

# REGION IV - ATLANTA

## Federal Labor Standards for HUD Programs

# OLR MISSION

## The HUD Office of Labor Relations

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

# 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

# AGENCY RESPONSIBILITIES

- 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

# CONTRACTOR RESPONSIBILITIES



# 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



# ARRA - CDBG-R

FR-5309-N-01

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.

U.S. Department of Labor, All Agency Memorandum No. 207,  
5/29/2009

# 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

# NAHASDA

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

# Applicability CDBG

“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.epls.gov](http://www.epls.gov)

Print results page or  
make note to file





# KEY DAVIS-BACON & RELATED STATUTES, REGULATIONS

- 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)

# DOL REGULATIONS - 29 CFR

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**

WD Number

Date: July 14, 2006

General Decision Number: **FL20030001** 07/14/2006

Superseded General Decision Number: FL020001

State: Florida

Character of  
Construction

Construction Type: Building

County: Miami-Dade County in Florida.

County(ies)

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

Modification Number	Publication Date
0	06/13/2003
1	01/23/2004
2	04/09/2004
3	05/28/2004
4	08/27/2004
5	01/28/2005
6	04/08/2005
7	08/12/2005
8	09/23/2005
9	12/16/2005
10	04/14/2006
11	06/02/2006
12	07/14/2006

Details about the  
Character of  
Construction

Modification #,  
Publication Date

Classification

ELEC0349-001 /01/2005

Including Fire Alarm Installation

Fringe Benefits

Rates

Fringes

Electrician (Including Fire Alarm Installation)

Electrical contracts including materials that are less than \$2,000,000...\$ 23.00

6.05+8%

Details about classification / work

Hourly Wage Rate

# CALCULATE FRINGE BENEFITS

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

8% of the base rate  
 $.08 \times 23.00 = \underline{\$1.84}$

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<b>ADD:</b>	23.00
	6.05
	1.84
<b>Total:</b>	<b>\$30.89</b>





**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

# CHARACTER OF CONSTRUCTION

## 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)



**Wage Determinations OnLine.gov**

Providing public access to federal wage determinations and related information.

# OBTAINING WAGE DECISIONS

## Sign up for the DOL's "Alert Service"

The screenshot displays a web interface with three columns of navigation links at the top: 'Selecting SCA WDs' (e98, Archived WDs, WDs due to be revised), 'Selecting DBA WDs' (Archived WDs, WDs due to be revised), and 'Agency Labor Advisors' (Library, DOL Wage and Hour Website). A caution box states: 'CAUTION: Users should note that the only WDs applicable to a particular solicitation or contract are those that have been incorporated by the contracting officer in that contract action.'

### Selecting DBA Wage Decisions

The Wage Determination you have requested is below.

Please scroll down to review the WD carefully to ensure that it is appropriate for your project.

Construction type: building  
County: Miami-Dade County in Florida.  
BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	07/10/2009

CARP0079-001 04/01/2009

	Rates	Fringes
CARPEN... (Team Work Only)	\$ 22.20	6.67

Printer Friendly Version

**Sign Up for Alert Service** Find Another WD Exit

Back

Internet | Protected Mode: On



*What if we add federal funding to an ongoing project?*

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

*How do I know which modification to use?*



*How long will a wage decision "keep"?*

# “LOCK-IN”

# 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



HUD 4230A

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE		DATE OF REPORT
TO: <i>(Appropriate Regional Office, U.S. Department of Labor)</i>		FROM: <i>(Name and Location of HUD Office)</i>
U.S. DEPARTMENT OF LABOR EMPLOYMENT STANDARDS ADMINISTRATION WAGE-HOUR / DIVISION OF CONSTRUCTION WAGE RATE DETERMINATION - ROOM S-3012 WASHINGTON, DC 20210		
NAME OF PROJECT	PROJECT NUMBER	
<b>Community Center</b>	<b>CD2002-24</b>	
LOCATION OF PROJECT <small>(City, County and State)</small>		
<b>Miami, Dade County, FL</b>		
DESCRIPTION OF WORK		
<b>BLDG constr: rehab comm center</b>		
WAGE DECISION NO. & MODIFICATION NO. <small>(Also attach copy of applicable wage decision)</small>		WAGE DECISION EFFECTIVE DATE
<b>FL020001/Mod 1</b>		<b>4/2/02</b>
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:		
CLASSIFICATIONS	BASIC HOURLY RATE(S)	FRINGE BENEFIT PAYMENTS
<b>Electrician</b>	<b>22.50</b>	<b>4.50</b>
NAME, ADDRESS & ZIP CODE OF LABOR ORGANIZATION		NAME, ADDRESS & ZIP CODE OF PRIME CONTRACTOR
<b>Contractor, Labor Organization</b>		
TITLE OF LABOR ORGANIZATION REPRESENTATIVE		TITLE OF CONTRACTOR'S REPRESENTATIVE
<input type="checkbox"/> Supporting documents attached. <input type="checkbox"/> The interested parties, including the employer or their authorized representatives, agree on the classification and wage rate. <input type="checkbox"/> The interested parties, including the employer or their authorized representatives, do not 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.		
<input type="checkbox"/> APPROVED		
_____ <small>(Signature of HUD Area Insuring Office Representative)</small>		_____ <small>(Signature of HUD Regional Labor Relations Officer)</small>
Date		Date

# 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  $\geq$ \$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  $\geq$  those on WD
- ✓ Be paid not less often than once a week
- ✓ Receive at least  $1\frac{1}{2}$  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

- 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  $\div$  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

Typical Fringe Benefits	These are NOT Fringe Benefits
Life Insurance	Workers Compensation
Health Insurance	Unemployment Compensation
Sick Leave	Social Security
Regular Leave / Vacation	Thanksgiving Turkey
Holidays	Company Car/Cell Phone
Pension	Employer-Paid Auto Insurance

# 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



# CONTRACTOR REPORTING REQUIREMENTS

*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  $\geq$  \$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

# LABOR STANDARDS ENFORCEMENT REPORTS

# ENFORCEMENT REPORTS I

## Case by Case (§5.7(a))

- Employer underpays by  $\geq$ \$1,000
- Violations appear aggravated or willful
- Recommendations on debarment; CWHSSA liquidated damages

# ENFORCEMENT REPORTS II

## 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

# Contract Activity

## SEMI-ANNUAL LABOR STANDARDS ENFORCEMENT REPORT LOCAL CONTRACTING AGENCIES (HUMAN SERVICES PROGRAMS)

Agency Name: <b>Sweetwater Public Housing Authority</b>	State: <b>FLORIDA</b>	Relations ID No.: <b>FL095A</b>
Period Covered: From: <b>April 1, 2002</b> To: <b>September 30, 2002</b>		Agency Type: <b>PHA</b>

Contract Name / #

Contract Amount

Wage Decision No. include Mod#

Wage Decision Lock-In Date

### PART I - CONTRACTING ACTIVITY\*

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

- 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: 1
- Total dollar amount of prime contracts reported in item 1 above: \$45,000
- List for each contract awarded this period: Contract/Project Name & Number, Contract Amount, Wage Decision Used and Effective date (Items 1 & 2):

Project Name/Number	Contract Amount	Wage Decision Number	Wage Decision Effective Date
EXAMPLE Community Center - 54-005	\$0,000,000.00	8001/Mod 3	11/11/00
<b>Electrical upgrades Swift Homes 02-154-6695a</b>	<b>\$45,000</b>	<b>FL0200012/M2</b>	<b>6/4/2002 B/O</b>

\* Use additional pages if necessary

<sup>1</sup> 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.



# Enforcement Activity

## SEMI-ANNUAL LABOR STANDARDS ENFORCEMENT REPORT LOCAL CONTRACTING AGENCIES (HUD PROGRAMS)

Agency Name: <b>Sweetwater Public Housing Authority</b>	State: <b>FLORIDA</b>	Labor Relations ID No.: <b>FL095A</b>
Period Covered: From: <b>April 1, 2002</b> To: <b>September 30, 2002</b>	Agency Type: <b>PHA</b>	

### 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):

0

Employer	Project(s)

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

0

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

0

Employer	Project	HUD or DOL	Invest. Or Hearing

6. (a) Number of workers for whom wage restitution was collected/dispursed:

*Report only once; if you previously reported workers for whom restitution was collected, do not report the same workers when funds are dispursed. Include workers to whom restitution was paid by the contractor directly.*

5

(b) Total amount of wage restitution collected/dispursed 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.*

\$685.25

(c) Total amount of liquidated damages collected:

0

\* Use additional pages if necessary

Complaints

Referrals

Wage Restitution

# HUD OLR COMPLIANCE MONITORING

- 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

# HUD OLR COMPLIANCE MONITORING

- 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



# HUD OLR Reference Library

- 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](http://www.dol.gov/esa/programs/dbra/index.htm)
- DOL Regulations  
[www.dol.gov/esa/regs/cfr/whdcfr.htm](http://www.dol.gov/esa/regs/cfr/whdcfr.htm)
- DOL Forms  
[www.dol.gov/libraryforms/](http://www.dol.gov/libraryforms/)

# OTHER RESOURCES ONLINE

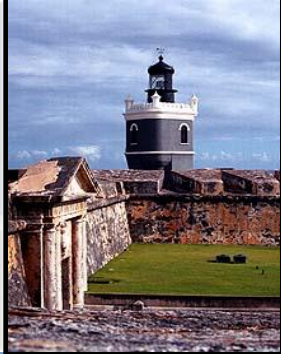
- GSA's On-Line Debarment List  
[www.epls.gov](http://www.epls.gov)
- Davis-Bacon Wage Decisions [www.wdol.gov](http://www.wdol.gov)
- HUD Office of Labor Relations  
[www.hud.gov/offices/olr](http://www.hud.gov/offices/olr)

# Atlanta Staff Contacts

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<b>KY</b>	Ira Turman	2062	<b>NC</b>	Jennifer Dupont	2034
<b>FL</b>	Steve Bales - South FL	2039	<b>SC</b>	Debra Tilley	2003
<b>GA</b>	Melanie Dalton	2045	<b>TN</b>	Deborah Conyers Tennessee	2044
<b>Caribbean</b>	Leslie Gibson	2042	<b>Tribal Housing Authorities</b>	Jennifer Dupont	2034





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