on a project. Instead, a random classification sampling should be used in determining whom to interview. Due to the diverse size and nature of NSP projects, there is no set number of interviews that must be conducted. However, a reasonable effort must be made. The employee shall be informed that the information given is confidential, and his/her identity will be disclosed to the employer only with the employee's written permission, and he/she is being interviewed by an employee of the grantee. Disclosure of employee statements are governed by the provisions of the Privacy Act of 1974.

1. Place of Interview: Employees may be interviewed during working hours on the job, provided that the interview can be properly and privately conducted on the premises. In cases of possible falsification of records, fear of reprisals, or intimidation, it may be more advisable to conduct the interview at the employee's home, the agency's office, another suitable place or by mail.
2. Initiating the Interview: The grantee's Labor Standards Officer shall begin the interview by identifying himself/herself to the worker. He/she shall explain the project is being constructed with assistance from the federally-funded Neighborhood Stabilization Program, the payment of prevailing wages on construction projects is required by law and the purpose of the interview is to obtain information for use in determining whether the required wages are being paid. He/she shall inform the worker of the specific location at which the applicable wage determination is posted at the project site.

3. Interview Form. Employee interviews must be recorded on the Record of Employee Interview Form (Appendix M).

Q. Notice of Completion/Final Inspection/ Final Wage Compliance Report Format

Within 30 days of completing a project, the grantee shall complete the Notice of Completion/Final Inspection/Final Wage Compliance Report Form (Appendix N) and submit it to their CDBG Field Representative. This form may be submitted with the closeout packet.

NOTE: When payments by a contractor or subcontractor total \$1,000 or more, or when it appears the violations are willful and aggravated, the grantee shall submit a Final Wage Compliance Report (Appendix N) within 60 days of the completion of its investigation.

R. Exemptions to Davis-Bacon Act Requirements

The wage rate determination and labor standards provisions do not apply in all cases. The rehabilitation of residential property, with less than eight units, is exempt. The purchase of machinery, goods and/or services is exempt if no installation (of construction), rehabilitation, or new construction is involved. In addition, prime contracts under \$2,000 are exempt. Davis-Bacon wage rates are applicable to all water, sewer, electric and gas line extensions, replacements and new installations over \$2,000.

Davis-Bacon does not apply to “force account” labor. Force account work is the construction, rehabilitation, repair or demolition of public facilities carried out by city or county employees. The grantee must notify CDBG staff if force account labor is being considered.

Labor standards provisions do not apply to the fabrication of building materials products by a manufacturer; however, Davis-Bacon does apply to labor used to assemble or install a building at a project site.

Grantees are required to submit a Request for Wage Determination (Appendix B) if they feel the project may be exempt. Commerce will review all exemption requests on a case-by-case basis and issue an appropriate written response.

1. If an exemption is approved, the grantee must comply with other labor standards requirements including:
 - a. Fair Labor Standards Act (FLSA).
 - b. “Equal Employment Opportunity is THE LAW” poster (English and Spanish).

- c. “Notice to all Employees – Working on Federal or Federally Financed Construction Projects” poster (WH Publication 1321).
- d. “Job Safety and Health Protection” poster.
- e. “Notice – Employee Polygraph Protection Act” poster (WH Publication 1462).
- f. “Notice – You have the Right to a Safe and Healthful Workplace (English and Spanish)

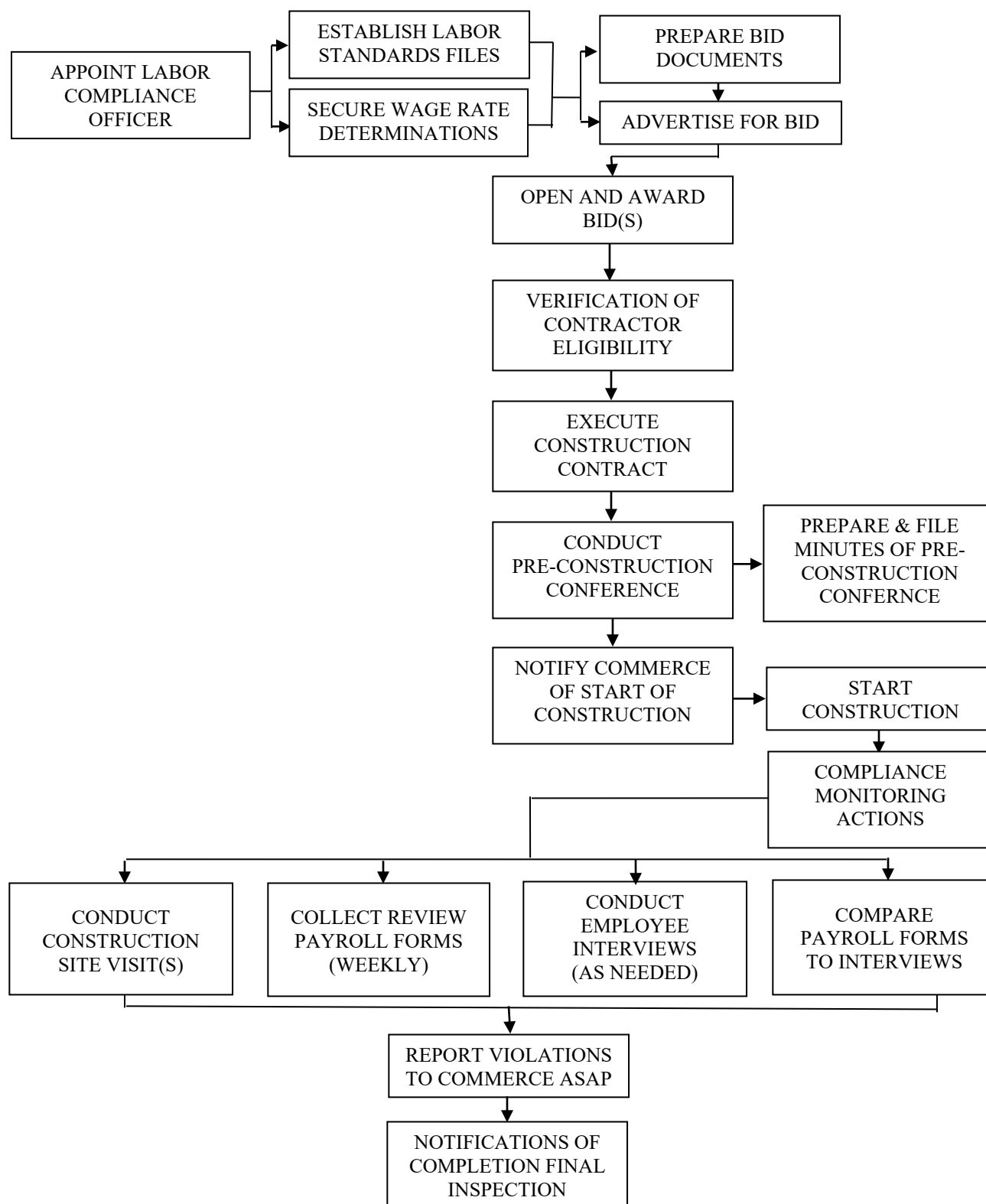
2. For specific labor standards file requirements, see Chapter 4.

NOTE: Certain civil rights provisions must be included in all construction contracts. See Civil Rights Section for all applicable laws, executive orders and regulations.

LABOR STANDARDS – APPENDICES

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Payroll Form WH-347	La
Statement of Compliance	Lb
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LABOR STANDARDS COMPLIANCE ACTIVITIES CHART



REQUEST FOR WAGE DETERMINATION

Date of Request: _____

1. Grantee Name: _____ Grant No.: _____

2. Project: _____ Phase: _____

3. Location of Project: _____

4. City: _____ County: _____ State: _____

5. Description of Work (be
specific): _____

6. Estimated Dollar Amount of Contract: _____

7. Estimated Bid Advertising Date: _____

8. Labor Standards Officer: **(THIS PERSON WILL RECEIVE THE WAGE DETERMINATION)**

Name: _____

Address: _____

City/Zip: _____

Phone: _____

Fax: _____

**Forward this request 15 days prior to bid advertising to:
Kansas Department of Commerce**

**Forward this request 10 days prior to bid to:
Kansas Department of Commerce
Rural Development Division**

CONFIRMATION/CHANGE OF DAVIS-BACON RATES

Date: _____
To: _____
From: _____
Grantee: _____
County: _____
Grant Number: _____
Project Type: _____
Original Wage Decision #: _____
Wage Decision Publication Date: _____
Original Date Wage Rates Sent: _____
Bid Opening Date: _____

For Department of Commerce use only.

The Kansas Small Cities Community Development Block Grant Program is in receipt of your request for confirmation/change of the Davis-Bacon wage rate determination for your project. This memo and applicable wage rates will be sent via e-mail. The status of your initial request for wage rates is:

- ☐ **No new wages rates issued.**
- ☐ **A new wage decision has been issued and accompanies this form.**

General Decision # _____ **Modification #** _____ **Modification Date:** _____

Signature: _____

VERIFICATION OF CONTRACTOR ELIGIBILITY

To: NSP/CDBG Field Representative Date _____
 Kansas Department of Commerce

Sub-Grantee: _____

Grant Number: _____

From: _____

Address: _____

Signature of sub-Grantee's Labor Standards Officer: _____

Please indicate the estimated date, time, and location of the Pre-construction Conference, if applicable. (Please advise of any changes.)

Date: _____

Time: _____

Location: _____

Please verify the eligibility of the following general construction contractor(s)

COMMERCE USE ONLY:

The following contractors are not on the Consolidated List of Debarred, Suspended and Ineligible Contractors as of:

Contractor and Subcontractor Name and Address

1. _____

2. _____

3. _____

4. _____

Contractor Verification by:

 NSP/CDBG Field Representative

 Date

NOTICE OF START OF CONSTRUCTION

To: NSP/CDBG Field Representative Date _____
Kansas Department of Commerce

Sub-grantee:

Grant Number:

From:

Address:

Signature of Sub-grantee's Labor Standards Officer:

Telephone No. of Sub-grantee's Labor Standards Officer:

1. **Construction Start Date:**

2. Project Description:

3. Location of Project:

- Location Address:

- Location City:

- Location County:

4. Bid Advertising Date:

5. Bid Opening Date:

6. Contract Awarded Date:

7. Federal Wage Decision No.:

8. Date of Wage Decision:

9. Estimated Completion Date:

10. Contract Amount:

11. Name of General Contractor:

- Address of General Contractor:

12. Names of Subcontractor(s):

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE		HUD FORM 4230A OMB Approval Number 20501-001 (Exp. 09/30/2006)	
1. FROM (name and address of requesting agency) Kansas Department of Commerce 1000 S.W. Jackson Street, Suite 100 Topeka, Kansas 66612-1354		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)		HOURLY WAGE RATES	
		BASIC WAGE	FRINGE BENEFIT(S) (If any)
9. PRIME CONTRACTOR (name, address)		10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)	
Check All That Apply: <input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision. <input type="checkbox"/> The proposed classification is utilized in the area by the construction industry. <input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision. <input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). <input type="checkbox"/> Supporting documentation attached, including applicable wage decision. Check One: <input type="checkbox"/> Approved, meets all criteria. DOL Confirmation requested. <input type="checkbox"/> One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.			
		FOR HUD USE ONLY LR 2000:	
Agency Representative (Typed name and signature)		Date	Log in:
		Phone Number	Log out:
		HUD-4230A (8-03) PREVIOUSLY IS OBSOLETE	

Appendix C

CONTRACT CLAUSES	CONSRUCTION CONTRACTS		NON-CONSTRUCTION CONTRACTS	
	Over \$2,000	Over \$10,000	Over \$2,000	Housing Rehab (any amount)
CONTRACT REMEDIES	X	X	X	X
CONTRACT TERMINATION	X	X	X	X
CONTRACT WORK HOURS AND SAFETY STANDARDS	X	X		(only if structure is 8 units or more)
COPELAND ACT	X	X		
FEDERAL LABOR STANDARDS PROVISIONS (HUD-4010) DAVIS BACON	X	X		
PERFORMANCE AND BID BONDS				
AGE DISCRIMINATION ACT OF 1975	X	X		
EXECUTIVE ORDER 11063	X	X		
EXECUTIVE ORDER 11246 POLICY CLAUSE	X	X		X
FAIR HOUSING AMENDMENTS ACT OF 1988	X	X		X
KANSAS ACT AGAINST DISCRIMINATION	X	X		X
EXECUTIVE ORDER 11246		X		X
SECTION 109 OF HOUSING AND DEVELOPMENT ACT OF 1974	X	X		X
SECTION 503, REHABILITATION ACT	X	X		X
SECTION 504, ADA	X	X		
SECTION 912, CRANSTON-GONZALES		X		X
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964	X	X		X
RESTRICTION ON LOBBYING CONTRACTS OVER \$100,000				
SECTION 3 (GRANTS OVER \$200,000 & CONTRACTS OVER \$100,000)				
ARCHITECTURAL BARRIERS (NEW CONSTRUCTION OF PUBLIC BUILDINGS)	X	X		
CONFLICT OF INTEREST MEMBERS, OFFICERS	X	X		X
EXAMINATION OF BOOKS ACCESS TO RECORDS/MAINTENANCE OF RECORDS	X	X	X	X
FLOOD HAZARD INSURANCE	X	X		X
CLEAN AIR AND WATER POLLUTION (CONSTRUCTION CONTRACTS OVER \$100,000 ONLY)				
REPORTING COPYRIGHTS AND PATENT RIGHTS		X	X	

Federal Labor Standards Provisions

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

Applicability

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

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

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

- (1)** The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2)** The classification is utilized in the area by the construction industry; and
 - (3)** The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (b)** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where

appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

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

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

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part

of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section I(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 I(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i). 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 Documents (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 subcontractors. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

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

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

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll

period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

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

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

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

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

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the

journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

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

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

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

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

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

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

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

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

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

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph

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

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

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

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

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

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

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

PRE-CONSTRUCTION CONFERENCE MINUTES

PROJECT NAME: _____ DATE: _____
 STATE PROJECT NUMBER: _____ TIME: _____
 PROJECT LOCATION: _____ PLACE: _____
 FEDERAL WAGE DECISION NO.: _____
 CONTRACT AMOUNT: _____
 NAME OF GENERAL CONTRACTOR: _____

A pre-construction conference concerning labor standards provisions, administration and enforcement was conducted for the above project on this date. In addition to the attached, the following labor standards materials were provided to the prime contractor and were made available for others in attendance:

1. Applicable Federal Wage Decision(s).
2. Federal and State Labor Standards Provisions (Appendix H).
3. Poster WH-1321, Notice to Employees (Appendix J).
4. Payroll Form WH-347 (with instructions) (Appendix La and Lc).

It was requested of each person at the conference to register their name on the attendance sheet and a copy of the attendance sheet is attached and made part of these minutes.

During the course of the conference, all of the labor standards and wage requirements, that are applicable to the construction work to be performed, were discussed in full. These standards and requirements are contained in the following publications: U.S. Department of Labor Regulations, Part 1, 3, and 5; the HUD Handbook 1344.1, federal labor standards provisions; state's Grantee Handbook; and the attached material. Prior to adjournment, the participants were invited to ask questions so there were no misunderstandings of what is necessary in order for the contractor and any subcontractors to demonstrate compliance with the labor standards clauses above.

Special notations for this project or matters that could not be resolved at the conference are listed in the space below:

For additional information, please contact Commerce Labor Standards Officer at (785) 296-3004.

_____ Signature of Grantee Labor Standards Officer	_____ Date
_____ Print or Type Name	

Attachments

U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

Wage and Hour Division
Washington, D.C. 20210



NOTICE

EMPLOYEE POLYGRAPH PROTECTION ACT

The Employee Polygraph Protection Act prohibits most private employers from using lie detector tests either for pre-employment screening or during the course of employment.

PROHIBITIONS

Employers are generally prohibited from requiring or requesting any employee or job applicant to take a lie detector test, and from discharging, disciplining, or discriminating against an employee or prospective employee for refusing to take a test or for exercising other rights under the Act.

EXEMPTIONS*

Federal, State and local governments are not affected by the law. Also, the law does not apply to tests given by the Federal Government to certain private individuals engaged in national security-related activities.

The Act permits polygraph(a kind of lie detector) tests to be administered in the private sector, subject to restrictions, to certain prospective employees of security service firms (armored car, alarm, and guard), and of pharmaceutical manufacturers, distributors and dispensers.

The Act also permits polygraph testing, subject to restrictions, of certain employees of private firms who are reasonably suspected of involvement in a workplace incident (theft, embezzlement, etc.) that resulted in economic loss to the employer.

EXAMINEE RIGHTS

Where polygraph tests are permitted, they are subject to numerous strict standards concerning the conduct and length of the test. Examinees have a number of specific rights, including the right to a written notice before testing, the right to refuse or discontinue a test, and the right not to have test conduct and length of the test results disclosed to unauthorized persons.

ENFORCEMENT

The Secretary of Labor may bring court actions to restrain violations and assess civil penalties up to \$10,000 against violators. Employees or job applicants may also bring their own court actions.

ADDITIONAL INFORMATION

Additional information may be obtained, and complaints of violations may be filed, at local offices of the Wage and Hour Division. To locate your nearest Wage-Hour office, telephone our toll-free information and help line at 1 - 866 - 4USWAGE (1 - 866 - 487 - 9243). A customer service representative is available to assist you with referral information from 8 am to 8 pm in your time zone; or if you have access to the internet, you may log onto our Home page at www.wagehour.dol.gov.

THE LAW REQUIRES EMPLOYERS TO DISPLAY THIS POSTER WHERE EMPLOYEES AND JOB APPLICANTS CAN READILY SEE IT.

**The law does not preempt any provision of any State or local law or any collective bargaining agreement which is more restrictive with respect to lie detector tests.*

**U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
Wage and Hour Division
Washington, D.C. 20210**

WH PUBLICATION

June 2003

NOTICE TO ALL EMPLOYEES



Working on Federal or Federally
Financed Construction Projects

MINIMUM WAGES

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of 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 a week. There are some exceptions.

APPRENTICES

PROPER

PAY

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

If you do not receive proper pay, contact the Contracting Officer listed below:



or you may contact the nearest office of the Wage and Hour Division, U.S. Department of Labor. The Wage and Hour Division has offices in several hundred communities throughout the country. They are listed in the U.S. Government section of most telephone directories under:

U.S. Department of Labor
Employment Standards

WH Publication 1321
Revised January 1986

* U.S. GOVERNMENT PRINTING OFFICE: 1977-209-866Wage

U.S. Department of Labor
Employment Standards
Administration
and Hour Division



Equal Employment Opportunity is THE LAW

Employers Holding Federal Contracts or Subcontracts

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

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

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

INDIVIDUALS WITH DISABILITIES

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

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

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C., 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment qualified Vietnam era veterans, qualified special disabled veterans, recently separated veterans, and other protected veterans. A recently separated veteran is any veteran during the three-year period beginning on the date of such veteran's discharge or release from active duty in the U.S. military, ground, naval or air service.

RETALIATION

Retaliation is prohibited against a person who files a charge of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

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

The Office of Federal Contract Compliance Programs (OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210, (202) 693-0101 or call an OFCCP regional or district office listed in most telephone directories under U.S. Government, Department of Labor. For individuals with hearing impairment, OFCCP's TTY number is (202) 693-1337.

Private Employment, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

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

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy and sexual harassment) or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

DISABILITY

Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), as amended, protect qualified applicants and employees with disabilities from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability.

The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations, unless such accommodations would impose an undue hardship on the employer.

AGE

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

SEX (WAGES)

in addition to sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort and responsibility under similar working conditions, in the same establishment.

RETALIATION

Retaliation is prohibited against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes discrimination under these Federal laws.

If you believe that you have been discriminated against under any of the above laws, and to ensure that you meet strict procedural timelines to preserve the ability of EEOC to investigate your complaint and to protect your right to file a private lawsuit, you should immediately contact:

The U.S. Equal Employment Opportunity Commission (EEOC), Washington, DC 20507 or an EEOC field office by calling toll free (1-800) 669-4000. For individuals with hearing impairments, EEOC's toll free TTY number is 1-800 669-6820.

Programs or Activities Receiving Federal Financial Assistance

RACE, COLOR, SEX, NATIONAL ORIGIN

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

Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal assistance.

INDIVIDUALS WITH DISABILITIES

Section, 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance in the federal government, public or private agency.

Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of a job.

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

LA IGUALDAD DE OPORTUNIDADES DE EMPLEO ES LA LEY

Empleadores que tienen contratos o subcontratos con el Gobierno Federal

Los empleados o postulantes a empleos de compañías que tienen contratos o subcontratos del gobierno federal gozan de la protección otorgada por las siguientes instituciones federales:

RAZA, COLOR, RELIGIÓN, SEXO, NACIONALIDAD

El Decreto 11246 (Executive Order 11246), con sus modificaciones, prohíbe la discriminación laboral en razón de raza, color de piel, religión, sexo o nacionalidad, y requiere la acción afirmativa para garantizar la igualdad de oportunidades en todos los aspectos laborales.

PERSONAS CON DISCAPACIDADES

El Artículo 503 de la Ley de Rehabilitación de 1973(The Rehabilitation Act of 1973), con sus modificaciones, prohíbe la discriminación laboral por discapacidad y requiere la acción afirmativa de emplear y avanzar en el empleo de personas discapacitadas idóneas que, mediante una adaptación razonable, puedan llevar a cabo las funciones esenciales de un trabajo.

VETERANOS DE VIETNAM CON DISCAPACIDADES ESPECIALES, RECIENTEMENTE RETIRADOS Y OTROS VETERANOS BAJO PROTECCIÓN

La Ley de Asistencia a la Readaptación de Veteranos de Vietnam de 1974 (The Vietnam Era Veterans' Readjustment Assistance Act of 1974), y sus modificaciones, 38 U.S.C., 4212, prohíbe toda discriminación laboral y requiere la acción afirmativa de emplear y avanzar en el empleo de veteranos de Vietnam idóneos, veteranos idóneos con discapacidades especiales, veteranos recientemente retirados y otros veteranos bajo protección. Un veterano recientemente retirado es todo veterano durante el período de tres años a partir de la fecha en que fue dado de baja o dejó el servicio activo en el Ejército, la Marina o la Fuerza Aérea de los EE. UU.

REPRESALIA

Queda prohibida toda represalia contra una persona que presenta un cargo de discriminación, participa en un procedimiento del Programa OFCCP o, de alguna otra manera, se opone a la discriminación de conformidad con las leyes federales.

Toda persona que cree que un contratista ha violado sus obligaciones de no discriminación o acción afirmativa, según las fuentes anteriores, debe ponerse en contacto de inmediato con:

La Oficina de Programas de Cumplimiento de Contratos Federales (The Office of Federal Contract Compliance Programs-OFCCP), Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210, (202) 693-0101 o llamar a una oficina de la OFCCP regional o de distrito consignada en la mayor parte de los directorios telefónicos en U.S. Government, Department of Labor (Gobierno de los EE.UU., Departamento de Trabajo). Para personas con discapacidad auditiva, el número TTY de la OFCCP es (202) 693-1337.

Empleo privado, gobiernos estatales y locales, instituciones educativas, agencias de empleo y organizaciones laborales

Los empleados y postulantes a empleos de la mayor parte de los empleadores privados, gobiernos estatales y locales, instituciones educativas, agencias de empleo y organizaciones laborales gozan de la protección otorgada por las siguientes leyes federales:

RAZA, COLOR, RELIGIÓN, SEXO, NACIONALIDAD

La Ley de Derechos Civiles de 1964, Título VII (The Civil Rights Act of 1990), y sus modificaciones, prohíbe toda discriminación en relación con la contratación, ascenso, despido, remuneración, compensaciones adicionales, capacitación, clasificación, referencias, y otros aspectos laborales, en razón de la raza, el color de la piel, la religión, el sexo (incluidos embarazo y acoso sexual) o la nacionalidad. Por discriminación religiosa se entiende, entre otros, la falta de adaptación razonable para las prácticas religiosas de un empleado siempre que la adaptación no provoque una dificultad económica excesiva.

DISCAPACIDAD

La ley de Estadounidenses con Discapacidades de 1990 (The Americans with Disabilities Act of 1990-ADA), Títulos I y V, con sus modificaciones, protege a empleados y postulantes idóneos con discapacidades contra la discriminación en relación con la contratación, ascenso, despido, remuneración, capacitación, beneficios adicionales, clasificación, referencias y otros aspectos laborales en razón de la discapacidad.

La ley también requiere que las entidades contempladas provean las adaptaciones razonables que necesiten los empleados y postulantes con discapacidades, a menos que esas adaptaciones causen una dificultad económica excesiva al empleador.

EDAD

La Ley de Discriminación Laboral por Edad de 1967 (The Age Discrimination in Employment Act of 1967), con sus modificaciones, protege a los empleados y postulantes de 40 años o más contra la discriminación por edad en relación con la contratación, ascenso, despido, compensaciones, condiciones o privilegios laborales.

SEXO (SALARIOS)

Además de la discriminación sexual prohibida por la Ley de Derechos Civiles de 1964, Título VII, y sus modificaciones, la Ley de Igualdad en las Remuneraciones de 1963, con sus modificaciones, prohíbe la discriminación sexual en el pago de salarios a mujeres y hombres que básicamente realicen igual trabajo, en empleos que requieren igual capacidad, esfuerzo y responsabilidad, en condiciones laborales similares y en el mismo establecimiento.

REPRESALIA

Queda prohibida toda represalia contra una persona que presenta un cargo de discriminación, participa en un procedimiento de contra la discriminación o, de alguna otra manera, se opone a la discriminación de conformidad con las leyes federales.

Si cree que ha sufrido alguna discriminación, de conformidad con algunas de las leyes anteriores, y para garantizar que cumple con los estrictos cronogramas procesales a fin de preservar la capacidad de la EEOC para investigar su queja y para proteger su derecho a iniciar una demanda privada, debe ponerse en contacto de inmediato con:

La Comisión Federal de Igualdad de Oportunidades de Empleo de los EE.UU. (The US Equal Employment Opportunity Commission-EEOC), Washington, DC 20507 ó con una oficina de la EEOC telefónicamente a la línea gratuita (1-800) 669-4000. Para las personas con discapacidad auditiva, la línea gratuita TTY de la EEOC es 1-800 669-6820.

Programas o actividades que reciben apoyo financiero federal

RAZA, COLOR, SEXO, NACIONALIDAD

Además del Título VII de la Ley de Derechos Civiles de 1964, con sus modificaciones, el Título VI de la misma ley prohíbe la discriminación por raza, color de piel o nacionalidad en programas y actividades que reciben apoyo financiero federal. La discriminación laboral está contemplada en el Título VI si el objetivo principal del apoyo financiero es la provisión de empleo, o siempre que la discriminación laboral cause, o pueda causar, discriminación en la provisión de servicios en el marco de esos programas.

El Título IX de las Modificaciones de 1972 a la Ley de Educación (Education Amendments of 1972) prohíbe la discriminación laboral en razón de sexo en los programas o actividades educativas que reciben apoyo federal.

PERSONAS CON DISCAPACIDADES

El Artículo 504 de la Ley de Rehabilitación de 1973 , con sus modificaciones, prohíbe la discriminación laboral por discapacidad en todo programa o actividad que recibe apoyo financiero federal en el gobierno federal y las agencias públicas o privadas.

Queda prohibida la discriminación en todos los aspectos laborales contra personas con discapacidades que puedan realizar las tareas esenciales relacionadas con ese puesto, sin perjuicio de que resulte o no necesario efectuar una adaptación razonable

Si cree que ha sufrido discriminación en relación con un programa de cualquier institución que reciba apoyo federal, debe contactarse de inmediato con la agencia federal que brinda ese apoyo.

Publicación OFCCP 1420
Se revisó en agosto de 2008

Job Safety and Health It's the law!

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

EMPLOYEES:

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

EMPLOYERS:

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

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



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

1-800-321-OSHA
www.osha.gov

OSHA 3105-12-00R

Seguridad y Salud en el Trabajo ¡Es la Ley!

EMPLEADOS:

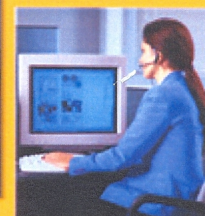
- Usted tiene el derecho de notificar a su empleador o a la OSHA sobre peligros en el lugar de trabajo. Usted también puede pedir que la OSHA no revele su nombre.
- Usted tiene el derecho de pedir a la OSHA que realice una inspección si usted piensa que en su trabajo existen condiciones peligrosas o poco saludables. Usted o su representante pueden participar en esa inspección.
- Usted tiene 30 días para presentar una queja ante la OSHA si su empleador llega a tomar represalias o discriminar en su contra por haber denunciado la condición de seguridad o salud o por ejercer los derechos consagrados bajo la Ley OSH.
- Usted tiene el derecho de ver las citaciones enviadas por la OSHA a su empleador. Su empleador debe colocar las citaciones en el lugar donde se encontraron las supuestas infracciones o cerca del mismo.
- Su empleador debe corregir los peligros en el lugar de trabajo para la fecha indicada en la citación y debe certificar que dichos peligros se hayan reducido o desaparecido.
- Usted tiene derecho de recibir copias de su historial o registro médico y el registro de su exposición a sustancias o condiciones tóxicas o dañinas.
- Su empleador debe colocar este aviso en su lugar de trabajo.
- Usted debe cumplir con todas las normas de seguridad y salud ocupacionales expedidas conforme a la Ley OSH que sean aplicables a sus propias acciones y conducta en el trabajo.

EMPLEADORES:

- Usted debe proporcionar a sus empleados un lugar de empleo libre de peligros conocidos.
- Usted debe cumplir con las normas de seguridad y salud ocupacionales expedidas conforme a la Ley OSH.



Administración de Seguridad
y Salud Ocupacional
Departamento del Trabajo
de los Estados Unidos



Los empleadores pueden obtener ayuda gratis para identificar y corregir las fuentes de peligro y para cumplir con las normas, sin citación ni multa, por medio de programas de consulta respaldados por la OSHA en cada estado del país.

1-800-321-OSHA
www.osha.gov

OSHA 3167-01-07R

Sub-grantee Handbook

Date _____

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

do hereby state:

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

_____ on the
(Contractor or Subcontractor)

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

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

_____ from the full
(Contractor or Subcontractor)

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

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

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

(4) That:

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



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

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

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

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE

SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

INSTRUCTIONS FOR COMPLETING PAYROLL FORM, WH-347

General: The use of the WH-347 payroll form is not mandatory. This form has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 CFR, Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

This form meets needs resulting from the amendment of Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay not less than fringe benefits as predetermined by the Department of Labor, in addition to payment of not less than the predetermined rates. The contractor's obligation to pay fringe benefits may be met either by payment of the fringes to the various plans, funds or programs or by making these payments to the employees as cash in lieu of fringes.

This payroll provides for the contractor's showing on the face of the payroll all monies to the employees, whether as basic rates or as cash in lieu of fringes and provides for the contractor's representation in the statement of compliance on the rear of the payroll that he is paying to other fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions concerning the preparation of the payroll follow:

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

Address: Fill in your firm's address.

Column 1 - Name, Address and Social Security Number of Employee: The employee's full name and Social Security Number must be shown on each weekly payroll submitted. The employee's address must also be shown on the payroll covering the first week in which the employee works on the project. The address need not be shown on subsequent weekly payrolls unless his address changes.

Column 2 - Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Parts 3 and 5.

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

Column 4 - Hours Worked: On all contracts subject to the Contract Work Hours Standard Act enter as overtime hours worked in excess of 40 hours a week.

Column 5 - Total: Self-explanatory

Column 6 - Rate of Pay, including fringe benefits: In straight time box, list actual hourly rate paid the employee for straight time worked plus any cash in lieu of fringes paid the employee. When recording the straight time hourly rate, any cash paid in lieu of fringes may be shown separately from the basic rate, thus \$5.00/.5. This is of assistance in correctly computing overtime. See “fringe benefits” below. In overtime box shown overtime hourly rate paid, plus any cash in lieu of fringes paid the employee. See “fringe benefits” below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962. In addition to paying no less than the predetermined rate for the classification which the employee works, the contractor shall pay to approved plans, funds, or programs or shall pay as cash in lieu of fringes, amounts predetermined as fringe benefits in the wage decision made part of the contract. See “fringe benefits” below.

Fringe Benefits - Contractors who pay all required fringe benefits: A contractor who pays fringe benefits to approved plans, funds or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his employees just as he has always done. Such a contractor shall check paragraph 4(a) of the statement on the reverse of the payroll to indicate that he is also paying to approved plans, funds or programs not less than the amount predetermined as fringe benefits for each craft. Any exceptions shall be noted in section 4(c).

Contractors who pay no fringe benefits: A contractor who pays no fringe benefits shall pay to the employee, and insert in the straight time hourly rate column of 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 decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringes at the straight time rate. In addition, the contractor shall check paragraph 4(b) of the statement on the reverse of the payroll to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds or programs in amounts less than the wage determination required is obliged to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the 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 that he is paying to each such employee for all hours (unless otherwise provided by applicable determination) 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.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of the employees' 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 \$63.00/\$120.00.

Column 8 - Deductions: Five columns are provided for showing deductions made. If more than five deductions should be involved, use first 4 columns; show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR, Part 3. If the employee worked on other jobs in addition to this project, show actual deductions from his weekly gross wage, but indicate that deductions are based on his gross wages.

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

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

Statement Required by Regulations, Parts 3 and 5: While this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USC 1001, namely, possible imprisonment of five (5) years or \$10,000.00 fine or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

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 paragraph entitled "FRINGE BENEFITS" above for instructions concerning filling out paragraph 4 of the statement.

You can find the fillable word document at:

<http://www.hud.gov/offices/adm/hudclips/forms/files/11.doc>

Record of Employee Interview

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

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

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

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

Payroll Examination

16. Remarks

17a. Signature of Payroll Examiner	17b. Date
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Previous editions are obsolete

Form HUD-11 (08/2004)

**NOTICE OF COMPLETION/FINAL INSPECTION
AND
FINAL WAGE COMPLIANCE REPORT FORMAT**

To: NSP/CDBG Field Representative
Kansas Department of Commerce

Date _____

Grantee: _____

Grant Number: _____

1. Date of Construction Completion: _____

2. Date of Final Inspection: _____

FINAL WAGE COMPLIANCE REPORT FORMAT

While you or your representative were reviewing the contractor's weekly payrolls, were any laborers or mechanics paid less than the minimum wage rate plus fringe benefits as specified in the Secretary of Labor's Wage Decision that applied to this project?

☐ No ☐ YES

If yes, provide the following information:

a. Total amount of restitution paid (difference between what was first paid and what was required to be paid): \$ _____

b. Method of restitution:

☐ paid by contractor(s)

☐ paid by city with funds withheld from payment to contractor(s)

Name of Contractor or Subcontractor	Name of Affected Employees	Amount of Restitution Paid to Employee	Nature of Violation Leading to Restitution
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Signature of Chief Elected Official

Typed Name

Date

CONSTRUCTION CHECKLIST

	DATE
Determine if project is covered by Davis-Bacon	_____
Assign Labor Standards Officer	_____
Obtain federal wage decisions	_____
Review wage decisions, determine if additional decisions are required	_____
If additional classification is necessary, submit Report of Additional Classification and Rate (Appendix F) to Commerce	_____
Ten days before bid opening, determine if wage decisions are still current	_____
Review bid packages for completeness	_____
Federal wage decision	_____
Federal labor provisions (Appendix H)	_____
Payroll Form WH-347 (Appendix La)	_____
Determine if bonding requirements have been met	_____
Review by City/County Attorney	_____
Prepare minutes of bid opening	_____
Tabulate bids	_____
Make recommendation for award	_____
Verify contractor eligibility with Commerce	_____
Execute contract	_____
Hold pre-construction conference using format in (Appendix I). Obtain signatures at pre-construction conference.	_____
Submit Notice of Start of Construction (Appendix E) to Commerce	_____
Conduct project compliance reviews	_____
Review weekly payrolls and statements of compliance	_____
Contact CDBG Field Representative to schedule monitoring visit	_____
Determine that federal wage decision and Notice to Employees Poster (Appendix J) is posted at job site	_____
Conduct employee interviews using Record of Employee Interview form (Appendix M)	_____
Submit Notice of Completion/Final Inspection and Final Wage Compliance Report (Appendix N)	_____



Office of the Assistant to the Secretary for Labor Relations

LABOR RELATIONS LETTERS

RECEIVED
JUL 28 2005
CDBG

Date: December 2, 1996 (Rev 1)

Letter No. LR-96-01

Subject: Labor standards compliance requirements for self-employed laborers and mechanics (aka *Working Subcontractors*)

- I. HUD policy on prevailing wage applicability.**
- II. Compliance and certification parameters.**
- III. Owners of businesses working with their crews.**
- IV. Owner-Operators of power equipment.**
- V. Truck drivers.**

The Federal prevailing wage requirements and compliance standards for self-employed laborers and mechanics (also referred to as "working subcontractors") have long been a confusing and contentious area for the Department of Labor (DOL), HUD, the Internal Revenue Service and contractors and subcontractors.

The following policy represents an effort to provide practical guidance for field application. The guidance more specifically concerns the wage certification requirements for self-employed mechanics and laborers on projects subject to Federal labor standards provisions including Davis-Bacon and HUD-determined maintenance and nonroutine maintenance prevailing wage rate determinations. This policy does not attempt to establish whether working subcontractors are subject to Federal labor standards nor whether such working subcontractors are *bona fide*. The clear meaning of statutory provisions and regulatory definitions does not require further examination of applicability. Additionally, statutory and regulatory language are clear that the question of whether certain self-employed laborers and mechanics are *bona fide* subcontractors is not germane to the issue of prevailing wage standard applicability.¹

¹The DOL has issued an administrative policy which excludes "bona fide owner-operators of trucks who are independent contractors" from DBRA/CWISSA provisions. See paragraph V. of this Letter.

SL: Distribution: W-3-1; R-1; R-6; R-7; R-9; SL: 138-2; 138-7

Also, HUD's Office of Labor Relations responsible for labor standards administration and enforcement *may not* accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. For example, 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. Neither 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 subcontractor (the "responsible employer") for whom they are working and with whom they have executed a "contract" for services.

Enclosed is a copy of the Labor Relations *Letter* LR-96-01 for your review.

Should you or members of your staff have any questions concerning this *Letter* they may be directed to Headquarters Office of Labor Relations at (202) 708-0370 or in the case of construction projects/program participants to HUD Labor Relations staff at (913) 551-6882/6883/5577.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Frank C. Bustamante', with a stylized flourish at the end.

Frank C. Bustamante
Regional Labor Relations Officer

I. HUD policy on prevailing wage applicability.

The Davis-Bacon Act (DBA), HUD program Related Acts (DBRA) concerning the payment of prevailing wages as determined by the Secretary of Labor, and the U.S. Housing Act of 1937 concerning the payment of prevailing wage rates established by HUD provide that the wage protections afforded in these statutes apply to laborers and mechanics employed on the covered work. The DBA and DBRA implementing regulations (29 CFR Part 5) specifically stipulate that these protections are provided **regardless of any contractual relationship which may be alleged to exist** between the contractor and such laborers and mechanics. Additionally, all laborers and mechanics must be paid unconditionally and not less often than once per week. HUD has followed DBA/DBRA prevailing wage parameters in its implementation, administration and enforcement of HUD-determined maintenance and nonroutine maintenance prevailing wage standards. (NOTE: The requirement to pay weekly wages is not applicable to the payment of prevailing routine maintenance wage rates related to laborers and mechanics engaged in the operation of PHA and IHA housing developments.)

Therefore, it is HUD policy that in all cases where laborers and mechanics are employed on Federal prevailing wage-covered construction, maintenance and nonroutine maintenance work, laborers and mechanics shall be entitled to compensation (in the case of Davis-Bacon wages, *weekly* compensation) at wage rates not less than the prevailing rate for the type of work they perform **regardless of any contractual relationship alleged to exist between a contractor or subcontractor and such laborers or mechanics.**

The above policy statement is not a departure from previous HUD directives. The guidance presented below establishes uniform HUD-assisted program contract administration and enforcement parameters for labor standards compliance and prevailing wage certification.

II. Compliance and certification parameters.

HUD policy clearly affords prevailing 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. This policy in no way precludes or limits any business or individual from participating in HUD-assisted construction, maintenance, or nonroutine maintenance work. The

issue is not one of *eligibility*, whether such persons are permitted to work on HUD-assisted projects, but of compliance standards - what HUD will accept from contractors and subcontractors to demonstrate that proper compliance has been achieved.

In this context, this Letter establishes a HUD administrative policy that laborers and mechanics may not certify to the payment of their **own** prevailing 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. (This exception is described in detail in Paragraph III. Owner-operators of power equipment are discussed in Paragraph IV; Truck drivers are discussed in Paragraph V.)

The most frequent occurrence of self-employed workers on HUD-assisted projects involves mechanic/trade classifications (i.e., not laborer classifications). (For ease of reference, laborers and mechanics in this context are referred to as "mechanics" and include any case involving laborers.) These mechanics may be represented as sole-proprietors, self-employed mechanics, partners, or corporate officers - all with no direct employees engaged in the covered work.

Accordingly, HUD, and program participants responsible for labor standards administration and enforcement (e.g., PHAs, IHAs, CDBG recipients), *may not* accept certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft. For example, 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. Neither 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 subcontractor (the "responsible employer") 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 for 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 Contract Work Hours and Safety Standards Act (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 must be reported and certified on the responsible employer's weekly payroll. Note that the effective hourly wage rate for such mechanics may fluctuate from week to week. However, the effective hourly wage rate *may not* be less than the minimum prevailing 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 rate on the wage determination for that craft.

III. Owners of businesses 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 prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to reporting 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 for his/her own wages as that certification *accompanies* the certification offered for the payment of prevailing wages to his/her employees. Such owners need only list their name, work classification including "owner," and the daily and total hours worked. (Such owners *do not* need to list a rate of pay or amounts earned.)

IV. 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 wages BUT must be carried on the responsible contractor's certified payroll report.

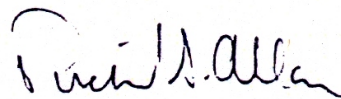
V. Truck drivers.

As outlined earlier in this Letter, a DOL administrative policy excludes *bona fide owner-operators of trucks who are independent contractors* from DBRA/CWHSSA provisions concerning their own hours of work and rate(s) of pay. These truck "owner-operators" must be reported on weekly payrolls *but* the payrolls do not need to show the hours worked or rates - only the notation "Owner-operator." *Note* that any laborers or mechanics, including truck drivers, employed by the owner-operator/independent contractor are subject to DBRA/CWHSSA provisions in the usual manner.

This policy *does not* pertain to owner-operators of other equipment such as backhoes, bulldozers, cranes and scrapers (i.e., power equipment as noted in paragraph IV, above).

These compliance standards shall take effect immediately. Any exceptions to these standards must be approved in advance in writing by HUD Headquarters Office of Labor Relations.

Any questions concerning this *Letter* may be directed to the Office of Labor Relations at (202)708-0370 or, in the case of HUD program participants, to the HUD Field Labor Relations Staff with jurisdiction for your area.



Assistant to the Secretary for
Labor Relations

Richard_S._Allan@HUD.gov

*Visit the Office of Labor Relations on the World Wide Web HUD Home Page at
<http://www.hud.gov/>*