

STATE OF MARYLAND CDBG PROGRAM

LABOR STANDARDS MANUAL Effective July 1, 2024



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All CDBG funded construction activities are subject to specific federal procurement and labor standards. Procurement activities must allow for full and open competition and Grantees must demonstrate that all costs are reasonable and necessary and that the best price was obtained from the most qualified contractor.

There are three significant labor standards that affect construction projects under the CDBG program. They are:

1. The Davis-Bacon Act – requires that workers receive no less than the prevailing wages being paid for similar work in the same locality. Maryland CDBG funded construction contracts exceeding \$2,000 are subject to Davis-Bacon wages and other federal labor standards.
2. The Copeland Anti-Kickback Act – requires that workers be paid weekly, that deductions from their pay be permissible, and that contractors keep and submit weekly payrolls and Statements of Compliance.
3. The Contract Work Hours and Safety Standards Act – requires that workers receive overtime compensation for hours they have worked in excess of 40 hours in one week. This Act applies to all CDBG-assisted construction contracts of \$100,000 or more. Determination of whether federal labor standards apply to any CDBG funded contract is made by the State CDBG program at the time of application review and will be indicated in the grant agreement. Contracts that include a combination of non-federal state funding and federal funds are subject to Davis-Bacon and federal wage rates will apply.

Grantees are responsible for designating a member of their staff to be responsible for labor standards compliance. In turn, each Grantee will be assigned a CDBG labor standards technical assistance provider, either Dona Sorce or Justin Fair, to assist and monitor labor standards compliance throughout the project.

A detailed list of the CDBG procurement and labor standards requirements for construction activities is provided in this manual along with forms that will assist with compliance.

Construction is defined in 29 CFR 5.2 as all kinds of work performed on a building or work at the site of the work by laborers or mechanics who work for a contractor or subcontractor, not merely new construction or renovation. The definition includes, but is not limited to, altering, remodeling, onsite installation of items fabricated offsite, painting and decorating, onsite manufacturing or furnishing of materials, articles, supplies or equipment, certain transportation activities, and demolition or removal in certain circumstances.

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Federal Labor Standards Compliance Procedures Checklist

BID PROCESS & REQUIREMENTS The bid process must be conducted in accordance with appropriate procurement methods detailed in the *Maryland CDBG Financial and Procurement Manual*.

Procurement of CDBG funded construction activities is based on the estimated amount of the service.

- Up to \$50,000 – A competitive Request for Proposal (RFP) and submission of sealed bids is required. Options for posting RFPs include: (1) posting on Grantee’s website, (2) submission to the Maryland e-marketplace website, and/or (3) advertisement in a local newspaper of general circulation.
- Over \$50,001 – A competitive RFP and submission of sealed bids is required as well as formal advertisement in at least one newspaper of general circulation.

Bid Preparation

- Before bid preparation, the Grantee is to request the applicable wage decision from the CDBG Labor Standards Officer (LSO).
- Prepare a written price or cost analysis corresponding with the project scope of work.
- Establish written evaluation criteria as the basis for contractor selection. Criteria should include contractor experience and expertise, record of past performance, and capacity to complete the work.
- Grantees must maintain written protest procedures in the event of a dispute related to contract procurement, and shall, in all instances, disclose information regarding protests.

The bid packet must include the following documents:

- Federal Labor Standards Provisions - HUD Form 4010** describes Davis-Bacon and other federal labor standards covered under CDBG funded construction contracts
- Contractor Statement of Assurances and Certifications Form**
- Current wage decision, provided by the CDBG LSO
- 5% Bid Bond for construction bids over \$100,000
- 100% Payment Bond for contracts over \$100,000
- 100% Performance Bond for construction contracts over \$100,000
- If Section 3 is applicable to the project, refer to DHCD Section 3 Manual for further guidance and the additional required documents for inclusion in the bid packet.
- If BABA is applicable to the project, refer to the CDBG Finance and Procurement Manual (rev. August 15, 2023) for further guidance and additional required documents for inclusion in the bid packet.

- All bid advertisements are to contain the following language:**

If section 3 applies, the bid document should contain the following language: ***This project is funded with federal Community Development Block Grant funds and is subject to federal labor Standards which includes Davis -Bacon wage rates and Section 3 requirements. Section 3 Business Concerns as well as minority and women owned businesses are encouraged to apply.***

If Section 3 does NOT apply, the bid document should contain the following language: ***This project is funded with federal Community Development Block Grant funds and is subject to federal Labor Standards which includes Davis–Bacon wage rates. Minority and women owned businesses are encouraged to apply.***

If BABA applies, the bid document should contain the following language: ***This project is funded with federal Community Development Block Grant funds and is subject to federal***

labor Standards which includes Davis -Bacon wage rates, BABA requirements and Section 3 requirements. Section 3 Business Concerns as well as minority and women owned businesses are encouraged to apply.

The grant agreement will specify which of these requirements apply to the project. Grantees may refer to applicable manuals that specify compliance with Section 3 and BABA that are available from your CDBG Project Manager.

Bid Solicitation

- Using the Maryland Department of Transportation (MDOT) website, conduct online search of Minority Business Enterprises (MBE) and Women Business Enterprises (WBE) operating in or near the jurisdiction where the construction is located. A copy of the RFP is to be sent to contractors whose profiles match the proposed scope of work. The website link is <https://mbe.mdot.maryland.gov/directory>.
- Contractors must be permitted at least two weeks to submit sealed bids to the Grantee.
- Contractors that are on retainer by the Grantee or Grantee's subrecipient are not eligible to bid on CDBG funded construction projects.
- A pre-bid meeting is required for requests for proposal over \$50,001. The Grantee is to document the pre-bid meeting with an agenda, attendance roster, and meeting notes indicating the date, time and location.
- Notify the CDBG LSO of the scheduled bid advertisement and bid opening dates.
- Within 10 days prior to the bid opening date, request that the LSO check for modifications to the wage decision.

Bid Opening & Selection

- At least two bids must be received. The Grantee must start the procurement process over if only one is received.
- Grantees must conduct a public opening of all bids received and document the date, time, location, and who attended the bid opening.
- Grantee is to document all received bids on a bid tally sheet with each contractor's name and bid amount.
- Grantees must select the lowest and most responsive bid.
- Only bids offering firm fixed contracts will be approved.
- Upon contractor selection and prior to the contract award, send a request to the CDBG LSO to conduct a debarment check on the general contractor.
- Grantee is responsible for conducting debarment checks on all subcontractors covered under the general contract.
- Only contractors that are not on the federal exclusion/debarment list may be selected
- If Section 3 applies, Section 3 Business Concerns must be approved prior to contract award.
- Upon approval of the bid award, the Grantee is to issue a Notice to Proceed to the selected contractor.

Special Note: A time lapse of more than 90 days between the bid opening and the contract award requires the Grantee to check with the CDBG LSO for modifications to the applicable wage decision.

THE CONTRACT

The contract is to contain the following:

- A list of all subcontractors that will work on the project
- Debarment results for general and subcontractor(s)
- Documentation of the terms of service agreed upon by the general and subcontractors in the form of a written proposal, invoice, or other document that provides the scope of work, sub-contract amount, and timeline agreed upon by the contracting parties
- Evidence that the general contractor and subcontractor(s) have received the **HUD Form 4010, and**
- Evidence that the general contractor and subcontractor(s) have signed the **Contractor Statement of Assurances and Certifications** form
- If Section 3 is applicable, the contract must include the Section 3 Clause signed by the general contractor and any subcontractors.
- The start date and number of days for the contract

PRE-CONSTRUCTION CONFERENCE

A Pre-construction conference must be conducted for all construction contracts. The Grantee must notify the CDBG LSO of the date.

- The Grantee is to refer to the **CDBG Pre-Construction Conference Checklist** provided in this manual for a detailed list of items that are to be covered.
- The **Form HUD 4010 – Labor Standards Provisions** must be reviewed with the contractor.
- The contractor is to be provided with the **Employee Rights Poster** (WH1321 English/WH284 Español), and a copy of the applicable wage decision for posting at the site of the work.
- The poster must have a name and phone number for the responsible Grantee representative. The contractor is not to be listed as the contact person on the poster.
- The Grantee is to confirm with the contractor that no changes have been made to the subcontractor list submitted with the contract.
- The Grantee is to confirm with the contractor that no changes have been made to the list of workers who will be on the site. Any changes are to be noted and included with the contract.
- The contractor must indicate whether apprentices will be working on the site of the work. Current apprenticeship agreements must be provided to the Grantee prior to the start of construction.
- Review the wage decision with the contractor to determine if any additional classifications are needed. If so, the Grantee must submit a **Request for Authorization of Additional Classification and Rate – HUD Form SF-1444** to the CDBG LSO.
- The general contractor is responsible for assuring that any subcontractors have also reviewed the wage decision for the need for additional classifications.
- Establish a construction inspections and progress reporting system.
- Request a schedule of the dates and times when general contractor and subcontractors will be on the site of the work.
- Confirm the construction start and end dates. These dates are to be forwarded to the CDBG LSO.
- Minutes of the pre-construction conference are to be sent to the CDBG LSO.
- If Section 3 applies, additional paperwork and procedures will be required, per the Section 3 Manual.

DURING CONSTRUCTION

- Grantee is to inspect the site of the work periodically, depending on the length of time for construction completion.
- Grantee is to document with a photo, that the DOL poster and wage decision are posted in a prominent and accessible place at each site of the work where they can be easily seen by workers.
- Grantee is to review all certified payroll reports in accordance with the process described in the **Certified Weekly Payroll Reports** section of this manual.
- Grantee is to conduct interviews, using the attached **HUD Form 11 Record of Employee Interview** form (interview form) with a minimum of 20% of the workers listed on the certified payrolls for the general and any and subcontractors.
- Changes in contract scope or cost must be documented with the **CDBG Construction Contract Change Order** form provided in this packet. This form is to be submitted to the Grantee's CDBG Project Manager for review and approval.
- In the event that a contract or order is changed to include additional and substantial work, not within the original scope or requiring or approving an option for additional time then the grantee must request that the wage decision be checked for modifications.***
- If a contract includes options, a search for a modification to the wage decision must be conducted when any options are exercised.
- A cost analysis justifying increases in contract amount must be included with the submission of the Change Order form.
- Grantee is to document construction progress through written inspection reports that correspond with payments to the contractor.
- Throughout construction the Grantee must investigate any reported labor standards discrepancies or violations and communicate these to the CDBG LSO.

Certified Weekly Payroll Reports

- All workers are to be paid on a weekly basis.
- Any contractors or subcontractors performing construction on the site of the work must submit weekly numbered certified payroll reports.
- Contractors and subcontractors may use their own payroll report forms if they correspond with all reporting requirements that are listed on the **WH-347 Payroll** form that is provided in this manual. Detailed instructions for payroll reporting requirements are also provided.
- All workers must be paid a minimum of the hourly rate plus fringe benefits provided on the wage decision.
- Overtime is to be paid for time more than 40 hours/week.
- Each worker is to be listed according to a classification provided on the wage decision.
- If there are classifications that will be working on the site and not listed on the wage decision, the contractor is to inform the Grantee of the classification(s) along with the hourly rate and fringe benefits that they normally pay for that work.
- The contractor is to provide the proposed hourly rate and fringes to the Grantee, who will be responsible for the completion and submission of the **Request for Authorization of Additional Classification and Rate – HUD Form SF-1444** to the CDBG LSO.
- Within 7 days following each week of construction, contractor and subcontractor(s) must submit numbered weekly certified payrolls covered by compliance statements. For weeks where no work was performed, the contractor will provide a “NO WORK” payroll report.

- The general contractor is responsible for assuring that subcontractors are paying on a weekly basis and paying in accordance with the applicable wage decision. Any unpaid wages or other liabilities for subcontractor violations and may be debarred for disregarding violations.
- The Grantee must review each weekly payroll report to verify that the hourly wage rates and fringes listed on the report correspond to the wage decision in the contract.
- The Grantee must review payroll deductions for assurance that they are permissible, per the list of **Permissible Payroll Deductions** provided in this manual. Note, when we use the term 'fringe benefits', we are generally referring to employer-provided benefits above and beyond the weekly paycheck.
- The Grantee must document those payrolls were reviewed by initialing and dating each report.
- Discrepancies must be addressed to contractors in writing.
- The contractors must provide corrected payroll reports to the Grantee.
- The Grantee is to submit copies of the first weekly certified payroll reports for each contractor and/or subcontractor working on the site to the CDBG LSO.
- The contractor must maintain the last known phone number and email address for each worker for three years after all work on the prime contract is completed.

Employee Interviews

- Using the **Record of Employee Interview** form provided in this manual, the Grantee is to conduct on-site interviews with a minimum of 20% of the workers listed on the certified payrolls for the general and subcontractor(s).
- Grantee must check the information provided during the interviews against those payroll reports that correspond with the interview date(s). Discrepancies must be addressed to the contractor in writing as well as reported to the CDBG LSO.
- Completed Interview forms are to be submitted to the CDBG LSO along with the certified payroll reports that correspond with the interview dates. These are to be attached to the **Maryland CDBG Labor Standards Compliance & Payroll Submission** form that is provided in this manual.

POST CONSTRUCTION PAYROLL ISSUES

Findings of underpayments or worker misclassifications may be identified during the grant monitoring, after construction has been completed and will require the following corrective actions:

- The contractor is to receive written notice of the deficiencies that includes a summary of the amount(s) of underpayment for each affected worker and the dollar amount of liquidated damages owed to any worker(s) not paid the correct amount for overtime.
- The contractor is to provide certified corrected payroll report(s) to the Grantee along with the **Affidavit of Wage Restitution** form and copies of cancelled checks for underpayment amounts.

If a worker cannot be located, the Grantee is required to document the following actions:

- The total outstanding amount owed to worker(s) is to be placed in escrow for no less than three years.
- The Grantee is to conduct a public records search for any workers that the contractor has been unable to locate.
- The balance of escrow funds is to be returned to the State at the end of the three-year period.

DOCUMENTATION & RECORDKEEPING

The Grantee's Labor Standards files should contain the following documentation for each contract

- Copy of cost and price analysis
- Copy of written evaluation criteria
- Copies of bid packet(s) for each contract
- Copies of all bid advertisements and other solicitations for each contract
- Notes from pre-bid meeting including attendance and comments
- Minutes from bid opening meeting, including name of attendees, list of bidders and their respective bid amounts, name of selected bidder, and documentation of comments
- Documentation of debarment check(s)
- Copy of Notice to Proceed
- Complete contract
- Pre-construction conference minutes
- Weekly Certified Payroll Reports from the first to the last week of construction
- Completed Employee Interview forms corresponding with the Weekly Payroll Reports
- Approved Change Orders, signed by the CDBG Project Manager
- Correspondence between Grantee and contractor(s)
- Evidence that the labor posters and wage decisions were posted at the job site in the form of a photographs
- Documentation related to findings and restitution or other labor related concerns

ADDITIONAL CONSIDERATIONS

Buy American - Under the Buy American Act of 1933, as amended, Grantees are strongly encouraged to procure American made products and materials or those assembled in the United States.

Equal Opportunity and Affirmative Action Strategies – Incorporate minority owned businesses in solicitations wherever there are potential sources. Divide procurement into multiple procurements when economically feasible to permit maximum participation of eligible businesses

Unfair Competitive Advantage - To ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft design plans and specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements.

However, in instances where a contractor was asked to provide estimates for an application for funding, that contractor can bid on the project if all potential bidders are provided the same information used by that contractor when they produced the estimate.

A. APPLICABILITY

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

1. Minimum wages and fringe benefits

- i. All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in 29 CFR 5.5(d) and (e), the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(v) of these contract clauses; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under 29 CFR 5.5(a)(1)(iii)) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. Frequently recurring classifications

- A.** In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to 29 CFR 5.5(a)(1)(iii), provided that:
1. The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
 2. The classification is used in the area by the construction industry; and
 3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.
- B.** The Administrator will establish wage rates for such classifications in accordance with 29 CFR 5.5(a)(1)(iii)(A)(3). Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

iii. Conformance

- A.** The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be

classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 2. The classification is used in the area by the construction industry; and
 3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- B.** The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.
- C.** If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- D.** In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- E.** The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division under 29 CFR 5.5 (a)(1)(iii)(C) and (D). The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to 29 CFR 5.5 (a)(1)(iii)(C) or (D) must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

iv. Fringe benefits not expressed as an hourly rate

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

v. Unfunded plans

If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in 29 CFR 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

- vi. Interest** In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

2. Withholding

i. Withholding requirements

The U. S. Department of Housing and Urban Development may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in 29 CFR 5.5(a) for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work (or otherwise working in construction or development of the project under a development statute) all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in 29 CFR 5.5(a)(3)(iv), HUD may on its own initiative and after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

ii. Priority to withheld funds

The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:

- A. A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- B. A contracting agency for its procurement costs;
- C. A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- D. A contractor's assignee(s);
- E. A contractor's successor(s); or
- F. A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Records and certified payrolls

i. Basic record requirements

- A. **Length of record retention.** All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.
- B. **Information required** Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.
- C. **Additional records relating to fringe benefits.** Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(v) that the wages of any laborer or mechanic include the amount of any

costs reasonably anticipated in providing benefits under a plan or program described in 40 U.S.C. 3141(2)(B) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

D. Additional records relating to apprenticeship Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

ii. Certified payroll requirements

A. Frequency and method of submission The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to HUD if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the certified payrolls to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system

B. Information required The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i)(B), except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (*e.g.*, the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the sponsoring government agency (or the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records).

C. Statement of Compliance Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information and basic records are being maintained under 29 CFR 5.5 (a)(3)(i), and such information and records are correct and complete;
2. That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly

from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.
 - D. **Use of Optional Form WH-347** The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by 29 CFR 5.5(a)(3)(ii)(C).
 - E. **Signature** The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.
 - F. **Falsification** The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.
 - G. **Length of certified payroll retention** The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
- iii. **Contracts, subcontracts, and related documents** The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.
- iv **Required disclosures and access**
- A. **Required record disclosures and access to workers** The contractor or subcontractor must make the records required under 29 CFR 5.5(a)(3)(i)–(iii), and any other documents that HUD or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by 29 CFR 5.1, available for inspection, copying, or transcription by authorized representatives of HUD or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.
 - B. **Sanctions for non-compliance with records and worker access requirements** If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.
 - C. **Required information disclosures** Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to HUD if the agency is a party to

the contract, or to the Wage and Hour Division of the Department of Labor. If the Federal agency is not such a party to the contract, the contractor, subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to HUD, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and equal employment opportunity

i. Apprentices

A. Rate of pay Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

B. Fringe benefits Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

C. Apprenticeship ratio The allowable ratio of apprentices to journeymen on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to 29 CFR 5.5(a)(4)(i)(D). Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in 29 CFR 5.5(a)(4)(i)(A), must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

D. Reciprocity of ratios and wage rates Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

ii Equal employment opportunity The use of apprentices and journeymen under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

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

6 Subcontracts. The contractor or subcontractor must insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (11), along with the applicable wage determination(s) and such other clauses or contract modifications as the U.S. Department of Housing and Urban Development may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate.

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

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

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

10. Certification of eligibility.

i. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

iii. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. 1001.

11 Anti-retaliation It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5;

iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5; or

iv. Informing any other person about their rights under the DBA, Related Acts, or 29 CFR parts 1, 3, or 5.

B. Contract Work Hours and Safety Standards Act (CWHSSA)

The Agency Head must cause or require the contracting officer to insert the following clauses set forth in 29 CFR 5.5(b)(1), (2), (3), (4), and (5) in full, or (for contracts covered by the Federal Acquisition Regulation) by reference, in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses must

be inserted in addition to the clauses required by 29 CFR 5.5(a) or 4.6. As used in this paragraph, the terms “laborers and mechanics” include watchpersons and guards.

- 1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in 29 CFR 5.5(b)(1) the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in 29 CFR 5.5(b)(1), in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in 29 CFR 5.5(b)(1).
- 3. Withholding for unpaid wages and liquidated damages**
 - i. Withholding process** The U.S Department of Housing and Urban Development or the recipient of Federal assistance may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in 29 CFR 5.5(b) on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.
 - ii Priority to withheld funds** The Department has priority to funds withheld or to be withheld in accordance with 29 CFR 5.5(a)(2)(i) or (b)(3)(i), or both, over claims to those funds by:
 - A.** A contractor’s surety(ies), including without limitation performance bond sureties and payment bond sureties;
 - B.** A contracting agency for its procurement costs;
 - C.** A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor’s bankruptcy estate;
 - D.** A contractor’s assignee(s);
 - E.** A contractor’s successor(s); or
 - F.** A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.
- 4. Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in 29 CFR 5.5(b)(1) through (5) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in 29 CFR 5.5(b)(1) through (5). In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss,

due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

- 5 Anti-retaliation** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:
- i. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in 29 CFR part 5;
 - ii. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or 29 CFR part 5;
 - iii. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or 29 CFR part 5; or
 - iv. Informing any other person about their rights under CWHSSA or 29 CFR part 5.
- C. CWHSSA required records clause** In addition to the clauses contained in 29 CFR 5.5(b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other laws referenced by 29 CFR 5.1, the Agency Head must cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor must maintain regular payrolls and other basic records during the course of the work and must preserve them for a period of 3 years after all the work on the prime contract is completed for all laborers and mechanics, including guards and watchpersons, working on the contract. Such records must contain the name; last known address, telephone number, and email address; and social security number of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid; daily and weekly number of hours actually worked; deductions made and actual wages paid. Further, the Agency Head must cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph must be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview workers during working hours on the job.
- D. Incorporation of contract clauses and wage determinations by reference** Although agencies are required to insert the contract clauses set forth in this section, along with appropriate wage determinations, in full into covered contracts, and contractors and subcontractors are required to insert them in any lower-tier subcontracts, the incorporation by reference of the required contract clauses and appropriate wage determinations will be given the same force and effect as if they were inserted in full text.
- E. Incorporation by operation of law** The contract clauses set forth in this section (or their equivalent under the Federal Acquisition Regulation), along with the correct wage determinations, will be considered to be a part of every prime contract required by the applicable statutes referenced by 29 CFR 5.1 to include such clauses, and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the Administrator grants a variance, tolerance, or exemption from the application of this paragraph. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

F. HEALTH AND SAFETY

The provisions of this paragraph (F) are applicable where the amount of the prime contract exceeds **\$100,000**.

1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.
2. The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.
3. The contractor shall include the provisions of this paragraph in every subcontract, so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

MARYLAND COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
Contractor Statement of Assurances and Certifications

The contractor hereby assures and certifies that he/she will comply with the following requirements in the event that this bid is accepted. The contractor:

1. has reviewed the Federal Labor Standards Provisions, **Form HUD-4010**, and agrees to abide by all of the requirements, as they apply to the contract at hand;
2. will take reasonable steps to comply with the Section 3 provisions as they relate to hiring new workers and/or businesses for all contracts in excess of \$100,000 - 24 CFR § 135.32;
3. assures that if the contract exceeds \$10,000, reasonable steps will be taken to comply with the Equal Employment Opportunity provisions;
4. will take reasonable steps to procure products and materials that are produced or assembled in America;
5. will assure that if the Buy America, Build America Act (BABAA) applies, the contract work will comply with BABAA requirements, as identified in the bid documents or by the project owner;
6. has not been declared ineligible from receiving Federal contracts during the past three years;
7. will comply with the Immigration Reform and Control Act of 1986 (IRCA) stipulating that the only persons who can be employed under the contract are persons that may legally work in the United States. The contractor is responsible for verifying the eligibility of all workers to be employed in the United States;
8. has no personal or business relationship with any employee, officer or elected official of the CDBG grant recipient, subrecipient or developer organization, which has the potential to result in a conflict of interest. Such relationships include marriage, domestic partnership or business or professional relationship with an employee, agent, consultant, officer, elected or appointed officer of the CDBG grantee;
9. has not used federal funds to influence, or attempt to influence an officer or employee of any agency, member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
10. will provide access to the grantee, the State of Maryland, HUD, the subrecipient, developer, the Controller General of the U.S. , or their duly authorized representative any books, documents, papers, or records for the purpose of audit or examination;
11. will comply with all environmental standards, orders, or requirements under Clean Air Act, Clean Water Act, EO 11738, and EPA regulations for contracts, subcontracts and subcontracts greater than \$100,000;
12. will comply with all other reporting requirements and regulations as provided in the contract; and
13. will require compliance with these assurances and certifications of any subcontractor procured under this contract.

Contractor Name

Contractor Signature

Date

Subcontractor Name

Subcontractor Signature

Date

Construction Classifications / All Agency Memo No. 130

TO: ALL GOVERNMENT CONTRACTING AGENCIES AND THE DISTRICT OF COLUMBIA

FROM: XAVIER M. VELA, ADMINISTRATOR

SUBJECT: Application of The Standard of Comparison "Projects Of A Character Similar"
Under The Davis-Bacon And Related Acts

The purpose of this memorandum is to set forth present policies of the Wage and Hour Division with regard to the determination of "projects of a character similar to the contract work" for wage determination purposes. The guidelines contained in the memorandum are to be used by the contracting agencies in selecting the proper schedule(s) of wage rates from the Federal Register and in instructing contractors regarding the application of multiple schedules. This memorandum supersedes A11 Agency Memorandum No. 68 (July 19, 1966).

The Davis-Bacon and related Acts require the Secretary of Labor to determine the prevailing wage rates for corresponding classes of laborers and mechanics on projects in the area which are of a "character similar" to the proposed contract work to which the determination will be applied. The Department's Wage Appeals Board in a decision specifically relating to high-rise apartment buildings (WAB Case No. stated:76-11, dated January 27, 1977) stated:

The test of whether a project is of a character similar to another project refers to the nature of the project itself in a construction sense, not to whether union or nonunion wages are paid or whether union or nonunion workers are employed. Since the 1935 amendments to the Davis-Bacon Act, the statutory focus has always been on the character of the project itself rather than on who was employed on the project or how much he or she was being paid.

Again, in a decision relating to a water treatment plant project (WAB Case No. 77-20, dated September 30, 1977), the Board stated: "When it is clear from the nature of the project itself in a construction sense that it is to be categorized as either building, heavy, or highway construction it is not necessary to resort to an area practice survey to determine the appropriate categorization of the project."

Generally construction projects are classified as either Building, Heavy, Highway or Residential. I/ Below are descriptions of these classifications with an illustrative listing of the kinds of projects that are generally included within the classification.

Contracting agencies should utilize these descriptions and illustrations in carrying out their responsibilities, to insure a uniform and consistent administration of the Davis-Bacon and related prevailing wage statutes. The advertised and contract specifications should identify as specifically as possible the segments of work to which the schedules will apply. Note, however, that the descriptions and illustrations are guides. Contracting agencies should seek a determination from the Department of Labor on close questions or when the appropriate classification is in dispute. In making this determination where a project does not readily fall within any category, the Department of Labor may consider wages being paid on analogous projects as an indication of the proper category. As stated by the Wage Appeals Board in WAB Case No. 77-23, dated December 30, 1977: "Wages, however, are only one indication. It is also necessary to look at other characteristics of the project, including the construction techniques, the material and equipment being used on the project, the type of skills called for on the project work and other similar factors which would indicate the proper category of construction."

1. BUILDING CONSTRUCTION

Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes all construction of such structures, the installation of utilities and the installation of equipment, both above and below grade.

Examples:

Alterations and additions to buildings
Apartment buildings (5 stories and above)
Arenas (enclosed)
Auditoriums
Automobile parking garages
Banks and financial buildings
Barracks
Churches
City halls
Civic centers
Commercial buildings
Court houses
Detention facilities
Dormitories
Emergency lights
Farm buildings
Fire stations
Generators
Hospitals
Hotels
HVAC
Industrial buildings
Institutional buildings

Libraries
Mausoleums
Motels
Museums
Nursing and convalescent facilities
Office buildings
Out-patient clinics
Passenger and freight terminal buildings
Police stations
Post offices
Power plants
Prefabricated buildings
Remodeling buildings
Renovating buildings
Repairing buildings
Restaurants
Schools
Security systems
Service stations
Shopping centers
Stores
Subway stations
Theaters
Warehouses
Water and sewage treatment plants (buildings only)

2. RESIDENTIAL CONSTRUCTION

Residential projects for Davis-Bacon purposes are those involving the construction, alteration, or repair of single family houses or apartment buildings of no more than four (4) stories in height. This includes all incidental items such as site work, parking areas, utilities, streets and sidewalks.

Examples:

Town or row houses
Apartment buildings (4 stories or less)
Single family houses

Mobile home developments
Multi-family houses
Married student housing

3. HEAVY CONSTRUCTION

Heavy projects are those projects that are not properly classified as either "building", "highway", or "residential". Unlike these classifications, heavy construction is not a homogeneous classification. Because of this catch-all nature, projects within the heavy classification may sometimes be

distinguished on the basis of their particular project characteristics, and separate schedules issued. For example, separate schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.

Examples:

Antenna towers
Bridges (major bridges designed for commercial navigation) 2/ Breakwaters
Caissons (other than building or highway)
Canals
Channels
Channel cut-offs
Chemical complexes or facilities (other than buildings)
Cofferdams
Coke ovens
Dams
Demolition (not incidental to construction)
Dikes
Docks
Drainage projects
Dredging projects
Electrification projects (outdoor)
Flood control projects
Industrial incinerators (other than building)
Irrigation projects
Jetties
Kilns
Land drainage (not incidental to other construction)
Land leveling (not incidental to other construction)

Land reclamation
Levees
Locks, waterways
Oil refineries (other than buildings)
Pipe lines
Ponds
Pumping stations (prefabricated drop-in units - not buildings)
Railroad construction
Reservoirs
Revetments
Sewage collection and disposal lines
Sewers (sanitary, storm, etc)
Shoreline maintenance
Ski tows
Storage tanks
Swimming pools (outdoor)
Subways (other than buildings)
Tipples
Tunnels
Unsheltered piers and wharves
Viaducts (other than highway)
Water mains
Water-way construction
Water supply lines (not incidental to building)
Water and sewage treatment plants (other than buildings)
Wells

4. HIGHWAY CONSTRUCTION

Highway projects include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.

Examples:

Alleys
Base courses
Bituminous treatments
Bridle paths
Concrete pavement
Curbs
Excavation and embankment (for road construction)
Fencing (highway)
Grade crossing elimination (overpasses or underpasses)
Guard rails on highway
Highway signs
Highway bridges (overpasses; underpasses; grade separation)

Medians
Parking lots
Parkways
Resurfacing streets and highways
Roadbeds
Roadways
Runways
Shoulders
Stabilizing courses
Storm sewers incidental to road construction
Street Paving
Surface courses
Taxiways
Trails

In applying these guidelines contracting agencies are reminded that they have the authority only in the first instance to designate the appropriate wage schedule(s) from the Federal Register, and to determine the application of multiple schedules issued by the Wage and Hour Division in project wage determinations. Any questions regarding the application of the guidelines set forth in this memorandum to a particular project or any disputes regarding the application of the wage schedules are to be referred to the Wage and Hour Division for resolution, and the instructions of the Wage and Hour Division are to be observed in all instances. Furthermore, where multiple schedules are issued by the Wage and Hour Division, they must be utilized in the contract specifications unless the agency requests and receives a change in the wage determination from the Wage and Hour Division. To ensure that appropriate schedules are issued, contracting agencies are advised to provide the Wage and Hour Division in their requests for wage determinations with a sufficiently specific description of the project to be able to determine its character.

FOOTNOTES

1 Generally, for wage determination purposes, a project consists of all construction necessary to complete a facility regardless of the number of contracts involved so long as all contracts awarded are closely related in purpose, time and place. For example, demolition or site work preparatory to building construction is considered a part of the building project for wage determination purposes. Where a project, such as a water and sewage treatment plant, includes construction items that in themselves would be otherwise classified, a multiple classification may be justified if such construction items are a substantial part of the project. Further, however, a separate classification would not apply if such construction items are merely incidental to the total project to which they are closely related in function. For example, water or sewer line work which is a part of a building project would not generally be separately classified. Where construction is "incidental" in function, 20 percent of project cost is used as a rough guide for determining when construction is also "incidental" in amount to the overall project level, as well as incidental grading, utilities and paving. Additionally, such structures need not be "habitable" to be building construction. The installation of heavy machinery and/or equipment does not generally change the project's character as a building.

2 Major bridges contain elements of both heavy and highway construction. See W AB Case No. 77-2 (October 21, 1977).

Build America, Buy America Certification for CDBG Project Contractors and Subcontractors

I, _____ (Contractor Representative) acknowledge to and for the benefit of _____ (CDBG Grantee) that I understand the work performed for this project is subject to the requirements of the Build America, Buy America Act;

To comply with the Buy America Preference, all iron and steel used in the project must be produced in the United States;

Produced in America means that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

I certify that I have reviewed and understand this requirement as it relates to this bid proposal submitted by my company and the identified subcontractors, if any. If selected, I will provide information necessary to demonstrate compliance with this requirement throughout the construction period.

Contractor Name: _____

Contractor Representative Signature

Date

Subcontractor Certification Regarding Debarment and Suspension

CDBG Grantees are required to do debarment checks on all subcontractors receiving CDBG funds. These checks will be completed by using the form provided. The completed form should be placed in your CDBG records with the contract for services. They must be completed by you prior to signing a contract for services.

Note: Debarment checks for construction contractors will still be completed by the CDBG Labor Standards Officer.

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 7 CFR Part 3017, Section 3017.510, Participants' responsibilities. The regulations were published as Part IV of the January 30, 1989 Federal Register (pages 4722-4733).

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - ii. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - iii. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - iv. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective shall attach an explanation to this proposal.

Grantees should use the Federal System for Award Management (www.sam.gov) website to determine if the potential contractor is excluded from receiving Federal contracts.

Request for Contractor Debarment Check

Legal Name of Contractor _____

Contractor Address _____

Contractor's Unique Entity ID Number _____

Date Debarment Check Requested _____

CERTIFICATION SIGNATURE: By signing this Certification page, I certify that the necessary actions were performed to complete the debarment check and I am further certifying that this contractor is not debarred or suspended.

Grantee Designee Signature: _____

Date: _____

FOR SUBMISSION TO CDBG LSO

Result of debarment check: _____

CDBG LSO Initials: _____ Date: _____

(Signed Certifications are to be kept in CDBG project files)

Pre-Construction Conference Checklist

Grantee:		Grant Number:	
Project Name:		Contract Amount:	
Grantee Contact:			
Contractor #1 Name:		Contract #1	\$
Represented By:			
Contractor #2 Name:		Contract #2	\$
Represented By:			
Contractor #3 Name:		Contract #3	\$
Represented By:			

1.Labor Laws and Requirements – This federally funded project is subject to the following labor laws and regulations:

Davis-Bacon and Related Acts require the payment of prevailing wage rates to all laborers and mechanics working construction at the site of the work. The prevailing wages for this project are listed in the contract documents. Prevailing wages include a basic hourly rate of pay and in most cases a fringe benefit payment.

The **Copeland Act** makes it a crime for anyone to require any laborer or mechanic to kickback any part of their wages. Consequently, the only deductions that can be taken out of an employee's paycheck are those **required by law** or those **authorized** by the employee **in writing**. **The Copeland Act also requires that every contractor pay their employees weekly and submit weekly certified payroll reports (CPRs).**

The Contract Work Hours and Safety Standards Act (CWHSSA) requires time and one-half pay for hours worked over 40 in any workweek. The time and one-half is computed on the basic hourly wage and then the fringe amount is added to it. CWHSSA violations carry a liquidated damages penalty of ten dollars per day per violation. Intentional violations of CWHSSA standards are considered a Federal criminal misdemeanor.

2. Additional Classifications

If any work classifications needed for this contract do not appear on the wage decision, the CDBG Labor Standards Officer is to be informed and will be responsible for submitting additional classifications and rates to the U.S. Department of Labor for review and approval.

3. Job Site Postings

The contractor is required to display, in a **conspicuous place at the site of the work**, the Secretary of Labor's **Wage and Hour Poster** (WH1321)

www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf. The poster must list the following:

- Name and phone number of the grantee's labor standards compliance contact for this grant,
- The wages and fringes for each of the job classifications working at the site,

If there are Spanish speaking workers, the Spanish version of the poster (WH284 Español) must be displayed along with the English version.

The contractor must also post the final wage decision at the site.

4. Payroll Reports

All workers are to be paid on a weekly basis. Original payrolls must be submitted weekly by all contractors and subcontractors, including business owners operating onsite who claim executive exemption from the Davis-Bacon Act.

Contractors are not required to use Payroll Form WH-347, however the payroll report must include all of the information required on the WH-347 form and the Statement of Compliance must include the exact wording as on the reverse of the WH-347 form.

Payroll information needed:

- Week Number #1 through to the last week of construction
- During weeks where work was not performed, number the report and write "NO WORK"
- All mechanics and laborers employed on the site each week must be listed on the payroll
- Employee name, and last four digits of social security number are required
- Correct work classification taken from the wage decision or approved classification
- Hourly wages and fringes, if paid in cash. If fringes are paid into a defined plan, see below.*
- Daily and weekly total number of hours worked (daily and weekly project hours worked on this project only)
- Gross pay for this project
- Permissible deductions (those authorized by law or by the employee in writing)
- Net pay

Notes:

- Second page of report must be completed, box "a" or "b" checked, and the certification signed .
- Payroll deductions must be made according to DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" any of their

earnings. Allowable deductions include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings account and any other legally-permissible deduction **authorized by the employee**. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee. Non-permissible deductions are tools, gas, classes and similar items.

- If fringe benefits are paid into a plan instead of in cash, documentation of the plan and the amount paid into the plan per employee must be submitted with the first payroll. Fringe benefits include health insurance and retirement. They 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.
- If payrolls are not numbered sequentially by the respective contractor or subcontractor, then submit a letter or the "No Work" form to the contract administrator for the period that work is not performed so that a continuous record is maintained. One form may be submitted for extended period of inactivity on the job.
- General and all subcontractors submit their own *Signature Authorization Form* stating who is designated to sign payrolls if someone other than the owner signs them.
- Within seven (7) days after the payroll period ends, payroll reports must be submitted to the grantee's labor compliance staff person.

5. Contractor/Subcontractor Certifications

Contractor/subcontractor certifications are to be submitted within ten (10) days of signing the contract. In lieu of the certification, a copy of the contract between the general contractor and subcontractor may be submitted. However, the contract must contain the applicable wage decision, the HUD 4010 Labor Standards Provisions, Contractor Certifications and Assurances form, and the applicable Section 3 forms.

General contractors are responsible for the payment of employees of subcontractors and lower tier subcontractors and in compliance with Labor Standards Provisions.

It is the **general** contractor's responsibility to employ only eligible subcontractors who have certified their eligibility with written contracts.

6. Split Classification

If employees perform work in more than one classification during the workweek, the wage rates specified for each classification can be paid **only** if accurate time records are maintained showing the amount of time spent in each classification of work. If there is a dispute, the contractor will be asked to provide the employee time records. If accurate time records are not maintained, the employees must be paid the highest wage rate of all the classifications for work performed.

7. Proper Designation of Trade

The classification of each employee must be selected from the wage decision or an approved additional classification based on the actual type of work performed. Each worker must be paid no less than the wage rate on the wage decision for that classification regardless of their level of skill and any fringes. 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 the contractor to be fully trained as a Carpenter. **The only people who can be paid less than the rate for their craft are apprentices registered with the State of Maryland.**

8.Foremen

Foremen or supervisors who regularly spend more than 20% of their time performing construction work are covered laborers and mechanics (workers, employees) for labor standards purposes and must be paid the designated wage for the classification in which they work. If spending less than 20%, foreman should be listed on payrolls and do not need pay to be recorded.

9.Relatives

Contractor relatives are not exempt from Davis-Bacon requirements and must be paid the prevailing wage rate for the classification of work performed.

10.Apprenticeship Provisions

The State of Maryland does have an approved USDOL apprenticeship or trainee program, so all apprentices must be registered with a program that is authorized by the State.

Documentation of Apprentice registration must be submitted with the first payroll on which they appear. If the documents are not submitted, the employee must be paid the mechanic rate for the classification of work being performed. The apprentice must be registered prior to going to work on the job.

11.Wage Interviews

Every contractor must make their employees available for interviews at the job site with the grantee's representative.

12.Working Subcontractors

In the event the general contractor or the subcontractor hires a self-employed proprietor, the Davis-Bacon rate must be paid, and as clauses are flowed down into all subcontracts, the following procedure must be followed:

- Report the self-employed proprietor on the certified payroll of whoever hired them.
- Provide their name, address and last four digits of the social security number.
- State their classification of work (i.e. "finish carpenter") as listed exactly on the wage decision.
- Indicate daily hours of work, by date, and the total hours per week.
- Show the hourly rate of pay, with the gross amount earned in the week.
- Enter "self-employed" and their contracting license number, where the payroll asked for "deductions." If the owner claims to perform all of the work themselves, claiming "executive exemption," they must still complete a payroll.
- "Owner-operators" of trucks who are independent contractors and working on site, must be reported on weekly payrolls. The payrolls do not need to show the hours worked or rates, only the notation Owner-operator.

13.Truck Drivers

Truck drivers employed by a construction contractor or construction subcontractor are not covered by Davis-Bacon prevailing wage requirements while engaged in transporting materials or supplies to or from the site of the work.

In general, truck drivers who are regularly on site for more than de minimus loading or unloading materials, must be paid Davis-Bacon rates for their time spent while employed "directly upon the site of the work." They would also be covered while hauling between the project site and any special facilities established exclusively for the project, i.e., "dedicated facilities" under 29 CFR 5.2(1)(2).

14.Violations

Violations will result in withholding of funds, termination of the contract or contractor debarment.

15.Equal Employment Opportunity

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

Labor Standards Compliance and Payroll Submission Form

**Instructions: Complete Form for Each Contract funded with CDBG funds. Attach copy of first payroll report and employee interview forms. Submit within 2 weeks of receipt of 1st payroll report to your Labor Standards Officer

GRANTEE NAME _____ GRANT # _____

Project Address _____

Brief Project Description _____

Contract Activities _____

Invitation to Bid Date _____ Pre-Bid Meeting Date _____

Bid Due Date _____ Bid Opening Date _____

Date of Contractor Debarment Check _____ Contract Award Date _____

General Contractor Name _____ Contract Amount _____

Pre-Construction Conference Date _____ Notice to Proceed Date _____

of Days in Contract _____

Date of 1st Payroll Report _____

**Were these initialed and dated by grantee?* _____ Yes No _____

Date of 1st Employee Interview _____ *Interview forms attached?* _____

Wage Decision and Modification Numbers _____

**Was this wage decision and the DOL poster posted at the job site?* _____ Yes No _____

Subcontractors' Names and Contract Amounts _____

GRANTEE CONTACT NAME _____ DATE _____

Certified Payroll Weekly Submittal Cover Sheet

_____ Consecutive Workweek Listed

_____ Employees Listed
(or owner executive exemption)

_____ Deductions, Net Pay, Gross Pay Listed

_____ On back of sheet, checkbox for fringe paid in cash **or**
checkbox for fringe paid into plan with list of fringes.

_____ Signed by Owner? If not, the employer is to provide a
letter naming the person who is authorized to serve on
their behalf.

_____ Name of employee authorized to sign payrolls:

_____ Owner Name:

_____ Today's date:

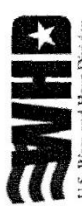
How to Correctly Fill Out a WH-347 Payroll Form

The completion of the WH-347 Payroll Form is optional; contractors may utilize their own payroll system as long as it conforms to the WH-347 Payroll Form and contains all the necessary information. If you utilize WH-347 Payroll Form as a pdf, saving it electronically aids in making any needed corrections.

Check one of the boxes and list name of contractor or subcontractor

The last day of the payroll period.

Fill out completely with contractor or subcontractor address



WHD
U.S. Wage and Hour Division
Rev. Dec. 2008

PAYROLL
(For Contractor's Optional Use; See Instructions at www.doi.gov/esa/whd/forms/WH-347_instr.htm)
Persons are not required to respond; the collection of information uses a currently valid OMB control number.

OMB No.: 1215-0149
Expires: 12/31/2011

NAME OF CONTRACTOR OR SUBCONTRACTOR Sample Construction Company

PAYROLL NO. 8

PROJECT AND LOCATION
Robin Street Apartments, Delafield WI 53018

PROJECTOR CONTRACT NO. 3000

NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER OR DRIVER NUMBER OR I.D. NUMBER)	WORK CLASSIFICATION	EXEMPTIONS	(4) DAY AND DATE							TOTAL HOURS	GROSS AMOUNT EARNED	WITH-HOLDING TAX	(8) DEDUCTIONS		TOTAL DEDUCTIONS	NET WAGES PAID FOR WEEK
			Sun	Mon	Tue	Wed	Thur	Frid	Sat				State with holding tax	Medicare		
Alex Driver - ####	Power Equipment Operator	2								2.00	\$1,422.84	\$185.15	\$50.31	\$85.00	\$0.43	\$1,374.03
	Earth Dozer Operator		8:00	8:00	5:00	6:00				27.50	\$2,012.46					

Indicate the days and dates of the pay period. (should match week ending directly above)

The name and location of project.

The prime contractor should include the project number as listed in the loan

List each worker's name.
Only laborers and mechanics performing construction work under the contract should be listed.

Please note: Business Owners need only include their name, work classification including "owner" and the daily total hours worked.

Specify the job classification located in the contract wage decision and/or the corresponding job title.

List hourly wage rate and fringes paid in cash (not those paid to plans)

For Contractor's Optional Use: See instructions at www.dol.gov/eis/wh/wh347instr.htm

Signatures are not required to respond to the collection of information unless it displays a currently valid OMB control number.



Specify the net amount paid to the employee for the pay

Specify the total overtime and straight time hours worked on the project.

Must accurately reflect overtime and straight time hours worked under the contract.

Specify the gross earnings for the hours worked under the contract.

NAME AND SOCIAL SECURITY NUMBER (or I.D. NUMBER) (If last four digits of SOCIAL SECURITY NUMBER are blank, enter "XXXX")	DOL CONTRACT NUMBER	CLASSIFICATION	PAY AND DATE							TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED	REDUCTIONS	NET PAY
			Mon	Tue	Wed	Thu	Fri	Sat	Sun					
Alex Turner - #1111	041722510	Power Equipment Operator Group 2							2.00	\$62.53	\$1,250.60	\$161.00	\$1,089.60	
Jason Walker - #1111		General Laborer							4.00	\$36.25	\$1,450.00	\$136.00	\$1,314.00	
Steve Turner - #1111		Apprentice Carpenter 1st 6 mo. at 40%							1.50	\$60.19	\$90.28	\$11.00	\$79.28	
Ray Wrench - #1111		Plumber							40.00	\$32.72	\$1,308.80	\$105.43	\$1,203.37	
Bart Turner - #1111		Steamfitter							20.00	\$59.13	\$1,182.60	\$117.11	\$1,065.49	
		Power Equipment Rotary Drift Group 4							24.00	\$49.97	\$1,199.28	\$122.33	\$1,076.95	

With completion of Form WH-347, optional, if it is intended for covered contractors and subcontractors performing work on Federal, State, or local construction projects, it is required to be filed with the Federal agency contracting for the work. The contractor must file this information with the Federal agency contracting for the work. The contractor must file this information with the Federal agency contracting for the work. The contractor must file this information with the Federal agency contracting for the work.

If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter the gross amount earned on this contract in the top half of column 7. Enter the gross amount earned during the week for all projects in the bottom half.

Alex Driver worked 29.5 hours on this contract and 12.5 hours on another contract. The gross wages earned on this project, \$1,422.84, is entered in the top half of column 7. The gross wages earned on all projects, \$2,012.46, is entered in the

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER OF WORKER)	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE							TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED	DEDUCTIONS				NET WAGES PAID FOR WEEK		
			Sat	Sun	Mon	Tue	Wed	Thu	Fri				Sat	FICA	WITH-HOLDING TAX	State with- holding tax		Medicare	OTHER
Alex Driver - ####	2	Power Equipment Bull Dozer Group 2								2.00	\$62.83	\$1,422.84	\$61.00	\$185.15	\$156.97	\$50.31	\$85.00	\$638.43	\$1,374.03
Jason Worker - ####	2	General Laborer								4.00	\$503.11	\$2,012.46	\$36.06	\$156.47	\$132.66	\$42.32		\$467.71	\$1,233.07
Sharon Wood - ####	3	Carpenter								1.50	\$60.19	\$1,887.49	\$151.00	\$154.77	\$128.35	\$47.19		\$481.31	\$1,406.18
Reggie Tree - ####	1	Apprentice Carpenter 1st 6 mo. at 40%								40.00	\$32.72	\$1,064.72	\$85.18	\$105.41	\$90.50	\$26.62		\$307.71	\$757.01
Roy Wrench - ####	5	Plumber								20.00	\$67.88	\$1,004.80	\$103.46	\$147.11	\$118.51	\$51.08		\$480.16	\$1,563.04
Roy Wrench - ####	5	Steamfitter								20.00	\$69.13	\$1,038.40	\$103.46	\$147.11	\$118.51	\$51.08		\$480.16	\$1,563.04
Bart Turner - ####	1	Power Equipment Rotary Drill Group 4								24.00	\$60.80	\$1,459.20	\$111.14	\$142.48	\$122.33	\$35.98		\$415.53	\$1,023.27

If an employee performs multiple work classifications under the contract, use two or more lines to distinguish the different job classifications, hours worked, and hourly wage earned for each.

Combine the two classifications when recording the gross amount earned for this pay period, deductions, and net wages.

PAYROLL
 Optional User: See instructions at www.doi.gov/esa/whd/forms/wh347
 needed to respond to the collection of information unless it displays a currently valid OMB control number.

PROJECT AND LOCATION: Robin Street Apartments, Delafield WI 53018
 PROJECT OR CONTRACT NO.: 3000

ADDRESS: 385 West Drive, Madison WI 53703
 Division: 50149
 Office: 2512011

14/24/2010

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) FUNCTIONS PERFORMED	(3) WORK CLASSIFICATION	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS				(9) NET WAGES PAID FOR WEEK		
			Sun	Mon	Tue	Wed	Thu	Fri	Sat				FICA	With- holding tax	State with- holding tax	Medicare		OTHER	
Alex Driver - ####	2	Power Equipment Bull Dozer Group 2								2.00	\$62.83	\$1,422.84	\$161.00	\$185.15	\$156.97	\$20.31	\$85.00	\$638.43	\$1,374.03
Jason Worker - ####	4	General Laborer								4.00	\$49.20	\$2,012.46	\$136.06	\$156.47	\$132.66	\$42.52	\$467.71	\$1,233.07	
Sharon Wood - ####	3	Carpenter								1.50	\$60.19	\$1,887.49	\$151.00	\$154.77	\$128.35	\$47.19	\$481.31	\$1,406.18	
Reggie Tree - ####	1	Apprentice Carpenter 1st 6 mo at 40%								40.00	\$32.72	\$1,064.72	\$85.18	\$105.41	\$90.50	\$26.62	\$307.71	\$757.01	
Roy Wrench - ####	5	Plumber								20.00	\$67.88	\$1,004.80	\$163.46	\$147.11	\$118.51	\$51.08	\$480.16	\$1,563.04	
Roy Wrench - ####	5	Steamfitter								20.00	\$69.13	\$2,043.20	\$115.14	\$142.48	\$122.33	\$35.98	\$415.93	\$1,023.27	
Bart Turner - ####	1	Power Equipment Rotary Drill Group 4								24.00	\$60.80	\$1,439.20							

While completion of Form WH-347 is required, the Department of Labor (DOL) does not require any comments regarding these estimates of any other aspect of this collection, including suggestions for reducing this burden, send them to the A Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3402, 200 Constitution Avenue, N.W., Washington, D.C. 20210

We estimate that it will take an average of 15 minutes to complete this form, including reviewing the information received, gathering the data needed, and completing and reviewing the collection of information, if you have any comments regarding these estimates of any other aspect of this collection, including suggestions for reducing this burden, send them to the A Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room S3402, 200 Constitution Avenue, N.W., Washington, D.C. 20210

Bart Turner: explanation is included under "(c) exceptions" on signatory page.

Provide explanation of "other" deductions on signatory page.

Fringe benefits are not paid as cash to Alex Driver.

Bart Turner: explanation is included under "(c) exceptions" on signatory page.

Jason Worker - ####

Sharon Wood - ####

Reggie Tree - ####

Roy Wrench - ####

Roy Wrench - ####

Bart Turner - ####

Date 04/28/2010

I, Tiffany Payer (Name of Signatory Party) Payroll Supervisor (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by Sample Construction Company (Contractor or Subcontractor) on the Robin Street Apartments, Delafield WA; that during the payroll period commencing on the 18 day of 4 2010 and ending the 24 day of 4 2010 all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said Sample Construction Company (Contractor or Subcontractor) from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3.239 C.F.R. Subtitle A, issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 68 Stat. 108, 72 Stat. 957, 78 Stat. 357, 40 U.S.C. § 3146), and described below:

Alex Driver - #### - other deductions - \$85 for child support

Explanation of "other"

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

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

(4) That: (a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

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

(c) EXCEPTIONS

Table with columns: EXCEPTION (GRAPHY), EXPLANATION. Row 1: Power Equipment Rotary Drill Group 4, paid directly to plan: health & dental at \$12.50 per hour and Pension at \$6.25 per hour. Includes a box for 'Explanation of exception to fringe benefits' and a signature line for Robert Sample, Owner.

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:		\$ TOTAL WAGE
				GROUP #	BHR	
Bricklayers			\$			
Carpenters			\$			\$
Cement Masons			\$			\$
Drywall Hangers			\$			\$
Electricians			\$			\$
Iron Workers			\$			\$
Painters			\$	OPERATORS FRINGE BENEFITS:		\$
				GROUP #	BHR	
Plumbers			\$			\$
Roofers			\$			\$
Sheet Metal Workers			\$			\$
Soft Floor Layers			\$			\$
Tapers			\$			\$
Tile Setters			\$	TRUCK DRIVERS FRINGE BENEFITS:		\$
				GROUP #	BHR	
OTHER CLASSIFICATIONS						
			\$			\$
			\$			\$
			\$			\$
ADDITIONAL CLASSIFICATIONS (HUD Form 4230-A)						
WORK CLASSIFICATION	BASIC HOURLY RATE	FRINGE BENEFITS	TOTAL HOURLY WAGE RATE	DATE OF HUD SUBMISSION TO DOL		DATE OF DOL APPROVAL
			\$			
			\$			
			\$			
			\$			

Payroll Review Compliance Calculator

Did you know? Using the [WH347 PDF form](#) on your computer will automatically calculate wages. And the aforementioned Project Wage Rates sheet is a good companion to the wage decision.



However, if you have *several* weeks of employees to check and need assistance, please ask for the **Payroll Review Compliance Calculator** – An Excel Spreadsheet Workbook. You can use this tool to review payrolls, developed in-house by Labor Standards Compliance Officers, Justin Fair and Dona Sorce. It helps ‘show the work’ to catch common math errors.

REQUEST EXCEL FORMAT

Permissible Payroll Deductions

The following payroll deductions may be made without requesting approval:

- A. Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal social security taxes.
- B. Any deduction of sums previously paid to the employee as a bona fide prepayment of wages when such prepayment is made without discount or interest. A “bona fide prepayment of wages” is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give themselves complete freedom of disposition of the advanced funds.
- C. Any deduction of amounts required by court process to be paid to another, unless the deduction is in favor of the contractor, subcontractor, or any affiliated person, or when collusion or collaboration exists.
- D. Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits, compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families and dependents: Provided, however, that the following standards are met: (1) The deduction is not otherwise prohibited by law; (2) it is either: (i) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuation of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; (3) no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and (4) the deductions shall serve the convenience and interest of the employee.
- E. Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.
- F. Any deduction requested by the employee to enable themselves to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
- G. Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.
- H. Any deductions to voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.
- I. Any deductions to pay regular union initiation fees and membership dues, not including fines or special assessments: Provided, however, That a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the deductions are not otherwise prohibited by law.
- J. Any deduction not more than for the “reasonable cost” of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and Part 531 of Title 29, Code of Federal Regulations. When such a deduction is made the additional records required under Section 516.25(a) of Title 29, Code of Federal Regulations, shall be kept.

**REQUEST FOR AUTHORIZATION OF
ADDITIONAL CLASSIFICATION AND RATE**

CHECK APPROPRIATE BOX
 SERVICE CONTRACT
 CONSTRUCTION CONTRACT

OMB Control Number: 9000-0066
Expiration Date: 5/31/2022

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INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER.

1. TO: ADMINISTRATOR, WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, DC 20210	2. FROM: (REPORTING OFFICE)
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3. CONTRACTOR	4. DATE OF REQUEST
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5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SERVICE CONTRACT ONLY)
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10. SUBCONTRACTOR (IF ANY)

11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)

12. LOCATION (CITY, COUNTY, AND STATE)

13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: _____ DATED: _____

a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (Service contracts only) <small>(Use reverse or attach additional sheets, if necessary)</small>	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY)	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE
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16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. <input type="checkbox"/> AGREE <input type="checkbox"/> DISAGREE
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TO BE COMPLETED BY CONTRACTING OFFICER (CHECK AS APPROPRIATE - SEE FAR 22.1019 (SERVICE CONTRACT LABOR STANDARDS) OR FAR 22.406-3 (CONSTRUCTION WAGE RATE REQUIREMENTS))

- THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
- THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.
(Send 3 copies to the Department of Labor)

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE	TITLE AND COMMERCIAL TELEPHONE NUMBER	DATE SUBMITTED
--	---------------------------------------	----------------

Maryland CDBG SF 1444 Instructions
Request for Additional Classification and Wage Rate Form

Attached is a copy of the federal standard form 1444, Request for Authorization of Additional Classification and Wage Rate. This form must be submitted when a wage classification is not listed on the applicable wage decision for Maryland CDBG funded construction projects. The classification and wage rate submitted on this form should bear a reasonable likeness to similar skill classifications listed in the federal wage determination.

This form will be provided to the CDBG Grantee by CDBG staff. The first section, boxes #1 - #13 will be completed by the CDBG labor standards staff. The grantee or general contractor will need to provide the CDBG staff with a list of all subcontractors that that will utilize requested classification(s),

The general contractor is responsible for the completion of the applicable boxes #13a. - #16 and submission of this form to the CDBG Grantee. The CDBG Grantee is responsible for forwarding the completed form to the CDBG Labor Standards Officer, at dona.sorce@maryland.gov. The following are the procedures for the completion and submission of the form:

Boxes 1-13 -to be completed by Maryland CDBG staff.

1. Check "Construction Contract" in the upper right-hand corner.
2. Insert the following information: State of Maryland Department of Housing and Community Development, 7800 Harkins Road, Lanham, MD 20706.
3. Contractor Name
4. Date of Request
5. Contract or Grant Agreement Number
6. Date the bid was opened, if applicable.
7. Date the contract was awarded.
8. Actual date the contractor will be starting or started work.
9. (This box is not applicable.)
10. List all subcontractors that will utilize the labor classification listed in box 13a. If none, enter "N/A."
11. Project title and a brief description of the project.
12. Include both the city and county, as well as Maryland.
13. Federal "General Decision Number" (e.g. MD20220023) and the date.

Boxes 13a. – 16 are to be completed by the contractor.

13a. List all classifications not covered by the federal wage determination, which are utilized by either the general or the subcontractor(s).

13b. The wage rate should bear a reasonable likeness to the category classification wage rates (equipment operators, laborers, truck drivers, etc.) listed in the federal wage determination.

13c. The fringe rate should bear a reasonable likeness to the category classification fringe rates (equipment operators, laborers, truck drivers, etc.) listed in the federal wage determination.

14. If there is a subcontractor listed in box 10, its representative signs on this line.

15. The general contractor's representative must sign on this line.

16. If the contractor has a specific employee who will be performing the labor classification(s) listed in box #13a, or if the employees' have legal representation (union, etc.), they should sign this line and include their title. If no specific employee is identified to perform work under the listed classification(s), then write "unknown" in the box. The "Agree" or "Disagree" boxes are checked by anyone signing in boxes 14, 15, and 16.

The contractor will make a copy of the completed signed form and submit the original to CDBG Grantee who email the form to the CDBG Labor Standards Officer. Maryland CDBG will complete the section below the heavy line TO BE COMPLETED BY CONTRACTING OFFICER and submit it to DOL. Typically DOL responds in 30 days. Maryland CDBG will email the Grantee a copy of the approved wage classification.

EMPLOYEE RIGHTS

UNDER THE DAVIS-BACON ACT

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

PREVAILING WAGES

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

OVERTIME

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

ENFORCEMENT

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

APPRENTICES

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

PROPER PAY

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

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



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

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



WH1321 REV 10/17

DERECHOS DE EMPLEADOS

PARA TRABAJADORES CON DISCAPACIDADES QUE PERCIBEN UN SALARIO INFERIOR AL MÍNIMO

Este establecimiento cuenta con un certificado que autoriza el pago de salarios inferiores al mínimo a trabajadores discapacitados por el trabajo que realizan. La autorización para pagar salarios inferiores al mínimo a trabajadores con discapacidades por lo general se aplica a trabajo regido por la **Ley de Normas Justas de Trabajo** (FLSA, por sus siglas en inglés), la **Ley de Contratos por Servicios McNamara-O'Hara** (SCA, por sus siglas en inglés) y/o por la **Ley Walsh-Healey Sobre Contratos Públicos** (PCA, por sus siglas en inglés). Tales salarios inferiores al mínimo se conocen como "tasas salariales conmensurables" y son inferiores a las tasas básicas por hora establecidas en la determinación de salarios de la SCA y/o inferiores al salario mínimo de \$7.25 por hora según la FLSA. Una "tasa salarial conmensurable" se basa en la productividad individual del trabajador, no importa cuán limitada sea, en proporción al salario y a la productividad de los trabajadores experimentados que no tienen discapacidades que impactan su productividad cuando realizan esencialmente el mismo tipo, calidad y cantidad de trabajo en el área geográfica de la que proviene la fuerza laboral de la comunidad.

Los empleadores deben hacer disponible y exhibir este cartel en un lugar donde los empleados y los padres y tutores de los trabajadores con discapacidades lo puedan ver claramente.

TRABAJADORES CON DISCAPACIDADES

Los salarios inferiores al salario mínimo según la sección 14(c) no se aplican a menos que la discapacidad del trabajador realmente perjudique sus ingresos o su capacidad productiva para el trabajo que realiza. El hecho de que el trabajador pueda tener una discapacidad no es en sí suficiente para justificar el pago de un salario inferior al mínimo.

Para efectos de las tasas salariales conmensurables según un certificado, un trabajador con una discapacidad se define como: Una persona cuyos ingresos o capacidad productiva se ve afectada por una discapacidad física o mental, incluidas aquellas relacionadas con la edad o las lesiones, para que se realice el trabajo.

Las discapacidades que pueden afectar la capacidad productiva incluyen una discapacidad intelectual o de desarrollo, una discapacidad psiquiátrica, una discapacidad auditiva o visual, y algunas otras discapacidades. Lo siguiente normalmente no afecta la capacidad productiva con el propósito de pagar tasas de salarios conmensurables: discapacidades educativas, desempleo crónico, recibo de beneficios sociales, falta de asistencia a la escuela, delincuencia juvenil y libertad condicional o bajo palabra.

NOTIFICACIÓN AL TRABAJADOR

El empleador debe informar oralmente y por escrito a cada trabajador con una discapacidad y, cuando corresponda, al padre o tutor de dicho trabajador, sobre los términos del certificado según el cual dicho trabajador está empleado.

ELEMENTOS CLAVES DE LAS TASAS DE SALARIO CONMENSURABLE

- **Norma de trabajadores no discapacitados**—El indicador objetivo (generalmente un estudio del tiempo de la producción de trabajadores que no tienen discapacidades que perjudiquen su productividad para el trabajo) contra el cual se mide la productividad de un trabajador con una discapacidad.
- **Tasa de salario prevaleciente**—El salario que se paga a trabajadores experimentados que no tienen discapacidades que perjudiquen su productividad por el mismo trabajo o trabajo similar y que realizan tal trabajo en el área. La mayor parte de los contratos SCA incluye una determinación de salario que especifica las tasas del salario prevaleciente que se tiene que pagar por el trabajo sujeto a SCA.
- **Evaluación de la productividad del trabajador con una discapacidad**—Medida documentada de la producción del trabajador con discapacidad (en términos de cantidad y calidad).

Los salarios de todos los trabajadores que perciben salarios conmensurables tienen que ser revisados, y ajustados si corresponde, en intervalos periódicos. Como mínimo, la productividad de los trabajadores asalariados por hora tiene que reevaluarse al menos cada seis meses y tiene que realizarse un estudio nuevo de salarios prevalecientes al menos una vez cada doce meses. Además, se tienen que revisar, y ajustar según corresponda, los salarios prevalecientes siempre que haya un cambio en el trabajo o en la tasa del salario prevaleciente, tal como cuando se incrementa el salario mínimo aplicable estatal o federal.

WIOA

La Ley de Innovación y Oportunidades Laborales de 2014 (WIOA, por sus siglas en inglés) enmendó la Ley de Rehabilitación al agregar la sección 511, la cual impone limitaciones en el pago de salarios inferiores a los mínimos a las personas con discapacidades al exigir el cumplimiento de ciertos requisitos antes y durante el pago de un salario inferior al mínimo.

ORDEN EJECUTIVA 13658

La Orden Ejecutiva 13658, que establece un salario mínimo para contratistas, estableció un salario mínimo que generalmente tiene que pagarse a los trabajadores que cumplen un contrato o en conexión con un contrato sujeto al Gobierno Federal. Los trabajadores sujetos a esta Orden Ejecutiva y a los que se les debe el salario mínimo completo de la Orden Ejecutiva incluyen a los trabajadores con discapacidades cuyos salarios se calculan conforme a los certificados emitidos según la sección 14(c) de la FLSA.

BENEFICIOS COMPLEMENTARIOS

Ni la FLSA ni la PCA tienen disposiciones que requieran vacaciones, días festivos, o paga por enfermedad, ni otros beneficios complementarios como seguro de salud o planes de pensión. Las determinaciones de salario de SCA pueden requerir pagos de dicho beneficio complementario (o un equivalente en efectivo). Los trabajadores a los cuales se les paga según un certificado que autoriza tasas salariales conmensurables tienen que recibir enteramente los beneficios complementarios adicionales enumerados en la determinación de salario de SCA.

SOBRETIEMPO

En general, si un trabajador se encuentra realizando un trabajo sujeto a la FLSA, SCA y/o PCA, se le tiene que pagar a ese trabajador tiempo y medio, es decir, 1 1/2 de su tasa regular de pago por todas las horas trabajadas después de las 40 horas en una semana laboral.

TRABAJO DE MENORES DE EDAD

Los menores de edad de menos de 18 años tienen que ser empleados de acuerdo con las disposiciones federales para el trabajo de menores de edad de la FLSA. Ninguna persona menor de 16 años de edad puede ser empleada en la manufactura o en un contrato de la PCA.

PROCESO DE SOLICITUD

Los trabajadores con discapacidades a los que se les paga salarios inferiores al salario mínimo pueden solicitarle al Administrador de la División de Horas y Salarios del Departamento de Trabajo que un Juez de Derecho Administrativo haga una revisión de las tasas de sus salarios. No se requiere ningún formulario particular de solicitud, excepto que tiene que ser firmado por el trabajador con una discapacidad o su padre o tutor y tiene que contener el nombre y la dirección del empleador. Las solicitudes se pueden enviar por correo a: Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210.



DIVISIÓN DE HORAS Y SALARIOS
DEPARTAMENTO DE TRABAJO DE LOS ESTADOS UNIDOS

1-866-487-9243

TTY: 1-877-889-5627

www.dol.gov/whd



WH1284 SPA REV 01/18

Record of Employee Interview Instructions**U.S. Department of Housing and Urban Development
Office of Davis-Bacon and Labor Standards**OMB Approval No. 2501-0009
(exp. 12/31/2024)InstructionsGeneral:

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

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

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

Completing the form HUD-11:

Items 1a - 1c: Self-explanatory

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

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

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

Items 8 – 12b: Self-explanatory

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

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

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

Item 18: Please place here any additional information you may want to document or continuing information from other lines that do not fit in their block space.

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

Record of Employee Interview

U.S. Department of Housing and Urban Development
Office of Davis-Bacon and Labor Standards

OMB Approval No. 2501-0009

(exp. 12/31/2024)

The public reporting burden estimate for this collection of information is 15 minutes per response on average. This includes reviewing instructions, searching existing data sources, gathering, and maintaining the data, and completing the collection of information. This information may not be collected, nor are you required to provide, the information requested unless it displays a currently valid OMB control number. The information collected ensures compliance with the Federal labor standards through recording interviews with construction workers. The information collected assists HUD in compliance monitoring of Federal labor standards. Any information collected is covered by the Privacy Act of 1974 and by 29 CFR 5.6(a)(5). Individuals and agencies collecting this information must maintain these records in a manner that protects the individuals on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential, but failure to provide the information collected may delay enforcement of any possible Federal labor standards violations if the information would have identified any. Comments concerning this burden statement, or this collection should be sent to: National Director, Office of Davis-Bacon and Labor Standards, 451 7th Street SW, Room 7108, Washington, DC 20410. When providing comments, please refer to OMB Approval 2501-0009

Pursuant to 5 U.S.C. § 552a(e)(3), this Privacy Act Statement serves to inform you of the following concerning the collection of the information on this form.

A. AUTHORITY: Collection of the information solicited on this form is authorized by the Davis-Bacon Act as promulgated through Department of Labor Regulations under 29 CFR Part 5.

B. PURPOSE: The primary purpose for soliciting this information is to determine if the wages paid by an employer on a project covered by the Davis-Bacon Act are in compliance with federal labor standards.

C. ROUTINE USES: The information collected ensures compliance with the Federal labor standards through recording interviews with construction workers on topics related to wages paid on the project. The information is reviewed by HUD authorized personnel to ensure compliance with Federal labor standards under the Davis-Bacon Act on covered projects. If violations are found, the information collected is used to conduct enforcement actions to ensure restitution is paid to workers of covered projects are paid proper wages under the Davis-Bacon Act.

D. CONSEQUENCES OF FAILURE TO PROVIDE INFORMATION: The information collection is voluntary. Refusing to give information will not impact your status with your employer or the government. Failure to provide the information will limit the ability of HUD to determine if you were paid proper wages under the Davis-Bacon Act, and will limit the ability for HUD to seek restitution for you in the event a violation is found.

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes No		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	
				Vacation Yes No	4c. Pay stub? Yes No
				Medical Yes No	
				Pension Yes No	
5. Your job classification(s) (list all) --- continue in block 18 if necessary					
6. Your duties --- continue in block 18 if necessary					
7. Tools or equipment used --- continue in block 18 if necessary					
8. Are you an apprentice or trainee? Yes No		10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week? Yes No			
9. Are you paid for all hours worked? Yes No		11. Have you ever been threatened or coerced into giving up any part of your pay? Yes No			
12a. Employee Signature			12b. Date		
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks --- continue in block 18 if necessary					
15a. Interviewer Name (Please Print)		15b. Signature of Interviewer		15c. Date of Interview	
Payroll Examination					
16. Remarks --- continue in block 18 if necessary					
17a. Signature of Payroll Examiner			17b. Date		

**Record of Employee
Interview**

U.S. Department of Housing and Urban Development
Office of Davis-Bacon and Labor Standards

OMB Approval No. 2501-0009
(exp. 12/31/2024)

18. Additional Remarks

CONFIDENTIAL

Instrucciones

Generalidades:

Este formulario será utilizado por personal de HUD y agencias locales a fin de anotar toda información recopilada durante las entrevistas en sitio con obreros y mecánicos empleados en proyectos sujetos a requisitos de pago de salario vigente federal. Por lo general, el personal que efectúe entrevistas en sitio y use este formulario será personal de HUD e inspectores de construcción con comisión, personal de la Oficina de Relaciones Laborales de HUD, e inspectores de contratos de la agencia de normas laborales local.

La información recopilada en este formulario HUD-11 es evaluada para su conformidad general y comparada con informes de nóminas certificados presentados por el empleador correspondiente. La comparación examina la veracidad de los informes de nómina y puede ser crítica para la exitosa conclusión de gestiones de cumplimiento en caso de existir violaciones a las normas laborales. La meticulosidad y exactitud de la información recopilada durante las entrevistas es trascendental.

Tenga en cuenta que tanto la entrevista misma y la información recopilada en el formulario HUD-11 se consideran ser de carácter confidencial. Las entrevistas se deberán efectuar en forma individual y en privado. Todos los trabajadores y mecánicos empleados en el sitio de trabajo deben ser puestos a disposición para las entrevista a petición del entrevistador. Sin embargo, la participación del empleado es voluntaria. Las entrevistas serán conducidas en una manera y lugar que sean conducentes a los objetivos de la entrevista y ocasionen el menor inconveniente al patrón(nes) y empleado(s).

Instrucciones para rellenar el formulario HUD-11

Líneas 1a - 1c: Auto aclaratorio

Líneas 2a – 2d: Anote el nombre completo del empleado, un número telefónico donde se le pueda contactar, y su dirección residencial. Muchos trabajadores de construcción usan una dirección temporal en la localidad del proyecto y tienen una dirección más permanente en algún otro lugar a donde se les puede enviar correspondencia. Si puede, obtenga una dirección más permanente. Pida al empleado algún tipo de identificación (por ej., licencia de conducir) para verificar su nombre.

Líneas 3a – 4c: Anote las respuestas del empleado. Pregunte a los empleados si tienen un talonario de paga con ellos; si no, determine si el talonario de paga concuerda con la información provista por el empleado.

Líneas 5 – 7: Asegúrese de que las respuestas del empleado sean específicas. Por ejemplo, la clasificación de trabajo (#5) debe identificar el tipo de oficio que desempeña (por ej., carpintero, electricista, plomero) – respuestas tales como “jomalero” o “mecánico” no ayudan para nuestros propósitos.

Líneas 8 – 12b: Auto explicatorio

Líneas 13 – 15c: Estos asuntos representan alguna de la información más importante que se puede recopilar durante una entrevista en sitio. Por favor sea específico en cuanto a los deberes que según su observación desempeñó el empleado. Quizás sea más fácil hacer estas observaciones antes de iniciar la entrevista. Por favor anote cualquier comentario que pueda ser de importancia. Por ejemplo, si el empleado entrevistado estaba trabajando con un equipo, ¿cuántos trabajadores tenía el equipo? ¿Se mostraba el empleado evasivo?

El nivel de precisión garantizado está directamente relacionado al grado que la(s) entrevista(s) u otras observaciones pueden indicar que existen posibles violaciones. Si las entrevistas indican que puede haber paga de salario insuficiente relacionado a algún particular oficio (s), se recomienda al entrevistador conducir entrevistas con tantos trabajadores en ese oficio(s) estén disponibles.

Líneas 16 – 17b: Inicialmente, la información en el formulario HUD-11 puede ser examinada para conformidad general. Por ejemplo, ¿está la clasificación de trabajo y el salario declarado por el empleado compatible con las clasificaciones y tasas de salario en la decisión de salario aplicable? ¿Concuerdan los deberes observados por el entrevistador con la clasificación de trabajo?

Línea 18: coloque aquí cualquier información adicional que desee documentar o información continua de otras líneas que no quepan en su espacio de bloque.

Una vez se reciben los informes de nómina certificados correspondientes, se hará una comparación de la información anotada en el formulario HUD-11 con los informes de nómina. Cualquier discrepancia entre la información del formulario HUD-11 y la del informe de nómina será anotada en la línea 16, Comentarios. Si se hacen observaciones de discrepancias se deberán tomar pasos de seguimiento para resolver las discrepancias.

del Empleado

Oficina de Davis-Bacon y Normas Laborales

(exp. 12/31/2024)

La carga de trabajo que supone para el público esta recopilación de información es un promedio de 15 minutos por respuesta. Esto incluye revisar las instrucciones, buscar en las fuentes de datos existentes, recopilar y mantener los datos y completar la recopilación de información. Esta información no puede ser recopilada, ni usted está obligado a proporcionar la información solicitada, a menos que muestre un número de control válido de la Oficina de Gestión y Presupuesto (OMB, por sus siglas en inglés). La información recopilada garantiza el cumplimiento de las normas laborales federales mediante la grabación de entrevistas realizadas a trabajadores de la construcción. La información recopilada sirve de ayuda al Departamento de Vivienda y Desarrollo Urbano (HUD, por sus siglas en inglés) en la supervisión del cumplimiento de las normas laborales federales. Toda la información recopilada está amparada por la Ley de Privacidad de 1974 y por el Título 29 del Código Federal de Regulaciones (CFR, por sus siglas en inglés) 5.6(a)(5). Las personas y los organismos que recopilen esta información deben mantener estos registros de manera que se proteja a las personas de quienes se conserva la información. La información aquí recopilada es voluntaria, y cualquier información proporcionada se mantendrá confidencial, pero el hecho de no proporcionar la información solicitada puede retrasar la ejecución de cualquier posible violación de las normas laborales federales, en caso de que la información hubiera identificado alguna. Los comentarios sobre esta declaración de la carga de trabajo, o sobre esta recopilación, deben enviarse a: Director Nacional, Oficina de Davis-Bacon y Normas Laborales, 451 7th Street SW, Room 7108, Washington, DC 20410. Al proporcionar comentarios, sírvase referirse a la Aprobación OMB 2501-0009.

De conformidad con el artículo 5 del Código de los Estados Unidos (U.S.C.) § 552a(e)(3), esta Declaración de la Ley de Privacidad sirve para informarle de lo siguiente en relación con la recopilación de la información que figura en este formulario.

A. AUTORIDAD: La recopilación de la información solicitada en este formulario está autorizada por la Ley Davis-Bacon promulgada a través de los Reglamentos del Departamento de Trabajo bajo el título 29 CFR Parte 5.

B. PROPÓSITO: El propósito principal de solicitar esta información es determinar si los salarios pagados por un empleador en un proyecto cubierto por la Ley Davis-Bacon cumplen con las normas laborales federales.

C. USOS RUTINARIOS: La información recopilada garantiza el cumplimiento de las normas laborales federales mediante la grabación de entrevistas realizadas a trabajadores de la construcción sobre temas relacionados con los salarios pagados en el proyecto. La información es revisada por personal autorizado por el HUD para garantizar el cumplimiento de las normas laborales federales según la Ley Davis-Bacon en los proyectos contemplados. En caso de descubrirse infracciones, la información recopilada se utiliza para emprender acciones de cumplimiento con el fin de garantizar que se pague la restitución a los trabajadores de los proyectos contemplados y que se les paguen los salarios adecuados en virtud de la Ley Davis-Bacon.

D. CONSECUENCIAS DE NO PROPORCIONAR INFORMACIÓN: La recopilación de información es voluntaria. Negarse a proporcionar la información no afectará su situación con su empleador ni con el gobierno. La negativa a proporcionar la información limitará la capacidad del HUD para determinar si se le pagaron los salarios adecuados en virtud de la Ley Davis-Bacon y limitará la capacidad del HUD para solicitar una restitución para usted en caso de que se descubra una infracción.

1a. Nombre del Proyecto			2a. Nombre del empleado		
1b. Número del Proyecto			2b. Número de teléfono del empleado (incluso prefijo local)		
1c. Contratista o subcontratista (Patrón)			2c. Dirección residencial del empleado y código postal		
			2d. ¿Verificación de identificación? Sí No		
3a. ¿Cuánto tiempo en este trabajo?	3b. ¿Último día en este trabajo antes de hoy?	3c. ¿No. de horas en su último día en este trabajo?	4a. ¿Salario por hora?	4b. ¿Beneficios complementarios?	
				Vacaciones	Sí No
				Médicos	Sí No
				Pensión	Sí No
4c. ¿Talónario de paga? Sí No					
5. Clasificación(es) de su trabajo(s) (enumere todas) --- continuar en el bloque 18 si es necesario					
6. Sus deberes --- continuar en el bloque 18 si es necesario					
7. Herramientas o equipo usado --- continuar en el bloque 18 si es necesario					
8. ¿Es aprendiz? Sí No			10. ¿Le pagan al menos tiempo y medio por todas las horas trabajadas superior a 40 horas semanales? Sí No		
9. ¿Le pagan todas las horas trabajadas? Sí No			11. ¿Alguna vez ha sido amenazado o coaccionado a entregar parte de su paga? Sí No		
12a. Firma del empleado			12b. Fecha		
13. Deberes observados por el entrevistador (Por favor sea específico.)					
14. Comentarios--- continuar en el bloque 18 si es necesario					
15a. Nombre del entrevistador (use letra de imprenta)		15b. Firma del entrevistador		15c. Fecha de la entrevista	
Examinación de Nómina					
16. Comentarios --- continuar en el bloque 18 si es necesario					
17a. Firma del examinador de nómina			17b. Fecha		

18. Comentarios adicionales

CONFIDENTIAL

Construction Contract Change Order

Grantee: _____ Grant Number: _____

Contractor: _____ Current Contract Amount: _____

Type of Contract: _____ Change Order Amount: _____

Contract Period: _____ New Contract Amount: _____

Grant Period: _____

Change Order Description: _____

Is there any change in location, scope, beneficiaries or funding sources? Yes No

If yes, discuss with CDBG Project Manager. If yes, were any additional classifications required?

ITEMS INCLUDED WITH THIS CONTRACT SUBMISSION

- 1. Change Order and Justification _____
- 2. Itemized Cost/Unit Pricing and Quantities
(showing contractor name, contract period, & cost) _____
- 3. Revised Plans and Specifications, if applicable. _____
- 4. Cost/Price Analysis Establishing Cost Reasonableness. _____
- 5. Budget Revision & Verification of additional funds, *if sufficient funds are not in budget to cover change order.* _____

For CDBG Purposes Only:

Date Received: _____

CDBG Agreement Amendment Required? Yes No

Date Approved: _____

Affidavit of Wage Restitution

Please copy this text and place onto contractor company letterhead:

This is to acknowledge receipt of payment for restitution in the amount of _____ (gross amount less permissible deductions) for _____ hours at _____ per hour. This is for additional wages due on _____ (name and location of project). This was paid by check number _____.

Gross Amount:		\$	
Less Deductions:	\$		
Federal Income Tax	\$		
F.I.C.A.	\$		
Other (identify)	\$		
Subtotal:	\$		
Net Amount:		\$	

(Signature)

Attach a copy of the check or other proof of payment made to the employee, along with the corrected payrolls.

Force Account Labor Justification Request

Grantees and subrecipients that request use of force account labor should be prepared to complete the form on the next page to support justification for the request. Requests should be made prior to beginning any project, to the Maryland CDBG Program staff for approval.

DEFINITIONS:

- A. Force Account Labor (FAL) is defined by Maryland CDBG Program as construction performed “in-house” by municipal or county employees. FAL is not subject to Davis-Bacon and Related Acts (DBRA) wage requirements.
- B. Justification should include a cost-benefit analysis to be conducted to determine if the type of labor, the proposed scope of work, and the project description is better accomplished by procuring an outside dedicated labor force (bidding).
- C. Governmental agencies and states or their political subdivisions are not considered “contractors” or “subcontractors” within the meaning of the DBRA.
- D. Grantee and sub-recipient must continue to pay the employees their regular wages and benefits. Documentation of accurate payrolls is required for CDBG reimbursement. However, any part of the work not performed using force account labor but contracted out may be subject to DBRA and Contract Work Hours and Safety Standards Act (CWHSSA).

ADVANTAGES:

- FAL is exempt from DBRA, CWHSSA, and the Copeland Anti-Kickback Acts;
- Cost effective, if the activity is one that traditionally is done by city/county personnel;
- Jobs are kept in the community; and
- Greater local control over scheduling and costs.

DISADVANTAGES:

- Work does not have a warranty;
- Construction may take longer and may not meet contract time frame;
- Extensive record keeping is required;
- Skilled local workers and appropriate equipment may be insufficient;
- Additional documentation is required for each draw request;
- Reimbursements may be delayed payments due to a longer documentation review period;
- CDBG procurement policies and procedures must still be followed for necessary materials; and
- Inspection process may be less frequent and rigorous.

1) Description of the construction activities to be completed by force account:

2) Justification for doing the work by force account rather than procuring a contractor subject to DBRA:

3) Details of grantee's experience with projects of like or similar nature:

4) Information on workload as it may affect capacity to do the work within time frame or work schedule. This description should define, at a minimum, the following:

- How the employees' regular duties will be suspended or re-assigned;
- If the regular work duties of the employees will be adversely affected;
- How long the grantee or sub-grantee will be able utilize the employees;
- A plan for staff turnovers; and
- Whether employees have the required licenses or certifications for jobs being considered.

5) A complete estimated cost schedule (breakdown) showing:

- The number of work hours and cost per hour for each category of labor;
- A list of non-salary costs such as materials, supplies, equipment owned by the grantee or sub-grantee, equipment that must be rented, etc.;
- Certification that personnel that will perform the work are employees of the grantee or sub-grantee, a city/county, a public utility district, or a utility company. If temporary workers are hired, certification that the employer's policies for temporary employees will be followed; and
- List of names and qualifications of personnel performing specialized work, such as inspection, testing, electrical work, etc. as applicable.

Force Account Labor (F.A.L.) Weekly Construction Activity Report

Project Name		Project Jurisdiction	
Grant No.		Week Of	

WORK DESCRIPTION

Department			
Site Location			
Description Of Work Performed With Equipment Used			
Projected F.A.L. Completion Date		Projected Project Completion Date	

TIMESHEET WITH LABOR COSTS

	<i>Employee Identification</i>		<i>Wage</i>	<i>Total Hours Worked Total</i>		
	Name	Classification	Basic Wage	Reg	OT	Total
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
Total						

Certified Approvals - I certify that the information above was obtained from payroll records, invoices, or other documents that are available for audit.

Supervisor Name		Grant Admin. Name	
Signature		Signature	

Labor Standards Q&A

1) If a worker performs tasks under two or more classifications, which prevailing wage rate should be used?

- A1. The worker is to be listed according to each wage classification and paid in accordance with the minimum rates and fringe benefits;
- OR
- A2. The worker is to be paid the highest rate for all classifications worked.

2) When do multiple wage determinations apply to a single contract?

- A. When the contract involves separate construction types and the different type is at least 20 percent of the project cost or exceeds \$1 million.

3) Are foremen covered under Davis-Bacon?

- A. Foremen who spend more than 20% of their time performing manual work on the site are to be paid the applicable minimum wage rate listed on the Wage Determination and listed on the certified payroll report.

4) Are Helpers covered under Davis-Bacon?

- A. Helpers are only covered if the Wage Determination lists a Helper classification. The duties must be clearly defined and distinct from any other classifications on the wage decision. Additionally, the use of such helpers must be an established prevailing practice in the area; and, the helper is not employed as a trainee in an informal training program.

5) When an Apprentice is listed on a Certified Payroll Report, what hourly rate should be paid?

- A. Contractors employing Apprentices at the Davis-Bacon work site must provide a copy of the Apprenticeship Agreement to the grantee in order to verify the applicable wage rate for the Apprentice.

6) How is overtime calculated?

A. As described in CWHSSA, overtime is calculated on “time and a half” of the base hourly rate for when a worker works above 40 hours for a given week. In addition, the same fringe is paid per hour. For example, an electrician’s base hourly rate is \$22, and the fringe benefit rate is \$5. An electrician who worked 44 hours during the week, would earn:

	<u>Hours</u>		<u>Pay</u>		<u>Time</u>		<u>Total</u>		
Standard rate “Time”	44	x	22	x	=	\$968	Cash wages		
	44	x	5	x	=	\$220	Fringe benefits		
“And a half”	4	x	22	x	0.5 =	\$44	CWHSSA earnings		
<hr/>									
Net Pay Per Week							\$1,232		

As CWHSSA is self-executing, there is no site of the work limitation. While payroll only needs to list hours worked at the site of the work, the overtime statute applies to all hours of work of the contract.

7) What are *Bona Fide* fringe benefits?

- A. Bona fide fringe benefits may include sick, vacation or holiday pay, costs to defray apprenticeship expenses or similar programs, medical care, supplemental unemployment benefits, insurance, retirement, compensation for occupation related injuries or illness.

8) What are NOT *Bona Fide* fringe benefits?

- A. Fringe benefits DO NOT include employer contributions or payments required by federal, state, or local law such as FICA, Worker's Compensation, or Unemployment Compensation.

9) What are permissible deductions?

- A. Permissible deductions include: FICA, Worker's Compensation, & Unemployment Compensation. Deductions that are listed in the "Other" column of the payroll report must be voluntary and confirmed by the worker. See "*Permissible Payroll Deductions*" on page 43.

10) Does Davis-Bacon apply to housing construction and /or rehabilitation activities?

- A1. NO – Davis-Bacon does not apply to the construction or rehabilitation of single family properties for homeownership, if such property contains less than 8 units. **Property is defined as one or more buildings on an undivided lot or on contiguous lots of parcels, which are commonly owned and operated as one rental, cooperative or condominium project.**

OR

- A2. YES – Davis-Bacon applies to the construction or rehabilitation of residential property, if such property contains 8 or more units. Examples of 8+ unit properties include:
- 5 townhouses side-by-side which consist of 2 units each,
 - 3 apartment buildings each consisting of 5 units and located on one tract of land,
 - 8 single-family (*not homeowner*) houses located on contiguous lots and operated as a single rental property.

11) Does Davis-Bacon apply to the renovation or construction of facility-based permanent housing?

- A. No

12) When should worker interviews be conducted?

- A. Interviews are to be conducted as soon as construction begins and throughout the construction of the project. A minimum of 20% of workers under each contract at the site should be interviewed.

13) What are common indicators of payroll falsification?

- Excessive use of laborers over skilled mechanics. Generally, there should be no more than one laborer for each mechanic, except for landscaping, or cement or other paving work.
- Too few or irregular hours. Look for employees that never work 40 hours/week, crews that work in a scattered fashion, or hours that are reported on tenths or hundredths.
- Discrepancies in wage computations. Look for gross wages in "round" numbers that don't agree with the reported hours multiplied by the rate of pay. Look to see if fringe has been left out, or non-permissible deductions are mistakenly included as 'other' fringe benefits.

- Extraordinary Deductions. Look for unidentified or disproportionate deductions. This may indicate kickbacks or underpayments.
- Apprentices are listed but no apprenticeship agreement is provided.
- Interviews evidence that payrolls are not being paid weekly.

14)When is Holiday Pay a required fringe benefit?

- A. When the Wage Determination specifies holiday pay as a fringe benefit and an employee works any part of the week in which a holiday occurs, the employee must receive the holiday pay benefit, unless a different standard is provided in the Wage Determination. The holiday pay benefit is defined as 8 hours of regular pay, or an additional paid day off at the applicable wage rate. Fringe benefits are to be included in the holiday pay calculation.

15)Are self-employed laborers and mechanics covered by Davis-Bacon?

- A. Yes – Self-employed laborers and mechanics, including 1099's, are "employed" regardless of the contractual relationship with the contractor or subcontractor. The contractor is responsible for assuring that the self-employed worker is paid the minimum hourly wage rate on the wage decision on a weekly basis. Laborers and mechanics may not certify their own pay EXCEPT where the laborer or mechanic is the owner of a business working on the site with their own crew. That is known as "Owner Executive Exemption," part of the Department of Labor's Exemptions for Executive, Administrative and Professional Employees (EAP). While the owner may not be covered by Davis-Bacon, they must still complete payrolls listing themselves, then submit for review.

16)When does owner executive exemption apply?

- A. Business owners are not considered to be laborers and mechanics if they meet the "management" requirements set out in [29 CFR 541.102](#) and if the individual:
- Owns at least a bona fide 20 percent equity interest in the business enterprise; and
 - Is actively engaged in the management of the enterprise.
 - "Management" includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

17)When a construction contract in excess of \$2,000 is funded with federal and state funds, does the State of Maryland prevailing wage law apply?

- A. No. According to the State of Maryland Department of Labor/Division of Labor and Industry, once a project has more than \$2,000 in federal funding, regardless of State funding, that project is covered by the federal Davis Bacon Act and the State prevailing wage law *is not applicable* to that project.

