



Davis-Bacon and the Related Acts (DBRA)

Wisconsin Association of Housing Authorities

Tuesday, April 18, 2023

Radisson Hotel, La Crosse, Wis

Davis-Bacon and Labor Standards Staff

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HUD's Role

Davis-Bacon Act Enforcement

Ensure	Ensure Local Contracting Agencies (LCAs) apply DBRA requirements properly
Support	Support labor standards compliance
Monitor	Monitor LCA performance
Train	Train LCAs

KEY TERM	DEFINITION
Davis-Bacon Act (DBA)	The Davis-Bacon Act requires the payment of prevailing wage rates to all laborers and mechanics on Federal government construction projects in excess of \$2,000.
Contract Work Hours and Safety Standards Act (CWHSSA)	CWHSSA requires time and one-half pay for overtime (O/T) hours (over 40 in any workweek) worked on covered projects.
The Copeland Act aka Anti-Kickback Act	Makes it a Federal crime for anyone to require any laborer or mechanic (employed on a Federal or Federally-assisted project) to kickback (i.e., give up or pay back) any part of their wages. It requires every employer (contractors and subcontractors) to submit weekly certified payroll reports (CPRs) and regulates permissible payroll deductions.
Fair Labor Standards Act (FLSA)	Applies to any Labor performed – child labor requirements, overtime, federal minimum wage rates

U.S. Housing
Act of 1937,
as amended,
Section 12(a)

....not less than the wages prevailing in the locality, as determined or adopted...by the Secretary, shall be paid to...all maintenance laborers and mechanics employed in the operation of the low-income housing project involved...

Public Housing - DBRA Applicability

For properties subject to a conventional Annual Contributions Contract, construction, rehabilitation, and maintenance work are covered by some type of prevailing wage to all maintenance laborers and mechanics engaged in the operation of low-income housing projects (Section 12(a) of the US Housing Act of 1937).

[Agency-Contractor Guides](#)

- (1) Davis-Bacon - DR rates apply to public housing “development.”
- (2) HUD Wage Rates - HUD-determined prevailing wages apply to public housing maintenance work (including contracted routine maintenance and “non-routine” maintenance, as defined in Modernization regulations in §968.105).
- (3) Force Account - DB and HUD wage rates apply to PHA employees (“force account” workers) as well as to contractor employees.
- (4) Threshold: No unit threshold for DB or HUD wage rate applicability to public housing. DB dollar threshold at \$2,000; \$2,000 dollar threshold for maintenance contracts.

Routine Maintenance Labor Relations Letter 93-01



Work that involves the regular upkeep and preservation of buildings, grounds, and facilities



Routine maintenance wage rates are determined or adopted by HUD



Agencies collect local wage data (Collective Bargaining Agreement, wage surveys) and submit HUD 4750 to DBLS biennially. [HUD4750](#)



DBLS reviews and works with HA to determine the Maintenance Wage Rate Determination; renewed biennially.



A HUD 52158 is issued for all work classifications (force account and anticipated contracts)

Sample 52158

Maintenance Wage Rate Decision		U.S. Department of Housing and Urban Development Office of Labor Relations		HUD FORM 52158 (06/2006)	
Agency Name: Any City HRA Some Street Some Beach, MN 50000			LR 2000 Agency ID No: MN0000	Wage Decision Type: <input checked="" type="checkbox"/> Routine Maintenance <input type="checkbox"/> Nonroutine Maintenance	
			Effective Date: July 1, 2020	Expiration Date: June 30, 2022	
<p>The following wage rate determination is made pursuant to Section 12(a) of the U.S. Housing Act of 1937, as amended, (public housing agencies), or pursuant to Section 104(b) of the Native American Housing Assistance and Self-determination Act of 1996, as amended, (Indian housing agencies). The agency and its contractors may pay to maintenance laborers and mechanics no less than the wage rate(s) indicated for the type of work they actually perform.</p>					
<u>Loretta Szweduik, CIRS</u> HUD Labor Relations (Name, Title, Signature)			<u>6-1-20</u> Date		
WORK CLASSIFICATION(S)			HOURLY WAGE RATES		
			BASIC WAGE		FRINGE BENEFIT(S) (if any)
Maintenance Technician			\$20.00		as defined by HRA
Custodian (Part-time)			\$15.00		as defined by HRA
CONTRACTED ROUTINE MAINTENANCE LawnCare/Snow Removal			\$15.00		n/a

Development Projects (Davis-Bacon) regardless of budget source eg: operations, capital funds, disaster recovery funds

New construction

Reconstruction

A substantial improvement in the quality or kind or original equipment and materials

Remodeling that alters the nature or type of housing units falls within the purview of “development” (24 CFR 968.203)

Bidding Solicitation and Award

- Ensure that bid docs, contracts, & subcontracts contain federal labor standards clauses and applicable wage decision
 - Federal labor standards
 - Applicable wage decision

Check general contractor's eligibility prior to contract award

- The excluded parties' records, may be accessed on the System for Award Management (SAM). Place printed search in contract file.

Payroll Reviews

- Additional Classifications
- Apprentices, Deduction Authorizations, Owner/Operator verification

Davis-Bacon Contracts

Determine type of construction for project, Residential, Building, Highway and Heavy (see DOL AAM 130).

Pull wage decision from beta.sam.gov.

Incorporate labor provisions and wage decision in bid documents.

If no bid, because falls under small purchase policy but exceeds \$2,000, provide contractors the wage decision and labor provisions at time you ask for their cost to complete the scope of work.

Construction Contract Labor Provisions - PHAs

- **Contract Forms:**
- HUD-5370 (Construction contracts >\$250,000, see Clauses 46 and 47)
- HUD-5370-EZ (Construction contracts \$2,000 - \$250,000, see Clause 14); [HUD 5370EZ](#)
- HUD-5370-C (Non-construction contracts and Routine and Non-Routine Maintenance contracts, see Sections I - >\$250,000 & II - \$2,000 - \$250,000).
- Forms are available at: [HUDClips](#)

CONTRACT ADMINISTRATION

Development Work (Construction)

Ways to incorporate the provisions:

- 1. REFERENCE**
- 2. INCORPORATION** (into other documents verbatim)
- 3. ATTACHMENT** (recommended method)

See Labor Relations Letter 2006-03 [Methods of Incorporation](#)

Obtaining DOL Wage Determinations

DOL Wage Determinations

The screenshot shows the SAM.GOV website interface for Wage Determinations. At the top, there is a navigation bar with the SAM.GOV logo, a search icon, and links for 'Sign in' and 'Sign up'. Below the navigation bar is a search bar with the text 'Wage Determinations' and a 'Search' button. The main content area is titled 'Wage Determinations' and includes the text 'Formerly Wage Determinations Online (WDOL)' and 'The official website for obtaining wage determination (WDs) for official contract actions'. A central diagram titled 'Help me find a Wage Determination' shows two paths: 'I do not know the number' leading to 'I need DBA' (Public Buildings/Works Contracts) and 'I do know the number' leading to 'Search by WD Number' (DBA or SCA Identifier) and 'I need SCA' (Service Contracts). On the right side, there is a sidebar with links for 'e-98 Form', 'Due for Revision', 'Reference Library', and 'Videos, FAQs, Glossary'.

Obtaining DOL Wage Determinations

WI Residential MN20220023 Mod 2 6-17-22

Status
 Active Only

Keywords

Clear All

Date
Date Type
 Published/Revised

Date Date Range

Month **Day** **Year**

Wage Determination Type
 Service Contract Act (SCA)
 Davis-Bacon Act (DBA)
 Collective Bargaining Agreement (CBA)

Location
Select State

Select County/Independent City

DBA: Construction Type
Select Construction Type

Wage Determinations Search

The Wage Determination filters to the left ask a series of questions to determine if the best WD is available on the site. If any criteria such as a specific location is not present or the non-standard service does not strictly apply, please click [here](#) to submit an e98 form. 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.

[DBA Rollover Crosswalk](#)
 DBAs to be revised

Search Results

Showing 1 - 4 of 4 results Sort By

Davis-Bacon Act WD #: WY20190023	Wage Determination
State Wyoming	Modification # 1
County/ies Laramie	Construction Type Building
	Last Revised Date Mar 07, 2019
Davis-Bacon Act WD #: WY20190038	Wage Determination
State Wyoming	Modification # 0
County/ies Laramie	Construction Type Highway
	Published Date Jan 03, 2019
Davis-Bacon Act WD #: WY20190001	Wage Determination
State Wyoming	Modification # 0
County/ies Laramie, Natrona	Construction Type Heavy



"General Decision Number: **WI20220023** 06/17/2022

Superseded General Decision Number: WI20210023

State: **Wisconsin**

Construction Type: **Residential**

Counties: Dodge, Green, Jefferson, Lafayette, Sauk and **Walworth** Counties in Wisconsin.

RESIDENTIAL CONSTRUCTION PROJECTS (consisting of single family homes and apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

Modification Number	Publication Date
0	01/07/2022
1	02/25/2022
2	06/17/2022

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.



OVERTIME You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT Certain payments can be withheld to ensure workers receive wages and overtime pay due, and to punish employers that apply if overtime pay requirements are not met. Some Davis-Bacon related clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who applies certified payroll records or reduces wage rates may be subject to civil or criminal penalties, fines and/or imprisonment.

APPRENTICES Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.


PROPER PAY If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Office listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.

WAGE AND HOUR DIVISION
U.S. DEPARTMENT OF LABOR

1-866-487-9241
TTY: 1-877-684-6841
www.dol.gov/rwhd

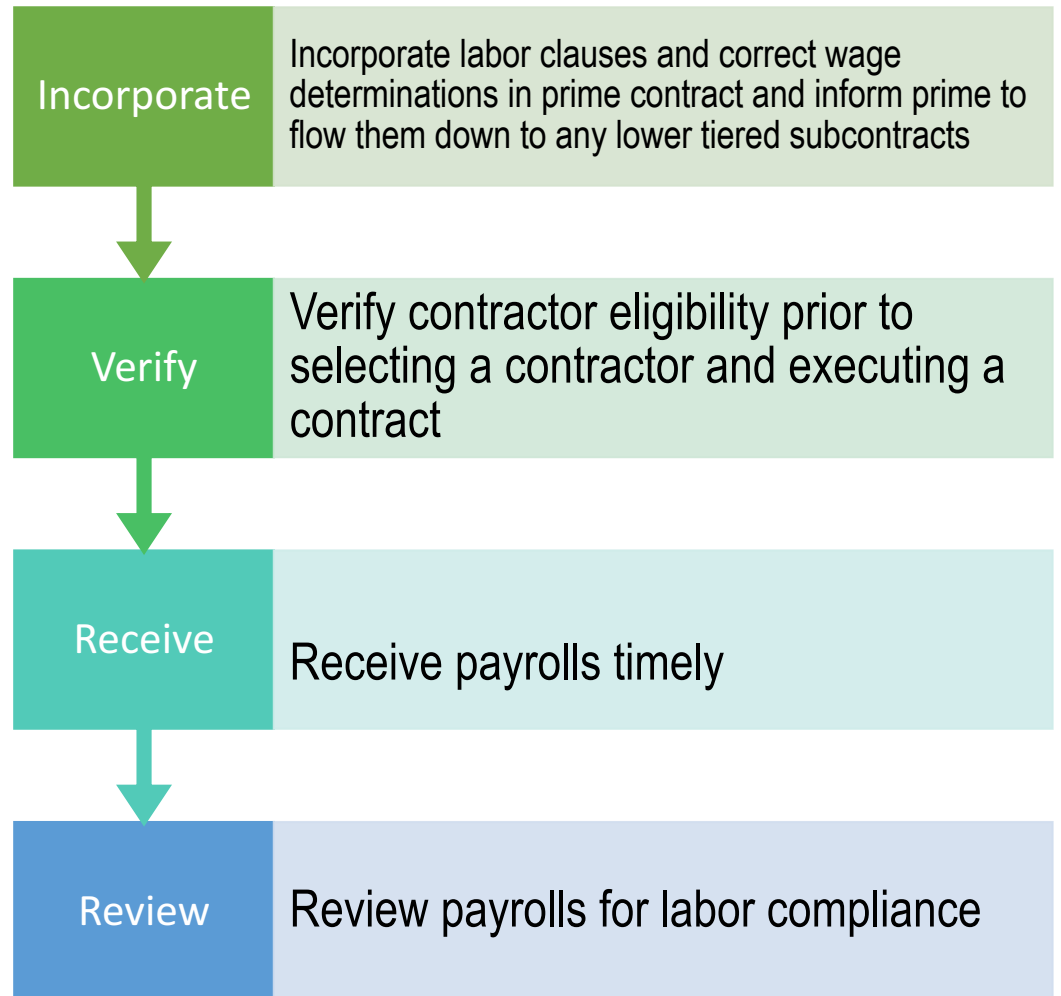




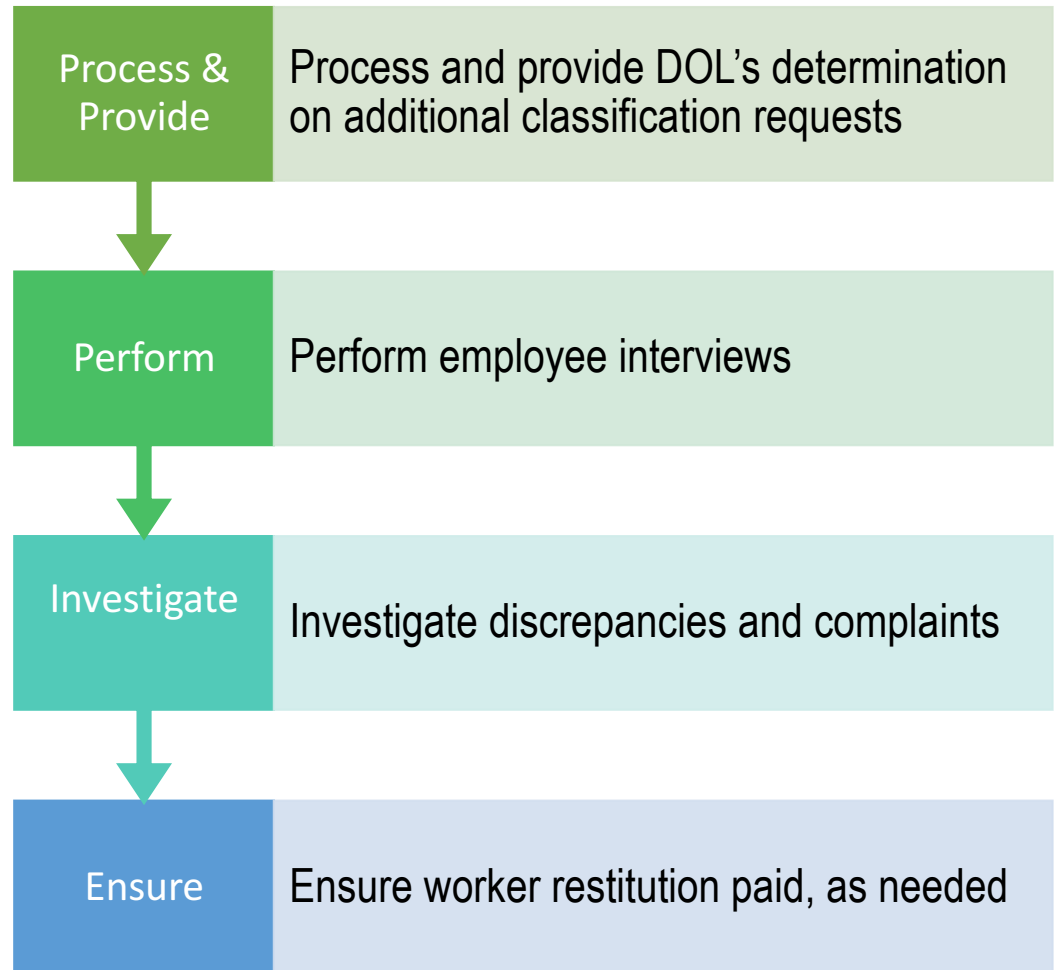
Additional Classifications

- Agencies can submit conformance requests directly to the DOL.
- Complete DOL form SF-1444 found at: [SF1444](#) and scroll down to “SF1444-13f.pdf” and download. Submit along with the wage decision and any support documentation directly to: whd-cbaconformance_incoming@dol.gov.
- Helpful link: [DOL Conformance Guide](#)

Agency Responsibilities Contract/Project Management



Agency Responsibilities Contract/Project Management



Davis-Bacon Covered Contract Checklist

S A M P L E	
DAVIS-BACON PUBLIC HOUSING CHECKLIST	
DEVELOPMENT CONSTRUCTION PROJECTS	
Project Name: _____	
Yes _____	No _____
Project subject to Davis-Bacon (eg: +\$2,000/statutorily required by HUD funding source; includes POHP, RAD/PBV 9+ units)	
Determine Category of Construction (https://beta.sam.gov/help/wage-determinations) Note: Examples in each category below are not comprehensive, see DOL All Agency Memorandum 130 and 131	
_____ Residential (4 Stories or less)	
_____ Building (non-residential and 5 stories or more)	
_____ Highway (sidewalk, parking, roads)	
_____ Heavy (all other, water/sewer lines, parks & playgrounds)	
Project Applicable Labor Standards Provisions	
_____ 5370 EZ (Projects under \$150,000)	
_____ 5370 (Projects \$150,000+)	
_____ 5370 C (Contracted Maintenance)	
Yes _____	No _____
Correct Wage Decision and Labor Standards Provisions included in bid documents. (Ensure most current WD modification.) WD # and Mod: _____ https://sam.gov/content/wage-determinations LSP HUD Form: _____ https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform	
Yes _____	No _____
Correct Wage Decision and Labor Standards Provisions bound into contract. (Ensure most current modification.) WD # and Mod: _____ LSP HUD Form: _____	
Effective Date of Wage Decision ("Lock-In")	
_____ Formal Bid (10 day advertised bid, receipt of sealed bids, scheduled bid opening) Lock-in is effective date bids are opened.	
Bid Opening Date	
_____ Informal Bid (no formal bid opening, no advertisement, telephone or written quotes) Lock-in is effective date contract is signed.	

Certified Weekly Payrolls



Payroll Form WH347

U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)



Rev. Dec. 2008

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

OMB No.: 1235-0008

Expires: 07/31/2024

NAME OF CONTRACTOR <input type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>	ADDRESS		OMB No.: 1235-0008 Expires: 07/31/2024
PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION	PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
				HOURS WORKED EACH DAY										FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
				S	S	S	S	S	S	S									
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

Statement of Compliance

Date _____

I, _____ (Name of Signatory Party) _____ (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by _____ on the _____ (Contractor or Subcontractor); that during the payroll period commencing on the _____ (Building or Work); _____ day of _____ and ending the _____ day of _____ all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____ from the full _____ (Contractor or Subcontractor) weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

- in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

- Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.

Reviews of Certified Payrolls

- Full name of employee. (Address and SSN must be on file and available upon request.)
- Properly classified according to the work actually performed
- Established work week (eg: Sun-Sat, Tues-Wed)
- Hours worked each week
- Gross and net wages properly calculated
- “Other” deductions documents submitted
- Overtime computed properly
- Statement of Compliance – authorized original signature

Reviews of Certified Payrolls Typical Errors

- Work classification errors
- Copy or fax Statement of Compliance
- Inadequate/incomplete payroll information
- Missing 4 Digit ID Number
- One Statement of Compliance for multiple work weeks
- Other deductions
- Ratio of laborers to mechanics
- Unauthorized signature on Statement of Compliance

Apprentices & Sole Proprietors

- Apprentices can be paid less than Davis-Bacon prevailing wages **only under very controlled circumstances.**
 - Contractors must submit a copy of the individuals apprentice agreement, wage and benefit scale, level of completion in the program and ratio language. [DOL Field Operations Handbook 15e01 Apprentices](#)
- Sole Proprietors/Working Contractors
 - All laborers and mechanics are covered regardless of any contractual relationship alleged to exist. There is no exception to this for self-employed or sole proprietors on HUD funded projects.
[Labor Relations Letter 96-01](#)

Monitoring & Recordkeeping



Agencies monitored based upon annual risk analysis scores or if circumstances warrant (program area recommendation). [On-site Monitoring Checklist](#)



Agencies are required to retain specific records (See 8-7(b) of Handbook 1344.1 Rev 2) for a period of three years from the time of project completion.

Report Requirements & Deadlines

- Semi-Annual Labor Standards Enforcement Report - HUD 4710
[Semi-Annual Report](#)
 - Period 1 Oct 1 – Mar 31 Due first week of April
 - Period 2 Apr 1 – Sep 30 Due first week of October
- Maintenance Wage Rate Determinations (52158) Biennially
HUD sends notice of renewal 90 days prior to end of Fiscal Year.
[HUD 4750](#)
- 5.7 Report due immediately when one contractor owes more than \$1,000 in restitution. Submit to your Labor Standards Specialist.

A Brief Moment About Section 3

- Purpose from §135.1(a):
 - To ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, **to the greatest extent feasible...** be directed to low- and very-low income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very-low income persons.
 - Section 3 clause is required to be included in construction contracts.

Section 3 Resources

- Website: www.hud.gov/section3
- Resource Hub: [HUD Section 3 \(arcgis.com\)](http://HUD%20Section%203%20(arcgis.com))
- Guidebook: [Section 3 Guidebook: Welcome - HUD Exchange](#)
- General e-mail: section3@hud.gov

What's New



Semi-Annual Report (HUD 4710) now able to submit online!



[HUD Handbook 1344.1 REVISION 3](#)



Worker Pocket Guide [Worker Pocket Guide-2022](#)

Any Questions



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