

Housing Authority of the City of Erie

BID DOCUMENTS

**Emergency Generator Replacement
at
Curry Schell Apartments**

August 27, 2021

HOUSING AUTHORITY OF THE CITY OF ERIE
BID DOCUMENTS

Emergency Generator Replacement
At
Curry/Schell Apartments

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A.

INVITATION FOR BIDS

The Housing Authority of the City of Erie will receive sealed bids for the following:

- Install Open-Cell Foam Insulation at 730 Tacoma Road
- Install Open-Cell Foam Insulation at 434-440 East 15th Street
- Emergency Generator Replacement at Curry Schell Apartments

Sealed bids/proposals will be received until 10:30 a.m. on Monday, September 20, 2021, at 606 Holland St., Erie, PA 16501 at which time and place all bids will be publicly opened and read aloud. The Authority reserves the right to reject any and all bids and to waive any informality in bidding

Bid documents may be obtained at the Housing Authority office, 606 Holland St., 814-452-2425 or downloaded at www.hace.org, click on Invitation to Bid. Mandatory pre-bid meetings are listed under Specifications, 10% bid bond required, Davis-Bacon wages apply.

All communications and inquiries shall be directed to: Michael R. Fraley, Executive Director, at FraleyM@hace.org.

The Housing Authority is an Equal Opportunity Agency

B.

THE HOUSING AUTHORITY OF THE CITY OF ERIE

CONSTRUCTION PROJECTS

BID SUBMISSION CHECKLIST & INSTRUCTIONS

Please submit bid proposal documents in the order below. Check off attachments and submit this checklist to ensure you have completed the following necessary forms with your offer.

Bid will be considered null and void if completion and submission of items 2, 3 and 4 on checklist are not enclosed in sealed bid packet.

	Description	Pages	Attached
1.	Bid Submission Checklist (Please submit with bid)	1	
2.	Bid/Proposal Form	2	
3.	Bid Bond / Bid Guarantee of 10% of bid price	2	
4.	Non-Collusion Affidavit	1	
5.	Public Works Employment Verification Form	1 of 8	
6.	Statement of Bidders Qualifications	2	

Project: _____

Company Name: _____

Address: _____

_____ Phone: _____

Signature: _____

Print Name: _____ Email: _____

Date: _____

File: BidDocuments

C.
Specifications
For
Emergency Generator Replacement
At
Curry Schell Apartments

In addition to the technical specifications this Contractor is responsible for the following:

1. All employees on the job site are required to wear their company picture identification at all times.
2. All Housing Authority properties are SMOKE FREE.
3. Accurately determine quantities of material and Scope of Work.
4. Contractor to remove all debris daily.
5. Davis Bacon Wages apply.
6. Obtaining all permits and inspections required and complying with all city, state, and federal code requirements.
7. Official bidders can obtain copies of the drawing documents in hard copy format from the Housing Authority of the City of Erie, 606 Holland Street, Erie, PA 16501 (814) 452-2425 during normal working hours.
8. See attached drawings E 1, E 2, E 3 and E 4 for technical specifications.
9. **There will be a Pre-Bid Conference held on Monday September 13, 2021 at 9:30 a.m., at the Central Maintenance, at 1925 East 36th Street Erie, PA 16510.**

Contact Iuminada Rivera at (814-898-0265) for appointment to visit site.

D.

Drawings/Photo Index

The following drawings are separate from this document, but are as fully a part of the Contract as if hereto attached or herein repeated:

E 1 Mechanical Electrical Plans

E 2 Specifications

E 3 Specifications

E 4 Specifications

E.
Bid/Proposal Form
For

Emergency Generator Replacement
at
Curry Schell Apartments

TO: *The Housing Authority of the City of Erie*
606 Holland Street
Erie, PA 16501-1285

To whom it may concern:

The undersigned, having familiarized him/herself with the local conditions affecting the cost of the work and with the specifications (including the invitations for bids, instructions to bidders, this bid form, the form on non-collusive affidavit, and the technical specifications and addenda, if any), hereby propose to furnish all labor, material, tools, equipment, and/or services required to do the following specified work/services:

NAME OF PROJECT: Emergency Generator Replacement at Curry Schell
Apartments

Work is to be completed within 60 calendar days of Notice to Proceed.

Base Bid:

The lump sum contract price for work done in accordance with the specifications contained herein is:

_____ (\$_____).

1. All prices include labor and materials. Unless specified, the use of Davis Bacon wages apply on bid form.
2. In submitting this bid / proposal, it is understood that the unrestricted right is reserved by the Housing Authority of the City of Erie to reject any and all bids/proposals. It is agreed that the bid/proposal may not be withdrawn for a period of sixty (60) calendar days from the opening thereof.
3. Attached hereto is an Affidavit in proof that the undersigned has not entered into any collusion with any person in respect to this bid/proposal, or any other bid/proposal, or the submitting of bids / proposals for the contract for which this bid/proposal is submitted.

4. In submitting this bid, the undersigned hereby certifies that I/we have no unsatisfied lien(s) for federal, state, or local taxes.
5. We hereby acknowledge receipt of the following issues of Addenda, if any, distributed by the Housing Authority of the City of Erie.
-
-

6. Please acknowledge receiving and reading the follow information by checking the appropriate boxes:

- ☐ Davis Bacon Wage Rate
- ☐ Statement of Labor Standards
- ☐ General Conditions/Supplemental (HUD-5370)
- ☐ Project Specifications - Read and Acknowledged

7. Bidder hereby certifies that Bidder does currently comply with and shall comply with all applicable labor laws if awarded the Contract, including, but not limited to, the Wage Payment and Collection Law, the Department of Labor Regulations Governing Wage Payment and Collection, the Employment of Minors Child Labor Act, the Department of Labor Regulations Governing the Employment of Minors in Industry, the Pennsylvania Workers' Compensation Act, the Davis-Bacon Act and Regulations, the Fair Labor Standards Act, and all other laws applicable to the Bidder regarding its employees and the Contract.

Signature _____ Date _____

8. Bid Proposal Submission Information – I submit and certify the accuracy for the bid/proposal submission information for the above-named project.

Name of bidder:

Company name and address:

(Print)

Title

Signature

Date:

F.

BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned,

as *PRINCIPAL*, and

as *SURETY*

are held and firmly bound unto The Housing Authority of the City of Erie hereinafter called the "LHA" in the penal sum of _____ Dollars (\$ _____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the accompanying bid, dated _____, 20____, for _____

NOW, THEREFORE, the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or if no period be specified, within thirty (30) days after the said opening, and shall within ten (10) days after the prescribed forms are presented to him for signature, enter into a written contract with LHA in accordance with the bid as accepted and give bond with good and sufficient surety or sureties, as may be required for the faithful performance and proper fulfillment of such contract; or in the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bond within the time specified, if the Principal shall pay the LHA the difference between the amount specified in said bid and the amount for which the LHA may procure the required work or supplies or both, if the latter amount be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in one (1) counterpart, each one of which shall be deemed an original, this the _____ day of _____, 20____.

[NOTE: The Bid Bond must be in the name of the entity (corporation, partnership, sole proprietor) who submits bid]. Bid Bond must be from an A Rated bonding agency.

ATTEST:

(Principal) Secretary

(SEAL)

Witness as to Principal

(Address)

ATTEST:

(Surety) Secretary

(SEAL)

Witness as to Surety

(Address)

Principal

By _____(s)

(Address)

Surety

By _____

(Address)

G.

NON-COLLUSIVE AFFIDAVIT

State of _____)
County of _____)

_____, being first duly sworn, deposes and says that he is
(a partner or officer of the firm of, etc.), _____

the party making the foregoing proposal or bid, that such proposal or bid is genuine and not collusive or sham; that said bidder has not colluded, conspired, connived or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding, and has not in any manner, directly or indirectly, sought by agreement or collusion, or communication or conference, with any person, to fix the bid prices of affiant or of any other bidder, or to fix any overhead, profit or cost element of said bid price, or of that of any other bidder, or to secure any advantage against the Housing Authority of the City of Erie or any person interested in the proposed contract; and that all statements in said proposal or bid are true.

By: _____

Title: _____

Subscribed and sworn to before me
this _____ day of _____ 20____.

My commission expires _____ 20____.



H.

COMMONWEALTH OF PENNSYLVANIA

PUBLIC WORKS EMPLOYMENT VERIFICATION FORM

Date _____

Business or Organization Name (Employer) _____

Address _____

City _____ State _____ Zip Code _____

☐ Contractor ☐ Subcontractor (check one)

Contracting Public Body _____

Contract/Project No _____

Project Description _____

Project Location _____

As a contractor/subcontractor for the above referenced public works contract, I hereby affirm that as of the above date, our company is in compliance with the Public Works Employment Verification Act ('the Act') through utilization of the federal E-Verify Program (EVP) operated by the United States Department of Homeland Security. To the best of my/our knowledge, all employees hired post January 1, 2013 are authorized to work in the United States.

It is also agreed to that all public works contractors/subcontractors will utilize the federal EVP to verify the employment eligibility of each new hire within five (5) business days of the employee start date throughout the duration of the public works contract. Documentation confirming the use of the federal EVP upon each new hire shall be maintained in the event of an investigation or audit.

I, _____, authorized representative of the company above, attest that the information contained in this verification form is true and correct and understand that the submission of false or misleading information in connection with the above verification shall be subject to sanctions provided by law.

Authorized Representative Signature

STATEMENTS OF POLICY

DEPARTMENT OF GENERAL SERVICES

[4 PA. CODE CH. 66]

Guidelines for Administering and Enforcing the Public Works Employment Verification Act

[42 Pa.B. 7821]

[Saturday, December 29, 2012]

The Department of General Services (Department) adopts a statement of policy in Chapter 66 (relating to employment verification—statement of policy) to read as set forth in Annex A. Chapter 66 implements the Public Works Employment Verification Act (act) (43 P.S. §§ 167.1—167.11).

Chapter 66 establishes guidelines for administering and enforcing the act, which requires public works contractors and subcontractors performing work on public works projects in this Commonwealth to comply with the Federal E-Verify program to ensure employees are authorized to work in the United States. The E-Verify program is a free Internet-based program operated by the United States Department of Homeland Security that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from the United States Department of Homeland Security and Social Security Administration records to confirm employment eligibility. The purpose of this statement of policy is to establish guidelines for administering and enforcing the act.

Fiscal Impact

Civil penalties collected in the enforcement of the act will be retained by the Department to offset the costs of administering the Pennsylvania Public Works Employment Verification Program.

Effective Date

This statement of policy is effective January 1, 2013.

Contact Person

Specific questions regarding this statement of policy should be directed to the Department of General Services, Public Works Employment Verification Compliance Office, Room 105 Tent Building, Public Works Deputate, 18th and Herr Streets, Harrisburg, PA 17125.

(*Editor's Note:* Title 4 of the *Pennsylvania Code* is amended by adding statements of policy in §§ 66.1—66.9 to read as set forth in Annex A.)

Fiscal Note: 8-17. This action will not result in a loss of revenue to the Commonwealth or its political subdivisions. This program may increase program costs for the administration and enforcement; however, such costs will be offset by any civil penalties collected through the enforcement of the act.

Annex A

TITLE 4. ADMINISTRATION

PART III. DEPARTMENT OF GENERAL SERVICES

Subpart C. CONSTRUCTION AND PROCUREMENT

ARTICLE II. CONSTRUCTION

CHAPTER 66. EMPLOYMENT VERIFICATION—STATEMENT OF POLICY

Sec.

66.1. Background and purpose.

66.2. Scope of work subject to the act.

66.3. Definitions.

66.4. General requirements for public works contractors and subcontractors.

66.5. Specific requirements for public works contractors.

66.6. Specific requirements for public works subcontractors.

66.7. Public Works Employment Verification Form.

66.8. Violations.

66.9. Enforcement.

§ 66.1. Background and purpose.

(a). To prevent unauthorized employment, the Federal government created the EVP system to ensure that companies employ a legal workforce. The EVP system is an Internet-based system operated by the United States Department of Homeland Security that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from United States Department of Homeland Security and Social Security Administration records to confirm employment eligibility.

(b) The purpose of this chapter is to set forth the Department's policy guidelines for the scope, administration and enforcement of the act.

(c) The Department is responsible to implement the Commonwealth's process of notification, investigation and compliance with the act. Contractors and subcontractors performing work on a public works project shall comply with the act as set forth in this chapter by utilizing the EVP.

§ 66.2. Scope of work subject to the act.

(a) The act applies to public works contractors and subcontractors performing on a public works contract paid for in whole or in part out of the funds of a public body when the cost of the total project is in excess of \$25,000.

(b) The cost of the total project must include the sum of prime contracts to be issued by the public body for the project.

(c) To the extent the cost of the total project is in excess of \$25,000, contracts and subcontracts, regardless of value, shall comply with the act.

(d) The act does not apply to work performed under a manpower or rehabilitation training program.

§ 66.3. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Public Works Employment Verification Act (43 P. S. §§ 167.1—167.11).

Contract—A type of written agreement, regardless of what it may be called, for the procurement of construction work.

Department—The Department of General Services of the Commonwealth.

EVP—E-Verify program—The program operated by the United States Department of Homeland Security that electronically verifies employment eligibility.

Employee—An individual hired by a public works contractor or a subcontractor after January 1, 2013, for whom a public works contractor or subcontractor is required by law to file a Form W-2 with the Internal Revenue Service.

Form—Public Works Employment Verification Form.

Maintenance work—Annual inspection or routine upkeep of an existing facility which does not alter the use or size of the facility.

Public body—The Commonwealth of Pennsylvania, its political subdivisions, authorities created by the General Assembly of the Commonwealth and instrumentalities or agencies of the Commonwealth.

Public works—

(i) The construction, reconstruction, demolition, alteration or repair work other than maintenance work done under contract and paid for in whole or in part out of the funds of a public body when the estimated cost of the total project is in excess of \$25,000.

(ii) The term does not include work performed under a manpower or rehabilitation training program.

*Public works contractor—*A contractor that provides work under a contract involving public works.

*Secretary—*The Secretary of the Department.

Subcontractor—

(i) A person, other than a natural person, including a staffing agency, that performs work for a public works contractor under a contract for public works.

(ii) The term includes subcontractors of every level, that is, sub-subcontractors, sub-sub-subcontractors, and the like.

(iii) The term does not include persons that supply materials for a project.

*Willful—*An action or conduct undertaken intentionally or with reckless disregard for or deliberate ignorance of the requirements and obligations established under the act.

§ 66.4. General requirements for public works contractors and subcontractors.

(a) Public works contractors and every subcontractor performing work under a public works contract shall utilize the EVP system to verify the employment eligibility of each new employee hired after January 1, 2013.

(b) Public works contractors and every subcontractor performing work under a public works contract shall submit the Form to the contracting public body to ensure compliance with the act.

(c) In addition to the Form, public works contractors and every subcontractor shall maintain documentation of continued compliance with the act by utilizing the EVP for new employees hired throughout the duration of the public work contract.

§ 66.5. Specific requirements for public works contractors.

(a) As a precondition to the award of a contract for public work, a public works contractor shall submit a completed Form to the public body that is bidding and awarding the public work contract. With respect to a contract that has been awarded but has not been fully executed as of January 1, 2013, a public works contractor is required to submit a completed Form to the contracting public body prior to contract execution. During a public works contract, a new employee hired by a public works contractor, regardless of whether he will be working onsite or offsite of a public work or otherwise, shall be verified within 5 business days of his start date.

(b) Subcontracts between a public works contractor and its subcontractors are required to contain notification of the applicability of the act, information regarding the use of EVP and reference to the Department's web site at www.dgs.state.pa.us to obtain a copy of the Form.

(c) A public works contractor shall cooperate with the Department during an investigation or audit arising under the act.

§ 66.6. Specific requirements for public works subcontractors.

(a) Prior to beginning either onsite or offsite work on a public works project when the public works contractor's contract was executed after January 1, 2013, every subcontractor shall submit a completed Form to the contracting public body. During a public works contract, a new employee hired by a public works subcontractor, regardless of whether he will be working onsite or offsite of a public work or otherwise, shall be verified within 5 business days of his start date.

(b) Subcontracts between a subcontractor and its subcontractors are required to contain notification of the applicability of the act, information regarding the use of EVP and reference to the Department's web site at www.dgs.state.pa.us to obtain a copy of the Form.

(c) A subcontractor shall cooperate with the Department during an investigation or audit arising under the act.

§ 66.7. Public Works Employment Verification Form.

(a) The Form for use by public bodies, public works contractors and subcontractors is posted on the Department's web site at www.dgs.state.pa.us. The Form may not be changed or altered.

(b) The Form shall be signed by an authorized representative of the public works contractor or subcontractor. The representative shall have sufficient knowledge to make the representations and certifications in the Form.

(c) The Department may require the public works contractor or subcontractor to provide supporting documentation that the representative signing the Form had authority to legally bind the public works contractor or subcontractor.

(d) The submitted Forms shall be retained by the public body for the duration of the public work contract.

§ 66.8. Violations.

A public works contractor or subcontractor violates the act if it does either of the following:

(1) Fails to verify the employment eligibility of a new employee hired after January 1, 2013, through EVP in accordance with the act and this chapter.

(2) Makes a false statement or misrepresentation in connection with the completion or submission of the Form to a public body.

§ 66.9. Enforcement.

The Department will enforce the act through investigations, audits, sanctions and civil penalties in accordance with the following guidelines.

(1) *Investigations of complaints.* The Department will accept, review and investigate timely and credible complaints filed on the Complaint Form posted on the Department's web site.

(i) A complaint must contain sufficient information to enable the Department to investigate the allegation. The Department reserves the right to reject complaints that do not provide sufficient information. The Department will consider the timeliness of the complaint in assessing its credibility.

(ii) Public bodies, public works contractors and subcontractors shall cooperate with the Department during the investigation of a complaint.

(2) *Audits.* The Department will conduct complaint-based and random audits of public works contractors and subcontractors performing a public works contract for a public body in this Commonwealth. The Department reserves the right to determine the time, place and nature of audits.

(i) Public bodies, public works contractors and subcontractors shall cooperate with the Department during an audit.

(ii) Upon an audit, the Department may request, and the public works contractors and subcontractors shall provide, the following:

(A) Documentation of the date of hire of all employees.

(B) Documentation of compliance with the act through the utilization of EVP.

(C) Other information required by the Department to ensure compliance with the act and utilization of EVP.

(3) *Sanctions.*

(i) If the Department's investigation determines that a public works contractor or subcontractor failed to verify an employee through the use of EVP in accordance with the act and this chapter, the Department will issue sanctions as follows:

(A) *First violation.* The Department will issue a warning letter to the public works contractor or subcontractor detailing the violation. This letter will be posted on the Department's E-Verify web site at www.dgs.state.pa.us. A violation by a public works contractor or subcontractor that occurs 10 years or more after a prior violation will be deemed to be a first violation for purposes of sanctions.

(B) *Second violation.* The Department will initiate debarment proceedings against the public works contractor or subcontractor. Once final, these proceedings will prevent a public works contractor or subcontractor from submitting a bid or being awarded a contract or subcontract on a public works contract in this Commonwealth for 30 calendar days from the date of debarment.

(C) *Third and subsequent violations.* The Department will initiate debarment proceedings against the public works contractor or subcontractor. Once final, these proceedings will prevent a public work contractor or a subcontractor from submitting a bid or being awarded a contract or subcontract on a public works contract in this Commonwealth for not less than 180 days and not more than 1 year from the date of debarment.

(ii) *Willful violation.* If the Department investigates and forms a reasonable belief that there has been a willful violation of the act, the Secretary will file a petition in Commonwealth Court seeking the Court to issue a rule to show cause why a public works contractor or subcontractor did not engage in a willful violation of the act. If the Court finds that there was a willful violation, the

Department will petition to have the public works contractor or subcontractor debarred from public work contracts for 3 years from the date of the Court's determination.

(4) *Civil penalties.* If the Secretary or a designee makes a written determination that the violation is for failing to submit a complete Form or making a false statement or misrepresentation in the Form, the Department will assess a civil penalty of not less than \$250 and not more than \$1,000 for each violation. The amount of the penalty is at the Department's discretion. The Department will consider the severity of the violation, and prior violations in imposing civil penalties.

(5) *Notice and appeal.* Sanctions or civil penalties imposed by the Department, other than those violations found to be willful, are subject to the notice, appeal and other provisions of 2 Pa.C.S. (relating to administrative law and procedure).

[Pa.B. Doc. No. 12-2525. Filed for public inspection December 28, 2012, 9:00 a.m.]

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webmaster@PaBulletin.com

I.

"General Decision Number: PA20210011 06/11/2021

Superseded General Decision Number: PA20200011

State: Pennsylvania

Construction Type: Residential

County: Erie County in Pennsylvania.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories)

Note: Under Executive Order (EO) 13658, an hourly minimum wage

of \$10.95 for calendar year 2021 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January

1, 2015. If this contract is covered by the EO, the contractor

must pay all workers in any classification listed on this wage

determination at least \$10.95 per hour (or the applicable wage

rate listed on this wage determination, if it is higher) for

all hours spent performing on the contract in calendar year 2021. If this contract is covered by the EO and a classification considered necessary for performance of work on

the contract does not appear on this wage determination, the

contractor must pay workers in that classification at least the

wage rate determined through the conformance process set forth

in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is

higher than the conformed wage rate). The EO minimum wage rate

will be adjusted annually. Please note that this EO applies to

the above-mentioned types of contracts entered into by the

federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the

Davis-Bacon Related Acts, including those set forth at 29 CFR

5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available

at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/01/2021
1	02/26/2021
2	05/07/2021
3	05/28/2021
4	06/11/2021

BRPA0009-020 02/01/2021

	Rates	Fringes
BRICKLAYER.....	\$ 29.40	22.26

CARP0081-002 06/01/2018

	Rates	Fringes
Carpenters: (INCLUDING DRYWALL HANGING).....	\$ 28.02	12.59

CARP0081-003 06/01/2018

	Rates	Fringes
FLOOR LAYER: Carpet.....	\$ 28.02	12.59

ELEC0056-003 01/01/2019

	Rates	Fringes
ELECTRICIAN.....	\$ 22.96	7.39

ENGI0066-010 05/01/2014

	Rates	Fringes
Power equipment operators:		
Backhoe, Bulldozer, Loader..	\$ 28.25	14.87

 * IRON0003-008 06/01/2021

	Rates	Fringes
IRONWORKER.....	\$ 32.65	31.00

LABO0603-002 05/01/2019

	Rates	Fringes
Laborer, common.....	\$ 16.70	15.37

PAIN0057-012 05/01/2020

	Rates	Fringes
Painters:		
Brush and Roller		
(excluding drywall		
finishing).....	\$ 23.32	19.71

PLAS0526-011 05/01/2021

	Rates	Fringes
CEMENT MASON/CONCRETE FINISHER...	\$ 31.14	16.94

PLUM0027-007 06/01/2020

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 23.75	15.30

ROOF0210-004 05/01/2021

Rates	Fringes
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ROOFER.....	\$ 32.00	15.20
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SHEE0012-003 07/01/2018

	Rates	Fringes
Sheet metal worker.....	\$ 19.49	10.08

SUPA1991-001 01/01/1991

	Rates	Fringes
TRUCK DRIVER.....	\$ 7.59	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

=====

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this
contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their
own illness, injury or other health-related needs, including
preventive care; to assist a family member (or person who is
like family to the employee) who is ill, injured, or has other
health-related needs, including preventive care; or for reasons
resulting from, or to assist a family member (or person who is
like family to the employee) who is a victim of, domestic

violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198

indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate

that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial

contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator

(See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====
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END OF GENERAL DECISION"



I.1.

U.S. Department of Housing
and Urban Development

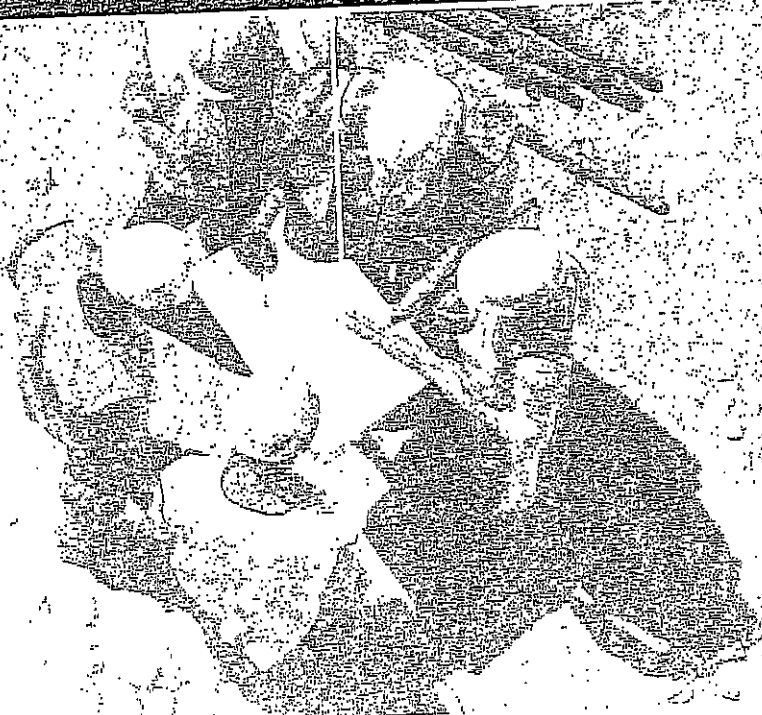
Labor Relations Desk Guide
LR01.DG

DAVIS-BACON

LABOR STANDARDS

***A Contractor's Guide
to Prevailing Wage Requirements
for Federally-Assisted Construction Projects***

January 2012
Previous versions obsolete



INTRODUCTION

This Guide has been prepared for you as a contractor performing work on construction projects that are assisted by the Department of Housing and Urban Development and subject to Davis-Bacon prevailing wage requirements. This Guide does not address contractor requirements involved in direct Federal contracting where HUD or another Federal agency enters into a procurement contract. In this latter case, the Federal Acquisition Regulations (FAR) are applicable. While the guidance contained in this Guide is generally applicable to any Davis-Bacon covered project, specific questions pertaining to direct Federal contracts should be addressed to the Contracting Officer who signed the contract for the Federal agency.

Our objective here is to provide you with a guide which is simple and non-bureaucratic yet comprehensive and which will help you better understand and comply with Davis-Bacon labor standards. HUD's Office of Labor Relations worked closely with the Department of Labor's Wage and Hour Division to make sure that the labor standards provisions in your contract and the specifics of complying with them represent the latest information. It is the Department of Labor which has general administrative oversight of all Federal contracting agencies, such as HUD, which administer the day-to-day responsibilities of enforcing Davis-Bacon provisions in construction contracts they either fund or assist in funding.

There are three chapters in this Guide. The first chapter offers a brief description of the laws and regulations associated with Federal labor standards administration and enforcement and discusses both what's in your contract that requires Davis-Bacon compliance and your responsibilities. The second chapter deals with labor standards and payroll reporting requirements. The third chapter discusses what can happen in the event there is a dispute about the wage rates that should be (or have been) paid and any back wages that may be due.

Finally, not all HUD construction projects are covered by Davis-Bacon wage rates. For the purpose of this Guide, we are assuming that a determination has already been made that Davis-Bacon wage rates are applicable. Should you wish assistance in determining whether Davis-Bacon wage rates apply to a particular project or if you need other related technical assistance, please consult with the HUD Labor Relations Field staff for your area. If you don't know which staff to contact, a list of Labor Relations field offices and their geographic areas and telephone numbers can be found on HUD's Home Page at the address below.

Visit the Office of Labor Relations on-line:

<http://www.hud.gov/offices/olr>

Obtain additional copies of this Guide and other publications at our website or by telephone from HUD's Customer Service Center at (800)767-7468.

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CHAPTER 1 LAWS, REGULATIONS, CONTRACTS AND RESPONSIBILITIES

The following paragraphs describe what the labor standards laws and regulations actually say and what they mean to you on HUD projects:

1-1 DAVIS-BACON AND OTHER LABOR LAWS.

- a. The Davis-Bacon Act (DBA). The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

Most HUD construction work is not covered by the DBA itself since HUD seldom contracts directly for construction services. Most often, if Davis-Bacon wage rates apply to a HUD project it is because of a labor provision contained in one of HUD's "Related Acts" such as the U. S. Housing Act of 1937, the National Housing Act, the Housing and Community Development Act of 1974, the National Affordable Housing Act of 1990, and the Native American Housing Assistance and Self-Determination Act of 1996. The Related Acts are often referred to as the Davis-Bacon and Related Acts or DBRA.

- b. The Contract Work Hours and Safety Standards Act (CWHSSA). CWHSSA requires time and one-half pay for overtime (O/T) hours (over 40 in any workweek) worked on the covered project. The CWHSSA applies to both direct Federal contracts and to indirect Federally-assisted contracts except where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA violations carry a liquidated damages penalty (\$10/day per violation). Intentional violations of CWHSSA standards can be considered for Federal criminal prosecution.

CWHSSA does not apply to prime contracts of \$100,000 or less. In addition, some HUD projects are not covered by CWHSSA because some HUD programs only provide loan guarantees or insurance. CWHSSA also does not apply to construction or rehabilitation contracts that are not subject to Federal prevailing wage rates (e.g., Davis-Bacon wage rates, or HUD-determined rates for operation of public housing and Indian block grant-assisted housing). However, even though CWHSSA overtime pay is not required, Fair Labor Standards Act (FLSA) overtime pay is probably still applicable. (See also Labor Relations Letter SL-95-01, CWHSSA Coverage threshold for overtime and health and safety provision, available on-line at the HUD Labor Relations Library at: www.hud.gov/offices/olr/library.cfm)

- c. The Copeland Act (Anti-Kickback Act). The Copeland Act makes it a Federal crime for anyone to require any laborer or mechanic (employed on a Federal or Federally-assisted project) to kickback (i.e., give up or pay back) any part of their wages. The Copeland Act requires every employer (contractors and subcontractors) to submit weekly certified payroll reports (CPRs) and regulates permissible payroll deductions.
- d. The Fair Labor Standards Act (FLSA). The FLSA contains Federal minimum wage rates, overtime (O/T), and child labor requirements. These requirements generally apply to any labor performed. The DOL has the authority to administer and enforce FLSA. HUD will refer to the DOL any possible FLSA violations that are found on HUD projects.

1-2 DAVIS-BACON REGULATIONS.

The Department of Labor (DOL) has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in *Title 29 CFR Parts 1, 3, 5, 6 and 7*. Part 1 explains how the DOL establishes and publishes DBA wage determinations (aka wage decisions) and provides instructions on how to use the determinations. Part 3 describes Copeland Act requirements for payroll deductions and the submission of weekly certified payroll reports. Part 5 covers the labor standards provisions that are in your contract relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Last, Part 7 sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

DOL Regulations are available on-line on the World Wide Web:
http://www.dol.gov/dol/allcfr/Title_29.htm

1-3 CONSTRUCTION CONTRACT PROVISIONS

Each contract subject to Davis-Bacon labor standards requirements must contain labor standards clauses and a Davis-Bacon wage decision. These documents are normally bound into the contract specifications.

- a. The labor standards clauses. The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project. HUD has standard forms that contain contract clauses. For example, the HUD-2554, Supplementary Conditions to the Contract for Construction, which is issued primarily for FHA multifamily housing and other construction projects

administered by HUD; the HUD-4010, Federal Labor Standards Provisions, which is used for CDBG and HOME projects, and the HUD-5370, General Conditions of the Contract for Construction or the HUD-5370-EZ (construction contracts \leq \$100,000) which are used for Public and Indian Housing projects.

HUD program labor standards forms are available on-line at:
www.hud.gov/offices/adm/hudclips/index.cfm

- b. Davis-Bacon Wage Decisions. The Davis-Bacon wage decision (or wage determination) is a listing of various construction work classifications, such as Carpenter, Electrician, Plumber and Laborer, and the minimum wage rates (and fringe benefits, where prevailing) that people performing work in those classifications must be paid.

Davis-Bacon wage decisions are established by the DOL for various types of construction (e.g., residential, heavy, highway) and apply to specific geographic areas, usually a county or group of counties. Wage decisions are modified from time to time to keep them current. In most cases, when the contract is awarded or when construction begins, the wage decision is "locked-in" and no future modifications are applicable to the contract or project involved.

All current Davis-Bacon wage decisions can be accessed on-line at no cost at:
<http://www.wdol.gov>

1-4 RESPONSIBILITY OF THE PRINCIPAL CONTRACTOR

The principal contractor (also referred to as the *prime or general contractor*) is responsible for the full compliance of all employers (the contractor, subcontractors and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and his/her subcontractors, subcontractors generally should communicate with the contract administrator only through the prime contractor. (See Contract Administrator, below.)

To make this Guide easier to understand, the term "prime contractor" will mean the principal contractor; "subcontractor" will mean all subcontractors including lower-tier subcontractors; and the term "employer" will mean all contractors as a group, including the prime contractor and any subcontractors and lower-tier subcontractors.

1-5 RESPONSIBILITY OF THE CONTRACT ADMINISTRATOR.

The *contract administrator* is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. We use this term to represent the person (or persons) who will provide labor standards advice and support to you and other project principals (e.g., the owner, sponsor, architect), including providing the proper Davis-Bacon wage decision (see 2-1, *The Wage Decision*) and ensuring that the wage decision and contract clauses are incorporated into the contract for construction. The contract administrator also monitors labor standards compliance (see 2-6, *Compliance Reviews*) by conducting interviews with construction workers at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required.

The contract administrator could be an employee or agent of HUD, or of a city or county or public housing agency. For HUD projects administered directly by HUD staff, usually FHA-insured multifamily projects, the contract administrator will be the HUD Labor Relations field staff. But many HUD-assisted projects are administered by local contracting agencies such as Public Housing Agencies (PHAs), Indian tribes and tribally-designated housing entities (TDHEs), and States, cities and counties under HUD's Community Development Block Grant (CDBG) and HOME programs. In these cases, the contract administrator will likely be local agency staff. In either case, the guidance for you remains essentially the same.

The DOL also has a role in monitoring Davis-Bacon administration and enforcement. In addition, DOL has independent authority to conduct investigations. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview construction workers or review payroll information.

CHAPTER 2 HOW TO COMPLY WITH LABOR STANDARDS AND PAYROLL REPORTING REQUIREMENTS

WHERE TO START? Now that you know you're on a Davis-Bacon project and you know some of the legal and practical implications, what's next?

SECTION I - THE BASICS

2-1 THE WAGE DECISION.

Davis-Bacon labor standards stipulate the wage payment requirements for Carpenters, Electricians, Plumbers, Roofers, Laborers, and other construction work classifications that may be needed for the project. The Davis-Bacon wage decision that applies to the project contains a schedule of work classifications and wage rates that must be followed. If you don't have it already (and by now you should), you'll want to get a copy of the applicable Davis-Bacon wage decision.

Remember, the wage decision is contained in the contract specifications along with the labor standards clauses. See 1-3, Construction Contract Provisions.

- a. The work classifications and wage rates. A Davis-Bacon wage decision is simply a listing of different work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications. You'll want to make sure that the work classification(s) you need are contained in the wage decision and make certain you know exactly what wage rate(s) you will need to pay. Some wage decisions cover several counties and/or types of construction work (for example, residential and commercial work) and can be lengthy and difficult to read. Contact the contract administrator (HUD Labor Relations field staff or local agency staff) if you have any trouble reading the wage decision or finding the work classification(s) you need.

To make reading lengthy wage decisions easier for you, the contract administrator may prepare a Project Wage Rate Sheet (HUD-4720). This Sheet is a one-page transcript that will show only the classifications and wage rates for a particular project. A blank copy of a Project Wage Rate Sheet is provided for you in the appendix. Also, a fillable version of this form is available on-line at HUDClips (see web address in the Appendix). Contact the contract administrator monitoring your project for assistance with a Project Wage Rate Sheet.

- b. **Posting the wage decision.** If you are the prime contractor, you will be responsible for posting a copy of the wage decision (or the Project Wage Rate Sheet) and a copy of the DOL Davis-Bacon poster titled Employee Rights under the Davis-Bacon Act (Form WH-1321) at the job site in a place that is easily accessible to all of the construction workers employed at the project and where the wage decision and poster won't be destroyed by wind or rain, etc. The Employee Rights under the Davis-Bacon Act poster is available in English and Spanish on-line at HUDClips (see address in the Appendix).

The Employee Rights under the Davis-Bacon Act poster (WH-1321) replaces the Notice to all Employees. The new poster is available in English and Spanish on-line at HUDClips (see address in the Appendix).

2-2 **ADDITIONAL "TRADE" CLASSIFICATIONS AND WAGE RATES.**

What if the work classification you need isn't on the wage decision? If the work classification(s) that you need doesn't appear on the wage decision, you will need to request an additional classification and wage rate. This process is usually very simple and you'll want to start the request right away. Basically, you identify the classification you need and recommend a wage rate for DOL to approve for the project. There are a few rules about additional classifications; you'll find these rules in the DOL regulations, Part 5, and in the labor clauses in your contract. The rules are summarized for you here:

- a. **Additional classification rules.** Additional classifications and wage rates can be approved if:

1. The requested classification is used by construction contractors in the area of the project. (The area is usually defined as the county where the project is located).
2. The work that will be performed by the requested classification is not already performed by another classification that is already on the wage decision. (In other words, if there already is an Electrician classification and wage rate on the wage decision you can't request another Electrician classification and rate.)
3. The proposed wage rate for the requested classification "fits" with the other wage rates already on the wage decision. (For example, the wage rate proposed for a trade classification such as Electrician must be at least as much as the lowest wage rate for other trade classifications already contained in the wage decision.) And,
4. The workers that will be employed in the added classification (if it is known who the workers are/will be), or the workers' representatives, must agree with the proposed wage rate.

b. **Making the request.** A request for additional classification and wage rate must be made in writing through the contract administrator. (If the contract administrator is a local agency, the agency will send the request to the HUD Labor Relations staff.) If you are a subcontractor, your request should also go through the prime contractor. All you need to do is identify the work classification that is missing and recommend a wage rate (usually the rate that employer is already paying to the employees performing the work) for that classification. You may also need to describe the work that the new classification will perform.

c. **HUD review.** The HUD Labor Relations field staff will review the requested classification and wage rate to determine whether the request meets the DOL rules outlined in paragraph 2-2(a), above. If additional information or clarification is needed, the staff will contact the prime contractor (or contract administrator for local agency projects) for more information, etc. If the Labor Relations review finds that the request meets the rules, the staff will give preliminary approval on the request and refer it to the DOL for final approval. The staff will send to you a copy of the preliminary approval/referral letter to the DOL.

If the HUD Labor Relations staff doesn't think the request meets the rules and if agreement can't be reached on the proper classification or wage rate for the work described, the HUD Labor Relations staff will not approve the request. In this case, the staff will send your request to the DOL with an explanation why HUD believes that the request shouldn't be approved. The DOL still has final decision authority. You will receive a copy of the disapproval/referral letter to the DOL.

d. **DOL decision.** The DOL will respond to HUD Labor Relations in writing about the additional classification and wage rate request. HUD Labor Relations will notify you of the DOL decision in writing. If the DOL approves the request, the prime contractor must post the approval notice on the job site with the wage decision.

If the DOL does not approve the request, you will be notified about what classification and wage rate should be used for the work in question. You will also receive instructions about how to ask for DOL reconsideration if you still want to try to get your recommendation approved.

It's always a good idea to talk to the contract administrator before submitting an additional classification and wage rate request. The contract administrator can offer suggestions and advice that may save you time and increase the likelihood that DOL will approve your request. Usually, the contract administrator can give you an idea about what the DOL will finally decide.

2-3 CERTIFIED PAYROLL REPORTS.

You'll need to submit a weekly certified payroll report (CPR) beginning with the first week that your company works on the project and for every week afterward until your firm has completed its work. It's always a good idea to number the payroll reports beginning with #1 and to clearly mark your last payroll for the project "Final."

- a. **Payroll formats.** The easiest form to use is DOL's WH-347, Payroll. A sample copy of the WH-347 is included in the back of this Guide. You may access a fillable version of the WH-347 on-line at HUDClips (see web address in the Appendix). Also, the contract administrator can provide a few copies of the WH-347 that you can reproduce.

You are not required to use Payroll form WH-347. You are welcome to use any other type of payroll, such as computerized formats, as long as it contains all of the information that is required on the WH-347.

- b. **Payroll certifications.** The weekly payrolls are called certified because each payroll is signed and contains language certifying that the information is true and correct. The payroll certification language is on the reverse side of the WH-347. If you are using another type of payroll format you may attach the certification from the back of the WH-347, or any other format which contains the same certification language on the WH-347 (reverse).

DOL's website has Payroll Instructions and the Payroll form WH-347 in a "fillable" PDF format at this address:
www.dol.gov/whd/forms/wh347.pdf

- c. **"No work" payrolls.** "No work" payrolls may be submitted whenever there is a temporary break in your work on the project, for example, if your firm is not needed on the project right now but you will be returning to the job in a couple of weeks. (See tip box, for "no work" payroll exemption!) However, if you know that your firm will not be working on the project for an extended period of time, you may wish to send a short note to the contract administrator to let them know about the break in work and to give an approximate date when your firm will return to the project. If you number payrolls consecutively or if you send a note, you do not need to send "no work" payrolls.

If you number your payroll reports consecutively, you do not need to submit "no work" payrolls!

- d. **Payroll review and submission.** The prime contractor should review each subcontractor's payroll reports for compliance prior to submitting the reports to the contract administrator. Remember, the prime contractor is responsible for the full compliance of all subcontractors on the contract and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for overtime violations. All of the payroll reports for any project must be submitted to the contract administrator through the prime contractor.

An alert prime contractor that reviews subcontractor payroll submissions can detect any misunderstandings early, prevent costly underpayments and protect itself from financial loss should underpayments occur.

- e. **Payroll retention.** Every contractor (including every subcontractor) must keep a complete set of their own payrolls and other basic records such as employee addresses and full SSNs, time cards, tax records, evidence of fringe benefit payments, for a Davis-Bacon project for at least 3 years after the project is completed. The prime contractor must keep a complete set of all of the payrolls for every contractor (including subcontractors) for at least 3 years after completion of the project.
- f. **Payroll inspection.** In addition to submitting payrolls to the contract administrator, every contractor (including subcontractors) must make their own copy of the payrolls and other basic records available for review or copying to any authorized representative from HUD or from DOL.

2-4 **DAVIS-BACON DEFINITIONS.**

Before we discuss how to complete the weekly payroll forms, we need to review a couple of definitions. These definitions can help you understand what will be required of you:

- a. **Laborer or mechanic.** "Laborers" and "mechanics" mean anyone who is performing construction work on the project, including trade journeymen (carpenters, plumbers, sheet metal workers, etc.), apprentices, and trainees and, for CWHSSA purposes, watchmen and guards. "Laborers" and "mechanics" are the two groups of workers that must be paid not less than Davis-Bacon wage rates.
1. **Working foremen.** Foremen or supervisors that regularly spend more than 20% of their time performing construction work and do not meet the exclusions in paragraph 2 below are covered "laborers" and "mechanics" for labor standards purposes for the time spent performing construction work.
 2. **Exclusions.** People whose duties are primarily administrative, executive or clerical are not laborers or mechanics. Examples include superintendents, office staff, timekeepers, messengers, etc. (Contact the contract administrator if you have any questions about whether a particular employee is excluded.)

- b. **Employee.** Every person who performs the work of a laborer or mechanic is "employed" regardless of any contractual relationship which may be alleged to exist between a contractor or subcontractor and such person. This means that even if there is a contract between a contractor and a worker, the contractor must make sure that the worker is paid at least as much as the wage rate on the wage decision for the classification of work they perform. Note that there are no exceptions to the prevailing wage requirements for relatives or for self-employed laborers and mechanics.

For more information about working subcontractors, ask the contract administrator or your HUD Labor Relations Field Staff for a copy of Labor Relations Letter LR-96-01, Labor standards compliance requirements for self-employed laborers and mechanics. Labor Relations Letters and other helpful Labor Relations publications are available at HUD's Labor Relations web site (see the list of web site addresses in the Appendix).

- c. **Apprentices and trainees.** The only workers who can be paid less than the wage rate on the wage decision for their work classification are "apprentices" and "trainees" registered in approved apprenticeship or training programs. Approved programs are those which have been registered with the DOL or a DOL-recognized State Apprenticeship Council (SAC). Apprentices and trainees are paid wage rates in accordance with the wage schedule in the approved program.

Most often, the apprentice/trainee wage rate is expressed as a series of percentages tied to the amount of time spent in the program. For example, 0-6 months: 65%; 6 months - 1 year: 70%; etc. The percentage is applied to the journeyman's wage rate. On Davis-Bacon projects, the percentage must be applied to the journeyman's wage rate on the applicable wage decision for that craft.

1. **Probationary apprentice.** A "probationary apprentice" can be paid as an apprentice (less than the rate on the wage decision) if the DOL or SAC has certified that the person is eligible for probationary employment as an apprentice.
2. **Pre-apprentice.** A "pre-apprentice", that is, someone who is not registered in a program and who hasn't been DOL- or SAC-certified for probationary apprenticeship is not considered to be an "apprentice" and must be paid the full journeyman's rate on the wage decision for the classification of work they perform.
3. **Ratio of apprentices and trainees to journeymen.** The maximum number of apprentices or trainees that you can use on the job site cannot exceed the ratio of apprentices or trainees to journeymen allowed in the approved program.

d. Prevailing wages or wage rates. Prevailing wage rates are the wage rates listed on the wage decision for the project. The wage decision will list a minimum basic hourly rate of pay for each work classification. Some wage decisions include fringe benefits which are usually listed as an hourly fringe rate. If the wage decision includes a fringe benefit rate for a classification, you will need to add the fringe benefit rate to the basic hourly rate unless you provide bona fide fringe benefits for your employees.

1. Piece-work. Some employees are hired on a piece-work basis, that is, the employee's earnings are determined by a factor of work produced. For example, a Drywall Hanger's earnings may be calculated based upon the square feet of sheetrock actually hung, a Painter's earnings may be based upon the number of units painted. Employers may calculate weekly earnings based upon piece rates provided the weekly earnings are sufficient to satisfy the wage rate requirement based upon actual hours, including any overtime, worked. Accurate time records must be maintained for any piece-work employees. If the weekly piece rate earnings are not sufficient, the employer must recompute weekly earnings based upon the actual hours worked and the rate on the wage decision for the work classification(s) involved.

e. Fringe benefits Fringe benefits can include health insurance premiums, retirement contributions, life insurance, vacation and other paid leave as well as some contributions to training funds. Fringe benefits do not include employer payments or contributions required by other Federal, State or local laws, such as the employer's contribution to Social Security or some disability insurance payments.

Note that the total hourly wage rate paid to any laborer or mechanic (basic wage or basic wage plus fringe benefits) may be no less than the total wage rate (basic wage or basic wage plus fringe benefits) on the wage decision for their craft. If the value of the fringe benefit(s) you provide is less than the fringe benefit rate on the wage decision, you will need to add the balance of the wage decision fringe benefit rate to the basic rate paid to the employee. For example, if the wage decision requires \$10/hour basic rate plus \$5/hour fringe benefits, you must pay no less than that total (\$15/hour) in the basic rate or basic rate plus whatever fringe benefit you may provide. You can meet this obligation in several ways: you could pay the base wage and fringe benefits as stated in the wage decision, or you could pay \$15 in base wage with no fringe benefits, or you could pay \$12 basic plus \$3 fringe benefits. You can also off-set the amount of the base wage if you pay more in fringe benefits such as by paying or \$9 basic plus \$6 fringe benefits; as long as you meet the total amount. The amount of the base wage that you may off-set with fringe benefits is limited by certain IRS and FLSA requirements.

f. Overtime. Overtime hours are defined as all hours worked on the contract in excess of 40 hours in any work week. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.

- g. **Deductions.** You may make payroll deductions as permitted by DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" (i.e., give up) any of their earnings. Allowable deductions which do not require prior DOL permission include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings accounts, and any other legally-permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.

Referring, again, to our example above where the wage decision requiring a \$15 total wage obligation (\$10 basic wage plus \$5 fringe benefits) was met by paying \$9 base wage plus \$6 fringe benefits: Note that overtime rates must be based on one and one-half times the basic rate as stated on the wage decision. In the above example, the employer must pay for overtime: \$15/hr (\$9 basic + \$6 fringe) plus \$5 (one-half of \$10, the wage decision basic rate) for a total of \$20 per hour.

- h. **Proper designation of trade.** You must select a work classification on the wage decision for each worker based on the actual type of work he/she performed and you must pay each worker no less than the wage rate on the wage decision for that classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for Carpenters even if they aren't considered by you to be fully trained as a Carpenter. Remember, the only people who can be paid less than the rate for their craft are apprentices and trainees registered in approved programs.
1. **Split-classification.** If you have employees that perform work in more than one trade during a work week, you can pay the wage rates specified for each classification in which work was performed only if you maintain accurate time records showing the amount of time spent in each classification of work. If you do not maintain accurate time records, you must pay these employees the highest wage rate of all of the classifications of work performed.
- i. **Site of work.** The "site of work" is where the Davis-Bacon wage rates apply. Usually, this means the boundaries of the project. "Site of work" can also include other adjacent or virtually adjacent property used by a contractor or subcontractor in the construction of the project, like a fabrication site that is dedicated exclusively, or nearly so, to the project.

SECTION II - REPORTING REQUIREMENTS

2-5 COMPLETING A PAYROLL REPORT.

What information has to be reported on the payroll form? The weekly payroll form doesn't ask for any information that you don't already need to keep for wage payment and tax purposes. For example, you need to know each employee's name; his or her work classification (who is working for you and what do they do?), the hours worked during the week, his or her rate of pay, the gross amount earned (how much did they earn?), the amounts of any deductions for taxes, etc., and the net amount paid (how much should the paycheck be made out for?). No more information than you need to know in order to manage your work crew and make certain they are paid properly. And, certainly, no more information than you need to keep for IRS, Social Security and other tax and employment purposes.

For many contractors, the Weekly Certified Payroll is the only Davis-Bacon paperwork you need to submit!

You are required to submit certified payrolls to illustrate and document that you have complied with the prevailing wage requirements. The purpose of the contract administrator's review of your payrolls is to verify your compliance. Clearer and complete payroll reports will permit the contract administrator to complete reviews of your payroll reports quickly.

- a. Project and contractor/subcontractor information. Each payroll must identify the contractor or subcontractor's name and address, the project name and number, and the week ending date. Indicate the week dates in the spaces provided. Numbering payrolls is optional but strongly recommended.
- b. Employee information. Effective January 18, 2009, payrolls shall not report employee addresses or full Social Security Numbers (SSNs). Instead, the first payroll on which each employee appears shall include the employee's name and an individually identifying number, usually the last 4 digits of the employee's SSN. Afterward, the identifying number does not need to be reported unless it is necessary to distinguish between employees, e.g., if two employees have the same name.

Employers (prime contractors and subcontractors) must maintain the current address and full SSN for each employee and must provide this information upon request to the contracting agency or other authorized representative responsible for federal labor standards compliance monitoring. Prime contractors may require a subcontractor(s) to provide this information for the prime contractor's records. DOL has modified form WH-347, Payroll, to accommodate these reporting requirements.

- c. Work classification. Each employee must be classified in accordance with the wage decision based on the type of work they actually perform.

1. **Apprentices or trainees.** The first payroll on which any apprentice or trainee appears must be accompanied by a copy of that apprentice's or trainee's registration in a registered or approved program. A copy of the portions of the registered or approved program pertaining to the wage rates and ratios shall also accompany the first payroll on which the first apprentice or trainee appears.
 2. **Split classifications.** For an employee that worked in a split classification, make a separate entry for each classification of work performed distributing the hours of work to each classification, accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.
- d. **Hours worked.** The payroll should show ONLY the regular and overtime hours worked on this project. Show both the daily and total weekly hours for each employee. If an employee performs work at job sites other than the project for which the payroll is prepared, those "other job" hours should not be reported on the payroll. In these cases, you should list the employee's name, classification, hours for this project only, the rate of pay and gross earnings for this project, and the gross earned for all projects. Deductions and net pay may be based upon the employee's total earnings (for all projects) for the week.
- e. **Rate of pay.** Show the basic hourly rate of pay for each employee for this project. If the wage decision includes a fringe benefit and you do not participate in approved fringe benefit programs, add the fringe benefit rate to the basic hourly rate of pay. Also list the overtime rate if overtime hours were worked.
1. **Piece-work.** For any piece-work employees, the employer must compute an effective hourly rate for each employee each week based upon the employee's piece-work earnings for that week. To compute the effective hourly rate, divide the piece-work earnings by the total number of hours worked, including consideration for any overtime hours.
- The effective hourly rate must be reflected on the certified payroll and this hourly rate may be no less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective hourly rate changes from week-to-week, only that the rate is no less than the rate on the wage decision for the classification of work performed.

Remember, the overtime rate is computed at one and one-half times the basic rate of pay plus any fringe benefits. For example, if the wage decision requires \$10/hour basic plus \$5/hour fringe benefits, the overtime rate would be: $(\$10 \times 1 \frac{1}{2}) + \$5 = \$20/\text{hour}$.

- f. **Gross wages earned.** Show the gross amount of wages earned for work performed on this project. Note: For employees with work hours and earnings on other projects, you may show gross wages for this project over gross earnings all projects (for example, \$425.40/\$764.85) and base deductions and net pay on the "all projects" earnings.

- g. **Deductions.** Show the amounts of any deductions from the gross earnings. "Other" deductions should be identified (for example, Savings Account or Loan Repayment). Any voluntary deduction (that is, not required by law or by an order of a proper authority) must be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. A short note signed by the employee is all that is needed and should accompany the first payroll on which the other deduction appears.

Only one employee authorization is needed for recurring (e.g., weekly) other deductions. Written employee authorization is not required for income tax and Social Security deductions.

- h. **Net pay.** Show the net amount of wages paid.

- i. **Statement of compliance.** The Statement of Compliance is the certification. It is located on the reverse side of a standard payroll form (WH-347). Be sure to complete the identifying information at the top, particularly if you are attaching the Statement of Compliance to an alternate payroll form such as a computer payroll. Also, you must check either 4(a) or 4(b) if the wage decision contains a fringe benefit. Checking 4(a) indicates that you are paying required fringe benefits to approved plans or programs; and 4(b) indicates that you are paying any required fringe benefit amounts directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If you are paying a portion of the required fringe benefit to programs and the balance directly to the employee, explain those differences in box 4(c).

Only one Statement of Compliance is required for each employer's weekly payroll no matter how many pages are needed to report the employee data.

- j. **Signature.** Make sure the payroll is signed with an original signature in ink. The payroll must be signed by a principal of the firm (owner or officer such as the president, treasurer or payroll administrator) or by an authorized agent (a person authorized by a principal in writing to sign the payroll reports). Signature authorization (for persons other than a principal) should be submitted with the first payroll signed by such an agent. Signatures in pencil; signature stamps; xerox, pdf and other facsimiles are not acceptable.

SECTION III - PAYROLL REVIEWS AND CORRECTIONS

2-6 COMPLIANCE REVIEWS.

The contract administrator or other inspector may visit the project site and interview some of the workers concerning their employment on the project. The DOL may also independently conduct its own reviews (see 1-5). In addition, the contract administrator will periodically review payrolls and related submissions, comparing the interview information to the payrolls; to ensure that the labor standards requirements have been met. You will be notified by the contract administrator if these reviews find any discrepancies or errors. You will be given instructions about what steps must be taken to correct any problems.

- a. On-site interviews. Every employer (contractor, subcontractor, etc.) must make their employees available for interview at the job site with the contract administrator or other agency representative, or HUD or DOL representative. The interviews are confidential and the employee will be asked about the kind of work they perform and their rate of pay. Every effort will be made to ensure that these interviews cause as little disruption as possible to the on-going work. The interviewer will record the interview information, usually on a form HUD-11, Record of Employee Interview, and forward the interviews to the contract administrator.
- b. Project payroll reviews. The contract administrator will compare the information on the interview forms to the corresponding payrolls to ensure that the workers are properly listed on the payrolls for the days and hours worked on the job site, work classification and rate of pay. The contract administrator will also review the payroll submissions to make certain that the payrolls are complete and signed; that employees are paid no less than the wage rate for the work classification shown; apprentice and trainee certifications are submitted (where needed); employee or other authorizations for other deductions are submitted (where needed); etc.

2-7 TYPICAL PAYROLL ERRORS AND REQUIRED CORRECTIONS.

The following paragraphs describe common payroll errors and the corrective steps you must take.

- a. Inadequate payroll information. If an alternate payroll format used by an employer (such as some computer payrolls) is inadequate, e.g., does not contain all of the necessary information that would be on the optional form WH-347, the employer will be asked to resubmit the payrolls on an acceptable form.
- b. Missing identification numbers. If the first payroll on which an employee appears does not contain the employee's individually identifying number, the employer will be asked to supply the missing information. This information can be reported on the next payroll submitted by the employer if the employer is still working on the project. Otherwise, the employer will be asked to submit a correction certified payroll.

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- c. Incomplete payrolls. If the information on the payroll is not complete, for example, if work classifications or rates of pay are missing, the employer will be asked to send a correction certified payroll.
- d. Classifications. If the payrolls show work classifications that do not appear on the wage decision, the employer will be asked to reclassify the employees in accordance with the wage decision or the employer may request an additional classification and wage rate (see 2-2). If reclassification results in underpayment (i.e., the wage rate reported on the payroll is less than the rate required for the new classification), the employer will be asked to pay wage restitution to all affected reclassified employees. (see 2-8 for instructions about wage restitution.)
- e. Wage rates. If the wage rates on the payroll are less than the wage rates on the wage decision for the work classifications reported, the employer will be asked to pay wage restitution to all affected employees.
- f. Apprentices and trainees. If a copy of the employee's registration or the approved program ratio and wage schedule are not submitted with the first payroll on which an apprentice or trainee appears, the employer will be asked to submit a copy of each apprentice's or trainee's registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater than the ratio in the approved program, the employer will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is not registered in an approved program must receive the journeyman's wage rate for the classification of work they performed.
- g. Overtime. If the employees did not receive at least time and one-half for any overtime hours worked on the project, the following will occur:
1. If the project is subject to CWHSSA overtime requirements, the employer will be asked to pay wage restitution for all overtime hours worked on the project. The employer may also be liable to the United States for liquidated damages computed at \$10 per day per violation. Or,
 2. If the project is not subject to CWHSSA, the employer will be notified of the possible FLSA overtime violations. Also, the contract administrator may refer the matter to the DOL for further review.
- h. Computations. If the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the employer will be asked to take greater care. Wage restitution may be required if underpayments resulted from the errors.
- i. Deductions. If there are any "Other" deductions that are not identified, or if employee authorization isn't provided, or if there is any unusual (very high, or large number) deduction activity, the employer will be asked to identify the deductions, provide employee authorization or explain unusual deductions, as necessary.

HUD does not enforce or attempt to provide advice on employer obligations to make deductions from employee earnings for taxes or Social Security. However, HUD may refer to the IRS or other responsible agency copies of certified payroll reports that show wages paid in gross amounts (i.e., without tax deduction) for its review and appropriate action.

- j. **Fringe benefits.** If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid [neither 4(a) nor 4(b) is marked on the Statement of Compliance], the employer may be asked to submit correction certified payrolls and will be required to pay wage restitution if underpayments occurred. However, if the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate plus the fringe benefit rate), no correction is necessary.
- k. **Signature.** If the payroll Statement of Compliance is not signed or is missing, the employer will be asked to submit a signed Statement of Compliance for each payroll affected. If the Statement of Compliance is signed by a person who is not a principle of the firm and that person has not been authorized by principle to sign, the employer will be asked to provide an authorization or to resubmit the Statement(s) of Compliance bearing the signature of a principle or other authorized signatory.
- l. **On-site interview comparisons.** If the comparison of on-site interviews to the payrolls indicates any discrepancies (for example, the employee does not appear on the payroll for the date of the interview), the employer will be asked to submit a correction certified payroll report.
- m. **Correction certified payroll.** Any and all changes to data on a submitted payroll report must be reported on a certified correction payroll. In no case will a payroll report be returned to the prime contractor or employer for revision.

2-8 **RESTITUTION FOR UNDERPAYMENT OF WAGES.**

Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. All wages paid to laborers and mechanics for work performed on the project, including wage restitution, must be reported on a certified payroll report:

- a. **Notification** to the Employer/Prime contractor. The contract administrator will notify the employer and/or prime contractor in writing of any underpayments that are found during payroll or other reviews. The contract administrator will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The employer/prime contractor is allowed 30 days to correct the underpayments. Note that the prime contractor is responsible to the contract administrator for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.

The contract administrator may communicate directly with a subcontractor when the underpayments are plainly evident and the subcontractor is cooperative. It is best to work through the prime contractor when the issues are complex, when there are significant underpayments and/or the subcontractor is not cooperative. In all cases, the subcontractor must ensure that the prime contractor receives a copy of the required corrective documentation.

- b. **Computing wage restitution.** Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due. You may also compute wage restitution by calculating the total amount of Davis-Bacon wages earned and subtracting the total amount of wages paid. The difference is the amount of back wages due.
- c. **Correction certified payrolls.** The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period of time for which restitution is due (for example, Payrolls #1 through #6; or a beginning date and ending date). The correction payroll will list each employee to whom restitution is due and their work classification; the total number of work hours involved (daily hours are usually not applicable for wage restitution); the adjustment wage rate (the difference between the required wage rate and the wage rate paid); the gross amount of restitution due; deductions and the net amount actually paid. A properly signed Statement of Compliance must accompany the correction payroll.

HUD no longer requires the signature of the employee on the correction payroll to evidence employee receipt of restitution payment. In addition, except in the most extraordinary cases, HUD no longer requires employers to submit copies of restitution checks (certified, cashiers, canceled or other), or employee-signed receipts or waivers.

- d. **Review of correction CPR.** The contract administrator will review the correction certified payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed, documented on a correction certified payroll within 30 days.
- e. **Unfound workers.** Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and can't be located. After wage restitution has been paid to all of the workers who could be located, the employer must submit a list of any workers who could not be found and paid (i.e., unfound workers) providing their names, Social Security Numbers, last known addresses and the gross amount due. In such cases, at the end of the project the prime contractor will be required

to place in a deposit or escrow account an amount equal to the total gross amount of restitution that could not be paid because the employee(s) could not be located. The contract administrator will continue attempts to locate the unfound workers for 3 years after the completion of the project. After 3 years, any amount remaining in the account for unfound workers will be credited and/or forwarded by the contract administrator to HUD.

CHAPTER 3 LABOR STANDARDS DISPUTES, ADMINISTRATIVE REVIEWS, WITHHOLDING, DEPOSITS AND ESCROW ACCOUNTS, AND SANCTIONS

WHAT HAPPENS WHEN THINGS GO WRONG?

3-1 INTRODUCTION.

Even in the best of circumstances, things can go wrong. In a Davis-Bacon context, "things going wrong" usually means there's a difference of opinion or a dispute about whether and to what extent underpayments have occurred. These disputes are usually between the contract administrator and one or more employers (the prime contractor and/or a subcontractor). The dispute may involve something simple such as an additional classification request that is pending before the DOL; or something as significant as investigative findings following a complaint of underpayment. This chapter discusses some of what you may expect and what you can do to make your views known and to lessen any delays in resolving the problem or issue.

3-2 ADMINISTRATIVE REVIEW ON LABOR STANDARDS DISPUTES.

As mentioned in the Introduction above, a dispute about labor standards and compliance can arise for a number of reasons. The labor standards clauses in your contract and DOL regulations provide for administrative review of issues where there is a difference of views between the contract administrator and any employer. The most common circumstances include:

- a. Additional classifications and wage rates. Additional classification and wage rate requests are sometimes denied by the DOL. An employer that is dissatisfied with the denial can request reconsideration by the DOL Wage and Hour Administrator. The employer may continue to pay the wage rate, as requested, until a final decision is rendered on the matter. When the final decision is known, the employer will be required to pay any additional wages that may be necessary to satisfy the wage rate that is established.
 1. Reconsideration. The DOL normally identifies the reasons for denial in its response to the request. Any interested person (for example, the contract administrator, employer, representatives of the employees) may request reconsideration of the decision on the additional classification request. The request for reconsideration must be made in writing and must thoroughly address the denial reasons identified by the DOL. Employer requests for reconsideration should be made through the contract administrator but may be made directly to the DOL. (See 2-2(d), and also DOL Regulations 29 CFR 1.8.) All requests initiated by or made through the contract administrator or HUD must be submitted through the HUD Headquarters Office of Labor Relations.

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2. Administrative Review Board. Any interested party may request a review of the Administrator's decision on reconsideration by the DOL's Administrative Review Board. DOL regulations 29 CFR Part 7 explain the procedures for such reviews. (See also 29 CFR 1.9.)

- b. Findings of underpayment. Compliance reviews and other follow-up enforcement actions may result in findings of underpayment. The primary goal in every case and at every step in this process is to reach agreements about who may have been underpaid and how much wage restitution may be due and, of course, to promptly deliver restitution to any underpaid workers. The contract administrator will usually work informally with you to reach such agreements. You will have an opportunity to provide additional information to the contract administrator that may explain apparent inconsistencies and/or resolve the discrepancies.

If informal exchanges do not result in agreement, the final determination and schedule of back wages due will be presented to you in writing and you will be permitted 30 days in which to correct the underpayment(s) or to request a hearing on the matter before the DOL. The request for hearing must be made in writing through the contract administrator and must explain what findings are in dispute and the reasons. In such cases, HUD is required to submit a report to DOL for review and further consideration. All requests for DOL hearing must be submitted through the HUD Headquarters Office of Labor Relations.

1. DOL review. The DOL will review the contract administrator's report and the arguments against the findings presented in the hearing request. The DOL may affirm or modify the findings based upon the materials presented. You will be notified in writing by the DOL of the results of its review. If DOL concludes that violations have occurred, you will be given an opportunity to correct any underpayments or to request a hearing before a DOL Administrative Law Judge (ALJ). (See DOL Regulations 29 CFR 5.11 (b) and 29 CFR Part 6, Rules of Practice for Administrative Proceedings.)

2. Administrative Review Board. Contractors and/or subcontractors may request a review by the Administrative Review Board of the decision(s) rendered by the DOL ALJ in the administrative hearing process. See DOL regulations 29 CFR Part 7 for more information about this proceeding.

3-3 WITHHOLDING.

The contract administrator shall cause withholding from payments due to the prime contractor to ensure the payment of wages which are believed to be due and unpaid, for example, if wage underpayments or other violations are not corrected within 30 days after written notification to the prime contractor. DOL may also direct the withholding of contract payments for alleged wage underpayments. Withholding is considered to be serious and is not taken unless warranted. If withholding is deemed necessary, you will be notified in writing. Only the amounts needed to meet the contractor's (and/or subcontractors') liability shall be withheld.

3-4 DEPOSITS AND ESCROWS.

In every case, we attempt to complete compliance actions and resolve any disputes before the project is completed and final payments are made. Sometimes, corrective actions or disputes continue after completion and provisions must be made to ensure that funds are available to pay any wage restitution that is ultimately found due. In these cases, we allow projects to proceed to final closing and final payments provided the prime contractor deposits an amount equal to the potential liability for wage restitution and liquidated damages, if necessary, in a special account. The deposit or escrow account is controlled by the contract administrator. When a final decision is rendered, the contract administrator makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

Remember, the prime contractor is responsible and will be held liable for any wage restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors and any lower-tier subcontractors. See 1-4, Responsibility of the Principal Contractor, and 2-8, Restitution for Underpayment of Wages.

- a. Where the parties have agreed to amounts of wage restitution that are due but the employer hasn't furnished evidence yet that all of the underpaid workers have received their back wages, e.g., some of the workers have moved and could not be located. The amount of the deposit is equal to the total gross amount of restitution due to workers lacking payment evidence. As these workers are paid and proper documentation is provided to the contract administrator, amounts corresponding to the documented payments are returned to the depositor. Amounts for any workers who cannot be located are held in the deposit/escrow account for three years and disposed as described in 2-8(f) of this Guide.
- b. Where underpayments are suspected or alleged and an investigation has not yet been completed. The deposit is equal to the amount of wage restitution and any liquidated damages, if applicable, that are estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the depositor.

If the parties agree to the investigative findings, the amounts due to the workers will be paid by the employer. As these workers are paid and proper documentation is provided to the contract administrator, the gross amounts corresponding to the documented payments are returned to the depositor.

1. If the employer is unable to make the payments to the workers, e.g., lacks the funds necessary, the contract administrator may make disbursements directly to the workers in the net amounts calculated by the employer. The amounts withheld from the workers for tax deduction will be returned to the employer as payments to workers are made. The employer shall be responsible for reporting and transmitting withholdings to the appropriate agencies.

2. If the employer is not cooperating in the resolution, the contract administrator shall make disbursements to the workers in accordance with the schedule of wages due. Amounts for unfound workers will be retained as described above (See 2-8(f) and 3-4(a)).

If the parties do not agree and an administrative hearing is requested, the escrow will be maintained as explained in 3-4(c), below.

Remember, if you have any questions or need assistance concerning labor standards requirements help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Relations staff in your area.

- c. Where the parties are waiting for the outcome of an administrative hearing that has been or will be requested contesting a final determination of wages due. The deposit shall be equal to the amount of wage restitution and liquidated damages, if applicable, that have been determined due. Once a final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

3-5 ADMINISTRATIVE SANCTIONS.

Contractors and/or subcontractors that violate the labor standards provisions may face administrative sanctions imposed by HUD and/or DOL.

- a. DOL debarment. Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the Davis-Bacon and Related Acts (DBRA) will be ineligible (debarred) to participate in any DBRA or Davis-Bacon Act contracts for up to 3 years. Debarment includes the contractor or subcontractor and any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the contract administrator or can be initiated by the DOL. Debarment proceedings are described in DOL regulations 29 CFR 5.12.
- b. HUD sanctions. HUD sanctions may include Limited Denials of Participation (LDPs), debarments and suspensions.
 1. Limited Denial of Participation. HUD may issue to the employer a limited denial of participation (LDP) which prohibits the employer from further participation in HUD programs for a period up to one year. The LDP is usually effective for the HUD program in which the violation occurred and for the geographic jurisdiction of the issuing HUD Office. HUD regulations concerning LDP's are found at 24 CFR 24.700-24.714.

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2. **Debarment and suspensions.** In certain circumstances, HUD may initiate its own debarment or suspension proceedings against a contractor and/or subcontractor in connection with improper actions regarding Davis-Bacon obligations. For example, HUD may initiate debarment where a contractor has been convicted for making false statements (such as false statements on certified payrolls or other prevailing wage certifications) or may initiate suspension where a contractor has been indicted for making false statements. HUD regulations concerning debarment and suspension are found at 24 CFR Part 24.

3-6 **FALSIFICATION OF CERTIFIED PAYROLL REPORTS.**

Contractors and/or subcontractors that are found to have willfully falsified payroll reports (Statements of Compliance), including correction certified payroll reports, may be subject to civil or criminal prosecution. Penalties may be imposed of \$1,000 and/or one year in prison for each false statement (see Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code).

Remember, if you have any questions or need assistance concerning labor standards requirements help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Relations staff in your area.

ACRONYMS AND SYMBOLS

CDBG -	Community Development Block Grant
CFR -	Code of Federal Regulations
CPR -	Certified Payroll Report
CWHSSA -	Contract Work Hours and Safety Standards Act
DBA -	Davis-Bacon Act
DBRA -	Davis-Bacon and Related Acts
DOL -	Department of Labor
FHA -	Federal Housing Administration
FLSA -	Fair Labor Standards Act
HUD -	Housing and Urban Development (Department of)
IHA -	Indian Housing Authority
LCA -	Local Contracting Agency
LDP -	Limited Denial of Participation
O/T -	Overtime
PHA -	Public Housing Agency
S/T -	Straight-time
SAC -	State Apprenticeship Council/Agency
TDHE -	Tribally-Designated Housing Entity
§ -	Section
¶ -	Paragraph

DAVIS-BACON - RELATED WEB SITES*

HUD Office of Labor Relations:
www.hud.gov/offices/olr

HUD Regulations:
<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>

HUDClips (HUD Forms and Publications):
www.hud.gov/offices/adm/hudclips/index.cfm

DOL Davis-Bacon and Related Acts Homepage:
<http://www.dol.gov/whd/contracts/dbra.htm>

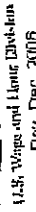
DOL Regulations:
<http://www.gpo.gov/fdsys/browse/collectionCfr.action?collectionCode=CFR>

Davis-Bacon Wage Decisions:
www.wdol.gov

DOL Forms:
www.dol.gov/whd/programs/dbra/forms.htm

*Web addresses active as of January 2012

Project Wage Rate Sheet			U.S. Department of Housing and Urban Development Office of Labor Relations			
Project Name:			Wage Decision Number/Modification Number:			
Project Number:			Project County:			
Work Classification	Basic Hourly Rate (BHR)	Fringe Benefits	Total Hourly Wage Rate	Laborers Fringe Benefits		\$
			\$	Group #	BHR	Total Wage
Bricklayers			\$			\$
Carpenters			\$			\$
Cement Masons			\$			\$
Drywall Hangers			\$			\$
Electricians			\$			\$
Iron Workers			\$			\$
Painters			\$	Operators Fringe Benefits:		\$
Plumbers			\$	Group #	BHR	Total Wage
Roofers			\$			\$
Sheet Metal Workers			\$			\$
Soft Floor Workers			\$			\$
Tapers			\$			\$
Tile Setters			\$	Truck Drivers Fringe Benefits:		\$
Other Classifications				Group #	BHR	Total Wage
			\$			
			\$			
			\$			
Additional Classifications (HUD Form 4230-A)						
Work Classification	Basic Hourly Rate (BHR)	Fringe Benefits	Total Hourly Wage Rate	Date of HUD Submission to DOL		Date of DOL Approval
			\$			
			\$			
			\$			



PAYROLL

REV. DEC. 2005

(For Contractor's Optional Use; see Instructions on back cover)

Exordes. 123172011

ADDRESS _____

NAME OF CONTRACTOR ☐ GR SUBCONTRACTOR ☐

PROJECT OR CONTRACT NO.

PROJECT AND LOCATION

FOR WEEK-ENDS

PAYROLL NO.

5. The collection materials in respect to the information collection contained in 29 C.F.R. §§ 33.55(a), The Copyright Act of 1976, 17 U.S.C. 101-105, and the Copyright Clearance Center's "Fair Use" guidelines, 11 S. Department of Labor (DOL) regulations at 29 C.F.R. 33.55(a), are hereby released to the public.

[illegible]

THE INFORMATION IN THIS REPORT WAS OBTAINED FROM INTERVIEWS WITH EMPLOYEES OF THE NATIONAL LABOR RELATIONS BOARD, WASHINGTON, D. C. 20540.

U.S. Department of Housing and Urban Development
Office of Departmental Operations and Coordination
Washington, DC 20410

Email: www.OfficeofLaborRelations@hud.gov

Labor Relations Desk Guide
LR01.DG



J.

Statement of Bidder's Qualifications

All questions must be answered. The data given must be clear and comprehensive. This statement must be notarized.

1. Name of bidder:
2. Business address:
3. When organized:
4. Where incorporated:
5. How many years have you been engaged in the contracting business under your present firm or trading name?
6. Financial statement: (Attach separate sheet.)
7. Credit available for this contract: \$_____ (Attach letter.)
8. Contracts now on hand, gross amount: \$
9. Plan of organization:
10. Personnel of organization:
11. Have you ever refused to sign a contract at your original bid?
12. Have you ever defaulted on a contract?
13. Remarks:
14. Will you, upon request, furnish any other information that the Local Authority may require?
15. The undersigned hereby authorizes and requests any person to furnish any information requested by the Local Authority in verification of the recitals comprising this Statement of Bidder's Qualifications.

Dated at _____ this _____ day of _____, 20____.

(Name of Bidder)

By _____

(Title)

STATE OF:

COUNTY (CITY) OF:

_____, being duly sworn, deposes and says that he/she is
_____ of _____ and that the answers to the
(Title) (Firm)

foregoing questions and all statements therein contained are true and correct.

Sworn to before me this _____ day of _____, 20__.

In witness thereof, I hereunto set my hand and official seal.

Notary Public

(SEAL)

My Commission expires _____

K.

SUPPLEMENTAL GENERAL CONDITIONS

1. The Housing Authority of the City of Erie uses the General Conditions (form HUD-5370 Rev. 1/2014) regardless of the dollar value on the construction contract.
2. For construction work under \$20,100, the contractor shall be paid in three (3) separate equal installments.

First payment (less 10% retainage) shall be made after the contractor has demonstrated that one-third (1/3) of the work has been completed.

Second payment (less 10% retainage) shall be made after the contractor has demonstrated that two-thirds (2/3) of the work has been completed.

Third payment (less 10% retainage) shall be made after the contractor has demonstrated that the work is completed in accordance with all governing requirements and specifications.

The 10% retainage shall be released after all punch list items are corrected and a final inspection has been conducted by the Authority.

3. For all insurance certificates required under Section 36 of the General Conditions, the Housing Authority of the City of Erie must be listed as "Additional Insured" for the duration of the contract. The limits of liability shall be \$1 million per occurrence and \$2 million aggregate for Commercial General Liability; and, \$500,000/occurrence for auto liability coverage.
4. Contractor shall keep a written daily log of activities taking place on-site. Log shall include the following information:
 - a. name of employee keeping the log
 - b. date
 - c. weather conditions
 - d. contractor's workforce
 - e. subcontractors' workforce
 - f. specific construction activity on-site by address or unit number
 - g. any verbal instructions or comments made by Housing Authority inspectors, managers, or authorized personnel
5. The Contractor will cooperate and provide all necessary documentation to the Housing Authority of the City of Erie for the processing of petitions for sales tax refunds and other tax refunds. The Housing Authority of the City of Erie will be entitled to all sales tax refunds and other tax refunds. The Contractor will reimburse the Housing Authority of the City of Erie for any sales tax or other applicable tax refunds received from the Commonwealth of Pennsylvania.
6. Contractor shall not have any unsatisfied judgment(s) for federal, state, or local taxes, and shall so certify as a part of the bid submission.