



HUD
Office of Labor Relations

CDBG Disaster Recovery Training
Fort Worth, Texas

Linda Banks – Regional Labor Relations Officer

Federal Labor Standards Training

February 14, 2012

Regional Labor Relations Officers Contact Information

Region I - Boston Regional Office, Bill Pickett, (617) 994-8232

Region II – New York Regional Office, JoAnna Aniello, (212) 542-7137

Region III – Philadelphia Regional Office, Debbie Bensala, (215) 430-6648

Region IV – Atlanta Regional Office, Dondra Merrell, (678) 732-2041

Region V – Chicago Regional Office, Yvonne Matthews, (312) 913-8092

Regional Labor Relations Officers Contact Information (con't)

Region VI – Fort Worth Regional Office, Linda Banks, (817) 978-5619

Region VII – Kansas City Regional Office, Fannie Woods, (913) 551-5577

Region VIII – Denver Regional Office, Sandra Antrillo, (303) 672-5012

Region IX – San Francisco Regional Office, Gwen Tolbert, (213) 534-2465

Region X – Seattle Regional Office, Jim Harrell, (206) 220-5378

TRAINING TOPICS in brief

- Community Development Applicability
- Grantee responsibilities (**focused topic**)
- Contractor responsibilities (**focused topic**)
- Contract Requirements
- Davis-Bacon wage decisions

TRAINING TOPICS in brief

- Reporting requirements
 - Semi-Annual Labor Standards Enforcement Report (SAR)
- Resources/References

OLR MISSION

Key Labor Standards Objectives

- Apply prevailing wage requirements properly
- Support contractor compliance
- Monitor contractor performance
- Investigate probable violations
- Pursue appropriate sanctions when warranted



COMMUNITY DEVELOPMENT

APPLICABILITY FACTORS

“All laborers and mechanics employed . . . on construction work financed **in whole or in part** . . . shall be paid [prevailing wage rates].”

Section 110a of the HCDA of 1974





COMMUNITY DEVELOPMENT

APPLICABILITY FACTORS

- Construction work over \$2,000
- Unit thresholds may also apply (8+ units)
- Soft costs generally do not trigger DB
- Force account work is exempt (except for PHA staff)
- Volunteers are exempt

GRANTEE RESPONSIBILITIES

GRANT RECIPIENTS

- Designate appropriate enforcement staff
- Manage an effective construction contract management system
- Ensure that bid documents, contracts, & subcontracts contain
 - Federal labor standards clauses
 - applicable wage decision
- Verify contractor eligibility



GRANT RECIPIENTS

- Conduct on-site employee interviews with laborers & mechanics; comply with posting requirements
- Review certified weekly payrolls
- Ensure compliance with requirements
- Maintain full documentation of actions
- Refer investigations to State agency
- Submit required reports

‘LABOR RELATIONS OFFICER’

- Whether at the state or local level, the “labor relations officer” (LRO) should perform more than just payroll reviews.
- The LRO should be informed of all project planning and contracting activity,
- The LRO should be consulted regularly regarding the applicability of prevailing wage requirements, and
- The LRO should withhold funds from contracts when circumstances warrant

Labor Standards Checklist

The following is a sample checklist of procedural steps that generally should be followed by grantees in carrying out a HUD-funded/assisted public works project where Davis-Bacon and Related Acts (DBRA) are invoked through the competitive bid/construction contracting process.

LABOR STANDARDS CONTRACT ADMINISTRATION	
Activity	Date(s)
<input type="checkbox"/> 1. Appointment of Labor Standards Officer (As applicable)	
<input type="checkbox"/> 2. Applicable Wage Determination used: # _____, Mod. # _____, and Mod. Date, _____, and Type of construction activity: A. PROJECT NAME: _____ B. PROJECT NUMBER: _____	
<input type="checkbox"/> 3. Review for contractor eligibility (see OBA excluded parties listing at www.eplc.com.net.gov)	
<input type="checkbox"/> A. Print verification check from website <input type="checkbox"/> B. Insert in project file	
<input type="checkbox"/> 4. Post applicable wage decision and Notice To All Employees poster at the job site (must be visible to all workers)	
<input type="checkbox"/> 5. Local Labor Standards Monitoring, to include the following:	
<input type="checkbox"/> A. Review of Weekly Payroll Records and Statements of Compliance, to check the following:	
<input type="checkbox"/> i) Name, Address and Social Security Number of each worker	
<input type="checkbox"/> ii) Underpayments (contact OLR)	
<input type="checkbox"/> iii) Overtime violations (contact OLR)	
<input type="checkbox"/> iv) Misuse of "common laborer" classification (no supervisor on payroll)	
<input type="checkbox"/> v) Review of all apprentices/trainees to determine if in a DOL-registered program (see sample Apprenticeship Certificate attached)	
<input type="checkbox"/> vi) Unauthorized payroll deduction	
<input type="checkbox"/> vii) Unauthorized signature on payroll records	
<input type="checkbox"/> viii) Additional, non-conforming job classifications	
<input type="checkbox"/>	
<input type="checkbox"/> 6. Conduct Employee Interviews	
<input type="checkbox"/> 7. Review and investigate violations and complaints received, and consult with the Office of Labor Relations as appropriate.	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

CONTRACTOR RESPONSIBILITIES





PRIME CONTRACTOR RESPONSIBILITIES

- Responsible for compliance of all contractors
- Subcontractors communicate through prime
- Include labor provisions & applicable wage decision(s) in all subcontracts
- Review wage decision for needed classifications
- Provide subcontractors with forms, guidance
- Ensures agency access to employees on site
- Submits certified payrolls for own employees

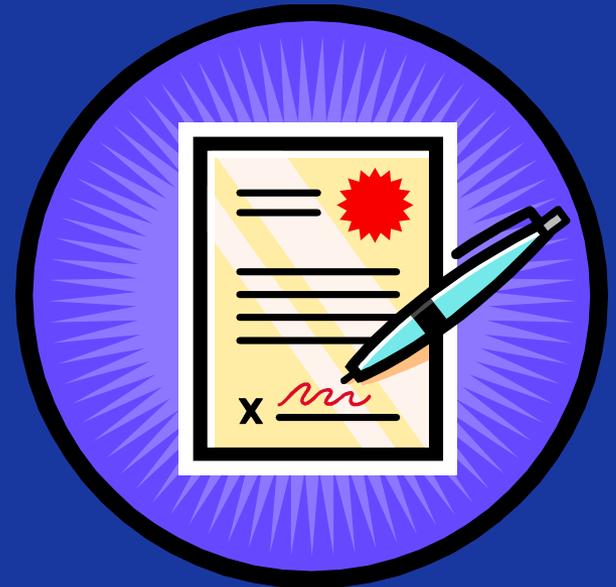


SUBCONTRACTOR RESPONSIBILITIES

- Prepare & submit certified weekly payrolls
- Insure compliance by sub-tier sub-contractors, including incorporation of labor provisions & wage decision
- Review wage decision, request additional classifications
- Ensure agency access to employees on-site

CONTRACT REQUIREMENTS

**For work covered by Davis-
Bacon prevailing wages**





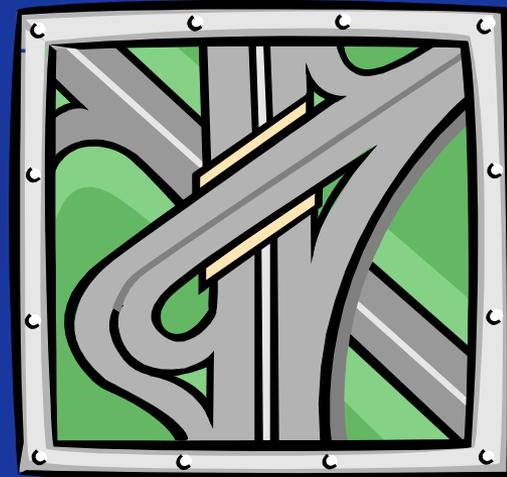
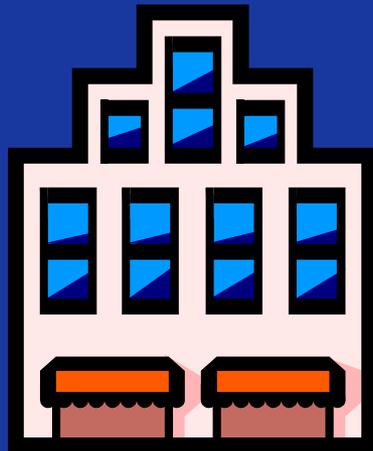
CONTRACT PROVISIONS

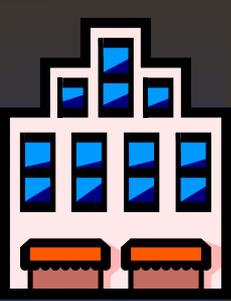
CONTRACTS

- Incorporated in every contract (LR2006-03)
- Identifies contractor responsibilities
- Reporting, documentary requirements
- Remedies for noncompliance
- HUD Form 4010 (CDBG (including Disaster funded), HOME, ARRA programs)

WHICH ONE TO USE??

CHARACTER OF CONSTRUCTION





CHARACTER OF CONSTRUCTION

BUILDING

- Sheltered enclosures for the purpose of housing persons, machinery, equipment, etc.
- Apartment buildings greater than 4 stories
- Commercial buildings

WAGE DECISIONS



CHARACTER OF CONSTRUCTION

RESIDENTIAL

- Single family houses, townhouses
- Apartment buildings 4 stories or less

WAGE DECISIONS



CHARACTER OF CONSTRUCTION

HIGHWAY

- Roads
- Highways
- Sidewalks
- Parking areas
- Other paving work not incidental to other construction

WAGE DECISIONS



CHARACTER OF CONSTRUCTION

HEAVY

- Projects which cannot be classified as Building, Residential, or Highway
- Dredging
- Water & sewer lines
- Parks and playgrounds
- Flood control

Using Multiple Wage Schedules

WHEN DO YOU USE MULTIPLE WAGE SCHEDULES?

According to DOL All Agency Memorandum 131 “...if such items fall in a separate type of construction will comprise at least 20% of the total project cost and/or \$1 million dollars costs”

Also, refer to OLR Letter 96-03, in general states; “Mixed-use projects are those which contain elements of different construction characters but these different elements are not incidental to each other*...”

*NOTE: In general, this notice refers to housing development projects, where single wage determinations are often used. However in some cases, HUD grantee construction activities may involve multiple wage schedules used (i.e. waste-water treatment plant, with the construction of ancillary buildings)

What if we add federal funding to an ongoing project?

How do I know which modification to use?

If wage rates go up, do I have to put the new decision in my contract?



How long will a wage decision “keep”?

“LOCK-IN”



WAGE DECISION “LOCK-IN”

COMPETITIVELY BID CONTRACTS

WAGE DECISIONS

- Lock-in at bid opening *provided* contract is awarded within 90 days
- Must update wage decision if contract is awarded more than 90 days after bid opening
- Modifications published <10 days before bid opening are not applicable if there is insufficient time to notify bidders





WAGE DECISION “LOCK-IN” COMPETITIVELY BID CONTRACTS

WAGE DECISIONS

- The “ten day” rule regarding modifications published less than ten days before bid opening is not automatic.
- Document attempts to notify bidders or the reason you were unable to notify bidders.
- Contact your Labor Relations Specialist





WAGE DECISION “LOCK-IN”

NEGOTIATED CONTRACTS

WAGE DECISIONS

Lock-in at contract award date or the construction start date, whichever occurs first.





WAGE DECISION “LOCK-IN”

ALL CONTRACTS

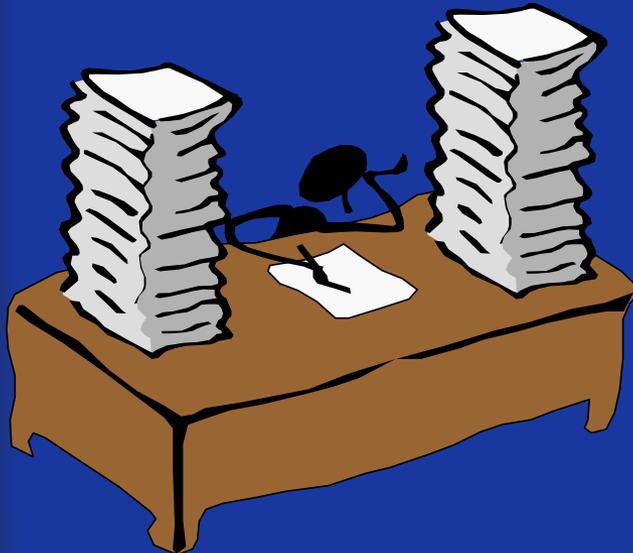
WAGE DECISIONS

Ensure your agency has a system in place to track wage decision modifications and pending contracts subject to Davis-Bacon prevailing wage requirements



Sign-up for DOL notification alert system of wage decision updates

LABOR STANDARDS ENFORCEMENT REPORTS



ENFORCEMENT REPORTS I

Case by Case (§5.7(a))

- Employer underpays by \geq \$1,000
- Violations appear aggravated or willful
- Recommendations on debarment;
CWHSSA liquidated damages

ENFORCEMENT REPORTS II

Semi-Annual (§5.7(b))

- Submit report twice each year for periods:
 - Oct 1 → Mar 31
 - Apr 1 → Sep 30
- Report covered contracts awarded within reporting period
- Report enforcement activity – regardless of award
- Instructions & form are online:
<http://www.hud.gov/offices/olr/olrform.cfm>

Contract Activity

SEMI-ANNUAL LABOR STANDARDS ENFORCEMENT REPORT
LOCAL CONTRACTING AGENCIES (HUMAN SERVICES PROGRAMS)

Agency Name: **Sweetwater Public Housing Authority** State: **FLORIDA** Relations ID No.: **FL095A**

Period Covered: From: **April 1, 2002** To: **September 30, 2002** Agency Type: **PHA**

Contract Name / #

Contract Amount

Wage Decision No.
- include Mod#

Wage Decision
Lock-In Date

PART I - CONTRACTING ACTIVITY*
Pertains only to projects awarded during the reporting period.

- Number of prime contracts subject to the Davis-Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWHSSA) awarded this period: 1
- Total dollar amount of prime contracts reported in item 1 above: \$45,000
- List for each contract awarded this period: Contract/Project Name & Number, Contract Amount, Wage Decision Used and Effective date (Items 1 & 2):

Project Name/Number	Contract Amount	Wage Decision Number	Wage Decision Effective Date
EXAMPLE Community Center - 54-005	\$0,000,000.00	8001/Mod 3	11/11/00
Electrical upgrades Swift Homes 02-154-6695a	\$45,000	FL0200012/M2	6/4/2002 B/O

* Use additional pages if necessary

¹ For contracts entered into pursuant to competitive bidding procedures, the bid opening date 'locks-in' the wage decision. However, if the contract has not been awarded within 90 days after bid opening, the contract award date 'locks-in' the wage decision. See Handbook 1344.1 for specifics.

Enforcement Activity

SEMI-ANNUAL LABOR STANDARDS ENFORCEMENT REPORT LOCAL CONTRACTING AGENCIES (HUD PROGRAMS)

Agency Name: Sweetwater Public Housing Authority	State: FLORIDA	Labor Relations ID No.: FL095A
Period Covered: From: April 1, 2002 To: September 30, 2002	Agency Type: PHA	

PART II - ENFORCEMENT ACTIVITY*

Pertains to all projects, not just the contract(s) awarded during the reporting period.

4. Number of employers against whom complaints were received (list employers and projects involved below):

0

Employer	Project(s)
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5. (a) Number of cases (employers) referred to HUD Labor Relations for investigation or §5.11 hearing (list referrals below):

0

- (b) Number of cases (employers) referred to the Department of Labor (DOL) for investigation or §5.11 hearing (list referrals below):

0

Employer	Project	HUD or DOL	Invest. Or Hearing
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6. (a) Number of workers for whom wage restitution was collected/disbursed:
Report only once; if you previously reported workers for whom restitution was collected, do not report the same workers when funds are disbursed. Include workers to whom restitution was paid by the contractor directly.

5

- (b) Total amount of wage restitution collected/disbursed during this period:
Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by contractor and reported on correction certified payrolls.

\$685.25

- (c) Total amount of liquidated damages collected:

0

* Use additional pages if necessary

4. Complaints

5. Referrals

6. Wage Restitution

RESOURCES





HUD OLR Reference Library



- Labor Relations Letters
- On-the-Mark! Series

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



RESOURCES



DOL RESOURCES ONLINE

- DOL DBRA Homepage
www.dol.gov/esa/programs/dbra/index.htm
- DOL Regulations
www.dol.gov/esa/regs/cfr/whdcfr.htm
- DOL Forms
www.dol.gov/library/forms/

RESOURCES





OTHER RESOURCES ONLINE

- GSA's On-Line Debarment List
<http://epls.arnet.gov>
- Davis-Bacon Wage Decisions
www.wdol.gov
- HUD Office of Labor Relations
www.hud.gov/offices/olr

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