

# RESTORE



**FEMA PA Match Training**

# CDBG Labor Requirements



DR CDBG Funds subject to Davis-Bacon and Related Acts (DBRA) requirements

# When do DBRA requirements apply?

- All construction contracts in excess of \$2,000 for construction, alteration, or repair of public buildings or public works.
- And all projects where construction started April 4, 2017 or later.
- DBRA requirements are not triggered for any project where construction was completed prior to April 4, 2017.
- Possibility that any construction that occurred prior to April 4, 2017 may not trigger DBRA.
  - A decision by HUD is pending.

# Steps involved in ensuring compliance with labor standards

- Designate a Labor Compliance Officer
- Determine the Effective Wage Decision(s)
- Verify Wage Decision
- Notification of Subcontractor Awards
- Pre-Construction Conference (*Optional*)
- Provide Additional Classifications

# Designate a Labor Compliance Officer (LCO)

- Designate a person familiar with labor requirements to ensure compliance with DBRA requirements.
  - Person will be responsible for conducting employee interviews, verifying federal posting requirements and reviewing payroll reports, among other things.
  - Grantees often appoint as LCO someone who works for the grant administrator or project engineer.
  - Use Exhibit 7-4 in DR CDBG Grantee Administrative Manual to document appointment of LCO. Maintain form in grantee's Labor files.

# Ten Day Responsibility

- Search [www.wdol.gov](http://www.wdol.gov) website no more than 10 days prior to bid opening to ensure that wage decision in bid package is current.
- Wage decision in effect 10 days prior to bid opening date is effective for duration of contract, provided grantee awards contract within 90 days of bid opening date.
- If more than 90 days elapse between bid opening and contract award date, wage decision in effect on date of contract award becomes Effective Wage Decision.

# Verify Wage Decision

- The Disaster Recovery CDBG Program requires that the wage decision verification be obtained after the bid opening and before the award of the contract.
  - Helps ensure that the wage decision in effect at the date of the contract award is made a part of the grantee's contract with the low bidder.
- Use Exhibit 7-6 in the DR CDBG Grantee Administrative Manual to document verification of the wage decision choice. Maintain form in grantee's Labor files.

# Provide Additional Classifications

- Ideal time to request additional classifications is at preconstruction conference.
- If any class of laborers or mechanics not listed in the wage decision will be employed on the project, the contractor must request an additional classification.
- Use Exhibit 7-9 in DR CDBG Grantee Administrative Manual (HUD Form 4230A) to request additional classification. Maintain request and Department of Labor approval of classification in grantee's Labor files.

# Field Inspections

- The LCO should conduct field inspections at the job site to establish compliance with labor requirements, including:
  - Ensuring that the wage decision is posted in a prominent place.
  - Ensuring that required construction site posters are prominently displayed.
  - Conducting employee interviews to determine that the wages employees are receiving are the same as reported on weekly payrolls.
  - Use Exhibit 7-2 in DR CDBG Grantee Administrative Manual to verify posting requirements. Maintain verification form in grantee's Labor files.

# Required Construction Site Posters

**Equal Employment Opportunity is**  
**THE LAW**

**Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations**  
*Applies to and employers of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are prohibited under Federal law from discrimination on the following basis:*

**RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**  
Title VII of the Civil Rights Act of 1964, as amended, prohibits employers and employment agencies from discriminating in hiring, promotion, discharge, pay, fringe benefits, job training, disability leave, retirement, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

**DISABILITY**  
Title I and Title V of the Americans with Disabilities Act of 1990, as amended, prohibit employers from discriminating on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, disability leave, retirement, and other aspects of employment. Disability discrimination includes not making reasonable accommodations in the business physical or mental limitations of an otherwise qualified individual with a disability where it is an applicant or employee, having undue hardship.

**AGE**  
The Age Discrimination in Employment Act of 1967, as amended, prohibits employers and employment agencies 40 years of age or older from discriminating based on age in hiring, promotion, discharge, pay, fringe benefits, job training, disability leave, retirement, and other aspects of employment.

**SEX ORIGINITY**  
In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, to jobs that require equal skill, effort, and responsibility under similar working conditions in the same establishment.

**Employers Holding Federal Contracts or Subcontracts**  
*Applies to and employers of companies with a Federal government contract or subcontract are prohibited under Federal law from discrimination on the following basis:*

**RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN**  
Executive Order 12813, as amended, prohibits employers on the basis of race, color, religion, sex or national origin, and requires affirmative action in hiring, promotion, discharge, pay, fringe benefits, job training, disability leave, retirement, and other aspects of employment.

**INDIVIDUALS WITH DISABILITIES**  
Section 503 of the Rehabilitation Act of 1973, as amended, prohibits qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, disability leave, retirement, and other aspects of employment. Disability discrimination includes not making reasonable accommodations in the business physical or mental limitations of an otherwise qualified individual with a disability where it is an applicant or employee, having undue hardship. Section 503 also requires that Federal contractors take affirmative action to recruit and advance employees qualified individuals with disabilities at all levels of employment, including for executive level.

**DISABLED, RECENTLY SEPARATED, OTHER PROTECTED**  
**NEW ARMED FORCES REENTRY MILITARY VETERANS**  
The Uniformed Services Employees Reemployment Assistance Act of 1994, as amended, 38 U.S.C. 4201, prohibits job discrimination and requires affirmative action in hiring and advancement in employment disabled veterans, recently separated veterans (including active and reserve military service members), and military reservists.

**Programs or Activities Receiving Federal Financial Assistance**

**RACE, COLOR, NATIONAL ORIGIN, SEX**  
In addition to the provisions of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Discrimination on the basis of sex in programs or activities receiving Federal financial assistance is prohibited by Title IX of the Education Amendments of 1972. Discrimination on the basis of sex in programs or activities receiving Federal financial assistance is prohibited by Title IX of the Education Amendments of 1972. Discrimination on the basis of sex in programs or activities receiving Federal financial assistance is prohibited by Title IX of the Education Amendments of 1972. Discrimination on the basis of sex in programs or activities receiving Federal financial assistance is prohibited by Title IX of the Education Amendments of 1972.

**Individuals with Disabilities**  
Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodations, can perform the essential functions of the job.

If you believe you have been discriminated against in a program or activity which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

EO 12813-102 and OFCCP 1588 Division 2018-11-08 Supplement  
EEOC 12-11 (Revised 11-08)

## EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

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

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

**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**  
Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who violates certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, 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 Officer listed below:

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.

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.

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who violates certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

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

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

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

For additional information:

**1-866-4-USWAGE**  
(1-866-487-6243) TTY: 1-877-889-5627

**WWW.WAGEHOUR.DOL.GOV**

U.S. Department of Labor | Employment Standards Administration | Wage and Hour Division

# Employee Interviews

- Must be conducted to determine payroll accuracy and compliance with DBRA requirements.
- One interview session will sometimes be sufficient to meet requirements for the contractors.
- Conduct interviews for at least 50 percent of laborers and one worker of each of the remaining classifications present on the jobsite.
- If a worker refuses to be interviewed or provide particular information, do not insist.
- Use Exhibit 7-10 in the DR CDBG Grantee Administrative Manual to record employee interviews (Form HUD-11). Maintain records of all interviews in grantee's Labor files.

# Record of Employee Interview

## Record of Employee Interview

U.S. Department of Housing  
and Urban Development  
Office of Labor Relations

OMB Approval No. 2501-0009  
(exp. 12/31/2013)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. Sensitive Information. The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential.

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of Identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits? Vacation Yes <input type="checkbox"/> No <input type="checkbox"/> Medical Yes <input type="checkbox"/> No <input type="checkbox"/> Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
5. Your job classification(s) (list all) --- continue on a separate sheet if necessary					
6. Your duties					
7. Tools or equipment used					
8. Are you an apprentice or trainee?		Y <input type="checkbox"/> N <input type="checkbox"/>	10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?		Y <input type="checkbox"/> N <input type="checkbox"/>
9. Are you paid for all hours worked?		Y <input type="checkbox"/> N <input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?		Y <input type="checkbox"/> N <input type="checkbox"/>
12a. Employee Signature			12b. Date		
13. Duties observed by the interviewer (Please be specific.)					
14. Remarks					
15a. Interviewer name (please print)		15b. Signature of interviewer		15c. Date of interview	

## Payroll Examination

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

Previous editions are obsolete

Form HUD-11 (08/2004)

# Payroll Reports

Submission and Reporting Requirements

# Weekly Payroll Submission Requirements

- Weekly responsibility of each contractor, subcontractor, and any lower tier subcontractor to submit to the grantee numbered weekly payrolls from time work begins until the work is completed.
- If no work is performed during a given workweek, payrolls do not have to be submitted. Once work resumes, the next consecutive number should be used.
- Payrolls of subcontractors are to be submitted via the prime contractor. Prime contractors is responsible for the review of all subcontractors' payroll reports.

# 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](http://www.dol.gov/whd/forms/wh347instr.htm))



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

Rev. Dec. 2008

NAME OF CONTRACTOR <input type="checkbox"/>	OR SUBCONTRACTOR <input type="checkbox"/>	ADDRESS	OMB No.: 1235-0008 Expires: 02/28/2018
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PAYROLL NO.	FOR WEEK ENDING	PROJECT AND LOCATION	PROJECT OR CONTRACT NO.
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(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF EMPLOYEES EMPLOYED	(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) HOURS HOURS	(6)		(7)	(8) DEDUCTIONS						(9) NET WAGES PAID FOR WEEK
				S	M	T	W	T	F	S		RATE OF PAY		GROSS AMOUNT EARNED	FICA	HOLDING HOLDING TAX	MEDI- CARE	STATE WITH- HOLDING	OTHER	DEDUCTIONS DEDUCTIONS	
				HOURS WORKED EACH DAY																	
John Doe (Example)	2	Weatherization Worker	O			2.00	2.00				4.00	37.50		846.00	55.02	196.50	19.00	39.30		309.82	1,000.18
			S	8.00	8.00	8.00				24.00	25.00	4.00	1,310.00								
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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) requires 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) contractors and subcontractors § 5.5(a)(3)(i) 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 submit weekly a copy of all payrolls to been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies review the information to determine that employees have received legally required wages and fringe not less

### 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. Send comments regarding this estimate 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)



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

\_\_\_\_\_ 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 CFR 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.

# Common Labor Compliance Issues found on Payroll Reports

- Contractor does not specify worker's exact classification (see example).
- Classifications listed on payroll reports that are not listed in the effective wage decision (see example).
- Employees not paid the minimum prevailing wage rate specified in the wage decision (rate of pay issues are often associated with overtime hours worked).
- Lack of Payroll Deduction Authorization (PDA) forms for employees who authorize non-standard deductions to be taken from their earnings (or lack of up-to-date PDA forms in files).

# Items to Remember when Reviewing Payroll Reports

- Overtime is defined as all hours worked on the contract in excess of 40 hours per week (rather than in excess of eight hours per day) and is calculated at the rate of one-and-a-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits.
- If a contractor has established an hourly rate for an employee above the rate specified in the wage decision, that established rate should be used to determine the employee's minimum hourly overtime rate – not the rate specified in the wage decision.

# Items to Remember when Reviewing Payroll Reports (continued)

- Excessive wages in one area cannot compensate for deficient wages in another area (e.g., an employee performing both Carpenter and Laborer duties during a given workweek cannot be underpaid for hours worked as a Laborer if he was overpaid for hours worked as a Carpenter).
- Use employee interviews to determine whether employees are classified correctly on payroll reports and whether they are being paid minimum prevailing wage rates. Discrepancies should be investigated.

# Resources

- Section 7 (Labor Regulations) of the DR CDBG Grantee Administrative Manual:  
[http://www.doa.la.gov/OCDDRU/Administration%20Manual/Section\\_7/Section\\_7\\_v3.85.pdf](http://www.doa.la.gov/OCDDRU/Administration%20Manual/Section_7/Section_7_v3.85.pdf)
- Verification of Project Wage Rate Sheet and Project Sign Posting (Exhibit 7-2):  
[http://www.doa.la.gov/OCDDRU%20AdminManual/Section\\_07/Section\\_7\\_Exhibits/Exhibit%207-2.doc](http://www.doa.la.gov/OCDDRU%20AdminManual/Section_07/Section_7_Exhibits/Exhibit%207-2.doc)
- Required Construction Site Posters (Exhibit 7-3):  
[http://www.doa.la.gov/OCDDRU%20AdminManual/Section\\_07/Section\\_7\\_Exhibits/Exhibit%207-3.doc](http://www.doa.la.gov/OCDDRU%20AdminManual/Section_07/Section_7_Exhibits/Exhibit%207-3.doc)

## Resources (continued)

- Appointment of LCO form (Exhibit 7-4):  
[http://www.doa.la.gov/OCDDRU%20AdminManual/Section\\_07/Section\\_7\\_Exhibits/Exhibit%207-4.doc](http://www.doa.la.gov/OCDDRU%20AdminManual/Section_07/Section_7_Exhibits/Exhibit%207-4.doc)
- Verification of Wage Decision (Exhibit 7-6):  
[http://www.doa.la.gov/OCDDRU%20AdminManual/Section\\_07/Section\\_7\\_Exhibits/Exhibit%207-6.doc](http://www.doa.la.gov/OCDDRU%20AdminManual/Section_07/Section_7_Exhibits/Exhibit%207-6.doc)
- Payroll Deduction Authorization form (Exhibit 7-7):  
[http://www.doa.la.gov/OCDDRU%20AdminManual/Section\\_07/Section\\_7\\_Exhibits/Exhibit%207-7.doc](http://www.doa.la.gov/OCDDRU%20AdminManual/Section_07/Section_7_Exhibits/Exhibit%207-7.doc)

# Resources (continued)

- Report of Additional Classification and Rate, including instructions (Exhibit 7-9):  
[http://www.doa.la.gov/OCDDRU%20AdminManual/Section\\_07/Section\\_7\\_Exhibits/Exhibit%207-9.pdf](http://www.doa.la.gov/OCDDRU%20AdminManual/Section_07/Section_7_Exhibits/Exhibit%207-9.pdf)
- Employee Interview form (Exhibit 7-10):  
[http://www.doa.la.gov/OCDDRU%20AdminManual/Section\\_07/Section\\_7\\_Exhibits/Exhibit%207-10.pdf](http://www.doa.la.gov/OCDDRU%20AdminManual/Section_07/Section_7_Exhibits/Exhibit%207-10.pdf)
- Payroll Form, including instructions (Exhibit 7-14):  
[http://www.doa.la.gov/OCDDRU%20AdminManual/Section\\_07/Section\\_7\\_Exhibits/Exhibit%207-14.doc](http://www.doa.la.gov/OCDDRU%20AdminManual/Section_07/Section_7_Exhibits/Exhibit%207-14.doc)

# QUESTIONS?

