



OFFICE OF FIELD POLICY  
AND MANAGEMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-0050

---

**Special Attention of:**  
Office of Davis-Bacon and Labor Standards  
Regional and Field Staff

**Notice: LR-06-01**

**Issued:** June 5, 2006

**Expires:** This Notice is effective until it is  
Amended, superseded, or  
rescinded.

**Cross References:** Housing and Community  
Development Act of 1992; 24 CFR §266.225;  
24 CFR §266.215(b), 24 CFR §266.225(e);  
29 CFR Part 1; HUD Handbook 4590.11

---

**SUBJECT:** Housing Finance Agency Risk-Sharing Program and Projects

- I. Purpose
- II. Prevailing wage coverage
- III. Responsibilities of the HFA
- IV. Office of Labor Relations (OLR) staff procedures
- V. Additional references

**I. PURPOSE**

The purpose of this Letter is to provide operational guidance for Office of Labor Relations staff regarding multifamily development projects that are insured under the Housing Finance Agency (HFA) Risk-Sharing Program. This Letter discusses prevailing wage application, HFA responsibilities, and Office of Labor Relations procedures. Relevant references are also noted.

**II. PREVAILING WAGE COVERAGE**

The HFA risk-sharing program is authorized under Section 542(c) of the Housing and Community Development Act of 1992, as amended. The statute, itself, does not impose Davis-Bacon prevailing wage requirements. However, HUD has imposed such requirements administratively through regulations at 24 CFR §266.225. Pursuant to Section 266.225, Davis-Bacon wage and reporting requirements are imposed where the following conditions are met:

- (a) Advances for the project are insured under this part;
- (b) The project involves new construction or substantial rehabilitation; and,
- (c) The project will contain 12 or more dwelling units.

Risk-sharing projects that do not meet all of these conditions are not subject to Davis-Bacon requirements except to the extent required as a condition of other Federal assistance to the project.

### **III. RESPONSIBILITIES OF THE HFA**

HUD has delegated functions to HFAs, including labor standards and prevailing wage requirements, through regulation at 24 CFR §266.215(b).

At 24 CFR §266.225(e), HUD retains its authority and overall responsibility for labor standards enforcement and asserts its authority to delegate routine labor standards administration and enforcement responsibility to HFAs, subject to monitoring by HUD. This Section further makes HFAs responsible for financial liabilities that may arise for any deficiency in the payment of prevailing wages or, where applicable under DOL regulations at 29 CFR part 1, any increase in compensation to a contractor that is attributable to any failure of an HFA to properly carry out the delegated functions, e.g., failure to incorporate the appropriate wage decision or contract clauses into a contract or building loan agreement.

### **IV. OFFICE OF LABOR RELATIONS (OLR) REGIONAL AND FIELD STAFF PROCEDURES**

OLR Regional and field staff shall follow the following guidance and procedures to ensure that HFAs within its jurisdiction properly carry out delegated responsibilities concerning labor standards administration and enforcement activities:

- (A) OLR shall coordinate with the respective Office(s) of Housing to identify all HFAs within the OLR staff's jurisdiction.
- (B) OLR shall include HFAs in developing its annual training plan.
- (C) OLR shall include HFAs in its annual risk analysis for monitoring. Should an HFA rise to a high-risk category during the risk analysis, the HFA should be scheduled for monitoring during the cycle. The OLR staff shall use the monitoring guidance for State LCAs.
- (D) OLR does not concur on initial or final endorsements of HFA risk-sharing projects. HFAs are responsible for the incorporation of the applicable wage decision and labor standards provisions in the contract/contract specifications, and for routine enforcement functions relative to risk-sharing projects.
- (E) OLR shall respond to inquiries from HFAs or other sources concerning Federal labor standards applicability. OLR shall refer inquiries concerning prevailing wage compliance on HFA risk-sharing projects to the responsible HFA.

- (F) Consistent with other HUD program activities that are not subject to direct OLR compliance monitoring (e.g., CDBG, HOME, public and Indian housing), HFA risk-sharing projects shall not be entered or tracked in LR2000.

## **V. ADDITIONAL REFERENCES**

Additional references for OLR staff concerning HFAs and risk-sharing projects are found in HUD Handbook 4590.11, including:

- (A) Chapter 3, Program Requirements, paragraph 3-11, outlining the administrative delegation of duties relative to Federal labor standards requirements delegated to HFAs on projects to which Federal labor standards are applicable.
- (B) Chapter 5, HFA Processing, Underwriting, and Construction, paragraph 5-3B, dealing with Federal labor standards responsibilities and enforcement activities required during the construction phase in accordance with Handbook 1344.1, Rev1, Chg 1.
- (C) Chapter 6, HFA Closing and HUD Endorsement of Loan, paragraphs 6-2 and 6-3B.10, dealing with initial/final endorsement packages that include Federal labor standards compliance certifications.
- (D) Chapter 7, Program Monitoring, dealing with remote and on-site program monitoring.

If you have questions about this Notice, contact the DBLS staff with jurisdiction in your area.

/S/

Edward L. Johnson  
Director  
Office of Labor Relations