

# CDBG Federal Labor Standards

## Discussion Questions

*These questions are for discussion at the end of the workshop. They may be shared in small group or large group format.*

1. Circle the statutes that have applicability to labor standards and CDBG.
  - a. Davis Bacon and Related Acts
  - b. Federal Labor Standards Act of 2001
  - c. Contract Work Hours and Safety Standards Act
  - d. Section 110 of the Housing and Community Development Act of 1974, as amended
  - e. Copeland Act
  
2. Describe what these key applicability factors mean concerning labor standards and CDBG.
  - a. Construction work financed:
  
  - b. In whole or in part:
  
  - c. Laborers and mechanics employed by contractors and subcontractors:
  
  - d. 8-unit threshold for residential property:

3. Circle all of the labor standards documents that must be incorporated into bid documents and contracts.
  - a. Copy of the applicable Davis-Bacon wage decision
  - b. Union contract requirements
  - c. Form HUD-4010, Federal Labor Standards Provisions
  
4. Wage decisions can be obtained by logging onto [www.wdol.gov](http://www.wdol.gov). True or False.
  
5. What labor-related documents are contractors required to post at the job site?
  - a. The applicable Davis-Bacon wage decision *or* Project Wage Rate Sheet (HUD-4720)
  - b. Employee Rights Under the Davis-Bacon Act (Form WH-1321)
  - c. The Copeland (Anti-kickback) Act
  
6. What are the two most common methods used to monitor contractor compliance?
  - 1.
  - 2.
  
7. Listed below are the four falsification indicators. Explain what each indicator suggests.
  - a. High ratio of laborers to mechanics:
  
  - b. Too few or irregular hours:
  
  - c. Discrepancies in wage calculations (e.g., piecework):
  
  - d. Extraordinary deductions:

# Answer Key – Federal Labor Standards Discussion Questions

## 1. From the list below, circle all of the statutes that pertain to Federal labor standards and CDBG

- Davis-Bacon and Related Acts – Requires the payment of no less than prevailing wage rates as determined by the Department of Labor.
- Contract Work Hours and Safety Standards Act – Requires the payment of time and one-half for all hours worked over 40 in a work week.
- The Copeland (Anti-kickback) Act – Prohibits kickbacks from wages; requires the submission of weekly certified payroll reports; regulates permissible deductions.
- Housing and Community Development Act of 1974, as amended – Contains the labor standards provision specific to the CDBG program at Section 110.

## 2. Describe what these key applicability factors mean concerning labor standards and CDBG.

Section 110 of the HCDA contains the labor standards provisions for CDBG and establishes applicability factors. The best and safest approach is whenever the contract/project involves construction work that is valued in excess of \$2,000 to assume that Davis-Bacon rates will be applicable and then look more closely to see if there's any reason for non-coverage. There are four key applicability factors:

- Construction work financed – Labor standards are applicable when CDBG funds are used to finance construction work. CDBG can finance activities other than “construction work” which do not trigger Davis-Bacon requirements; e.g., real property acquisition, purchase of equipment, architectural and engineering fees, other services (legal, accounting, construction management), and other non-construction items (furniture, business licenses, real estate taxes, tenant allowances for such items).
- In whole or in part – If CDBG funds finance only a portion of a construction work, labor standards are applicable to the *entire* construction work. This is true even if the work is primarily funded by the private sector or nonprofits.
- Laborers and mechanics employed by contractors and subcontractors – The covered classes of construction workers are those employed by contractors and subcontractors. Force account workers (those employed by the grantee) are not covered.

- 8-unit threshold for residential property – Labor standards do not apply to residential properties that contain less than 7 units. However, property is not limited to a specific building. Property is defined as one or more buildings on an undivided or contiguous lots or parcels that are commonly-owned and operated as one rental, cooperative or condominium project. Also, even though the statute refers to residential rehabilitation, HUD has concluded that this threshold also applies to residential new construction.

**3. Circle all of the labor standards documents that must be incorporated into bid documents and contracts.**

The bid documents/contract must contain a copy of the applicable Davis-Bacon wage decision and the form HUD-4010, Federal Labor Standards Provisions.

**4. Wage decisions can be obtained by logging onto www.wdol.gov. True**

Davis-Bacon wage decisions are available on-line at no cost at: www.wdol.gov (Wage Determinations OnLine). You can also contact the HUD Labor Relations staff for assistance and/or for a copy of a Davis-Bacon wage decision.

**5. What labor-related documents are contractors required to post at the job site?**

- a. The applicable Davis-Bacon wage decision or Project Wage Rate Sheet (HUD-4720). A Project Wage Rate Sheet is a one-page listing of only the wage rates applicable to the specific project involved – for posting on the job site. This form is available in an on-screen fillable format at HUDClips and the Office of Labor Relations website. The Project Wage Rate Sheet should be prepared *only* after the wage decision has been “locked-in” by contract award or start of construction, as applicable. HUD Labor Relations staff are available to provide assistance in preparing Project Wage Rate Sheets.
- b. Employee Rights Under the Davis-Bacon Act (WH-1321). The Employee Rights under the Davis-Bacon Act poster is available on-line at <http://www.hud.gov/offices/adm/hudclips/>. This form is used to alert workers to the existence of minimum wages by job category, overtime provisions, and whom to contact to address any issues.

**6. What are the two most common methods used to monitor contractor compliance?**

The two primary methods of monitoring agency compliance with labor standards are:

- Conducting on-site interviews with laborers and mechanics; and
- Reviewing contractor and subcontractor certified payroll reports.

The contract administrator or a designee must periodically conduct interviews with the construction workers on the job site in order to capture observations of the work being performed and to get the workers' views on the hours they work, the type work they perform and the wages they receive. Information gathered during the interviews is recorded on form HUD-11, Record of Employee Interview, which are then compared to the corresponding contractor and subcontractor certified payrolls to test and verify the accuracy of the payroll information. Grantees can target on-site interviews to specific subsets of laborers and mechanics, and are encouraged to focus interviews to projects or groups of workers where violations are suspected or alleged.

In addition to comparing HUD-11's to the certified payroll reports, the contract administrator reviews the payroll reports generally to ensure that all laborers and mechanics are being paid no less than the wage rates contained on the applicable Davis-Bacon wage decision for the type of work they perform. Contract administrators should be particularly alert for indications of payroll falsification – misinformation on payrolls to conceal underpayments. Falsification on payrolls indicates an employer (contractor or subcontractor) is aware of its obligations, is knowingly underpaying their employees and is attempting to avoid detection of the violations.

**7. Listed below are the four falsification indicators. Explain what each indicator suggests**

- High ratio of laborers to mechanics – Excessive use of laborers, i.e., more than 1:1 laborers to mechanics suggests that workers that are classified and paid as Laborers are actually performing mechanic work and should be receiving the mechanic wage rate.
- Too few or irregular hours – Payrolls that never show employees working a 40-hour week; that show crews working in a scattered fashion; or that show hours in tenths or hundredths suggests that the hours are being reduced to “fit” into a fabricated wage calculation intended to conceal underpayments.
- Discrepancies in wage calculations – Gross wages reported in round numbers that don't agree with the product of reported hours multiplied by the rate of pay suggests that earnings are being based on a lower (but more even) wage rate or on a piece-rate.
- Extraordinary deductions – Unidentified or disproportionate deductions suggest that the employer is taking a “cut” (e.g., kickback) from workers protected earnings.