REGION IV - ATLANTA
Federal Labor Standards for HUD Programs
For projects funded or assisted by HUD programs, ensure that construction and maintenance workers (laborers & mechanics) working on projects subject to federal prevailing wage requirements are paid properly.
OLR Responsibilities

- Directly administers & enforces federal labor standards for multifamily HUD-insured projects across the U.S.

- Oversight of the administration & enforcement of federal labor standards conducted by local contracting agencies (LCAs)
OLR RESPONSIBILITIES

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

- Construction Workers
- Maintenance Workers
- Program Staff
- Contractors
- Agency Grantees
- Developers
- Other Federal Agency Staff
AGENCY RESPONSIBILITIES

- Designate appropriate enforcement staff
- Establish construction contract management system
- Ensure that bid docs, contracts, & subcontracts contain
  - Federal labor standards clauses
  - applicable wage decision
- Verify contractor eligibility
AGENCY RESPONSIBILITIES

- 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 HUD
- Submit required reports
The contracting agency’s “labor relations officer” (LRO) performs more than payroll reviews. The LRO should be informed of all project planning and contracting activity, should be consulted regularly regarding the applicability of prevailing wage requirements, and should have the authority to withhold funds from contracts when circumstances warrant.
PRIME CONTRACTOR RESPONSIBILITIES

- Responsible for compliance of all contractors
- Subcontractors communicate through prime
- Include labor provisions & wage decision in all subcontracts
- Provide subcontractors with forms, guidance
- Ensure 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
The Related “ACTS”
WHY
we do what we do
THE RELATED ACTS

- **PUBLIC HOUSING**
  U.S. Housing Act of 1937, Sec. 12(a)

- **CDBG (EDI/BEDI/Section 108)**
  Housing and Community Development Act of 1974, Sec. 110(a)

- **HOME**
  National Affordable Housing Act of 1990, Sec. 286(a)
THE RELATED ACTS

NAHASDA
• Native American Housing Assistance and Self-Determination Act of 1996, Section 104(b) and Section 104(b)(I)

ICDBG
• Indian Community Development Block Grant

ARRA
American Reinvestment & Recovery Act of 2009, Section 1606
NSP1
Neighborhood Stabilization Program Grants

Davis-Bacon applicable - same as CDBG

Housing and Economic Recovery Act of 2008
Davis-Bacon applicable to construction contracts in the same manner as for the CDBG program

Section 1205, Supplemental Appropriations Act of 2009
ARRA - NSP2 NOFA

Davis-Bacon applicable - same as CDBG
ARRA - TCAP
Tax Credit Assistance Program

Davis-Bacon applicable to ALL construction contracts in excess of $2,000 for construction, alteration or repair (including painting and decorating)

There are no unit or soft-cost thresholds/limitations.

(U.S. Department of Labor, All Agency Memorandum No. 207, dated 5/29/2009)
ARRA
Healthy Homes / Lead Hazard Control Grants

Davis-Bacon applicable to ALL construction contracts in excess of $2,000 for construction, alteration or repair (including painting and decorating)

There are no unit or soft-cost thresholds/limitations.

First Determine Applicability

- PHA
- TDHE/IHA
- CDBG
- HOME
- NSP 1 & II
- TCAP
- LHCG
Applicability
Public Housing

• Davis-Bacon prevailing wage rates must be paid to all laborers and mechanics employed in the development of affordable housing, and... ...

• HUD-determined prevailing wage rates must be paid to all maintenance laborers and mechanics employed in the operation of affordable housing.
Applicability - Public Housing
Character of Work

New construction, reconstruction, renovation, rehabilitation, and repair work are covered by some type of prevailing wage requirement:

- Development (Davis-Bacon)
- Routine Maintenance (Operation)
- Non-Routine Maintenance (Operation)
Applicability
Public and Indian Housing

- Development (Davis-Bacon covered work)
  - New construction
  - Reconstruction / Renovations
    - Remodeling that alters the nature or type of housing units
    - Substantial improvement in the quality or kind of original equipment and materials
Applicability
Public and Indian Housing

• Routine Maintenance
  • Work that involves the regular upkeep and preservation of building, grounds, and facilities

• Non-Routine Maintenance
  • Work that ordinarily would be performed on a regular basis in the course of upkeep of a property and/or unit, but has become substantial in scope because it has been put off
    • Involves expenditures that would materially distort the level trend of maintenance expenses
    • Replacement of equipment and materials rendered unsatisfactory because of normal wear and tear by items of substantially the same kind
Indian Community Development Block Grant (ICDBG)

Exempt from Federal prevailing wage requirements 😊
NAHASDA

Section 104(b) states “Any contract or agreement for assistance, sale, or lease pursuant to this Act shall contain a provision that not less than the wages prevailing in the locality…shall be paid to all laborers and mechanics employed in the development of the affordable housing involved…”

Paragraph (I)…. Exemption for volunteers
Paragraph (I)....also mandates the payment of HUD-Determined prevailing wage rates to all maintenance laborers and mechanics engaged in the operation of NAHASDA-assisted affordable housing projects.
NAHASDA

Paragraph (I)…Exemption if tribal law or regulations adopted by Indian Tribe that requires the payment of not less than prevailing wages, as determined by the Indian tribe.
NAHASDA

• **Tribe must adopt a resolution stating the IHA will pay a prevailing wage to all laborers and mechanics (i.e., trades) employed by or contracted by the Tribe/IHA.**

• Language of resolution must incorporate ALL laborer and mechanic work performed by maintenance staff or contracted out by the IHA.

• Does not require ONAP or OLR approval. Submit copy of signed resolution to ONAP and OLR.
CDBG/HOME APPLICABILITY
“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
Applicability
CDBG

- 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 and YouthBuild are exempt
Applicability
HOME

“Any contract for the construction of affordable housing with 12 or more units assisted with [HOME] funds . . . National Affordable Housing Act of 1990, Sec. 286(a)

The standard for coverage is construction assisted,

not construction financed . . . .
Applicability

HOME

• Soft costs **will** trigger DB
  Land acquisition, A&E fees, down payment assistance

• Once triggered, DB requirements apply to the **entire project**

• Sweat equity participation is exempt
Contract for Construction Documents

Ensure **incorporation** into contract document

1. The **current appropriate wage decision** applicable to the work being done, and;

2. The **applicable Federal labor standards clauses**
   
   a. Public Housing, TDHE/IHA
      
      a. HUD-5370 - Contracts over $100K
      
      b. HUD-5370 EZ - Contracts $2K - $100K
      
      c. HUD-5370 C Part II - Maintenance Contracts $2K - $100K
      
      d. HUD-5370 C Part I & II - Maintenance Contracts >$100K

   b. CDBG/HOME/NSP I & II, TCAP, LHCG
      
      b. HUD-4010
Verify Contractor Eligibility
Davis-Bacon covered projects only

www.eppl.gov

Print results page or make note to file
• Davis-Bacon Act (DBA)
• Copeland Act (Anti-Kickback Act)
• Contract Work Hour and Safety Standards Act
• “Related” Acts
DAVIS-BACON ACT

- Enacted in 1931, amended in 1935 & 1964
- Federal construction contracts over $2,000
- Applies to all laborers & mechanics
- Includes alteration, repair, painting & decorating
DAVIS-BACON ACT

- Requires payment of prevailing wage rates
- Requires weekly payment of wages
- Is “site-based”
- Usually applied through the “Related acts”
COPELAND ACT

- Enacted in 1934
- Prohibits “Kick-backs” of pay
- Requires certified weekly payrolls
- Regulates payroll deductions from wages
CONTRACT WORK HOURS & SAFETY STANDARDS ACT

- Enacted in 1962
- Overtime for all work > 40 hrs/week
- Applies to contracts over $100,000
- Liquidated damages for violations ($10 per day per violation)
Pt 1  Determination of wage decisions
Pt 3  Copeland Act requirements
Pt 5  Labor standards provisions for contracts
Pt 6  Administrative proceedings (ALJs)
Pt 7  Practice before the Admin. Review Board
DAVIS-BACON WAGE DECISIONS & CLASSIFICATION ISSUES
ESTABLISHING DB RATES

- Established by survey of contractors
- Established by geographic area
- Establishes the “prevailing” wage rate
- May be modified from time to time
- Participation is in contractor’s interest!
WAGE DECISION BASICS

• Identifies work classifications, basic hourly wages, fringe benefits

• May be modified periodically

• Published for 4 types of construction

• Must be posted at the job site
WAGE DECISION COMPONENTS

- Wage decision number
- Modification date
- State, county information
- Wage decision type
- Trade classifications
- Base Wage
- Fringe Benefits
GENERAL DECISION: **FL20030001**

Date: July 14, 2006  
General Decision Number: **FL20030001** 07/14/2006

Superseded General Decision Number: FL020001

**State:** Florida

**Construction Type:** Building

**County:** Miami-Dade County in Florida.

**BUILDING CONSTRUCTION PROJECTS** (does not include single family homes and apartments up to and including four (4) stories)

<table>
<thead>
<tr>
<th>Modification Number</th>
<th>Publication Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>06/13/2003</td>
</tr>
<tr>
<td>1</td>
<td>01/23/2004</td>
</tr>
<tr>
<td>2</td>
<td>04/09/2004</td>
</tr>
<tr>
<td>3</td>
<td>05/28/2004</td>
</tr>
<tr>
<td>4</td>
<td>08/27/2004</td>
</tr>
<tr>
<td>5</td>
<td>01/28/2005</td>
</tr>
<tr>
<td>6</td>
<td>04/08/2005</td>
</tr>
<tr>
<td>7</td>
<td>08/12/2005</td>
</tr>
<tr>
<td>8</td>
<td>09/23/2005</td>
</tr>
<tr>
<td>9</td>
<td>12/16/2005</td>
</tr>
<tr>
<td>10</td>
<td>04/14/2006</td>
</tr>
<tr>
<td>11</td>
<td>06/02/2006</td>
</tr>
<tr>
<td>12</td>
<td>07/14/2006</td>
</tr>
</tbody>
</table>
Electrician (Including Fire Alarm Installation)

- Electrical contracts including materials that are less than $2,000,000...
- $23.00
- Hourly Wage Rate: 6.05% + 8%

Fringe Benefits

Classification

Details about classification / work
CALCULATE FRINGE BENEFITS

- Base Rate: $23.00
- Fringe Benefit 1: $6.05
- Fringe Benefit 2: 8%

8% of the base rate

\[ 0.08 \times 23.00 = \$1.84 \]

ADD:

\[ \begin{align*}
23.00 \\
6.05 \\
1.84 \\
\hline
Total: \$30.89
\end{align*} \]
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
RESIDENTIAL

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

HIGHWAY

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

HEAVY

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

- On-line at [www.wdol.gov](http://www.wdol.gov)
OBTAINING WAGE DECISIONS

Sign up for the DOL’s “Alert Service”

Select a wage decision to search; at the results page you will see an option to sign up for the Alert Service.
How long will a wage decision “keep”?

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

What if we add federal funding to an ongoing project?

How do I know which modification to use?

“LOCK-IN”

How long will a wage decision “keep”? 
WAGE DECISION “LOCK-IN” COMPETITIVELY BID CONTRACTS

- 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

• 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

Lock-in at contract award date or the construction start date, whichever occurs first
WAGE DECISION “LOCK-IN”
ALL CONTRACTS

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

- Review decisions for missing classifications
- Discuss with contractors early
- Submit request after contract award
ADDING CLASSIFICATIONS
STANDARD FOR CONSIDERATION

- Work not represented on wage decision
- Area practice
- “Reasonable relationship” standard
- Consent of all parties
ADDING CLASSIFICATIONS

- Do not “borrow” classifications/wage rates from other wage decisions
- Contractor’s rights re: additional classifications
- Post new classification & rate
- Restitution payments & documentation requirements
**Community Center**  
**CD2002-24**  
**Miami, Dade County, FL**  
**BLDG constr: rehab comm center**  
**FL020001/Mod 1**  
**4/2/02**

In order to complete the project, it is necessary to establish wage rates for the following classifications not included in the above-referenced U.S. Department of Labor Wage Decision:

<table>
<thead>
<tr>
<th>CLASSIFICATIONS</th>
<th>BASIC HOURLY RATE(S)</th>
<th>FRINGE BENEFIT PAYMENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Electrician</td>
<td>22.50</td>
<td>4.50</td>
</tr>
</tbody>
</table>

**NAME, ADDRESS & ZIP CODE OF LABOR ORGANIZATION**  
**Contractor, Labor Organization**

**NAME, ADDRESS & ZIP CODE OF PRIME CONTRACTOR**

**TITLE OF LABOR ORGANIZATION REPRESENTATIVE**
**TITLE OF CONTRACTOR’S REPRESENTATIVE**

- Supporting documents attached.
- The interested parties, including the employees or their authorized representatives, agree on the classification and wage rate.
- The interested parties, including the employees or their authorized representatives, cannot agree on the proper classification and wage rate.  
A determination of the question by the Secretary of Labor is therefore requested. Available information and recommendations are attached.

- **APPROVED**

(Signature of HUD Area Insuring Office Representative)  
(Signature of HUD Regional Labor Relations Officer)  
_________________________________________  
Date  
_________________________________________  
Date  

HUD 4230A  
PREVIOUS EDITION IS OBSOLETE
Davis-Bacon Wage Decisions

• In an area accessible to all workers,
  remember to post.....

• Wage Decision
• DOL “Notice To All Employees”
HUD Determined Wage Decisions

- Applies to PHA/THDE/IHA routine and non-routine work
- Identifies work classifications, basic hourly wages, fringe benefits
  - Routine maintenance wage rates issued annually for routine work; Request additional classifications through Labor Relations Specialist
  - Non-routine maintenance wage rates issued by project - contact Labor Relations Specialist
Compliance Principles for Routine and Non-Routine Maintenance

- Ensure **ALL** maintenance laborers and mechanics are paid a prevailing wage
- Create and maintain documents demonstrating compliance
- Permissible deductions as allowed by law or regulation
- Conduct employee interviews
Compliance Principles for Davis-Bacon projects

- Ensure submission of certified payrolls
- Conduct on-site interviews (HUD-11)
- Spot-check payrolls/related records
- Ensure correction of underpayments
- Maintain records 3 years after completion
- Submit enforcement reports as needed
On-Site Interviews

- Validate/test payroll data
- Develop complaints/substantiate suspected violations
- Target interviews
- Fillable HUD-11 form available at HUDCLIPS
- Spanish Version also available
Spot-Check Payrolls

- Review for major trades
- Compare HUD-11s to submitted payrolls
- Focus on falsification
- Communicate results
Payroll Falsification Indicators

- Ratio of laborers to mechanics (>1:1)
- Too few or irregular hours
- Discrepancies in wage computations
- Extraordinary deductions
Wage Restitution

- Document restitution on certified correction payroll report

- Submit 5.7 report where restitution totals ≥$1,000 per contractor
Labor Standards Records

- Wage Decision, Additional classifications
- Verification of contractor eligibility
- Certified payrolls/HUD-11s
- Apprentice/trainee registrations
- Documentation on all compliance and enforcement actions
- Preserved no less than three years
ESSENTIAL CONCEPTS

Classification
Pay
Overtime
Laborers and Mechanics

Workers whose duties are **MANUAL** or **PHYSICAL** in nature,
including those workers who use tools or who are performing work of a trade,
as distinguished from mental or managerial duties.
All laborers and mechanics must:

✓ Be classified in accordance with the WD

✓ Be paid at rates ≥ those on WD

✓ Be paid not less often than once a week

✓ Receive at least 1½ times regular rate of pay for all hours worked > 40/week
Classify and pay for the work performed, NOT according to the level of skill, experience, or job title.
Site of Work

- Physical place(s) where work called for in contract will remain

- DB applies only to laborers and mechanics on the “site of work”
Truck Drivers

- Covered for time spent working on the site of work

- Covered when time spent loading and/or unloading materials and supplies on the site of the work, if such time is not *de minimis*

- Transporting materials or supplies between facility that is deemed part of the site of work and the actual site.
Apprentices and trainees are persons registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by DOL or State Apprenticeship Program approved by DOL.
Apprentices and Trainees

- Apprentices and trainees must be registered in a Department of Labor-approved program.
- Contractor must submit a copy of registration/apprentice agreement and ratio language.
- Apprentices/trainees that are not registered or that are utilized out of ratio must be paid the full rate (base + fringes) listed on the wage decision for the classification of work they perform.
CLASSIFICATION - HELPERS

Not recognized on Federal contracts regardless of any contractual relationship alleged to exist

- Indicates possible misclassification
- Determine actual duties of “Helper”
- Do not merely require the contractor to change the payroll to conform with wage decision
Split Classifications

• A worker performing work in more than one classification may be paid the wage rate specified for each classification ONLY if accurate time records are kept.

• Otherwise, the worker must receive the HIGHEST wage rate for all hours.
Self-employed Subcontractors (Labor Relations Letter LR-96-01)

- All laborers and mechanics are covered regardless of any contractual relationship alleged to exist

- Must be paid weekly

- May not certify to payment of own wages (may not sign own payrolls) - Exception: Owners of business working with their crew
VOLUNTEERS

- Performs services voluntarily
- Does not receive compensation for services
- May be paid expenses, reasonable benefits, nominal fee for services
- Not otherwise employed at any time on the construction work
PAY
IN GENERAL

• Pay workers weekly (7 consecutive days)

• Pay wage rates at or above those on wage decision for class of work performed

• Post the wage decision, DOL Notice to Employees, in an area accessible to all workers
PIECE WORK

- Convert to hourly wage rate
- Total weekly wages ÷ hours worked = effective hourly wage rate
- It is important that contractors keep good records of hours worked
FRINGE BENEFITS

• Any contribution irrevocably made...to a trustee or third party pursuant to a bona fide fringe benefits fund plan, or program

• The rate of costs...which may be reasonably anticipated in providing bona fide fringe benefits...communicated to the employee in writing
FRINGE BENEFITS

• Can include employer contributions to health insurance premiums, retirement contributions, life insurance, etc.

• Bona fide funded plans: common to the industry, paid directly in cash or into a fund, plan or program on the employee’s behalf
FRINGE BENEFITS

• Does not include employer payments required by Federal, state or local law

• Unfunded plans: Contractor must obtain DOL approval

• Contractor must identify on certified payroll that fringe benefits are or are not paid
FRINGE BENEFITS

- Prevailing wage requirements may be met by any combination of cash wages and creditable “bona fide” fringe benefits provided by the employer

- Fringes may be paid entirely as cash wages
FRINGE BENEFITS

- Fringes must be paid for all hours worked, including overtime; however, the half-time premium for hours over 40 does not apply to fringe benefit payments when computing overtime pay.
# Fringe Benefits

<table>
<thead>
<tr>
<th>Typical Fringe Benefits</th>
<th>These are NOT Fringe Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Life Insurance</td>
<td>Workers Compensation</td>
</tr>
<tr>
<td>Health Insurance</td>
<td>Unemployment Compensation</td>
</tr>
<tr>
<td>Sick Leave</td>
<td>Social Security</td>
</tr>
<tr>
<td>Regular Leave / Vacation</td>
<td>Thanksgiving Turkey</td>
</tr>
<tr>
<td>Holidays</td>
<td>Company Car/Cell Phone</td>
</tr>
<tr>
<td>Pension</td>
<td>Employer-Paid Auto Insurance</td>
</tr>
</tbody>
</table>
OVERTIME

- For all hours worked over 40 per week
- Paid at 1½ times the regular rate of basic pay plus the straight-time rate of fringe benefits
- Applies to hours worked on covered project
DEDUCTIONS

- Those deemed permissible by 29 CFR Part 3
- Deductions not provided for by 29 CFR Part 3 must be approved by the DOL
For many contractors, the weekly *certified* payroll is the only Davis-Bacon paperwork they will need to submit.
PAYROLL BASICS

• Optional WH347 form

• Compliance statement (original signature)

• Payrolls are due weekly

• Identify first and final payroll

• “No Work” payrolls optional - but all weeks must be accounted
**PAYROLL BASICS**

- Payrolls must be complete & legible
- Prime contractor reviews payrolls for completeness, submits to LCA
- Payroll retention - three years
PROJECT & CONTRACTOR INFORMATION

- Contractor/sub-contractor name
- Business address
- Project name & number
- Week ending date
- Day & date for each day in the workweek
- Numbering payrolls (optional - but strongly recommended)
EMPLOYEE INFORMATION

- Employee name & identifying number - contractor must make address & SSN available on request
- Employee work classification
- Rate of pay
- Straight/Overtime hours worked per day, per week on THIS project
WAGES & DEDUCTIONS

- Gross wages earned
- Deductions from wages
- Net pay
- Statement of compliance
  - one for each weekly payroll
  - Signed by corporate official or designee
SUBCONTRACTORS WORKING ALONE (No Crew)

- All laborers & mechanics are covered regardless of any contractual relationship alleged to exist
- Must be paid weekly
- May not certify to payment of own wages (may not sign own payrolls)
- Exception: Owners of business working with their crew
ENFORCEMENT

Payroll & Document Review
Employee Interviews
AGENCY BASICS - REVIEW

- Ensure submission of certified weekly payrolls
- Conduct on-site interviews
- Check payrolls/related records
- Ensure correction of underpayments
- Prepare / submit required reports
- Maintain records for three years
EMPLOYEE INTERVIEWS

- Use to validate / test payroll data
- Use to develop complaints - by expanding the number of employees interviewed, following up on claims
- Target interviews to substantiate suspected violations
- Interviews are confidential - the information is not to be shared with contractors
- Fill-able HUD-11 form available - HUDCLIPS
- Spanish version available
PAYROLL REVIEW

• Review first payrolls in some detail
• Spot check subsequent payrolls if no problems are detected early on
• Review for trades; are all trades represented?
• Compare HUD-11s with payrolls & follow up on discrepancies
• Focus on falsification
PAYROLL REVIEW

• Allow contractor reasonable time to make corrections, pay restitution, but follow up promptly if needed

• Retain original certified payrolls; do not return original payrolls to contractor

• Schedule additional employee interviews if payrolls show signs of falsification or underpayment
PAYROLL REVIEW - ISSUES

- “Other” deductions not clearly identified or explained
- Classification errors or deliberate misclassification - e.g., employees listed as laborers performing skilled work
- Photocopied or faxed certified payroll
- Incomplete payroll information
- Single compliance statement for multiple weeks
- Unauthorized signatory to compliance statement
PAYROLL REVIEW

• Falsification Indicators
  • Ratio of laborers to mechanics >1:1
  • Too few or irregular hours
  • Discrepancies in wage computations
  • Extraordinary deductions
  • Worker with a complaint
FOLLOW UP

- Communicate routine review results by phone; document with “memo to file”
- Take corrective action promptly
- Notify contractor in writing of violations if not corrected promptly after informal request
- Always send written notification of serious violations or when sanctions, withholding are possible
- Provide appeal rights to contractor
CORRECTING VIOLATIONS

• Require appropriate documentation - require *certified* correction payroll report

• Obtain written assurance of future compliance for substantial violations

• Submit report to HUD OLR where restitution > $1,000

• Track all restitution for Semi-Annual Report
LIQUIDATED DAMAGES FOR OVERTIME VIOLATIONS

- Must assess liquidated damages for OT violations
- $10 per day per violation
- Contact OLR re: Notice of Intent to Assess letter
- Agency recommendation
ENFORCEMENT REPORTS I

Case by Case (§5.7(a))

- Employer underpays by ≥$1,000
- Violations appear aggravated or willful
- Recommendations on debarment; CWHSSA liquidated damages
Semi-Annual (§5.7(b))

• Submit report twice each year for periods:
  • Oct 1 ➔ Mar 31
  • Apr 1 ➔ Sep 30

• Report covered contracts for construction awarded within reporting period

• Report enforcement activity - regardless of award
**PART I - CONTRACTING ACTIVITY**

*Pertains only to projects awarded during the reporting period.*

1. 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:

<table>
<thead>
<tr>
<th>Project Name/Number</th>
<th>Contract Amount</th>
<th>Wage Decision Number</th>
<th>Wage Decision Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community Center - 54-005</td>
<td>$0,000,000.00</td>
<td>FL0200012/M2</td>
<td>6/4/2002 B/O</td>
</tr>
</tbody>
</table>

2. Total dollar amount of prime contracts reported in item 1 above:

   $45,000

3. List for each contract awarded this period: Contract/Project Name & Number, Contract Amount, Wage Decision Used and Effective date (Items 1 & 2):

   - Electrical upgrades
     - Swift Homes 02-154-6695a
     - Contract Amount: $45,000
     - Wage Decision Number: FL0200012/M2
     - Wage Decision Effective Date: 6/4/2002 B/O

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*Use additional pages if necessary*

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*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.*
**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):

   Employer / Project(s)

   0

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

   Employer / Project

   0

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

   Employer / Project

   0

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.

   Employer / Project

   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.

   Total amount

   $685.25

   (c) Total amount of liquidated damages collected:

   0
Determining monitoring strategy through risk analysis

HUD examines overall performance of the agency, focusing on staff capacity, the existence of and effectiveness of enforcement systems

Findings vs. Concerns, and overall assessment
Monitoring may be on-site or via ‘desk review’ by mail.

HUD examines overall performance of the agency, focusing on staff capacity, the existence of and effectiveness of enforcement systems.

Findings vs. Concerns, and overall assessment.
RESOURCES
• Labor Relations Letters
• On-the-Mark! Series

http://www.hud.gov/offices/olr/library.cfm
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/libraryforms/
OTHER RESOURCES ONLINE

• GSA’s On-Line Debarment List
  www.epls.gov

• Davis-Bacon Wage Decisions www.wdol.gov

• HUD Office of Labor Relations www.hud.gov/offices/olr
# Atlanta Staff Contacts

Dial (678) 732 + Extension

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<td>Tribal Housing Authorities</td>
<td>Jennifer Dupont</td>
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