

CHAPTER 1. GENERAL INFORMATION

- 1-1 PURPOSE AND SCOPE. This Handbook describes policies and procedures and assigns responsibilities for the administration and enforcement of statutory and regulatory labor standards requirements on HUD-insured or assisted construction. This Handbook has been prepared for use by Public Housing Agencies, Indian Housing Authorities, Local and State Housing and Community Development Agencies, Coinsuring Lenders, and HUD personnel. Because there are statutory and regulatory labor standards variations among the different housing and community development programs covered in this Handbook, relevant exceptions in procedures are noted. Close adherence to the procedures will ensure a minimal number of enforcement problems and violations, safeguard statutory rights, expedite construction, and conserve investigative staff resources. HUD Field Office Labor Relations Staff will ensure competent and efficient labor standards compliance by providing technical assistance to Public Housing Agencies, Indian Housing Authorities, Local and State Housing and Community Development Agencies, and Coinsuring Lenders.
- 1-2 PROGRAMS COVERED. This Handbook covers the following programs:
- a. Public Housing (24 CFR Part 841)
 - b. Indian Housing (24 CFR Part 805)
 - c. Comprehensive Improvement Assistance Program (24 CFR Part 968)
 - d. Section 8 New Construction (24 CFR Part 880)
 - e. Section 8 Substantial Rehabilitation (24 CFR Part 881)
 - f. Section 8 Moderate Rehabilitation (24 CFR Part 882)
 - g. Section 8 New Construction, Substantial Rehabilitation State Agency (24 CFR Part 883 - Subparts A through D)
 - h. Section 8 Farmers Home Administration (24 CFR Part 884)
 - i. Section 8 Assistance for the Disposition of HUD-owned projects (24 CFR Part 886 - Subpart C)
 - j. Section 202 (24 CFR Part 885)
 - k. Community Development Block Grants (24 CFR Part 570)
 - l. Urban Development Action Grants (24 CFR Part 576, Subpart G)
 - m. Section 312 Rehabilitation Loan (24 CFR Part 510)
 - n. National Housing Act - Sections 207, 213, 220, 221(d)(3) and (4) (including Coinsurance), 221(h)(1), 231, 232, 233, 234(d), 235(j)(i), 236, 241, 242 Title X, Title XI (24 CFR various Parts)

- o. Property Disposition (24 CFR Part 886)
- p. Housing and Community Development Act of 1974 (Section 108 - Loan Guarantees) (24 CFR Part 570, Subpart M)
- q. Rental Rehabilitation and Housing Development Grants (Section 17 of U. S. Housing Act of 1937) (24 CFR Parts

511 and 850)

Refer to Exhibit I for specific coverage information and exceptions and HUD labor standards contract documents which apply.

1-3 STATUTORY PROVISIONS.

- a. Davis-Bacon Act (40 U.S.C. 276a - 276a-5). The Davis-Bacon Act (DBA) provides that contracts in excess of \$2,000 to which the United States is party for the construction, alteration, and/or repair, including painting and decorating, of public buildings or public works, which involve the employment of laborers and/or mechanics, shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions. HUD construction covered by the DBA itself consists of Secretary-acquired properties where repairs or improvements are being made under a construction contract between HUD and the contractor. Those Davis-Bacon provisions which are contained in HUD-assisted construction programs are known as "Related Acts" and will be referred to as DBRA in this Handbook. A number of the "Related Acts" contain different Davis-Bacon application thresholds based on the numbers of units assisted. Those differences are covered in Exhibit 1.
- b. Contract Work Hours and Safety Standards Act (40 U.S.C. 327 - 333). This Act (CWHSSA) applies to both direct Federal contracts and indirect Federally-assisted contracts except where the assistance is solely in the nature of a loan guarantee or insurance (See Paragraph 8-2). CWHSSA also applies to maintenance laborers and mechanics employed by public housing authorities. CWHSSA provides that work in excess of 40 hours per week shall be compensated for at rates not less than one and one-half times the basic rate of pay. The Act mandates

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that all contracts requiring the employment of laborers and mechanics (and watchmen and guards) in the performance of work in connection with such projects contain implementing provisions which will render the contractor and any subcontractor responsible for violation liable to the affected employees for their unpaid wages and to the United States for liquidated damages. The Act establishes an appeals procedure and makes intentional violations of the Act a Federal

criminal misdemeanor.

- c. Copeland Act (Anti-Kickback Act) (40 U.S.C. 276c). The Copeland Act makes it a criminal offense for any person to induce, by any manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under his contract of employment. The Act also provides for the submission of weekly statements of compliance and weekly payrolls by all contractors in a format which meets the requirements of 29 CFR Section 5.5. (See Exhibits 5 and 6 in the Appendix). The Copeland Act applies to both contractors and subcontractors. Department of Labor Regulation 29 CFR Section 3.3(c), which implements the Act, indicates that the payroll statement requirements do not apply to any contract of \$2,000 or less.

- 1-4 REGULATORY PROVISIONS. HUD Public Housing Agencies, Indian Housing Authorities, Local and State Housing and Community Development Agencies and Coinsuring Lenders which are responsible for the performance of labor standards administration and enforcement activities delegated by HUD use the regulations promulgated by the Secretary of Labor and contained in Title 29 of the Code of Federal Regulations (CFR) Parts 1, 3, 5, and 7. The Department of Labor's role in coordinating government-wide administration and enforcement activities in the Federal labor standards area is authorized by Reorganization Plan Number 14 of 1950. The actual enforcement of labor standards, however, including project investigations and the performance of routine project compliance monitoring remains the overall responsibility of HUD. HUD has delegated certain of the day-to-day enforcement responsibilities to Public Housing Agencies, Indian Housing Authorities, Local and State Housing and Community Development

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Agencies and Coinsuring Lenders, which directly administer HUD-assisted programs. Where such delegations have been made, they are set forth in the paragraphs which follow. HUD handles all other labor standards enforcement obligations directly.

- 1-5 HUD RESPONSIBILITIES. This Handbook delegates certain labor standards responsibilities to local and State agencies (See Paragraph 1-6). For those program activities, HUD ensures through the provision of training, technical assistance, and investigatory resources as well as through the conduct of compliance reviews and monitoring that local and State agencies are effectively performing their responsibilities.

For all other program activities, HUD field staff directly administer and enforce labor standards. HUD Field Office Labor Relations Staff shall:

- a. Assist and provide technical assistance to local and State agencies.
- b. Conduct comprehensive labor standards compliance reviews of local or State agencies and grantees. (See Chapter 9)
- c. Perform investigations of complaints and other labor standards matters. (See Chapter 4 and Chapter 10)
- d. Provide all labor standards technical and support functions to HUD program areas.
- e. Make recommendations regarding debarment for labor standards violations.

The HUD Field Office Labor Relations Staff shall be responsible for performing the above functions except where the Labor Relations functions have been regionalized (Boston, Atlanta, Kansas City, Denver, and Seattle) where Regional Labor Relations staff will perform such functions. This Handbook will refer to HUD Field Office Labor Relations Staffs whenever specific Labor Relations responsibilities are described for ease of reference.

1-6 PUBLIC AND INDIAN HOUSING AGENCIES, INDIAN HOUSING AUTHORITIES, LOCAL AND STATE HOUSING AND COMMUNITY DEVELOPMENT AGENCIES AND COINSURING LENDERS RESPONSIBILITIES

Compliance with labor standards provisions on the part of Public Housing Agencies, Indian Housing Authorities, Local and State Housing and Community Development Agencies and

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Coinsuring Lenders that administer each of the programs listed in Section 1-2 a through m, p and q is a condition for receipt of HUD-assistance. Accordingly, each such agency is responsible to HUD for ensuring compliance with Federal labor standards requirements as follows:

- a. Designating appropriate staff before the start of construction to ensure compliance with all applicable labor standards requirements and to act for and in liaison with HUD. The name(s) of staff must be provided to the appropriate HUD Field Office Labor Relations Staff.
- b. Establishing a construction contract management system which meets the standards of OMB Circular A-102,

Attachment O (Excepting State CDBG program).

- c. Informing in preconstruction conferences all contractors and subcontractors performing contract construction work of their labor standards obligations.
- d. Ensuring that all bid documents, contracts, and subcontracts contain Federal labor standards provisions and the applicable Department of Labor wage determination and that no contractor is ineligible for Federally-assisted work.
- e. Conducting on-site project inspections which include employee interviews and checking for posting of the Federal wage determination as well as the review of weekly contractor payrolls.
- f. Correcting all violations of labor standards promptly.
- g. Maintaining full documentation attesting to all administrative and enforcement activities with respect to Federal labor standards requirements, such documentation to be made freely available for HUD review. Such documentation shall include all weekly payrolls, copies of wage determinations and any applicable changes or modifications, notices of start of construction, on-site inspection reports and employee interviews, and any other records utilized in enforcement administration - including records of wage restitution made and preconstruction conference minutes.

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- h. Complying with requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements.

1-7 EQUAL EMPLOYMENT OPPORTUNITY. The utilization by contractors of all apprentices, trainees, and journeymen on construction work covered by the Davis-Bacon and Related Acts shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30. While these requirements are enforced by the Department of Labor, both HUD and local or State agency staffs, where appropriate, shall review such requirements at preconstruction conferences.

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