

## **Labor Standards**

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To ensure compliance with the Labor Standards Provisions during the implementation process of a KCDBG project, it is the sub recipients' responsibility to enforce the following applicable statutes:

**Davis-Bacon Act** -- The Davis-Bacon Act requires that workers receive no less than the prevailing wages being paid for similar work in their locality. The Department of Labor issues these determinations as Federal wage decisions for each classification of work.

Davis-Bacon wage rate provisions apply to the following:

1. All CDBG construction contracts over \$2,000; and
2. Equipment purchases that require installation, which involves "more than an incidental amount" of construction work.

Davis-Bacon wage rate provisions do not apply to the following:

1. Equipment purchases where the cost of installation is only 1.5% of the cost of the equipment;
2. Contracts for rehabilitation or new construction of a residential property that contains less than eight units; and
3. Force account employees of a state or political subdivision (other than a public housing agency), including situations when one political subdivision contracts with another using such employees, may work at less than prevailing wage rates.

**Copeland "Anti-Kickback" Act** -- The Copeland "Anti-Kickback" Act provides that all laborers and mechanics shall be paid unconditionally and not less often than once a week and without subsequent deduction or rebate except "permissible" salary deductions. Permissible deductions include taxes, deductions the worker authorizes in writing, and those required by court order. Contractors and subcontractors are required to maintain payroll records and submit weekly compliance statements and payrolls.

**Contract Work Hours and Safety Standards Act** -- The Contract Work Hours and Safety Standards Act requires payment of overtime compensation, at the rate of one and a half times their regular hourly wage, for all hours worked over 40 in a week. It applies to all construction contracts, and to the rehabilitation of residential property if designed for use by eight or more families. In the event of violations, the contractor or subcontractor shall be liable to any affected employee for unpaid wages as well as to the United States for liquidated damages.

The following outline details specific steps that must be followed in order to comply with Federal mandates and guidelines established by the Mississippi Department of Disaster Recovery Division (DRD)

**I. WAGE RATES**

Complete the "Request for Wage Determination" form. Be sure to include a complete description of the work to be performed. The request should be submitted to DRD once the scope of services under the contract has been determined. The Wage Determination rendered by DRD should be bound into the contract specifications. Wage rates should be checked and updated prior to contract award. A wage determination should be requested for each separate bid.

**II. CONTRACTOR ELIGIBILITY**

Request contractor eligibility from the Disaster Recovery Division (DRD). This assures that the contractor is not on the U.S. General Services Administration List of Parties Excluded from Federal Procurement on Non Procurement Programs. No contract should be awarded until the local government receives notification from DRD of contract approval in writing.

**III. BID PACKAGE**

A bid package with the following information must be submitted to DRD after bids are received and tentative award is made:

- Sub-recipient
- Grant Number
- Project Number
- Wage Decision Number
- Prime Contractor with Tentative Award
- Bid Opening Date
- Bid Tabulations
- MBE/WBE Documentation (For sub-recipients, this documentation includes certified letters sent to prospective bidders).

**IV. NOTICE OF AWARD**

The Notice of Award should be submitted to DRD after contractor clearance is obtained and should contain the following information:

- Date of start of construction
- Contract award date
- Project name/location
- Contract amount
- Bid opening date
- Wage decision No.
- Type of construction
- General/ Prime Contractors Name

**V. PRE-CONSTRUCTION CONFERENCE**

A pre-construction conference should be held with the prime contractor and any subcontractors once the construction contract has been executed. Minutes of the conference

and a list of attendees should be maintained in the labor enforcement files. The following is a list of issues that should be covered at the pre-construction conference:

- A. The contractor must submit weekly payrolls and Statement of Compliance signed by an authorized officer of the company, and the prime contractor is responsible for securing payrolls from all subcontractors.
- B. Wages paid must conform to those included in the wage rate decision. If an additional classification is needed, the prime contractor should request in writing the classification and pay rate. This request should be submitted to the DRD.
- C. Apprentices and trainees may be employed to work on the project, provided they are registered in a program approved by the State or the U. S. Department of Labor. A copy of the certification must accompany the first payroll on which the employee appears. Any "unregistered" apprentice or trainee must be paid at no less than the journeyman's rate for the classification of work performed. A helper classification cannot be used unless it appears on the wage decision.
- D. Overtime compensation is required by law under the Contract Work Hours and Safety Standards Act, which requires overtime compensation for all hours worked in excess of 40 hours in any workweek.
- E. Payroll deductions not specifically provided for by law must be authorized in writing by the employee.

## **VI. PAYROLLS**

- A. The contractor must submit payrolls and written Statements of Compliance weekly. The written Statements of Compliance and payrolls must be signed by the owner or by a designated employee. If a designated employee is to execute the payrolls, the owner must authorize this person to do so in writing.
- B. The recipient's Designated Labor Standards Officer should check all payrolls for the following:
  - 1. Job classifications correspond to the prevailing wage determination and wages paid equal or exceed those listed on the wage decision.
  - 2. Payrolls numbered (initial, second, final, etc.)
- C. For apprentices and trainees', evidence of proper registration must accompany the payroll.
- D. Disposition of all required fringe benefits has been explained on the reverse side of the payroll form

E. Special deductions are authorized in writing by the employee.

**NOTE:** After the Labor Standards Officer reviews the payroll for this information; he/she should initial and date the payroll.

## VII. **EMPLOYEE INTERVIEWS**

The sub-recipient's designated Labor Standards Officer is also responsible for conducting employee interviews. A representative number of trades should be covered when conducting the interviews. This duty entails:

- A. Assuring that Fair Housing and Equal Opportunity (FHEO) posters and wage rates are posted at the job site;
- B. Observing the duties of the workers to ascertain that the employee's job duties correspond to their job classification stated on the payroll; and
- C. Completing the "Record of Employee Interview" in recording the interview. These forms should be retained in the labor enforcement file.

**REQUEST FOR WAGE DETERMINATION  
AND RESPONSE TO REQUEST FORM**

(See Attached File)

Disaster Recovery Division 239 North Lamar Street Jackson, Mississippi 39201	<b>REQUEST FOR WAGE DETERMINATION AND RESPONSE TO REQUEST</b>			(Davis-Bacon Act as Amended and Related Statutes)
	Requesting Officer (type name & Signature)			
For Disaster Recovery Division Use Only Response to Request	Agency	Phone Number		Project Number:
Type of Work	Date of Request	Estimated Advertising Date	Est. Bid Opening Date	Project Name:
Bldg. Highway  Resident.            Heavy	Estimated Construction Start Date	Est. \$ Value Of Contract	Est. Contract Award Date	If Housing Units No. of Stories
Federal Register Decision No.	Location of Project (City or other description)			No. of Dwelling Units
Federal Register Date	County	State  Mississippi		
Prior Supersedes Decision	Address to which wage determination should be mailed. Must be complete and include ZIP CODE (Print or Type)  Send copy of Wage Decision To: (Architect, Contractor, Etc.)			Wage Determination under the Davis-Bacon and Related Acts (This Decision is effective from date of publication in the Federal Register without limitation as to time)  Note: The Decision should not be used for this project without contacting this office and requesting any current modification or supersedes decisions.  <b>DO NOT REMOVE THIS SHEET FROM DECISION- EACH MUST BE BOUND INTO SPECIFICATIONS</b>
Approving Representative, Signature and Title  _____ Sara Watson Bureau Manager				
Description of Work (Be Specific-Print or Type)				

## Wage Decision

- a. Wage decisions must be obtained from the Disaster Recovery Division (DRD) for each bid in a project (Some projects may have more than one bid). Wage decision changes (modifications or superseded decisions) shall be effective unless, prior to their issuance by the Secretary of Labor, bids have been opened. The wage decision should be posted at the jobsite where employees can view the decision.

Detailed instructions regarding modifications or superseded decisions will be reflected in our transmittal letter. Please note that a period of 30 days should be allowed for processing any request for wage determination.

- b. Any class of laborers or mechanics not listed in the wage determination and to be employed under the contract shall be classified or reclassified in conformance with the wage determination, and a report of the action taken shall be sent to DRD. It is the responsibility of the contractor to review the prevailing wage determination to determine that all necessary classifications have been included to cover complete construction of the project. "Helper" classifications will not be approved unless specifically designated on the prevailing wage determination.
- c. All mechanics and laborers employed in the construction of the project shall be paid unconditionally and no less than once a week. Subsequent deduction or rebates on any account, except such payroll deductions as are permitted under regulations of the Secretary of Labor (see Exhibit "B"). The full amount of wages are due, but not less than those contained in the applicable wage decision of the Secretary of Labor, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. For the purpose of this clause, contributions made or costs reasonably anticipated under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics.
- d. In all cases where fringe benefits are paid to the approved plans, funds, or programs, the basic hourly rate of pay should be shown in Column 6, RATE OF PAY, of the payroll and on the reverse side of the payroll, under REMARKS, show the amount of fringe benefits being paid to each individual program. Also Section 4(a) on the reverse side of payroll should be checked.

In all cases where fringe benefits are paid in cash directly to the employee, show separately in Column 6, RATE OF PAY, of the payroll the basic hourly wage rate paid to the employee and fringe benefits paid in cash to the employee, thus \$5.25/.40 and Section 4(b) on reverse side of payroll should be checked.

Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic includes the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(b) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits are 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.

### **Apprentices and Trainees**

- a. Apprentices shall be permitted to work only when the Bureau of Apprenticeship and Training, and the United States Department of Labor register them, individually, under a bona fide apprenticeship agency that is recognized. If no such recognized agency exists in a state, the apprentice may work under a program registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor.

The allowable ratio of apprentices to journeyman in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. Any employee listed on a payroll at an apprentice wage, who is not a trainee as defined in the following paragraph, or is not registered as above, shall be paid the wage rate determined by the Secretary of Labor for the classification of work he/she actually performed. The contractor shall furnish to the recipient written evidence of the required registration of his/her program and apprentices and trainees and those subcontractors, the approved ratios of apprentices and trainees to journeyman, prior to the use of the apprentices on the job site.

- b. Trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to, and individually registered in a program which has received prior approval, evidenced by formal certification, by the U.S. Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. The ratio of trainee to journeyman shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his level of progress.

Any employee listed on the payroll, at a trainee rate, that is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid no less than the wage rate determined by the Secretary of Labor for the classification of work he/she actually performed. The contractor or subcontractor will be required to furnish the sub-recipient with written evidence of the certification of his program, the registration of the trainees, and the ratio and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

### ***The Copeland Act (Anti-Kickback Act)***

This Act provides that no deduction or rebate on any account be taken from an employee's pay, except such deductions as are mandatory by law, unless this deduction is authorized in writing by the employee. A copy of the signed authorization must be submitted with the payroll on which the deduction appears. One blanket statement is sufficient for deductions made on a regular basis.

### **Overtime Compensation**

These projects are subject to the provisions of the *Contract Work Hours and Safety Standards Act*. No contractor or subcontractor shall require or permit any laborer or mechanic in any workweek in which he is employed on such work in excess of 40 hours in such workweek, unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his/her basic rate of pay for all hours worked in excess of 40 hours in such workweek. In the event of violations, the contractor will be liable to any affected employee for unpaid wages as well as to the United States for liquidated damages.

### **Verification of Contractor Eligibility and Termination of Ineligible Contractors**

- a. By the insertion of certification of eligibility clauses in all contracts and subcontracts, the prime contractor and all subcontractors' state that they are eligible for awarding of a Federally assisted or insured contract. The local agency shall verify that all prime contractors are eligible prior to contract award by reviewing the current HUD List of Debarred, Suspended, or Ineligible Participants, and the General Services Administration's Consolidated List of Debarred, Suspended, and Ineligible Contractors. These lists will be supplied by HUD and kept current. Prime contractors shall be informed in pre-construction conferences that it is their responsibility to employ only eligible subcontractors who have certified eligibility in written contracts containing Federal Labor Standards Provisions.
- b. Should any subcontractor be found ineligible after award of a contract, the contract shall be terminated and the matter referred to the Department of Labor for its appropriate action.

### **Further Wage Reporting Matters**

The general contractor is responsible for the review and timely submission of the subcontractors' payrolls as well as his/her own. All correspondence and required documents shall also be routed through the general contractor for submission to the sub-recipient.

### **Internal Revenue Service (IRS) Employer's Identification Number**

The initial payroll submission from each contractor shall contain the IRS Employer's Identification Number.

### **Violations of the Davis-Bacon Act**

Violations of the Davis-Bacon Act may result in suspension of the project payment, advance or guarantee of funds until such time as violations are discontinued, or until sufficient funds are withheld to compensate the employees for the wages to which they are entitled. Violations may also result in contract termination, suspension, or debarment of the contractor.

## **PAYROLLS AND RELATED MATTERS**

1. The prime contractors shall submit payrolls weekly, including those of all subcontractors, to the sub-recipient of each workweek as performed. For weeks in which no work is performed, payrolls do not need to be submitted. The payrolls shall be executed with original signatures by the employer (owner, partner, corporate officer), or a designated payroll officer.

The copy of each payroll shall be accompanied by a "Weekly Statement of Compliance" which is either the reverse side of payroll Form WH-347 or "Statement of Compliance," Form WH-348, in the form specified in the regulations of the Secretary of Labor, 29 CFR Part 3.3(b).

2. Check to be sure dates and days of weeks (Column 4) have been entered on the payroll.
3. Each employee's name, complete address, and Social Security number must be shown on the first payroll. Thereafter, address and Social Security number must be shown for those employees not previously reported.
4. Check classification to determine that it corresponds to the prevailing wage determination. No deviations are allowed. Wage classifications must be shown on every payroll.
5. Wage rates must equal or exceed those listed on the wage decision for the appropriate classification listed.
6. Payroll number one must carry the subcontractor's IRS Employer Identification Number in the upper left corner of the front page.
7. For apprentices listed, evidence of proper registration must accompany the first payroll upon which they appear.

Apprentices and trainees that are not appropriately registered shall be paid wages not less than the prevailing wage rate set forth in the applicable wage determination for the classification of work actually performed.

### **Employees Performing Work in More than One Classification.**

- a. A person employed as a laborer or mechanic employed on a contract subject to DBRA (Davis Bacon and Related Acts) and performing work in more than one classification may be paid not less than the predetermined rate for the actual hours spent in each classification, provided the work performed is capable of separation into more than one classification and the time records are kept in accordance with the actual hours spent in each classification. Work that is normally performed as part of the mechanic's craft is not separable.
- b. Determine if disposition of all required benefits has been satisfactorily explained on the reverse side of the payroll form.

- c. Check to see if the payrolls are sequentially numbered.
- d. All mechanics and laborers employed in the construction of the project shall be paid unconditionally and not less than once a week, and without subsequent deductions or rebates on any account, except such payroll deductions, which are permitted.
- e. "Helper" classifications will not be approved unless specifically designated on the prevailing wage determination.

### **Working Subcontractors.**

Contractual relationships between contractors and alleged subcontractors (who perform mechanic's work) which are formed for the purpose of evading the application of prevailing wage requirements are expressly prohibited and may provide basis for debarment. Where there is any doubt to the bona fide nature of a self-employed subcontractor who has no other employees, the following must be checked:

- a. Does the subcontractor have a registered trade name and is there a telephone listing under that name?
- b. Does the subcontractor have a license?
- c. Does the subcontractor have liability insurance or a subcontractor's bond?
- d. Federal Tax Identification Number.

Any of these criteria in conjunction with a signed contract containing HUD Federal Labor Standard Provisions from each such subcontractor should be sufficient to establish that the person is a bona fide subcontractor. Such a subcontractor will submit payrolls indicating only that the person is the owner, the hours worked and the classification. The phrase, "self-employed owner", shall be written under the name, address, and social security number (See Column 1 on the Optional Form WH-347). Persons not qualifying as bona fide subcontractors must be carried as employees on the payroll of the contractor that engaged them, and must be paid the prevailing wage rate for the classification of work performed.

### *The Contract Work Hours and Safety Standards Act*

Provides that no contractor (including subcontractors) shall require or permit any laborer or mechanic in any workweek in which such person is employed on any federally funded project to work an excess of 40 hours in each workweek unless the worker is paid the overtime rate of one and one-half times the basic hourly rate.

Upon violation of the *Contract Work Hours and Safety Act*, the contractor (or subcontractor) shall be liable to the worker for overtime underpayment of wages. The contractor (or subcontractor) shall also be liable to the United States for liquidated damages, computed at \$10.00 per day, per person, per violation.

15. Payroll and basic records relating thereto shall be maintained during the course of the work, and preserved for a period of three years thereafter for all laborers and mechanics employed in the construction of the project.

The contractor and all subcontractors shall make the records required under the labor standards clauses of the contract available for inspection by authorized representatives of HUD and the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. The subcontractor shall also make such records available to, and permit such interviews by authorized representatives of the contractor

**PAYROLL FORMS (WH-347)** are available in pads of 100 and may be purchased from a U. S. Government Printing Office at any the following addresses:

Room 158  
Federal Office Building  
400 W. Bay Street  
Jacksonville, Florida 32202  
904/791-3801

9220 Parkway East "B"  
Birmingham, Alabama 35206  
205/254-1056

275 Peachtree St., N.E.  
Atlanta, Georgia 30343  
404/331-6947

Superintendent of Documents  
Government Printing Office  
Washington, D.C. 20402

**The following is provided for your use:**

Department of Housing and  
Urban Development  
Office of Labor Relations  
Five Points Plaza 40 Marietta Street  
Room 400  
Atlanta, Georgia 30303-2806  
404/331-4637

U. S. Department of Labor  
Bureau of Apprenticeship  
and Training  
931 Ninth Avenue South  
Birmingham, Alabama 35256  
205/254-1308

"OTHER" DEDUCTIONS

AUTHORIZATION TO MAKE OTHER DEDUCTIONS

I, \_\_\_\_\_, hereby authorize my employer  
\_\_\_\_\_, to make deductions not otherwise listed as  
permissible deductions on wages earned while employed on the following project:

PROJECT NUMBER: \_\_\_\_\_

PROJECT NAME: \_\_\_\_\_

PROJECT LOCATION: \_\_\_\_\_

These deductions are voluntary and are authorized for the purpose of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Employer Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**ALL PAYROLLS MUST CONTAIN THE FOLLOWING:**

- Subcontractor's name and address on top line.
- Project number, name and location.
- Worker's address and Social Security number appear on first payroll on which name appears.
- Manual signature on back of payroll.
- Statement of Compliance is completed on back of payroll.
- Appropriate block is checked regarding payments of fringe benefits.
- Payrolls are numbered. First Payroll "Initial" No 1, and continues with last payroll "Final".
- Days and dates appear under item 4.
- Fill in classification in Column 3 and include type, size, horsepower, etc., if power equipment operators.
- Note in Column 3 if worker is an apprentice; furnish proof of registration to recipient.
- Make certain net wages, gross wages and deductions are shown. Gross amount in Column 7 minus deductions should equal net Column 9.
- Time-and-a-half is paid for over 40 hours in a week.
- **IRS NUMBER APPEARS ON UPPER LEFT HAND CORNER OF SUBCONTRACTOR'S FIRST PAYROLL.**

## PRE-CONSTRUCTION CONFERENCE GUIDELINES

Pre-Construction Conference is held for the purpose of informing the contractor and subcontractor of their responsibilities.

**Wage Decision** -- The term "wage determination" or "wage decision" includes that original decision and any subsequent decision, which modifies, supersedes, or otherwise changes the provisions of the original decision. However, if bids have been opened, such changes or modification shall not be effective. Modifications received later than 10 days before the opening of bids will similarly not be effective unless there is reasonable time in which to notify bidders.

**For contracts entered into pursuant to competitive bidding procedures**, modifications received by the local or State agency less than 10 days before the opening of bids shall be effective unless the local or State agency finds that there is not a reasonable time available before bid opening to notify bidders of the modification and a report of the finding is inserted in the contract file. No such report shall be required if the modification is received after bid opening.

**Only those classifications**, which are contained in the wage decision, may be used on this project. A violation is considered to exist when a payroll lists a classification not included in the wage decision. If you have any trouble fitting a worker into a classification, please contact Disaster Recovery Division at (601) 359-2742.

**Exempt Classifications** which need not appear on payrolls are as follows: Project engineer, superintendent, supervising foreman (not a working foreman), water boy, messenger, and clerical help.

**Additional Classifications** -- Please review the wage decision for any additional classifications that will be required. If an additional classification is needed, the prime contractor will request, in writing, the classification and rate from the sub-recipient. These requests will be processed through the Regional Labor Relations office.

**Apprentices and Trainees** may be employed to work on this project provided they are registered in a program approved by the State or the U. S. Department of Labor. A copy of the certification must accompany the first payroll on which the employees appear. An "unregistered" apprentice or trainee must be paid at no less than journeyman's rate for the classification of work performed.

**Laborers** are defined as **unskilled workers**. A laborer performing the work of a trade must be paid less than the prevailing wage for that trade.

A **helper** classification cannot be used unless it appears on the applicable wage decision.

**Payment requirements to mechanics and laborers:** All mechanics and laborers employed at the site must be paid unconditionally at least once a week the full amount of wages and fringe benefits required in the wage decision regardless of any contractual relationship alleged to exist.

**The Davis-Bacon Act:** The provisions of the Davis-Bacon Act apply to construction contracts for over \$2,000, which are financially assisted by the Department of Housing and Urban Development (HUD).

**The Copeland Act (Anti-Kickback Act)** provides that no deduction or rebate on any account will be taken from an employee's pay, **except** deductions permitted by law, **unless** the employee authorizes this deduction in writing. A copy of the signed authorization must be submitted with the payroll on which the deduction appears. One blanket statement is sufficient for deductions made on a regular basis.

**Overtime compensation is required by law under the Contract Work Hours and Safety Standards Act**, which requires overtime compensation for work in excess of 40 hours in any workweek.

**Working Subcontractors:** Contractual relationships between contractors and alleged subcontractors (who actually perform mechanic's work) which are formed for the purpose of evading the application of prevailing wage requirements are expressly prohibited and may provide a basis for debarment. If there is any doubt as to the bona fide nature of a self-employed subcontractor who has no other employees, the following must be checked:

1. Does the subcontractor have a registered trade name and is there a telephone listing under that name?
2. Does the subcontractor have a license?
3. Does the subcontractor have liability insurance or a subcontractor's bond?
4. Federal Tax Identification Number.

Any of these criteria in conjunction with a signed contract containing HUD Federal Labor Standards Provisions from each such subcontractor should be sufficient to establish that the individual is a bona fide subcontractor. Such a subcontractor will submit payrolls indicating only that such person is the owner, the hours worked and the classification. The phrase, "Self-employed Owner" shall be written under the name, address, and Social Security number (See Column 1 on the Optional Form WH-347). Individuals who do not meet these criteria must be carried as employees on the payroll of the engaging contractor, and must be paid the prevailing wage rate for the classification of work performed.

**Owner who will be performing work on the site** must include themselves on payrolls along with all their employees. They do not have to show themselves at hourly rates on payrolls, but need only to identify themselves as such across Items 6 - 9 on the payroll form. **All** other employees must be paid at rates not less than those contained in the wage decision for the work they perform.

**Contracts for the supply and installation of window shades, venetian blinds, traverse rods and draperies** are not subject to the prevailing wage since they involve only an incidental amount of construction activity. **Cleaning** performed during construction as part of the contract is subject to the prevailing wage. In the absence of a cleaner's classification, they will be paid at the rate for

laborers. Cleaning in **preparation to occupy** is considered a management responsibility and is not subject to this prevailing wage.

## **OTHER REQUIREMENTS**

### **Verification of Contractor Eligibility and Termination of Ineligible Contractors**

1. By the insertion of Certification of Eligibility clauses in all contracts and subcontracts, the prime contractor and all subcontractors state that they are eligible for award of Federally assigned or insured contract. The local or State agency shall verify that all prime contractors are eligible prior to contract award by reviewing the current List of Parties Excluded from Federal Procurement or Non-procurement Programs. Prime contractors shall be informed in the pre-construction conference that it shall be their responsibility to employ only subcontractors who have certified eligibility in written contracts containing Federal Labor Standards Provisions.
2. Should any subcontractor be found ineligible after award of a contract, the subcontractor's contract shall be terminated and the matter referred to the Department of Labor for further action.

**Weekly payrolls must be completed (front and back) and signed with an original signature of an owner or officer of the firm.** A principal of the firm may submit a letter of authorization listing other individuals who may sign the payroll reports.

Each subcontractor will prepare payrolls beginning with the first week it performs work on the site. Payrolls will be submitted through the general contractor in single copy only. Payrolls must be numbered sequentially starting with "1," and the last payroll clearly marked "**FINAL**." For weeks in which no work is performed, a payroll will not need to be submitted.

Contractors should affirm on the first payroll following such a gap that no employee worked on the project during the period.

Each week the general contractor will submit a weekly report of subcontractors on the job site. This should be prepared and signed by the superintendent.

The General Contractor is responsible for the review, verification, and timely submission of its payrolls as well as all subcontractors' payrolls. All submissions will be routed through the general contractor.

**Violations:** When any violation of labor standards requirements results in an underpayment of wages to employees, the local agency administering the construction contract shall take necessary action. Only an amount necessary to ensure payment of back wages and/or liquidated damages shall be withheld. If it is necessary to estimate such an amount, every action shall be taken to promptly determine an exact amount and to return any excess to the contractor.

**Payrolls and basic records pertaining to the project** shall be maintained during the course of the work and preserved for a period of three years thereafter.

**The general contractor is fully responsible for Labor Standards Compliance by its subcontractors.**

**Posting:** The sub-recipient should ensure that the wage determinations and Department of Labor Poster WH 1321 are posted by the contractor at the site of work in a prominent and accessible place where the workers can easily read them.

**Closing:** Prior to closing the meeting, ask if everyone has signed the attendance register and entertain any questions. Adjourn the meeting.

**Final Compliance Report:** Detailed reports of each labor standards compliance review will be prepared covering labor standards enforcement staffing, project inspection activities, weekly payroll review, complaint responsiveness, pre-construction conferences, violations resolution, and records maintenance. Such reports will be made available to the Regional Labor Relations Branch upon request or completion of contract. All findings resulting from compliance reviews must be closed and documentation to that effect will be maintained in compliance review files.

## **EMPLOYEE INTERVIEW FORM**

- A. Person performing interviews should be knowledgeable of construction trade practices.
- B. Understand that labor standards enforcement is in the same category as other contract requirements.
- C. Failure of contractors to permit employees to be interviewed result in the imposition of sanctions.
- D. The inspector should see that the wage decision and notice to employees are properly posted.
- E. Employee interviews shall be as follows:
  - 1. Sufficient in number to establish the degree of accuracy of records, and
  - 2. Representative of all classifications of employees on project.
- F. Place of Interview. The following sites or methods may be used:
  - 1. On job site if it can be conducted privately (this is a one-on-one process)
  - 2. Employee's homes
  - 3. Agency's office
  - 4. By mail
- G. The interviewer should observe duties of workers before initiating interviews.
- H. To initiate interview authorized person shall do the following:
  - 1. Identify themselves as representatives of the contracting agency
  - 2. Clearly state purpose of interview
  - 3. Advise worker that the information given is confidential and that the worker's identity will be disclosed to employer only with the employee's written permission.

### **HUD-11 RECORD OF EMPLOYEE INTERVIEW FORM**

Employee interviews are to be recorded on HUD-11. The interviewer should record the following:

- 1. The actual employer's name or name of the company, and not the name of a first-line supervisor (employee's name),
- 2. A permanent mailing address,
- 3. The last date the individual worked on that project and number of hours worked that day. The interviewer should make it clear that these questions solely relate to work on that particular project and not other work.
- 4. Hourly rate of pay

- a. Determining if the worker is being paid at least the minimum required by the wage decision
  - b. Ensuring the worker is not reporting the "net" hourly rate
  - c. Asking the employee for pay stubs, time records, etc. if it appears the individual may be underpaid.
5. The worker's statement of his classification, but not a nickname.
  6. The worker's duties.
  7. Tools
    - a. If worker's statement and observation made by interviewer indicate the individual is being paid correctly the work "trade" may be entered in both items.
    - b. If there are discrepancies, detailed statements are necessary.
  8. Whether or not the worker has been paid at least time and one-half for all hours worked in excess of 40 in a week.
  9. If the worker has ever been threatened, intimidated, or coerced into giving up any part of pay.
  10. Any comments/remarks interviewer feels necessary.
  11. Signature and exact date interview took place.

The payroll examiner shall check for the following information on HUD-11 against payroll submission:

- a. If no discrepancies are found, "None" should be written in comments space.
- b. If discrepancies are found, appropriate action should be initiated.
- c. When necessary action has been completed, the results are noted on interview form.

Employee interviews are to be maintained in a separate folder with the records of each contract being administered.

**RECORD OF EMPLOYEE INTERVIEW FORM  
HUD-11(9-86)**

**Record of  
Employee Interview**

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

OMB Approval No. 2501-0009  
(exp. 08/31/2007)

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

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

## Payroll Examination

6. Remarks

7a. Signature of Payroll Examiner

7b. Date

### Instructions

#### General:

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

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

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

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?

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.

**AWARD NOTIFICATION**

**SUBJECT: Project Name** \_\_\_\_\_

**Contract Number** \_\_\_\_\_

\_\_\_\_\_

<b>City</b>	<b>County</b>
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1. Date Bids Opened: \_\_\_\_\_

2. Contract Award Date: \_\_\_\_\_

3. Start of Construction Date: \_\_\_\_\_

4. Contract Amount: \_\_\_\_\_

5. Wage Decision No. \_\_\_\_\_

6. Type of Construction \_\_\_\_\_

7. Name of General/Prime Contractor \_\_\_\_\_

**BY:** \_\_\_\_\_

(Please complete and mail when construction contract is awarded.)