Federal Labor Standards Training

Dan Narber
Project Manager

IOWA economic development

Demographics

- Contracting Agencies
- Prime Contractors
- Compliance Officers
- Experience – Prevailing wage requirements
- Novices
- Others

Overview

- Basics of Prevailing Wage Requirements
  - Federal Statutes
  - Applicability
  - Making Davis bacon Work
  - Requirements
  - Responsibilities
  - Enforcement/Compliance
  - Section 3 Requirements

Federal Labor Statutes

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Major Federal Laws

- Davis-Bacon and Related Acts (DBRA)
- Copeland Act (Anti-Kickback Act)
- Contract Work Hours and Safety Standards Act (CWHSSA)
- Fair Labor Standards Act (FLSA)

Davis-Bacon Act (DBA)

- Enacted in 1931, amended in 1935 & 1964
- Federal construction contracts over $2,000
- Applies to construction, alteration and/or repair including painting & decorating of public buildings or public works contracts
- Requires pay of prevailing wages to all laborers and mechanics employed on site – regardless of any alleged contractual relationship

Davis Bacon Act (DBA)

- Requires weekly pay to mechanic and laborers
- Requires posting of applicable wage decision
- Defines prevailing wage to include fringe benefits
- Permits withholdings from contractors' payments of wages due

Davis Bacon Act (DBA)

- Permits payment of wage restitution from withheld amounts
- Permits contract termination – contractor underpays mechanic and laborers.
- Permits debarment of persons or firms
  - Disregard for obligations to employees and subcontractors
- Usually applied through the “Related acts”

Davis Bacon and Related Acts (DBRA)

- The Davis Bacon Act is applicable to HUD programs by statutory provisions in HUD related Acts, known as Davis Bacon Related Acts (DBRA)
  - The National Housing Act
  - U.S. Housing Act of 1937, as amended
  - The Housing and Community Development Act of 1974, as amended
  - The National Affordable Housing Act of 1990

Copeland Anti-Kickback Act

- Enacted in 1934
- Makes it a criminal offense for contractors to demand workers give up any part of earned wages
- Requires the submission of:
  - Weekly Certified Payrolls
  - Statement of compliance (with each payroll)
- Allows for civil or criminal prosecution for the “willful” falsification of payrolls
- Regulates payroll deductions from wages

Contract Works Hours and Safety Standards Act (CWHSSA)

- Enacted in 1962
- Applies to contracts of over $100,000
  - Contract Amount – Prime Contractor
- Overtime provision – work in excess of 40 hours per week for covered project
- Liquidated damages – New requirement effective 8/1/16. $25 per day, per worker, per violation

Fair Labor Standards Act (FLSA)

- Sets the Federal minimum wage and additional overtime requirements
- Overtime applies to mechanical and laborers working in excess of 40 hours per week.
  - If CWHSSA does not apply, FLSA does
  - DOL enforces FLSA and investigates any violations

Implementing the Basics

Developing and/or implementing strategies and programs to avoid payment of prevailing wages is prohibited.

Applicability

Davis-Bacon Applicability

- Davis Bacon Applicability to CDBG through Related Acts
  - Housing and Community Development Act of 1974, Section 110(a)
- Davis-Bacon applies when federal funds are used to pay for construction contracts of more than $2,000 in whole or in part

Davis-Bacon Applicability

- Residential: the property has 8 or more units
  - Property is defined as one or more buildings on an undivided lot or contiguous lots or parcels that are commonly owned and operated as one rental, cooperative, or condominium project

Davis-Bacon Applicability

- Residential examples – CDBG, NSP, Disaster Recovery
  - Multi-family property has 8 units
  - Davis-Bacon applies to rehabilitation - contracts of $2,000 or more

    - If windows were being installed in only 3 units for a total of $2,000 or less, then Davis-Bacon would not apply

Exceptions - CDBG

- Grantee can pay for non-construction costs without triggering Davis-Bacon
- Only private funds are used to construct or rehab
- Demolition, except:
  - If subsequent construction on site is planned as part of the same contract
  - If subsequent construction is contemplated as part of a future construction project under another eligible activity

Exceptions - CDBG

- Volunteer labor
  - Specific record keeping and tracking required
    - the name and address of the agency sponsoring the project
    - a description of the project
    - the number of volunteers
    - the names of the volunteers
    - the hours of work they performed
    - the type of work performed by the volunteers.
- Employees of local grantee
  - Force account labor

Making Davis-Bacon Work

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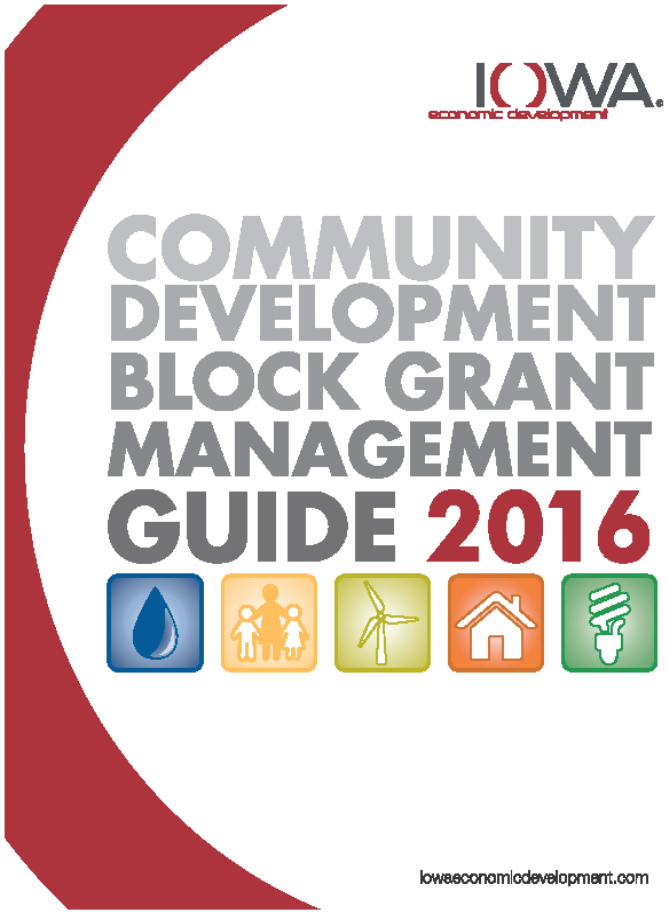
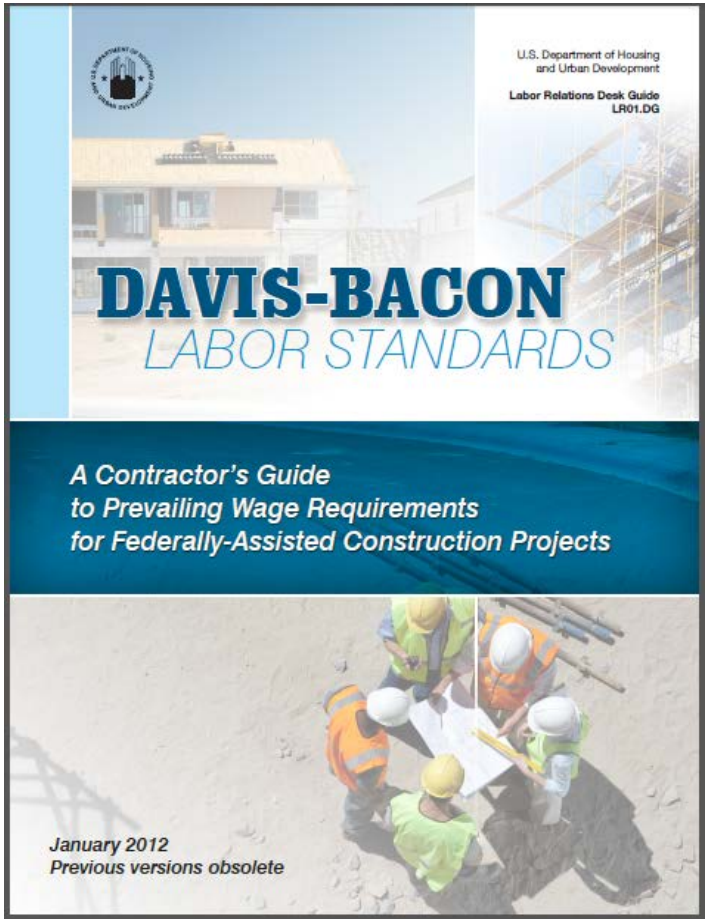
Labor Standards Compliance Resources

- CDBG Management Guide
  - Chapter 2
  - Appendix 2
  - Required contract language



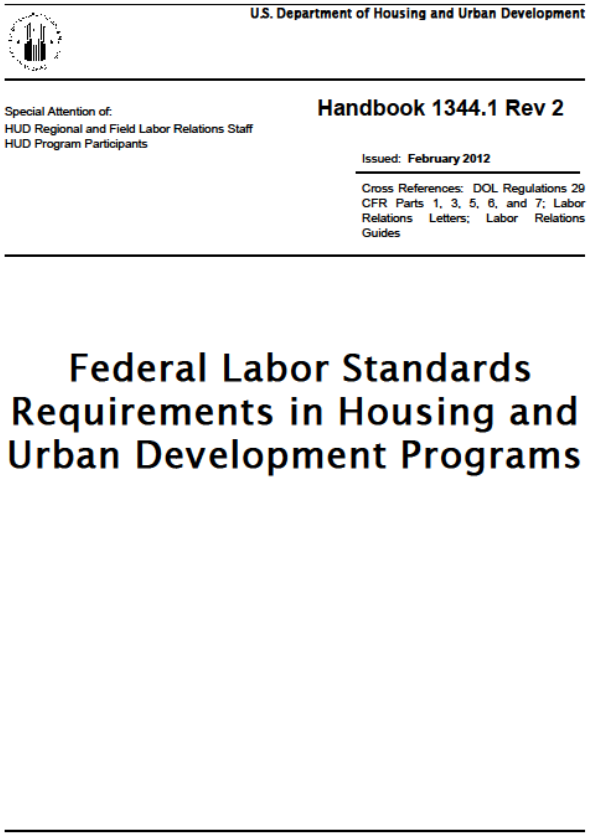
Labor Standards Compliance Resources

» A Contractor's Guide to Prevailing Wage Requirements For Federally-Assisted Construction Projects



Labor Standards Compliance Resources

» HUD Handbook 1344.1 Rev.2



U.S. Department of Housing and Urban Development

Special Attention of:
HUD Regional and Field Labor Relations Staff
HUD Program Participants

Handbook 1344.1 Rev 2

Issued: **February 2012**

Cross References: DOL Regulations 29 CFR Parts 1, 3, 5, 6, and 7; Labor Relations Letters; Labor Relations Guides

Federal Labor Standards Requirements in Housing and Urban Development Programs

- Talk to engineer/architect early
  - Ensure that bid documents contain proper wage determination
  - Bid notice should include reference to federal prevailing wage requirements
- Talk with your Project Manager

Making Davis Bacon Work

- Job Sites – Safety, Required Postings
- Interviews (on-site workers) – HUD Form 11
- Review of Certified Payrolls – Receive weekly
- Statement of Compliance – all blocks must be completed
- Required Reporting – Enforcement Reports
- Networks – Who are the problems?

Making Davis Bacon Work

» Designate an individual for compliance monitoring
  - Grant recipient is ultimately responsible overall compliance
  - Prime/general contractor is responsible for full compliance of all subcontractors and lower-tier contracts

Grantee Responsibilities

- Before Construction
  - Procurement, bonding, debarment verification, contracting, pre-construction conference
- During Construction
  - Employee field interviews, collection and review of weekly CPR's, identification of underpayments, restitution payments and restitution CPR's
- After Construction
  - Ensure files are in order
- Maintain all information/files for 5 years

Grantee Responsibilities

- Project Files
  - Labor Compliance Administration File
    - Procurement
    - Wage Determination, additional classification, lock-in
    - Bonding
    - Contract award documentation
    - Construction contract
    - Pre-construction conference minutes
    - Notice to proceed
    - Correspondence
    - Notice of completion

Grantee Responsibilities

- Ensure bid documents, contract and sub contracts contain Federal Labor Standards Provisions (HUD-4010)
- Ensure bid documents, contract and sub contracts contain applicable wage determination
- Review certified payroll reports (CPR's) and confirm discrepancies through employee field interviews

Obtain A Wage Determination

- Requests for Pre-2012 Projects
  - Paper request form
- 2012 Program Year Projects and Beyond
  - IowaGrants On-line system

Obtain A Wage Determination

- Request *at least 30 days prior* to bid advertising date
- Contact IDED for modifications to wage determination
  - *at least 10 working days prior* to bid opening
    - Do not submit a request for 10-day check in IowaGrants system
- Wage determination must be included in all bid documents

Wage Rates

To obtain a wage determination for your project, please visit the Department of Labor's (DOL) Wage Determinations Online.gov web site at ***http://www.wdol.gov/dba.aspx****. Using the dropdown lists, select State, County, and Construction Type. After selecting the construction type, the "WD Number" will automatically populate. Click search and the current wage determination number will appear.*

Construction Type definitions*: (Final determination of construction type will be made by IEDA)*

- ***RESIDENTIAL****: Includes the construction, rehabilitation and repair of single family houses, townhouses, and apartment buildings of no more than four (4) stories in height.*
- ***HIGHWAY****: Includes the construction, alteration, and repair of roads, streets, highways, runways, parking areas and most other paving work not incidental to building or nearby construction.*
- ***TREATMENT****: Construction of, or improvements to, water and sewage treatment facilities.*
- ***HEAVY****: A "catch-all" category which includes those projects which cannot be classified as Building, Residential, Highway or Treatment. Heavy construction is often further distinguished on the basis of the characteristics of particular projects such as dredging, water and sewer lines, dams, major bridges and flood control projects.*
- ***BUILDING****: Includes the construction, rehabilitation and repair of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies.*

Once you have obtained the wage determination from the DOL website, complete this form. Once you have entered the data, click Add to upload the wage determination you received from the DOL web site. Once you have uploaded the document, please e-mail Dan Narber, letting him know the file has been added. You will receive notification upon IEDA review and concurrence of the correct wage determination. You may then provide the wage determination to the project engineer or architect. Based on the "Bid Date" provided, the notification will include a date for the "10-day verification" check to ensure that the wage determination has not been modified. ***Please be aware that if the "bid date" changes the "10-day verification" date will also be affected.***

Date Requested: 06/08/2017

10-day Check for Modification: 07/07/2017

Bid Opening Date must be less than or equal to this date. If not, you must re-check to insure the current wage determination is used.

Date Wage Rate Rechecked: 07/06/2017

If the bid opening date is 10-days or greater than the 10-day Check for Modification, you must notify IEDA of the date wage determination was re-checked.

County where work to be performed Jones County

Construction Value: $1,900,000.00

Work Type Treatment

*For Community Facility stormwater projects, the Iowa Department of Agriculture and Land Stewardship (IDALS) must certify that the final stormwater management designs meet the requirements of the Iowa Green Streets Criteria and the Iowa Stormwater Management Manual prior to the project going out for bids. In the **Wage Rate Supporting Documents** section below, please upload a copy of a letter of certification from IDALS or a copy of the IDALS signed milestone checklist.*

Estimated Dates:

06/15/2017	07/18/2017	2017	08/01/2017
Est. Advertising Date	Est. Opening Bid Date	Est. Contract Award Date	Est. Const. Start Date

Please provide the complete number of the appropriate wage determination, including the modification number, in the following format: IA160097 Mod 0

Decision 1: IA170004 Mod 1

Does this wage determination request involve constructing new or making improvements to a treatment component of a water/waste water system, including lagoon work or a mechanical treatment plant? Yes

Modification Date:

This field is only used when the Wage Rate modifies.
If the rate has modified more than 10-days before the Est. Bid Opening Date, you MUST submit a new Wage Rate form.

Construction Status:

% Engineering Completed 0%

% Construction Complete 0%

Act. Construction Start Date

Notes: Add

Date:	Notes:
07/06/2017	Wage determination IA170004 Mod 1 is correct for this project. This wage determination modified on 6/30/17 so original upload, IA170004 Mod 0, has been replaced. Based on the estimated bid opening
07/06/2017	date of 7/18/17, the 10-day check date would be 7/7/17. This wage determination is not on the list of scheduled modifications for 7/7/17, so this approval can also serve as the 10-day check.

Wage Rate Supporting Documents Add

Document Name/Description:	File:
Anamosa Wage Rate Determination	Wage Determination IA170004 Mod 1.pdf

Last Edited By: Dan Narber, 07/06/2017

General Decision Number: IA150001 01/02/2015 IA1

Superseded General Decision Number: IA20140001

State: Iowa

Construction Types: Heavy and Highway

Counties: Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Guthrie, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Plymouth, Pocahontas, Polk, Pottawattamie, Poweshiek, Ringgold, Sac, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Winnebago, Winneshiek, Woodbury, Worth and Wright Counties in Iowa.

Modification Number	Publication Date
0	01/02/2015

* SUIA2002-003 02/28/2012

	Rates	Fringes
Carpenter & Piledrivermen		
ZONE 1	$ 24.92	9.93
ZONE 2	$ 22.83	9.93
ZONE 3	$ 22.83	9.93
ZONE 4	$ 22.15	8.25
ZONE 5 **	$ 21.25	6.85

Concrete Finisher		
ZONE 1	$ 22.70	7.00
ZONE 2	$ 22.70	7.00
ZONE 3	$ 22.70	7.00
ZONE 4	$ 20.50	5.45
ZONE 5	$ 18.90	6.00
Electricians: (STREET AND HIGHWAY LIGHTING AND TRAFFIC SIGNALS)		
ZONE 1, ZONE 2 AND ZONE 3	$ 21.30	5.70
ZONE 4	$ 20.00	5.70
ZONE 5	$ 17.75	5.70
Ironworkers: (SETTING OF STRUCTURAL STEEL)		
ZONE 1	$ 26.55	7.45
ZONE 2	$ 25.31	7.45
ZONE 3	$ 25.01	7.75
ZONE 4	$ 22.00	6.60
ZONE 5 **	$ 21.25	6.10
Laborers:		
ZONE 1, ZONE 2, AND ZONE 3		
GROUP A	$ 20.56	7.95
GROUP AA	$ 22.21	7.95
GROUP B	$ 18.68	7.95
GROUP C	$ 15.45	7.95
ZONE 4		
GROUP A	$ 18.05	7.65
GROUP B	$ 16.73	7.65
GROUP C	$ 13.85	7.65
ZONE 5		
GROUP A	$ 18.50	6.00
GROUP B	$ 15.75	6.00
GROUP C	$ 15.15	6.00

ZONE DEFINITIONS

ZONE 1 - The Counties of Polk, Warren and Dallas for all Crafts, and Linn County Carpenters Only.

ZONE 2 - The Counties of Dubuque for all crafts and Linn County for all Crafts except Carpenters.

ZONE 3 - The Cities of Burlington, Clinton, Fort Madison Keokuk, and Muscatine (and abutting municipalities of any such cities).

ZONE 4 - Story, Black Hawk, Cedar, Jasper, Jones, Jackson, Louisa, Madison and Marion Counties; Clinton County (except the City of Clinton), Johnson County, Muscatine County (except the City of Muscatine), the City of Council Bluffs, Lee County and Des Moines County.

ZONE 5 - All areas of the state not listed above.

LABORER CLASSIFICATIONS - ALL ZONES

GROUP AA: Asbestos abatement worker (Zones 1, 2, and 3) Skilled pipelayer (sewer, water and conduits) and tunnel laborers (zones 1, 2 and 3)

GROUP A - Asbestos abatement worker (Zones 4 and 5): Carpenter tender on bridges and box culverts; curb machine (without a seat); deck hand; diamond and core drills; drill operator on air tracs, wagon drills and similar drills; form setter/stringman on paving work; gunnite nozzleman; joint sealer kettleman; laser operator; pipelayer (sewer water and conduits) Zone 4 & 5; powderman tender; powerman/blaster; saw operator; tunnel laborer (zones 4 and 5).

GROUP B - Air, gas, electric tool operator; barco hammer; carpenter tender; caulker; chain sawman; compressor (under 400cfm); concrete finisher tender; concrete processing materials and monitors; cutting torch on demolition; drill tender; dumpmen; electric drills; fence erectors; form line

POWER EQUIPMENT OPERATOR CLASSIFICATIONS - ALL ZONES

GROUP A - All terrain (off road) forklift; Asphalt Breakdown Roller (vibratory), Asphalt laydown machine; asphalt plant; Asphalt Screed, bulldozer finish); central mix plant; concrete pump; crane; crawler tractor pulling scraper; directional drill (60,000(lbs) pullback and above); dragline and power shovel; dredge engineer; excavator (over 1/2 cu. yd.) front end loader (4 cy and over); horizontal boring machine; master mechanic; milling machine (over 350 hp); motor grader (finish); push cat; rubber tired backhoe (over 1/2 cu. yd.) scraper (12 cu. yd. and over or finish); Self-propelled rotary mixer/road reclaimer; sidebroom tractor; slipform portland concrete paver; tow or push boat; trenching machine (Cleveland 80 or similar).

GROUP B - Articulated off road hauler, asphalt heater/planer; asphalt material transfer vehicle; Asphalt Roller; belt loader or similar loader; bulldozer (rough); churn or rotarydrill; concrete curb machine, crawler tractor pulling ripper, disk or roller; deck hand/oiler directional drill (less than 60,000(lbs) pullback); distributor; excavator 1/2 cu. yd. and under); form riding concrete paver; front end loader (2 to less than 4 cu. yd.); group equipment

Contractor Eligibility

After bid letting:

- Verify eligibility status of contractors
  - Debarred/Suspended List
    - www.sam.gov
  - Contractor registration number
    - http://www.iowadivisionoflabor.gov/contractor-registration
- Inform contractor of his/her responsibilities
- Required contract language in all contracts
- Request additional classifications

Additional Classifications

- Classification not found on wage determination
- Complete form with contractor's proposed rate of pay
- Check for possible conformance to existing classifications
- Department of Labor makes final decision

Examine Weekly Payrolls

- Proper classification, including group letter (when applicable)
- Proper wage for work performed
- Check calculations
- Verify method of payment for fringe benefits
- All forms must be certified (signed)
- You should receive original signed payroll reports

On-site Interviews

- Form HUD-11
- Ensure proper classification
- Observe duties on-site – must match classification
- Verify the stated wage conforms to weekly payroll form

Record of Employee Interview

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

OMB Approval No. 2501-0009
(exp. 09/30/2017)

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 is 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 ☐ No ☐

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?	4c. Pay stub?
				Vacation Yes ☐ No ☐ Medical Yes ☐ No ☐ Pension Yes ☐ No ☐	Yes ☐ No ☐

5. Your job classification(s) (list all) --- continue on a separate sheet if necessary

6. Your duties

7. Tools or equipment used

	Y	N		Y	N
8. Are you an apprentice or trainee?	☐	☐	10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week?	☐	☐
9. Are you paid for all hours worked?	☐	☐	11. Have you ever been threatened or coerced into giving up any part of your pay?	☐	☐

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)**

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On-site Interviews

- Ensure the following items are posted at work site in prominent location:
  - Wage determination
  - Federal Labor Standards Provisions (HUD 4010)
  - Labor posters

Back at the Office

- Cross reference employee interview forms with weekly payrolls
- Note any discrepancies
- Contact the contractor to resolve any issues
- Obtain sufficient documentation for any wage restitution issues

Implementing the Basics

- Develop an effective compliance management system
  - Processes and procedures
  - Overlaps with procurement
  - Coordination

Implementing the Basics

- Monitoring vs. Contract administration
  - What are the differences between the two functions?
    - Monitoring from the IEDA perspective
    - Contract administration is compliance with federal labor standards – is the contractor complying with federal labor laws on construction / construction related work, subject to prevailing wages?

- Delegating function

Enforcement and Compliance

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Required Job Site Postings

- Davis Bacon Poster
  - Obtain English and Spanish versions
  - Post signs so that all can see
  - Include Authority's compliance officer's contact information in the contact block of these posters
  - Post in a highly visible area protected form the weather elements that is easily accessible and traveled by most workers working at the job site

- Whose name is added to the poster as the compliance officer for reporting violations?

Required Job Site Postings

- Project Wage Decision
  - Approved DOL conformance / additional classifications

- Other DOL Required Posters
  - EEO
  - FLSA
  - OSHA

  - DOL website : www.dol.gov – posters are available for downloading

Enforcement

- Payroll & Document Review
- Employee Interviews
- Additional Classifications/Conformances

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)

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

U.S. Wage and Hour Division
Rev. Dec. 2008

OMB No.: 1235-0008
Expires: 01/31/2015

NAME OF CONTRACTOR OR SUBCONTRACTOR | ADDRESS

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 HOURS WORKED EACH DAY	(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS FICA	WITH-HOLDING TAX			OTHER	TOTAL DEDUCTIONS	(9) NET WAGES PAID FOR WEEK
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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)(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 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 is 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)

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 Start. 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.

Enforcement

- Establish enforceable procedures/processes
  - Share with applicable entities
- Identify and document violations
- Notify the contractor (in writing)
- State date for completion

Enforcement

- Investigate and resolve complaints
- Look for payroll red flags
  - Mis-classifications
    - Apprentices
  - Laborers v. skilled workers
    - Cement mason/concrete finishers
    - Plumbers
  - Not enough employees
  - Ghost employees

Enforcement

- Same hours, same rate of pay, same gross, same net
- Non-allowable deductions
- “Other” deductions listed but no authorization

» Ensure restitution, if any, is paid timely

» Pursue debarment, if necessary

- Debar locally – (local policies?)
- Refer to HUD for debarment and or restrictions

» Determine other action, if necessary

Employer Complaints

Employer

Project Number

Referred to HUD Labor Relations for investigation?

Referred to HUD Labor Relations for 5.11 hearing?

Referred to the Department of Labor(DOL) for investigation?

Referred to Department of Labor (DOL) for 5.11 hearing?

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 directly by the employer.

Total amount of straight time wage restitution collected/disbursed during this period:

$0.00

Report only once:If you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.

Total amount of CWHHSA overtime wage restitution collected/disbursed during this period:

$0.00

Report only once:If you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.

Total amount of liquidated damages collected:

$0.00

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Conformance / Additional Classifications

- This process not completed in IowaGrants system
- The proposed rate, including bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision
  - All Agency Memorandum No. 213

Guidance – Additional Classifications

- Determine if the classification being conformed:
  - Is a laborer classification

- Action:
  - Recommend a wage rate that uses the existing common laborer wage rate as a benchmark

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
REPORT OF ADDITIONAL CLASSIFICATION AND RATE

HUD FORM 4230A
OMB Approval Number 2501-0011
(Exp. 01/31/2010)

1. FROM (*name and address of requesting agency*)
Labor Standards Compliance Officer
Iowa Economic Development Authority
200 East Grand Avenue
Des Moines, IA 50309

2. PROJECT NAME AND NUMBER

3. LOCATION OF PROJECT (City, County and State)

4. BRIEF DESCRIPTION OF PROJECT

5. CHARACTER OF CONSTRUCTION
☐ Building ☐ Residential
☐ Heavy ☐ Other (specify)
☐ Highway

6. WAGE DECISION NO. (include modification number, if any)
☐ COPY ATTACHED

7. WAGE DECISION EFFECTIVE DATE

8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES	
	BASIC WAGE	FRINGE BENEFIT(S) (if any)
Painter	$18.50	$5.25

9. PRIME CONTRACTOR (name, address)

10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)

Check All That Apply:
☐ The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision.
☐ The proposed classification is utilized in the area by the construction industry.
☐ The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision.
☐ The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s).
☐ Supporting documentation attached, including applicable wage decision.

Check One:
☐ **Approved, meets all criteria. DOL confirmation requested.**
☐ **One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.**

Dan Narber
Agency Representative
(Typed name and signature)

Date

515-725-3072
Phone Number

FOR HUD USE ONLY
LR2000:

Log in:

Log out:

HUD-4230A (8-03), PREVIOUS EDITION IS OBSOLETE

IOWA economic development

Wage

- Use of Heavy Sewer/Water Treating Plant wage determination, IA4 (currently IA170004 Mod 1) for all treatment projects, including lagoon or mechanical treatment plants.
- New Heavy Highway wage determination, IA97 (currently IA170097 Mod 0)

Common Issues and Problem Areas

IOWA economic development

Common Questions – Wage Rates

- Why are the rates so high?
- Can a contractor appeal a DOL approved rate?
- Where is the guidance for appealing a wage rate?
- Why are major crafts/trades missing from wage decisions?

Common Questions

- How can a contractor estimate the labor costs when the trade / craft is not listed on the wage decision?
- Why is the trade / craft “not” listed on the wage decision?
- Why does the DOL restrict when to submit the conformance/request for additional classification?

Self-employed Owners – The Rule

- Owners of a subcontractor firm who are themselves performing work of laborers and mechanics are entitled to the applicable prevailing wage rate for the classification of the work performed

- HUD Office of Labor Relations Letter (LR-96-01)

Self-employed Owners

- Include in the sub-contract:
  - the total hourly prevailing wage rate for the trade, and
  - The estimated number of hours for job completion
- Develop a system for tracking dates and hours worked on the prevailing wage project for these mechanics and laborers

Self-employed Owners

- Payroll Report
  - Carried on the responsible employer's weekly payroll
  - Must include name, work classification, actual hour of work, effective hourly rate, and amount paid

- Owners Working with Their Crew
  - Can certify payroll report
  - Must include name, work classification including “owner” and daily and total hours worked
  - Do not need to list a rate of pay or amounts earned

Payroll Issues – Red Flags

- Apprentices
  - You notice the following:
    - Workers classified as apprentices with a rate of pay lower than the prevailing wage rate
  - On the apprenticeship information you notice:
    - One worker's beginning date is after the start of his work on the prevailing wage project
    - Another worker's ending date is before the start of his work on the prevailing wage project
    - No information submitted for one apprentice
- What do you do?

Payroll Issues – Apprentices

- Require the following:
  - Individual registration for the apprentice
  - Select pages from the DOL approved apprenticeship program
    - Title page (shows name of the program)
    - Page reflecting ratio of apprentices to journeyman
    - Page reflecting pay scale for apprentices
      - Includes apprenticeship level and percentage of journeyman's rate for each level
    - Page reflecting fringe benefits
      - If silent on fringe benefits, pay full amount of fringe benefit stated on the wage decision
    - Signatory page (reflects signatories to agreement)
- Absent this information, pay full journeyman's rate

Statement of Compliance

- Contractor failed to include all required information
  - No information in block 1
  - No sub-block of 4 (regarding fringe benefit payment) checked, or wrong block checked
  - No original signature
  - Payroll clerk signed the statement of compliance

DOL All Agency Memorandum (AAM)

- Conformance / Additional Classification Requests
  - AAM 213– March 2013
    - Old: Benchmark based on lowest skilled wage rate
    - New Standard: Reasonable relationship to all wage rates in the decision (skilled to skilled; laborer to laborer)

- Surveyors – DBA applicability
  - AAM 214 – March 2013
    - DBA applies if done immediately before or during construction in support of construction crews

Resources

- CDBG Management Guide
- A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects
  - Labor Relations Desk Guide LR01.DG
- Federal Labor Standards Requirements in Housing and Urban Development Programs (1344.1 Rev. 2)
  - http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/sech/13441
- Wage Determinations Online Website
  - http://www.wdol.gov/

Section 3 Requirements

IOWA
economic development

Section 3 overview/ changes

- Overview
- Section 3 is HUD's legislative directive for providing preference to public housing residents and low-income residents of the local community (regardless of race or gender), and the businesses that substantially employ these persons, for new employment, training and contracting opportunities resulting from HUD-funded projects
- ensure that public housing residents and low- and very low- income persons, and the businesses that employ these individuals, are notified about the expenditure of HUD funds in their community and encouraged to seek opportunities, if created

Section 3 Overview/Changes

- A Section 3 resident is:
  - a public housing resident OR
  - a low- or very low income person residing in the metropolitan area or non-metropolitan county where the Section 3 covered assistance is expended
- A Section 3 business is:
  - That is 51 percent or more owned by section 3 residents; or
  - Whose permanent, full-time employees include persons, at least 30 percent of whom are currently section 3 residents, or within three years of the date of first employment with the business concern were section 3 residents; or
  - That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontracts to be awarded to business concerns that meet the qualifications set forth in paragraphs (1) or (2) in this definition of “section 3 business concern.”

Section 3 Overview/Changes

- When Section 3 Applies
  - Section 3 applies to projects/activities involving housing (construction, demolition, rehabilitation) or other public construction—i.e. roads, sewers, community centers, etc. Section 3 applies to CDBG projects when:
    - The recipient's CDBG contract with the State of Iowa exceeds $200,000, and involves housing and/or public construction.
    - The recipient has contracted with subcontractors for services and the contract amount is over $100,000.
  - If no individual subcontract for activities exceeds $100,000, responsibility for complying with Section 3 only applies to the recipient (City/County and the State)

Section 3 Overview/Changes

- Please note that while Section 3 applies to projects and contracts described above, the Section 3 requirements are only triggered when the normal completion of construction and rehabilitation projects creates the need for *new* employment, contracting or training opportunities.

- Compliance with Section 3
  - Each recipient has the responsibility to comply with Section 3 in its own operations, and ensure compliance in the operations of its contractors/ subcontractors.

Section 3 overview/ changes

- **Procurement & Bid Documents**
  - CDBG recipients must include Section 3 language in all procurement and bid documents. The required language to be included in these documents can be found in the appendix to this chapter of the CDBG Management Guide. In addition to the required language, recipients must include the “Intent to Comply with Section 3” form with all RFPs.

Section 3 Overview/Changes

- Selecting Contractors with Section 3
  - Section 3 requires recipients make an effort to the “greatest extent feasible” to facilitate contracts to Section 3 businesses
  - recipients may give preference to Section 3 businesses as a means of evaluation criteria for professional services contracts where proposals are solicited
    - to give preference to Section 3 businesses during the contract awarding process, recipients must ask the contractor to certify whether or not they are a Section 3 business when soliciting for proposals
    - “Intent to Comply With Section 3” form that will be provided with procurement documents and submitted by bidders

Section 3 Overview/Changes

- Hiring & Training with Section 3
  - Recipients and their contractors/subcontractors are required to give hiring and training preference to Section 3 residents, to the greatest extent feasible, when new employment opportunities result from a CDBG funded project.
  - Notices of employment/training opportunities must be sent to the Iowa Chapter of the National Association of Housing and Redevelopment Officials (NAHRO)
- Goals under Section 3
  - Federal regulations establish numerical goals for employment/training for Section 3 residents and contracts to Section 3 businesses
  - A recipient that has not met the numerical goals must explain why it was not feasible to meet the established numerical goals
  - Note: It is important to document efforts made to comply with Section 3. Recipient files should contain any memos, correspondence, advertisements, etc. illustrating attempts to meet Section 3 goals

Section 3 Overview/Changes

- Penalties for Non-Compliance
  - Communities and contractors found in violation of Section 3 requirements may result in:
    - Sanctions from HUD
    - Termination of contract for CDBG funds
    - Debarment or suspension from future HUD assisted (CDBG) contracts
  - Non-compliance with Section 3 can impact a community's ability to receive CDBG funding in the future.

Section 3 Overview/Changes

» Reporting Requirements & Forms

- If the expenditure of CDBG funds does not result in new employment, contracting, or training opportunities, the requirements of Section 3 have not been triggered. However, even if the CDBG-funded/ Section 3 covered project did not create new employment opportunities, this information must be reported to IEDA.
- To report Section 3 data to IEDA, recipients will report annually to IEDA. This report will be submitted through Iowagrants.gov and will be due by December 31st of each year.
- Recipients will need to report Section 3 accomplishments and/or provide a detailed explanation of why Section 3 goals were not met.

» Section 3 Business Registry

- HUDS' online database

Questions?

- Contact Your Project Manager
- Contact Me

Dan Narber
515.725.3072
dan.narber@iowaeda.com

THANK YOU!

IOWA economic development