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## Chapter 10 REPORTS (Davis-Bacon and Related Acts)

- 10-1 **Labor Standards Enforcement Reports.** Department of Labor regulations at 29 CFR Part 5, §5.7 require the submission of two types of labor standards enforcement reports. These enforcement reports concern only wage violations associated with projects or contracts subject to the labor standards provisions of the Davis-Bacon and Related Acts. In this Chapter, *DOL* shall mean the Department of Labor, *HQLR* shall mean the HUD Headquarters Office of Labor Relations, *RLRO* shall mean the Regional Labor Relations Officer, *LRS* shall mean the HUD Labor Relations Specialist/staff; *LCA* (Local Contracting Agency) shall mean the appropriate staff of the state, local or tribal agency administering the project. All references to LR2000 likewise refer to any successor program/software/system instituted by HUD to manage such activity.
- 10-2 **Case-driven enforcement reports.** Where underpayments by a contractor or subcontractor total \$1,000 or more, *and/or* where there is reason to believe that labor standards violations are aggravated or willful, the LRS/LCA shall prepare a detailed enforcement report for submission to DOL. (*Note:* The \$1,000 threshold refers to the underpayments of a single employer to its *entire* workforce and not to individual employees.)

There are two categories of enforcement reports: those that simply relay information on enforcement actions that have satisfactorily addressed the violations and there is no further action needed or requested; and those that refer the case to the LRS, RLRO, HQLR or DOL for further action. Such cases may involve a refusal to pay, a dispute, a request for hearing or other administrative review, and/or a recommendation for debarment. (See also *Labor Relations Letter LR-92-02*, and DOL regulations at 29 CFR §5.7(a).)

- A. **Submission protocols.** All enforcement reports must be submitted to DOL through HUD. However, states may submit such reports directly to DOL. LCAs shall submit enforcement reports to the LRS for their jurisdiction. Reports received or prepared by the LRS shall be submitted to the RLRO. The RLRO may transmit the report directly to DOL where the following conditions exist:

1. The underpayments of an employer total \$1,000 or more;
2. There is no reason to believe that the violations were aggravated or willful;
3. Full restitution and any other required payments (e.g., CWHSSA liquidated damages) have been made; and
4. No further action is required or requested.

Absent these conditions, the RLRO shall submit the report to HQLR for its review and transmission to DOL.

- B. Timing of the report.** Labor standards enforcement reports that require or request further action or review must be submitted to DOL within 60 days after the completion of the investigation. “Investigation” in this context includes all compliance monitoring including routine payroll reviews; and all actions taken by the agency or contractor toward disposition of the case such as agreement to pay restitution, refusal to pay and/or request for a hearing. Therefore, the report should not be prepared until *after* final disposition is reached at the local level. It is not necessary to wait until all of the underpaid workers have received the restitution found due to prepare the report.
1. Where the report must be submitted to DOL through HQLR, the RLRO shall furnish the report to HQLR not later than 45 days after completion of the investigation.
  2. There is no timeframe for submission of reports needing no further action, i.e., reports that may be submitted by the RLRO directly to DOL (see 10-2(a) above) .
- C. Content of the report.** The amount of detail needed in the report and any supporting documentation is dependent on the purpose the report will serve. Each enforcement report should contain basic coverage information, project identification and location, the contractor and any subcontractors involved, the nature of the violations, the number of underpaid workers and the total amount calculated due, the disposition of the case and schedule of the wages found due. A report that will be submitted to DOL by the RLRO can be brief. Reports that refer a request for hearing or debarment recommendation must be detailed in narrative and must be accompanied by exhibits which, together, are sufficient to substantiate the violations and document the investigative actions of the agency.

10-3 **Semi-annual Enforcement Reports.** HUD is required to furnish to DOL semi-annual reports (SARs) concerning the volume of DBRA-covered activity and the compliance and enforcement of DBRA labor standards provisions in HUD programs. The reports cover the periods of October 1 through March 31 and April 1 through September 30 of each calendar year. The reports are due to DOL by April 30 and October 31, respectively. HQLR collects data from LR2000 and from each RLRO and prepares and submits the report to DOL. (See also DOL regulations at 29 *CFR* §5.7(b).)

- A. HUD-administered projects.** SAR data relative to projects administered by HUD OLR staff are recorded in and drawn from LR2000. RLROs must ensure that the SAR data in LR2000 are correct and complete not later than six Federal work days in advance of the due date to DOL. HQLR shall begin drawing the LR2000 SARs on the 5<sup>th</sup> work day in advance of the due date to DOL.

**B. LCA-administered projects.** LCAs must maintain the data necessary for the SAR and submit the data to HUD on form HUD-4710. The LRS/RLRO shall collect the data (HUD-4710s) from the LCAs in their jurisdiction. RLROs shall compile the LCA data for their region and submit the compiled data to HQLR no later than six working days in advance of the due date to DOL. The HUD-4710 and instructions are available on-line at HUDClips. The HUD-4710 is on-screen fillable and can be transmitted to HUD electronically. States may submit SARs directly to DOL.

10-4 **Contract termination.** Whenever a contract is terminated because of violations of DBRA labor standards provisions, a report must be promptly submitted to DOL. The report must include the name and address of the contractor or subcontractor whose contract has been terminated; and the name and address of the contractor or subcontractor, if any, who will complete the work; the contract number and the amount; and a description of the work to be performed. The report shall be completed by the agency (HUD or LCA) generating the report within 30 days after termination. LCAs shall submit contract termination reports to the LRS for their jurisdiction. All termination reports must be submitted to HQLR through the respective RLRO. States may submit termination reports directly to DOL. (See also DOL regulations at 29 *CFR* §5.7(d).)