

**SUPPLEMENTARY CONDITIONS
TO THE CONSTRUCTION
CONTRACT**

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

OMB Approval No. 2502-0598
(Exp. 9/30/2021)

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Article 1: Labor Standards

A. Applicability. The Project or program to which the construction work covered by this Contract pertains is being assisted or insured by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract or related instrument pursuant to the provisions applicable to such Federal assistance or insurance. Any statute or regulation contained herein shall also include any subsequent amendment or successor statute or regulation. The terms of this Supplementary Conditions to the Construction Contract (HUD-92554M) takes precedence over all provisions of the "General Conditions of the Contract for Construction" (AIA Document A201) inconsistent with said Supplementary Conditions.

B. Minimum Wages. Pursuant to Section 212 of the National Housing Act, as amended, 12 U.S.C. 1715c, the minimum wage provisions contained in this paragraph B do not apply to those projects with Security Instruments insured under Section 221(h)(1) designed for less than 9 families and they do not apply to those projects with Security Instruments insured under either Section 220 or 233 designed for less than 12 families.

1. (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project) shall be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1 (b)(2) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii)) on behalf of laborers or mechanics are considered wages paid to such laborers or

mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii)) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics that is not listed in the wage determination and that is to be employed under this Contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210 (“**Administrator**”). The Administrator, or an authorized representative, shall approve, modify, or disapprove every additional classification action within thirty (30) days of receipt and so advise HUD or its designee or shall notify HUD or its designee within the thirty (30) day period that additional time is necessary.

(c) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, shall issue a determination within thirty (30) days of receipt and so advise HUD or its

designee or shall notify HUD or its designee within the thirty (30) day period that additional time is necessary.

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs B.1.(ii)(b) or (c) of this Article, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit that is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the Project), all or part of the wages required by the Contract, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due.

3. Payrolls, records, and certifications.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the Project). Such records shall contain the name, address, and social security number of each such worker, his or her correct

classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1 (b)(2)(B) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii))), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1 (b)(2)(B) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii)), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(a) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor shall submit the payrolls to the applicant, sponsor, or Owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired, whether paper (Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347.pdf> or its successor site), or electronically pursuant to Program Obligations. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or Owner, as the case may be, for transmission to HUD or its designee, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee.

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or

supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete.

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph B.3.(ii)(b) of this Article.

(d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Sections 3801 et seq of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under subparagraph B.3.(i) of this Article available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices shall be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by such Office, or if a person is employed in his or her first ninety (90) days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the

program, but who has been certified by the Office of Apprenticeship, or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where the Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship, or a State Apprenticeship Agency recognized by such Office, withdraws approval of an apprenticeship program, the Contractor shall no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees shall not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman's hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on

the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor shall no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act Requirements. The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.

6. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 10 of this paragraph B and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage determination, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all Contract clauses referenced in this subparagraph.

7. Contract termination and debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor or a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this Contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of Eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C. 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Department . . . makes, passes, utters or publishes any statement, knowing the same to be false . . . shall be fined under this title or imprisoned not more than two years, or both."

C. Contract Work Hours and Safety Standards Act.

1. Applicability and Definitions. This paragraph C of Article 1 is applicable only if a direct form of federal assistance is involved, such as Section 8, Section 202/811 Capital Advance, grants etc., and is applicable only where the prime contract is in an amount greater than \$100,000. As used in this paragraph C, the terms "laborers" and "mechanics" include watchmen and guards.

2. Overtime requirements. No contractor or subcontractor contracting for any part of the Contract work that may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

3. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the immediately preceding subparagraph C.2, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of such subparagraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in such subparagraph.

4. Withholding for unpaid wages and liquidated damages. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract, or under any other Federal contract with the same prime contractor, or under any other Federally-assisted contract subject to the Contract Work

Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph 3 of this paragraph C.

5. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 5 of this paragraph C and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in such subparagraphs 1 through 5.

D. Certification.

For projects with Security Instruments insured under the National Housing Act, as amended, that are subject to paragraph B of this Article 1, the Contractor is required to execute the Contractor's Prevailing Wage Certificate within HUD-92448 as a condition precedent to insurance by HUD of the Loan, or an advance thereof, made or to be made by the Lender in connection with the construction of the Project.

Article 2: Equal Employment Opportunity

A. Applicability. This Article 2 applies to any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee.

B. The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, disability, or national origin. The Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, disability or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices to be provided setting forth the provisions of this nondiscrimination clause.

C. The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, disability, or national origin.

D. The Contractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a

notice to be provided advising the said labor union or workers representatives of the Contractor's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. The Contractor shall comply with all provisions of Executive Order 11246 of September 24, 1965 and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. The Contractor shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations or order of the Secretary of Labor, or as otherwise provided by law.

H. The Contractor shall include the provisions of paragraphs A through H of this Article 2 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take such action with respect to any subcontract or purchase order as HUD or the Secretary of Labor may direct as a means of enforcing such provisions, including sanctions for noncompliance. *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD or the Secretary of Labor, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Article 3: Equal Opportunity for Businesses and Lower Income Persons Located Within the Project Area

A. This Article 3 is applicable to projects covered by Section 3, as defined in 24 CFR Part 135.

B. The work to be performed under this Contract is on a project assisted under a program providing Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low and very-low income residents of the unit of local government or the metropolitan area (or non-metropolitan county) as determined by HUD in which the Project is located and contracts for work in connection with the Project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the same metropolitan area (or non-metropolitan county) as the Project.

Article 4: Health and Safety

A. This Article 4 is applicable only where the prime contract is in an amount greater than \$100,000.

B. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

C. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926, and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, 40 USC 3701 et seq.

D. The Contractor shall include the provisions of this Article 4 in every subcontract so that such provisions shall be binding on each subcontractor. The Contractor shall take such action with respect to any subcontract as HUD or the Secretary of Labor shall direct as a means of enforcing such provisions.

Article 15: Mediation

Section 15.3.3 of the General Conditions concerning waiver of binding dispute resolution proceedings is stricken and of no force or effect, and the parties agree that the method of binding dispute resolution shall be litigation in a court of competent jurisdiction.

(Article 15 added pursuant to the use of the AIA 201-2017)

Superseded General Decision Number: FL20230069

State: Florida

Construction Type: Residential

County: Lee County in Florida.

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)(1).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$17.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2024.
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<ul style="list-style-type: none"> . Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$12.90 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2024.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/05/2024

ENGI0487-023 07/01/2023

	Rates	Fringes
OPERATOR: Crane		
All Cranes 75 Tons and below.....	\$ 37.07	14.90
All Cranes Over 300 Ton, Electric Tower, Luffing Boom Cranes.....	\$ 40.40	14.90
Cranes 130-300 Ton.....	\$ 39.38	14.90
Cranes 76 ton to 129 Ton....	\$ 37.57	14.90

ENGI0487-025 07/01/2023

	Rates	Fringes
OPERATOR: Oiler.....	\$ 27.53	14.90

IRON0397-003 07/01/2023

	Rates	Fringes
IRONWORKER, REINFORCING AND STRUCTURAL.....	\$ 34.00	17.07

SUFL2009-108 06/08/2009

	Rates	Fringes
BRICKLAYER.....	\$ 20.00	0.00
CARPENTER, Includes Cabinet Installation (Excludes Drywall Hanging).....	\$ 14.09 **	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 15.90 **	0.00
DRYWALL HANGER.....	\$ 12.33 **	0.00
ELECTRICIAN.....	\$ 14.75 **	0.00
IRONWORKER, ORNAMENTAL.....	\$ 15.25 **	0.00
LABORER: Common or General.....	\$ 9.53 **	0.00
LABORER: Mason Tender - Brick...	\$ 11.51 **	0.00
LABORER: Mason Tender - Cement/Concrete.....	\$ 10.42 **	0.00
LABORER: Pipelayer.....	\$ 15.14 **	0.00
LABORER: Roof Tearoff.....	\$ 9.00 **	0.00
LABORER: Landscape and Irrigation.....	\$ 13.54 **	0.00
OPERATOR: Asphalt Paver.....	\$ 12.00 **	0.00
OPERATOR: Backhoe Loader Combo.....	\$ 17.04 **	0.00
OPERATOR: Backhoe/Excavator.....	\$ 15.25 **	0.00

OPERATOR: Bulldozer.....	\$ 14.50 **	2.00
OPERATOR: Distributor.....	\$ 11.41 **	0.00
OPERATOR: Forklift.....	\$ 17.50	0.00
OPERATOR: Grader/Blade.....	\$ 14.00 **	0.00
OPERATOR: Loader.....	\$ 12.17 **	0.00
OPERATOR: Roller.....	\$ 10.62 **	0.00
OPERATOR: Screed.....	\$ 10.93 **	0.00
OPERATOR: Trackhoe.....	\$ 14.81 **	0.00
OPERATOR: Tractor.....	\$ 10.20 **	0.00
PAINTER, Includes Brush, Roller and Spray.....	\$ 12.40 **	0.00
PLASTERER.....	\$ 15.00 **	0.00
PLUMBER.....	\$ 14.25 **	0.00
ROOFER, Includes Built Up, Modified Bitumen, and Shake & Shingle Roofs (Excludes Metal Roofs).....	\$ 15.65 **	0.00
ROOFER: Metal Roof.....	\$ 16.99 **	0.00
SHEET METAL WORKER, Excludes Metal Roof Installation.....	\$ 9.85 **	0.38
TRUCK DRIVER, Includes Dump Truck.....	\$ 10.22 **	0.00
TRUCK DRIVER: Lowboy Truck.....	\$ 12.10 **	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====
 ** Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.20) or 13658 (\$12.90). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is

like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a

new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

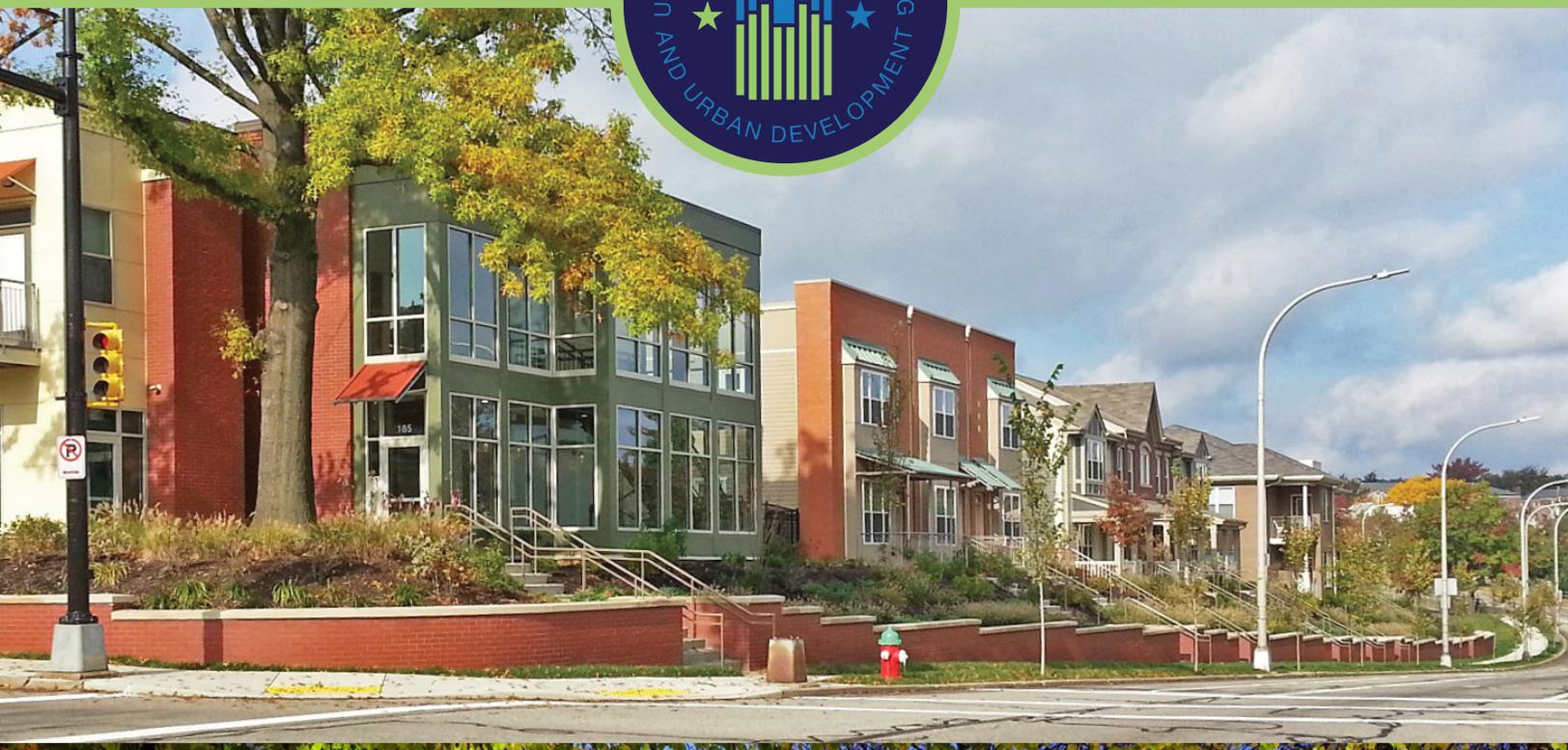
3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"



DAVIS-BACON AND LABOR STANDARDS AGENCY/CONTRACTOR GUIDE

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INTRODUCTION

This Guide has been developed as part of HUD's communications strategy with its approximately 5,000 client agencies, and contractors performing work on construction projects that are assisted by the U.S. Department of Housing and Urban Development and subject to Davis-Bacon prevailing wage requirements. This Guide does not address contractor requirements involved in direct Federal contracting where HUD or another Federal agency enters into a procurement contract. While the guidance contained in this Guide is generally applicable to any Davis-Bacon-covered project, specific questions pertaining to direct Federal contracts should be addressed to the Contracting Officer who signed the contract for the Federal agency.

This Guide has been designed to help agencies develop organizational and administrative policies that will enable them to meet labor standards contractual responsibilities in the administration of HUD-assisted programs as efficiently as possible. It is also useful as a training tool and a ready reference for compliance staff. Further, it may be used by contractors to provide further background. While this Guide is intended to address numerous situations, it was not written to cover every possible labor standards issue. If there is a labor standards issue not addressed in this Guide, please contact your local HUD Labor Standards Specialist (LSS). Throughout this Guide, the acronym "LCA" or "LCAs" shall mean state, tribal, and local agencies.

This Guide also provides information to assist with Davis-Bacon labor standards compliance. HUD's Office of Davis-Bacon and Labor Standards worked with the U.S. Department of Labor's Wage and Hour Division to ensure that the labor standards provisions required to be incorporated in Davis-Bacon contracts and the specifics of complying with them represent the latest information. The U.S. Department of Labor (DOL) has general administrative oversight of all Federal contracting agencies, such as HUD, which administer the day-to-day responsibilities of enforcing Davis-Bacon provisions in construction contracts they either fund or assist in funding.

This Guide contains five main chapters. The first chapter includes basic DBA definitions that affect every Davis-Bacon-covered project. The second chapter lists the responsibilities of state, tribal, and local contracting agencies that administer HUD programs. The third chapter includes the laws and regulations associated with Federal labor standards administration and enforcement. The fourth chapter describes LCA flexibility for labor standards responsibilities. The fifth and final chapter discusses payroll compliance reviews and corrections.

Finally, not all HUD construction projects are covered by Davis-Bacon wage rates. For the purpose of this Guide, we are assuming that a determination has already been made that Davis-Bacon wage rates are applicable. If you need assistance in determining whether Davis-Bacon wage rates apply to a project or if you need other related technical assistance, please contact the HUD Labor Standards Field staff for your area. If you do not know which staff to contact, a list of Labor Standards field offices with their geographic areas, telephone numbers and email addresses are located on HUD's Home Page at the address below.

RESOURCE

Visit the Office of Davis Bacon and Labor Standards online:

www.hud.gov/program_offices/davis_bacon_and_labor_standards



KEY LABOR STANDARDS OBJECTIVES OF THE GUIDE

The Office of Davis-Bacon and Labor Standards has identified five Key Labor Standards Objectives—the basics of what must be accomplished in order to protect workers’ rights. We also identified all the policies, procedures, and paperwork at our disposal—what we do ourselves and what we impose on contractors. HUD eliminated superfluous requirements and will not institute policies, procedures, or paperwork that is not required by statute or regulation, or that does not contribute to one or more of the Key Objectives.

Apply Davis-Bacon requirements properly

Make certain that labor standards, including Davis-Bacon prevailing wage rates, are applied where required. Ensure that any exemptions or exceptions are identified.

Through education and advice, support contractor compliance with labor standards

Provide basic training and technical support to contractors to ensure that they understand their obligations under prevailing wage and reporting requirements.

Monitor contractor performance

Perform reviews of certified payroll submissions and other information to help ensure contractor compliance with labor standards provisions and the payment of prevailing wages to workers.

Investigate probable violations and complaints of underpayment

Thoroughly explore any evidence of violations, especially allegations of underpayment.

Pursue debarment and other available sanctions against repeat labor standards violators

Carry out a zero tolerance policy toward contractors who violate prevailing wage laws.

RESOURCE

Program technical guidance

For interpretations of program requirements or handbooks and instructions on the use of forms:

Housing Programs - See our [Contact List](#) for help.



BASIC DBA DEFINITIONS

There are several compliance principles, definitions, and interpretations that affect every Davis-Bacon-covered project.

Responsibilities of employers

All employers (contractors, subcontractors, and any lower-tier subcontractors) are required to pay all laborers and mechanics employed or working on the site of the work unconditionally and not less often than once per week the full amount of wages and bona fide fringe benefits computed at rates not less than those contained in the wage decision. Employers must prepare, certify, and submit weekly payroll reports reflecting all the laborers and mechanics (employees) engaged in construction on the site of the work. Employers may also be required to submit related documentation in order to demonstrate compliance.

Responsibilities of the principal (prime) contractor

The principal contractor (also referred to as the “prime contractor”) is responsible for the full compliance of all employers (itself, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project.

Prime contractor

The principal contractor.

Subcontractor

All subcontractors and lower-tier subcontractors.

Employer

Any contractor, subcontractor, or lower-tier subcontractor that has engaged the services of laborers or mechanics on the project.

To make this Guide easier to understand, the term “prime contractor” will mean the principal contractor; “subcontractor” will mean all subcontractors including lower-tier subcontractors; and the term “employer” will mean all contractors as a group, including the prime contractor and any subcontractors and lower-tier subcontractors.

Laborers and mechanics

Those individuals whose duties are manual or physical in nature, including workers who are performing the work of a trade (e.g., electrician). “Laborers” and “mechanics” include apprentices, trainees, helpers, and, for contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA), watchmen and guards.

Working foremen

Foremen or supervisors that perform construction work and devote more than 20% of their time as a laborer or mechanic are treated, for labor standards purposes, as “laborers” or “mechanics” for their time spent working as a laborer or mechanic.

Exclusions

Persons whose duties are primarily administrative, managerial, or clerical are not laborers or mechanics.

Employee

Every person who performs the work of a laborer or mechanic is “employed” regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such person.

Working subcontractors

Persons who perform the work of laborers or mechanics and who represent themselves to be owners of businesses, sole proprietors, or self-employed are not exempt from prevailing wage requirements. These laborers and mechanics are “employed” and are entitled to the prevailing wage for the type of work they perform, and must be reported on the payroll report for their craft, hours of work, and wages paid. For additional information, see LR-96-01, Labor Standards for Self-Employed Laborers and Mechanics.



Administrative allowances

HUD permits administrative allowances concerning payroll reporting and certification requirements relating to the following:

- Owners of Businesses Working with Their Crew
- Owner/Operators of Power Equipment
- Owner/Operators of Trucks

Apprentice

A person employed and individually registered in a bona fide apprenticeship program. Bona fide programs are those that have been registered with DOL, Employment and Training Administration, Office of Apprenticeship, or with a DOL-recognized State Apprenticeship Agency (SAA). (Note that an SAA must also partner with a State Apprenticeship Council (SAC). The SAC must consist of an equal number of representatives of employer and employee organizations.)

Probationary apprentice

A person in the first 90 days of probationary employment as an apprentice in a bona fide apprenticeship program but who has not yet been formally registered in such program may be considered an “apprentice” provided that DOL or SAC has certified that such person is eligible for probationary employment as an apprentice.

Pre-apprentice

A person who is employed as a “pre-apprentice”—that is, in a preparatory position which may result in registration in an apprenticeship program—is not considered to be an “apprentice.”

Trainee

A person registered and receiving on-the-job training in a construction occupation pursuant to a training program approved in advance by the Office of Apprenticeship Training.

Prevailing wages or wage rates

Davis-Bacon prevailing wage rates generally appear as a basic hourly rate plus fringe benefits, if any. “Prevailing wage” is made up of two interchangeable components: the basic hourly wage, and fringe benefits. The total of the basic hourly wage and fringe benefits comprises the “prevailing wage” obligation. This obligation may be met by any combination of cash wages and creditable “bona fide” fringe benefits provided by the employer. For example:

The Davis-Bacon wage decision requires:

Basic Hourly Rate	\$10.00
Fringe Benefits	\$1.00
Total Prevailing Wage	\$11.00

Employers may comply by paying:

1. \$11.00 in cash wages;
2. \$10.00 plus \$1.00 in bona fide fringe benefits; or
3. Any combination of wages and benefits that totals \$11.00 per hour.



Piece rate/piece work employees

Employees whose earnings are calculated by the amount of work produced (rather than hours worked) must receive no less than the applicable DBRA/MWD (Davis-Bacon and Related Acts/Maintenance Wage Determination) wage rate based upon the hours of work performed. The employer must divide the piece rate earnings by the actual hours worked to determine the “effective” hourly rate. The effective hourly rate must be calculated for each week’s earnings and must be no less than the applicable prevailing wage rate. It does not matter whether the effective hourly rate changes from week to week as long as the result is at least as much as the prevailing wage rate. If the effective hourly rate is less than the applicable prevailing wage rate, the employee must be compensated at the prevailing wage rate for all hours worked.

Fringe benefits

Fringe benefits may include:

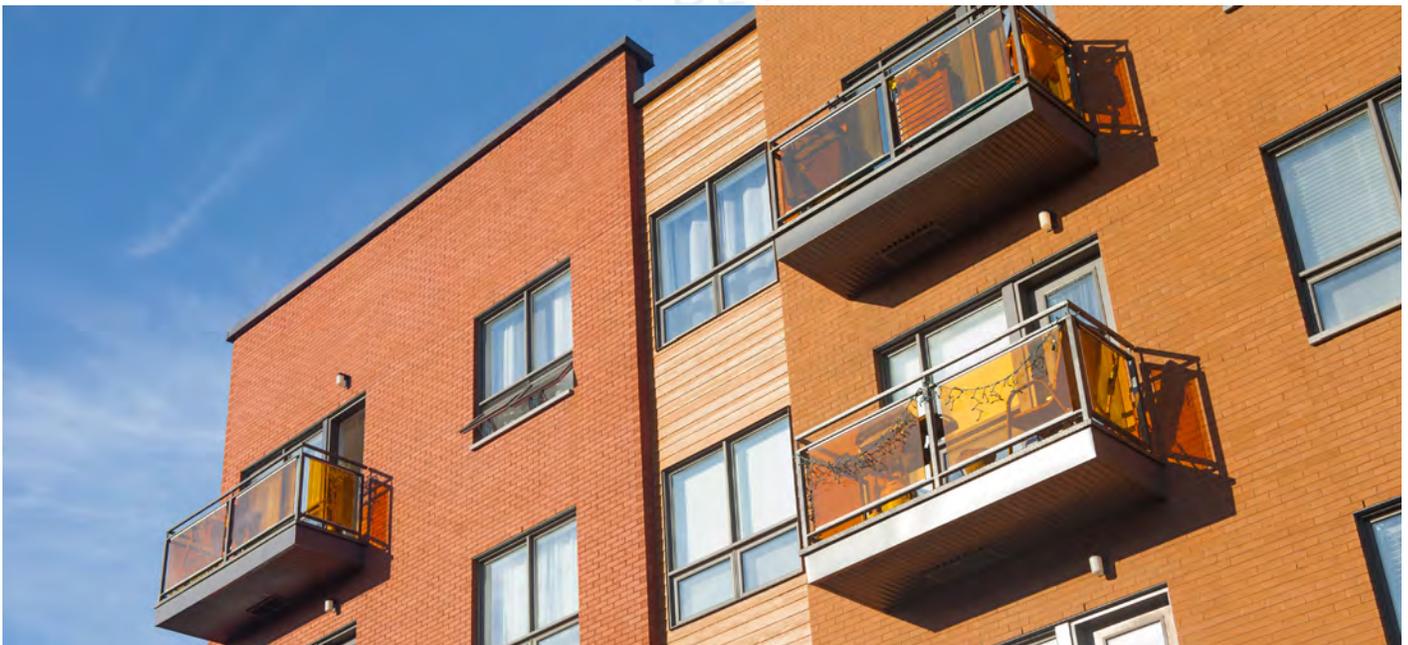
- Sick, vacation, or holiday pay;
- Costs to defray expenses of apprenticeship or similar programs;
- Medical or hospital care;
- Supplemental unemployment benefits;
- Life insurance;
- Pensions on retirement or death;
- Compensation for injuries or illness resulting from occupational activity;
- Other bona fide fringe benefits; or
- Insurance to provide any of the above.

MORE INFO

In addition, fringe benefits may reflect the rate of costs to the employer that may be reasonably anticipated in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible program.

MORE INFO

Fringe benefits do not include employer contributions or payments required by other federal, state, or local law, such as FICA (Federal Insurance Contributions Act), workers’ compensation, or unemployment compensation.



Overtime

Overtime (O/T) hours are defined as all hours worked in excess of 40 hours in any workweek. Where governed by Federal labor standards, O/T hours shall be compensated at not less than one and one-half times the regular rate of basic pay plus the straight-time (S/T) rate of any required fringe benefits.

Deductions

The employer may make payroll deductions as permitted by DOL regulations in 29 CFR Part 3. These regulations prohibit the employer from requiring employees to “kick back” any of their earnings. Deductions may include employee obligations for income taxes, Social Security payments, insurance premiums, retirement contributions, savings accounts, and any other legally permissible deduction authorized by the employee. Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee (which will require documentation).

Site of work

The “site of work” is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed. “Site of work” includes other adjacent or nearby properties used by the contractor/subcontractor in the construction of the project (e.g., fabrication sites) provided they are dedicated exclusively

or nearly so to the performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them.

Proper designation of trade

Each laborer and mechanic shall be classified in accordance with the work classifications listed on the wage decision and the actual type of work they perform and shall be paid the appropriate wage rate and fringe benefits for the classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for carpenters even if they aren’t considered by the employer to be fully trained as a carpenter. Remember, the only people who can be paid less than the rate for their craft are apprentices and trainees registered in approved programs.

Split classification

Laborers and mechanics that perform work in more than one classification may be compensated at the rate specified for each classification provided that the employer maintains time records that accurately set forth the time spent in each classification in which the work was performed. If accurate time records are not maintained, the employee shall be compensated at the highest of all wage rates for the classifications in which work was performed.





LCA RESPONSIBILITIES

State, tribal, and local contracting agencies (LCAs) that administer HUD programs agree to administer and enforce Davis-Bacon requirements as a condition for receiving HUD program assistance. LCAs have the following responsibilities:

1. Designate appropriate staff (e.g., a Contract Administrator) before the start of construction to ensure compliance with all applicable labor standards requirements and to act for and in liaison with HUD. Provide the name(s) of the staff to the appropriate HUD Field Office of Davis-Bacon and Labor Standards.
2. Establish a construction contract management system that meets the standards of 2 CFR Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
3. Ensure that all bid documents, contracts, and subcontracts contain the applicable Davis-Bacon wage decision and Federal labor standards provisions.
4. Ensure that no contract is awarded to a contractor that is ineligible (e.g., debarred) for Federally-assisted work.
5. Conduct on-site inspections including interviews with laborers and mechanics employed on the construction project. Ensure that the applicable Davis-Bacon wage decision, DOL's Davis-Bacon poster (Form WH-1321), and additional classifications are displayed at the job site.
6. Review certified payroll reports (CPRs) and related documentation. Identify any discrepancies and/or violations. Ensure that any needed corrections are made promptly, including the payment of wage restitution as needed, and the assessment and collection of liquidated damages, as appropriate.
7. Maintain full documentation of Federal labor standards administration and enforcement activities.
8. Refer potential criminal or complex enforcement actions to HUD, in addition to CWHSSA liquidated damages assessments for O/T violations and debarment recommendations.
9. Comply with all HUD requirements concerning statutory, program, and/or other requirements.
10. Prepare Federal labor standards enforcement reports as required in DOL regulations (29 CFR Part 5, § 5.7).



LAWS AND REGULATIONS

The Davis-Bacon Act (DBA)

The DBA, enacted in 1931, applies to contracts in excess of \$2,000 for construction, alteration, and/or repair of public buildings or public works, including painting and decorating, to which the United States or the District of Columbia is a party. This type of applicability is referred to as direct Davis-Bacon Act or DBA coverage. An example of DBA coverage is when HUD contracts directly for repairs to HUD-owned properties. HUD’s Office of the Chief Procurement Officer manages these types of contracts. The DBA requires that the advertised specifications for such contracts contain a provision stating that the minimum wages to be paid to various classes of laborers and mechanics must be based upon the wages found to be prevailing by the Secretary of Labor.

Most HUD construction work is not covered by the DBA since HUD does not usually contract directly for construction work. Rather, Davis-Bacon wage rates apply to HUD programs because of prevailing wage requirements expressed in HUD “Related Acts” such as the U. S. Housing Act of 1937 and the Housing and Community Development Act of 1974, as amended. The Related Acts (referred to throughout this Guide as the Davis-Bacon and Related Acts or DBRA) are discussed further in Section 5.9.

The DBA includes provisions that:

1. Require the contractor or subcontractor to pay all mechanics and laborers at least once per week;
2. Prohibit contractors or subcontractors from taking deductions or rebates from wages earned by laborers and mechanics;
3. Require the contractor or subcontractor to pay Davis-Bacon wages to all laborers and mechanics employed on the site of the work regardless of their skill level, and regardless of any contractual relationship alleged to exist between the laborers and mechanics and the contractor or subcontractor;

4. Require the contractor or subcontractor to post the scale of wages to be paid (i.e., the applicable Davis-Bacon wage decision) in a prominent and accessible place at the work site;
5. Define prevailing wages to include fringe benefits;
6. Permit the withholding of payments due to the contractor on account of wage restitution that may be found due to the laborers and mechanics;
7. Permit the payment of wage restitution from amounts withheld from contract payments;
8. Permit the termination of the contract where it is found that any laborer or mechanic is underpaid; and
9. Permit the debarment of persons or firms found to have disregarded their obligations to employees and subcontractors.

The Contract Work Hours and Safety Standards Act (CWHSSA)

The CWHSSA applies to both direct federal contracts and to federally-assisted contracts where those contracts require or involve the employment of laborers and mechanics and where federal wage standards (e.g., Davis-Bacon or HUD-determined prevailing wage rates) are applicable. CWHSSA provisions apply to all laborers and mechanics, including watchmen and guards, employed by any contractor or subcontractor. CWHSSA also applies to maintenance laborers and mechanics employed by contractors or subcontractors engaged in the operation of Public Housing Agencies (PHA), Tribally Designated Housing Entities (TDHE), and Indian Housing Agencies (IHA) developments.

CWHSSA O/T provisions do not apply to laborers and mechanics employed directly by PHAs or IHAs. However, O/T provisions generally apply to these workers under the Fair Labor Standards Act (FLSA). HUD does not have authority to enforce FLSA violations. Refer complaints of FLSA violations to DOL, Wage and Hour Division.

CWHSSA provides that all O/T hours (defined as hours worked in excess of 40 during any workweek on the CWHSSA-covered project site) must be compensated at a rate not less than one and one-half times the regular basic rate of pay. Where CWHSSA O/T provisions are applicable, compensatory time in lieu of premium pay for O/T hours is not permissible. In the event of O/T violations, the CWHSSA renders the contractor liable to the underpaid workers for wage restitution and to the United States Government for liquidated damages computed per person per day at a rate that DOL publishes annually. It is a federal criminal misdemeanor to intentionally violate CWHSSA standards.

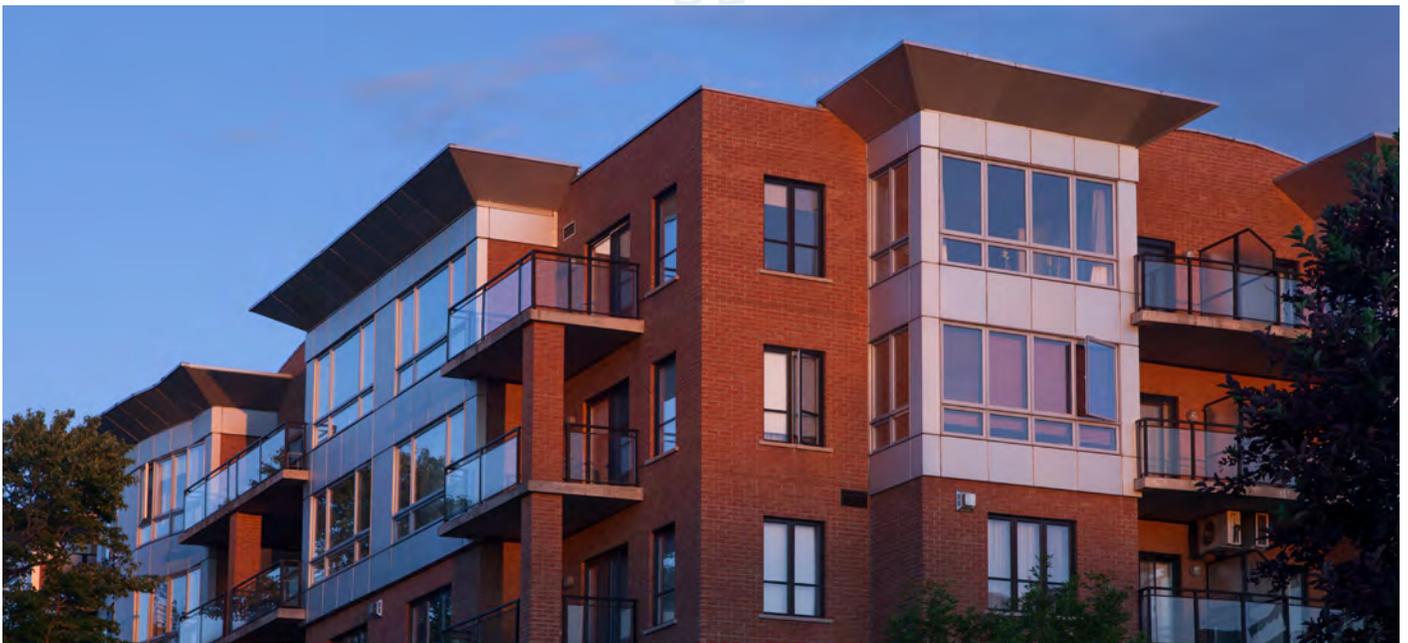
Exemptions:

- CWHSSA O/T provisions do not apply where the federal assistance is only in the nature of a loan guarantee or insurance.
- CWHSSA O/T provisions do not apply to prime contracts of \$100,000 or less.

RESOURCE

DOL posts current fines at:

<https://www.dol.gov/whd/govcontracts/cwhssa.htm#cmp>



The Copeland Act (Anti-Kickback Act)

The Copeland Act concerns three facets of prevailing wage compliance:

1. The “anti-kickback” provision prohibits contractors and subcontractors from inducing an employee working on a covered contract to give up any part of the compensation to which he or she is entitled. Violations are a criminal offense and are punishable by a \$5,000 fine or imprisonment up to five years, or both.
2. Associated DOL regulations restrict payroll deductions to those that are permissible without DOL approval as explained at 29 CFR § 3.5; deductions that require advance DOL approval are explained at 29 CFR § 3.6.
3. The Act requires the submission of weekly CPRs accompanied by a Statement of Compliance by all contractors and subcontractors engaged in such construction, prosecution, completion, or repair. The willful falsification of a CPR or statement of compliance may subject the employer to civil or criminal prosecution under § 1001 of Title 18 and § 3729 of Title 31 of the United States Code (USC), and may also be a cause for debarment.

Exemptions:

- Copeland Act CPR requirements are applicable only where Davis-Bacon (DBA or DBRA) prevailing wage provisions are applicable.
- Copeland Act anti-kickback provisions do not apply where the only federal assistance is a loan guarantee.



The Fair Labor Standards Act (FLSA)

The FLSA governs matters such as federal minimum wage rates and O/T. These standards are generally applicable to any labor performed and may be pre-empted by other (often more stringent) federal standards such as the DBRA prevailing wage requirements and CWHSSA O/T provisions. The authority to administer and enforce FLSA provisions resides solely with DOL.

Portal-to-Portal Act (PA)

The PA applies to the DBA and prevents the commencement of any court suit for unpaid S/T wages more than two years after performance of the work (three years in the case of willful violations), where permissible under the law. However, DOL's position is that the PA does not apply to administrative actions initiated through Administrative Law Judge (ALJ) hearing procedures; thus, the PA does not preclude corrective administrative action after two (or three) years.

The PA does not apply to federally-assisted (DBRA) projects. Instead, the various State statutes of limitations apply to such projects in private actions where they are judicially determined to be permissible under the law. The Federal six-year statute of limitations applies in government enforcement actions.

McNamara-O'Hara Service Contract Act (SCA)

The SCA governs maintenance and other service work and applies

when the Federal Government or the District of Columbia contracts directly for such services and the value of the contract exceeds \$2,500. SCA coverage in HUD programs is limited because HUD infrequently enters into direct contracts for services in the administration of its programs. By way of example, however, a contract for maintenance service at an HUD-owned multifamily property would be covered by the SCA. Like DBA contracts, SCA contracts are managed under the auspices of HUD's Office of the Chief Procurement Officer. SCA enforcement authority resides solely with DOL.

Davis-Bacon Regulations

DOL has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in Title 29 CFR Parts 1, 3, 5, 6, and 7. Part 1 explains how DOL establishes and publishes DBA wage determinations (also referred to as wage decisions) and provides instructions on how to use the determinations. Part 3 describes Copeland Act requirements for payroll deductions and the submission of weekly CPRs. Part 5 covers the labor standards provisions that are in contracts relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Finally, Part 7 sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

DOL Regulations are available online: www.ecfr.gov/current/title-29



Construction Contract Provisions and Labor Standards Administration

Labor standards administration involves the activities that take place primarily before construction begins. Administration sets the stage for the compliance activities that occur during the construction phase. The first and sometimes most difficult step is determining whether and to what extent Davis-Bacon wage standards apply to a particular contract or project. The Factors of Labor Standards Applicability (see Appendix II-6) should be helpful. Most HUD-assisted construction work is covered by Davis-Bacon, but there are some exceptions. The best and safest approach is to first assume that Davis-Bacon requirements will be applicable whenever the contract/project involves construction work valued in excess of \$2,000, then look more closely to see if there is any reason for non-coverage. Each contract subject to Davis-Bacon labor standards requirements must contain labor standards clauses and a Davis-Bacon wage decision. These documents are normally wound into the contract specifications.

The labor standards clauses

The contract for construction is the vehicle to ensure contractor compliance and Davis-Bacon wage enforcement. Therefore, the bid specifications and/or the contract for each project subject to Davis-Bacon wage rates must contain both a Davis-Bacon wage decision and labor standards clauses. The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the Davis-Bacon wage and reporting requirements and with the O/T provisions of the CWHSSA (applicable

only when the prime contract is valued at over \$100,000).

The labor standards clauses also provide for remedies in the event of violations, including the withholding of payments due to the contractor to ensure the payment of wages or liquidated damages that may be found due, and sanctions should violations occur. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project. HUD has standard forms that contain contract clauses. For example, the HUD-92554M, Supplementary Conditions Of The Contract for Construction, which is issued primarily for FHA (Federal Housing Administration) multifamily housing and other construction projects administered by HUD; the HUD-4010, Federal Labor Standards Provisions, which is used for CDBG (Community Development Block Grant) and HOME (HOME Investment Partnerships Program) projects; and the HUD-5370, General Conditions for Construction Contracts (construction contracts >\$150,000) or the HUD-5370-EZ, General Contract Conditions for Small Construction/Development Contracts (construction contracts >\$2,000 but ≤\$150,000) which are used for Public and Indian Housing projects. These should be wound into the contract specifications or incorporated by specific reference in the bid/contract documents (see Labor Relations Letter 96-03).

RESOURCE

A fillable version of this form is available online at HUDClips www.hud.gov/program_offices/administration/hudclips/forms
 Contact the contract administrator monitoring the project for assistance with a Project Wage Rate.



Specific Davis-Bacon Related Act (statute) for the program involved

Related Acts are program statutes that contain provisions requiring compliance with the wages that the Secretary of Labor finds to be prevailing pursuant to the Davis-Bacon Act. These are commonly referred to as the Davis-Bacon and Related Acts or DBRA.

HUD Related Acts include (but are not limited to) the:

- National Housing Act;
- U. S. Housing Act of 1937;
- Housing and Community Development Act of 1974;
- National Affordable Housing Act of 1990; and
- Native American Housing Assistance and Self-determination Act of 1996, each as amended.

Many of the labor provisions in HUD Related Acts contain applicability thresholds based upon the number of dwelling units involved. Some thresholds are based upon the amount of HUD assistance or the use of HUD funds or assistance. In addition, most HUD Related Acts contain exemptions from prevailing wage coverage for bona-fide volunteers. It is important for DBLS and LCA staff to be familiar with the statutory provisions and how these are interpreted.

The labor provisions found in current HUD Related Acts are excerpted for reference in Appendix II-1 to this Guide. Applicability factors relating to specific HUD Related Acts are in Appendix II-6.

Labor Standards Letters

This special directives series is designed to provide current and thorough guidance on Davis-Bacon issues in HUD programs. Popular topics include Davis-Bacon applicability, and prevailing wage requirements concerning self-employed laborers and mechanics. Labor Standards Letters are available online at the Davis-Bacon and Labor Standards Library: www.hud.gov/program_offices/davis_bacon_and_labor_standards/olr_lrl

HUD Guides

These Guides complement the guidance and instructions provided in HUD Handbook 1344.1, Federal Labor Standards Compliance in HUD Programs. These Guides are also available at the Davis-Bacon and Labor Standards Library.

Davis-Bacon Wage Decisions

The term “wage decision” includes the original decision and any subsequent decisions that modify, supersede, correct, or otherwise change the provisions of the original decision. The term “wage decision” is used within this Guide to mean the Davis-Bacon wage decision. The terms “wage decision” and “wage determination” are used interchangeably. A wage decision is a schedule of construction work classifications, wage rates, and fringe benefits that represent the minimum rates that must be paid to workers employed in those classifications. Wage decisions are established for defined geographic areas, usually by county



or group of counties, and four general characters of construction work.

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RESOURCE

All current Davis Bacon wage decisions can be accessed online at no cost at www.sam.gov

Character of work

There are four basic categories (or characters) of wage decisions based on the type of construction. DOL established these categories and provides details of each one in All Agency Memoranda Nos. 130 and 131. DOL provides further guidance in All Agency Memorandum 236, Prevailing Wage Resource Book, and Field Operations Handbook, Chapter 15. The four categories include:

- 1. Residential:** Residential construction includes the construction, alteration, or repair of single-family houses or apartment buildings of no more than four stories in height. This typically includes all incidental items unless there is an established area practice to the contrary.

Incidental items are elements of a project whose function is to support the principal purpose and do not change the overall character of work. Examples of incidental items include sidewalks and handrails installed to support residential or building projects. While sidewalks intrinsically constitute “highway” construction, this element considered in conjunction with a residential or building project becomes incidental to the principal purpose of the construction and is subject to the same wage decision that applies to the principal purpose.



Character of work (continued)

- 2. **Building:** Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. This category includes buildings exceeding four stories in height that have housing units and buildings of four stories or less that do not have housing units. This category also includes incidental items such as grading, sidewalks, and utilities. Building examples include high-rise apartment buildings, nursing homes and convalescent facilities, community centers, fire stations, commercial buildings, parking garages, and dormitories.
- 3. **Highway:** Highway construction includes the construction, alteration, or repair of roads, streets, highways, alleys, parking areas, and other similar projects not incidental to the main category of construction, which is either residential or building for housing development projects.
- 4. **Heavy:** Heavy construction includes those projects that are not properly classified as “residential,” “building,” or “highway.” Some examples include antenna towers, canals, landscaping, drainage and irrigation projects, permanent erosion control, storm sewers, and storage tanks.

General wage decisions

Most Davis-Bacon wage decisions are general wage decisions. DOL usually publishes these annually and may modify or supersede them throughout the year. LCAs and HUD Labor Standard Specialists (LSS) may use general wage decisions without advance notice or approval from DOL. Most Davis-Bacon wage decisions are available as published

general wage decisions.

General wage decisions and project wage decisions may be modified from time to time to keep them current, correct errors, and for other purposes. Modifications may be limited to one or more particular work classifications and wage rates. Modifications are effective to a project if HUD or an LCA receives them, or if notice of the modification is published at www.sam.gov prior to the lock-in date. Modifications to a project wage decision expire on the same date as the original project wage decision. A modification to a general wage determination remains in effect until it is superseded by a subsequent modification, or the original general wage decision is superseded or cancelled.

Project wage decisions

If an appropriate wage decision (by location, character of work, or specific trade required) is not published in the general wage decisions, a project wage decision shall be requested from DOL. Project wage decisions are applicable only to the construction work specified on the request to DOL and listed on the front page of the wage decision. Project wage decisions are valid for 180 days from the date of original issuance by DOL. The issuance and expiration dates will be indicated on the front page of the wage decision. Like general wage decisions, project wage decisions may be modified.

A project wage decision may be applicable even though a general wage determination is published which covers the geographic location and character of work involved. For example: A project involves only roof replacement on a 4-story apartment building and the only classification needed for the entire contract is a roofer.



Project wage decisions (continued)

A general wage decision is published for residential construction in the county in which the project is located; however, the general wage decision does not include a roofer classification and wage rate. In this case, the general wage decision is not relevant to the roof replacement and a project wage decision may be requested from DOL.

RESOURCE

General wage decisions and modifications are available at www.sam.gov

This is the only online location endorsed by DOL. Project wage decisions must be requested on a case by case basis from DOL.

Project wage decisions, as needed

The LCA or LSS shall submit a completed SF-308, Request for Wage Determination And Response to Request, to the DOL National Office, allowing 30 days for receipt of the project wage decision from DOL.

Selecting the correct wage decision

The responsible contracting officer (also referred to as the contract administrator) selects and assigns wage decisions to specific contracts or projects. For HUD-administered projects (e.g., FHA-insured multifamily development), the responsible contracting officer is the LSS. In addition, the LSS provides technical support and oversight to LCAs

administering HUD programs in selecting and assigning appropriate wage decisions. Determining wage decisions is dependent upon the geographic location and the character of work (Residential, Building, Highway, and/or Heavy) assigned to the project.

A request for additional classification and wage rates may be made only after contract award. The request must originate with the contractor/ employer and must be submitted by the LCA to DOL.

MORE INFO

Conformances (additional classifications)

At times, the wage decision will not contain some of the work classification and wage rates that are needed for the construction work. In these cases, send a form SF 1444 to DOL at whd-cbaconformance_incoming@dol.gov



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RESOURCE

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A request for additional classification and wage rates may be made only after contract award. The request must originate with the contractor/ employer and must be submitted by the LCA to DOL.

Verify contractor eligibility

Once the LCA has selected the contractor to whom they wish to award the contract, the LCA must verify that the contractor is not ineligible (e.g., debarred) from participation in Federal programs. Only the eligibility of the prime contractor needs to be verified. The U.S. General Services Administration (GSA) maintains a list of ineligible contractors, which can be accessed online at www.sam.gov.

An additional classification and wage rate will be approved by DOL where:

1. The requested work classification is used in the area of the project by the construction industry;
2. The work that will be performed is not performed by a work classification already contained in the wage decision;
3. The proposed wage rate bears a reasonable relationship to the wage rates on the wage decision; and
4. The workers that will be employed in the requested work classification (if known) or the workers' representatives (if any) agree with the proposed wage rate.

Provide contractor training

The LCA must make certain that the contractor understands its responsibilities for Davis-Bacon compliance: The principal contractor is responsible for the full compliance of all employers (the contractor, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project. LCAs may also wish to provide formal training separate from the contracting process for contractors that are interested in performing work on HUD-assisted contracts and want to learn more about what is involved.





CONTRACTOR RESPONSIBILITIES

See Section 4 in the Contractor Addendum.

CONTRACT ADMINISTRATOR RESPONSIBILITIES

See Section 5 in the Contractor Addendum.

LCA FLEXIBILITY FOR LABOR STANDARDS RESPONSIBILITIES

While some aspects of labor standards administration are inflexible, such as which wage decision is applicable to a specific project, the following aspects are not. For these, HUD leaves the preference of how to achieve end results with the LCA.

LCAs may hold preconstruction conferences for labor standards purposes.

HUD acknowledges that there are many good reasons to hold a preconstruction conference (PCC), and these conferences are strongly encouraged in order to have the opportunity to discuss topics such as construction inspections, progress and contractor payment requirements, Section 3 employment and training, and other issues particular to the project. However, HUD has determined that the time and resources used to conduct and document PCCs for labor standards purposes do not yield measurably better results.

Many contractors have prior Davis-Bacon contract experience and have demonstrated successful performance. These contractors do not require the repetitive basic training that is provided at most PCCs. Contractors new to Davis-Bacon projects that understand the basic requirements and choose not to comply will likely not be persuaded to fully comply just because they attended a PCC.

LCAs may prepare Project Wage Rate Sheets

Some general wage decisions cover large areas (e.g., several counties or different characters of construction) and may contain wage rates that do not apply to the contract/project to which the wage decision applies. Such wage decisions can be difficult to decipher and confusing to contractors and subcontractors, and to the workers reviewing the wage decision to determine whether they are being paid correctly. For ease of reference for the LSS/LCA, the prime contractor and any subcontractors, and the workers, the LSS/LCA may prepare a form HUD-4720, Project Wage Rate Sheet, which should reflect the most commonly used work classifications and wage rates as contained in the wage decision applicable to the project. The Project Wage Rate Sheet should be prepared only after the wage decision has been “locked-in” by contract award or start of construction, as applicable. The Project Wage Rate Sheet does not replace the wage decision; it is only provided as a convenience. If there is a conflict between the Project Wage Rate Sheet and the wage decision, the wage decision prevails.

LCAs can prepare a Project Wage Rate Sheet for contracts using the onscreen fillable versions in either the HUD Forms or DBLS websites. HUD DBLS staff is available to provide assistance to LCAs in preparing Project Wage Rate Sheets. HUD strongly recommends incorporation of the full wage decision text into bid solicitations and contracts, either in hard copy or by specific reference.

LCAs may develop their own labor standards file system

HUD believes that LCAs can best determine how to maintain their files provided that certain minimum requirements are met. The minimum requirements include compliance with DOL regulations that certified payrolls and basic records relating to the payrolls be preserved for no less than three years after completion of the project and the resolution of any enforcement actions that may carry over after completion. In addition, the files must be maintained in such a way that the LCA can utilize them to demonstrate its own compliance with its labor standards administration and enforcement responsibilities. For example, the LCA must, at HUD’s request, demonstrate how it has documented that the eligibility of the prime contractor was verified for each contract.

LCAs may target on-site interviews with laborers and mechanics

HUD is interested in using on-site interviews as a proactive enforcement tool rather than to meet a “representative sampling” quota. Instead of conducting interviews randomly for the sake of assembling a sample, LCAs are encouraged to target interviews to projects or groups of workers where violations are suspected or alleged. In this way, on-site interviews can be used to support a specific ongoing enforcement action. HUD realizes that this approach may mean that fewer on-site interviews may be conducted randomly; HUD considers targeting a far more efficient and effective means of utilizing on-site interview resources.

LCAS may limit payroll reviews to spot-checks and HUD-11 (Employee Interview Form) comparison

The goal: to detect falsification. HUD believes that serious violations involving underpaid workers and significant wage restitution may be overlooked because the contract administrator is overtasked with HUD-mandated payroll review minutiae. HUD recognizes that it is not possible to conduct payroll reviews in 100% of cases; therefore, it is not possible to identify and correct every discrepancy and underpayment. It is also the case that the violations disclosed behind falsified payrolls are much more egregious (both in terms of affected workers and the amount of underpayment) than violations that appear on the face of the payroll records. Accordingly, HUD has prioritized payroll reviews so that the objective is to detect falsification, and so that enforcement activities will yield the greatest impact. HUD has developed guidance on how to detect falsification through spot-checks and HUD-11 interview comparison. (See Willful Violations and Falsification Applicability in Appendix III-1.)



LCAS may limit payroll reviews to spot-checks and HUD-11 (Employee Interview Form) comparison (continued)

Routine payroll review results may be communicated to the prime contractor by telephone and documented with a record in the file. Many times, the types of deficiencies that come to the attention of the contract administrator can be handled more efficiently and just as effectively with good informal communication (e.g., a telephone call, email, etc.) with the employer/prime contractor rather than with formal letters. Examples of the types of issues that could easily be addressed informally—assuming the cooperation of both sides—include a missing payroll report or missing apprenticeship certificates, requests for employee authorizations for deductions, small underpayments that appear on the face of the payroll, and similar matters. With the prime contractor’s cooperation, these matters can be disposed of quickly with a telephone call and a brief note to the contract file documenting the call. If the employer/prime contractor does not respond appropriately to this type of communication, it may be necessary to resort to more formal means.

RESOURCE

The Department of Housing and Urban Development (HUD) one stop forms resource page.

www.hud.gov/program_offices/administration/hudclips/forms





FEDERAL LABOR STANDARDS COMPLIANCE CHECKLIST FOR DAVIS-BACON COVERED PROJECTS

RESOURCE

See LCA DBRA Checklist online at the link below:

https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/OLRLibrary

REVIEWING PAYROLLS

See Section 7 in the Contractor Addendum.

REPORTING PAYROLLS

See Section 8 in the Contractor Addendum.

PAYROLL COMPLIANCE REVIEWS AND CORRECTIONS

Compliance reviews

The contract administrator or other inspector may visit the project site and interview some of the workers concerning their employment on the project. DOL may also independently conduct its own reviews (see 10.2.2 in the Contractor Addendum). In addition, the contract administrator will periodically review payrolls and related submissions, comparing the interview information to the payrolls, to ensure that the labor standards requirements have been met. Contractors will be notified by

the contract administrator if these reviews find any discrepancies or errors, and will be given instructions about what steps must be taken to correct any problems.

On-site interviews

Every employer (contractor, subcontractor, etc.) must make their employees available for interview at the job site with the contract administrator or other agency representative (or HUD or DOL representative). The interviews are confidential and the employees will be asked about the number of hours they work, the kind of work they perform, and their rate of pay. Every effort will be made to ensure that these interviews cause as little disruption as possible to the ongoing work. The interviewer will record the interview information, usually on a form HUD-11, Record of Employee Interview, and forward the interviews to the contract administrator. Completed HUD-11s must be compared to the corresponding contractor and subcontractor certified payrolls to test and verify the accuracy of the payroll information.

RESOURCE

HUD 11 forms are available online in English and in Spanish in a fillable format via the HUD Forms website (www.hud.gov/program_offices/administration/hudclips/forms) and at the DBLS website (www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform).

Project payroll reviews

The contract administrator will compare the information on the interview forms to the corresponding payrolls to ensure that the workers are properly listed on the payrolls for the days and hours worked on the job site, work classification, and rate of pay. The contract administrator will also review the payroll submissions to make certain that the payrolls are complete and signed, that employees are paid no less than the wage rate for the work classification shown, that apprentice and trainee certifications are submitted (where needed), that employee or other authorizations for other deductions are submitted (where needed), etc. Contract administrators should be particularly alert for indications of payroll falsification—misinformation on payrolls to conceal underpayments. Falsification on payrolls indicates that a contractor or subcontractor is aware of its obligations, is knowingly underpaying its employees, and is attempting to avoid detection of the violations. See Appendix III-1 for an explanation of willful violations and falsification indicators.

Typical payroll errors and required corrections

Contract administrators must ensure the full correction of all discrepancies disclosed during compliance monitoring conducted by the LCA, HUD, or DOL. This includes the collection of documentation to demonstrate that corrective measures have been successfully completed. They must:

1. **Examine and resolve probable violations and complaints of underpayment.** Contract administrators must explore probable violations—particularly those involving falsification of payrolls and complaints alleging underpayments. In addition to the HUD-11, Record of Employee Interview, HUD has developed a questionnaire form (HUD-4730) and a complaint intake form (HUD-4731) for HUD and LCA use. The forms are available in onscreen fillable formats at the HUD forms website and via the DBLS website;
2. **Refer complex issues and/or falsification cases to HUD or DOL.** Some issues may be more complex than LCAs are able to address. HUD encourages LCAs to consult with the LSS for their area to secure appropriate guidance and support. HUD has decided, in consultation with DOL, that it will refer to DOL cases involving falsification of payrolls or related documents for DOL investigation. HUD strongly suggests that LCAs employ this strategy for cases involving falsification;
3. **Take steps to ensure the full resolution of any monetary liability that has or may be imposed for labor standards reasons.** Contract administrators must take prompt action to ensure that funds will be available to satisfy any labor standards liability that may be imposed. Actions include the withholding of contract payments due to the contractor and requiring funding for an escrow account to guarantee the satisfaction of any restitution and/or liquidated damages assessment that may be pending at contract closeout;



Typical payroll errors and required corrections (continued)

4. **Recommend debarment against repeat violators.** HUD has implemented a zero tolerance policy against contractors who are repeat violators of Davis-Bacon labor standards. The first time an employer is found in violation, the employer is required to pay full restitution to all affected workers and to pay any CWHSSA liquidated damages (for O/T violations) that may be assessed. In addition, the employer must provide written assurance of future compliance. If the employer promptly completes these corrective actions, HUD will not object if the LCA does not recommend debarment against the employer unless there are extenuating circumstances that warrant debarment. If the employer is found in violation again, the LCA must require full correction of any underpayments and payment of CWHSSA liquidated damages assessed. A debarment recommendation made by the LCA against the employer is expected; and
5. **Prepare and submit enforcement reports.** In accordance with DOL regulations (29 CFR Part 5, § 5.7), the contract administrator must prepare and submit to HUD an enforcement report in any case where an employer (contractor or subcontractor) has underpaid its employees by \$1,000 or more or where there is reason to believe that the violations are aggravated or willful, and prepare and submit to HUD semi-annual enforcement reports concerning all Davis-Bacon labor standards administration and enforcement activities involving all HUD-assisted programs. Enforcement reports cover wage underpayments by contractors and subcontractors.

Note that enforcement reports concern only wage violations associated with projects or contracts subject to the labor standards provisions of the DBRA.

Employer-specific enforcement reports

These enforcement reports are used for three general purposes. First, to report to the Secretary of Labor on Davis-Bacon enforcement actions successfully completed in the field by all federal, state, and local agencies. Second, to refer to the Wage and Hour Administrator investigative findings that are in dispute (e.g., where the employer contests findings of underpayment made against it and requests a hearing to appeal the findings). Third, to make recommendations for debarment and other sanctions and for recommendations concerning liquidated damages computed for CWHSSA O/T violations. (See Labor Relations Letter LR-92-02 for additional guidance concerning employer-based enforcement reports.)

6. **Semi-Annual Enforcement Reports.** HUD is required to furnish to DOL semi-annual reports (SARs) concerning the volume of DBRA-covered activities and the compliance and enforcement of DBRA labor standards provisions in HUD programs. The reports are due to DOL by April 30 and October 31 of each calendar year and cover the periods of October 1 through March 31 and April 1 through September 30, respectively. (See DOL regulations at 29 CFR § 5.7(b) and All Agency Memorandum 189.)



Typical payroll errors and required corrections (continued)

To prepare the SAR, HQLS (Headquarters Office Davis-Bacon and Labor Standards) collects data from the LSIS (Labor Standards Information System) and from each RLSO (Regional Labor Standards Officer), and then submits the report to DOL, which accepts electronic submittals of the semi-annual reports in lieu of paper copies at SemiAnnualReport@DOL.gov. HUD collects the reports from its client agencies and compiles a comprehensive report to DOL covering all HUD-assisted Davis-Bacon construction activity. The report may be completed onscreen, saved, and attached to an email message for submission purposes.

RESOURCE

A copy of the Semi Annual Report form (HUD 4710) and instructions (HUD4710i) for LCAs and are available at HUDClips (www.hud.gov/program_offices/administration/hudclips/forms) and at the Davis Bacon and Labor Standards Forms page (www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform).

MORE INFO

States may report directly to DOL, as the state chooses. PHAs, IHAs, and TDHEs should send data for Davis Bacon projects only; data relating to HUD determined maintenance wage rate projects or projects subject to Tribally determined wage rates (for construction or maintenance work) should not be included.



Common errors

The following paragraphs describe common payroll errors and the corrective steps that must be taken.

Inadequate payroll information

If an alternate payroll format used by an employer (such as some computer payrolls) is inadequate (e.g., does not contain all the necessary information that would be on the optional form WH-347), the employer will be asked to resubmit the payrolls on an acceptable form.

Missing identification numbers

If the first payroll on which an employee appears does not contain the employee's individually identifying number, the employer will be asked to supply the missing information. This information can be reported on the next payroll submitted by the employer if the employer is still working on the project. Otherwise, the employer will be asked to submit a correction certified payroll.

Incomplete payrolls

If the information on the payroll is not complete, for example, if work classifications or rates of pay are missing, the employer will be asked to send a correction certified payroll.

Classifications

If the payrolls show work classifications that do not appear on the wage decision, the employer will be asked to reclassify the employees in accordance with the wage decision, or the employer may request an ad-

ditional classification and wage rate (see Section 9 in the Contractor Addendum). If reclassification results in underpayment (i.e., the wage rate reported on the payroll is less than the rate required for the new classification), the employer will be asked to pay wage restitution to all affected reclassified employees (see Section 10 in the Contractor Addendum for instructions about wage restitution).

Wage rates

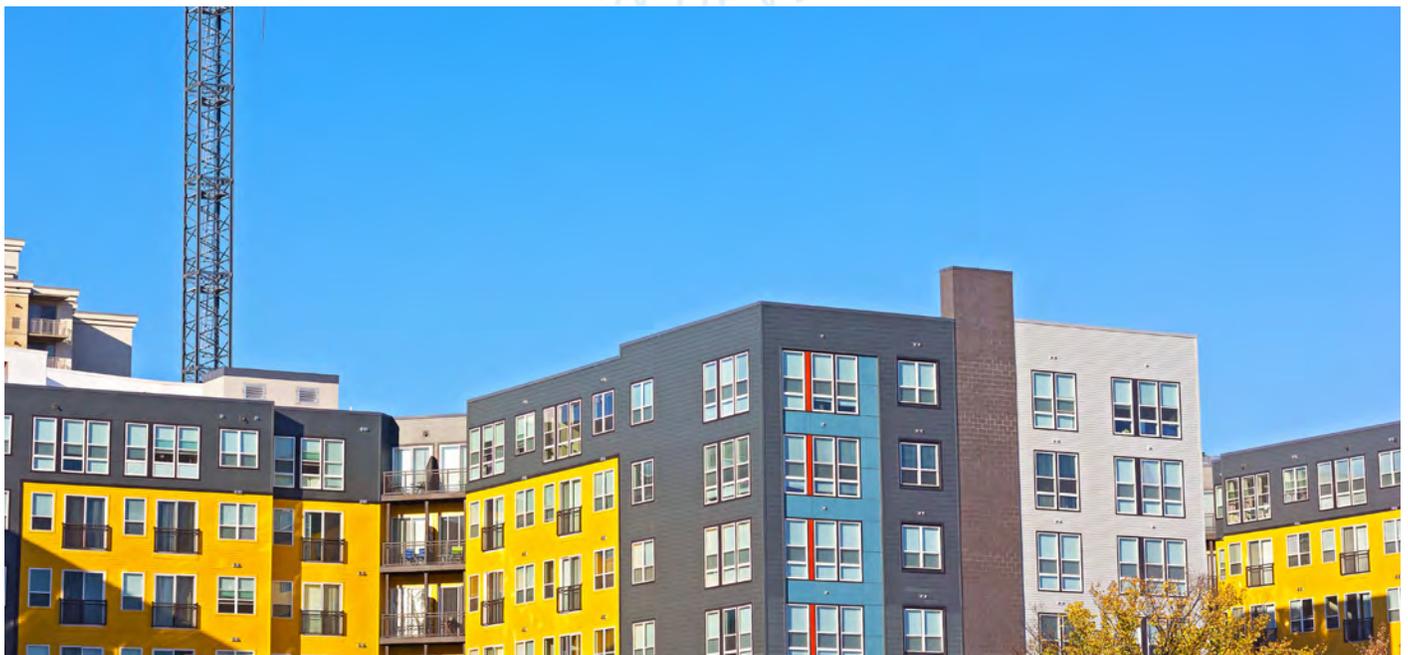
If the wage rates on the payroll are less than the wage rates on the wage decision for the work classifications reported, the employer will be asked to pay wage restitution to all affected employees.

Indications of falsification on payrolls

The greatest threat to construction workers entitled to a statutorily-mandated prevailing wage for their craft is from employers who know what is required, choose not to pay the required prevailing wage rates, and falsify CPRs to conceal the underpayments. Such willful violators see the workers' underpayment as their own gain and engage in deception to increase this gain. In addition, willful violators that successfully escape detection and are not required to pay prevailing wages will continue to bid on Davis-Bacon contracts until their violations are disclosed and administrative sanctions such as debarment are imposed.

Falsification indicators

HUD has prepared a list and explanation of four common falsification indicators that are detectable during payroll "spot-checks."



Information reported on payrolls that indicate falsification suggests willful, much more serious violations in terms of the amount of back wages that may be due and the number of employees affected.

Such cases most often warrant investigation, which can include on-site interviews, mailing questionnaires to employees, taking written statements or complaints, and other methods to gather and assess the facts of the case. See Appendix III-1 for an explanation of willful violations and falsification indicators.

Apprentices and trainees

If a copy of the employee’s registration or the approved program ratio and wage schedule are not submitted with the first payroll on which an apprentice or trainee appears, the employer will be asked to submit a copy of each apprentice’s or trainee’s registration and/or the approved program ratio and wage schedule. If the ratio of apprentices or trainees to journeymen on the payroll is greater than the ratio in the approved program, the employer will be asked to pay wage restitution to any excess apprentices or trainees. Also, any apprentice or trainee that is not registered in an approved program must receive the journeyman’s wage rate for the classification of work they performed.

Overtime

If the employees did not receive at least time and one-half for any O/T hours worked on the project, the following will occur:

1. If the project is subject to CWHSSA O/T requirements, the employer will be asked to pay wage restitution for all O/T hours worked on the project.

The employer may also be liable to the United States for liquidated damages computed at \$26 per day per violation, and indexed to increase annually. Or,

2. If the project is not subject to CWHSSA, the employer will be notified of the possible FLSA O/T violations.

Also, the contract administrator may refer the matter to DOL for further review.

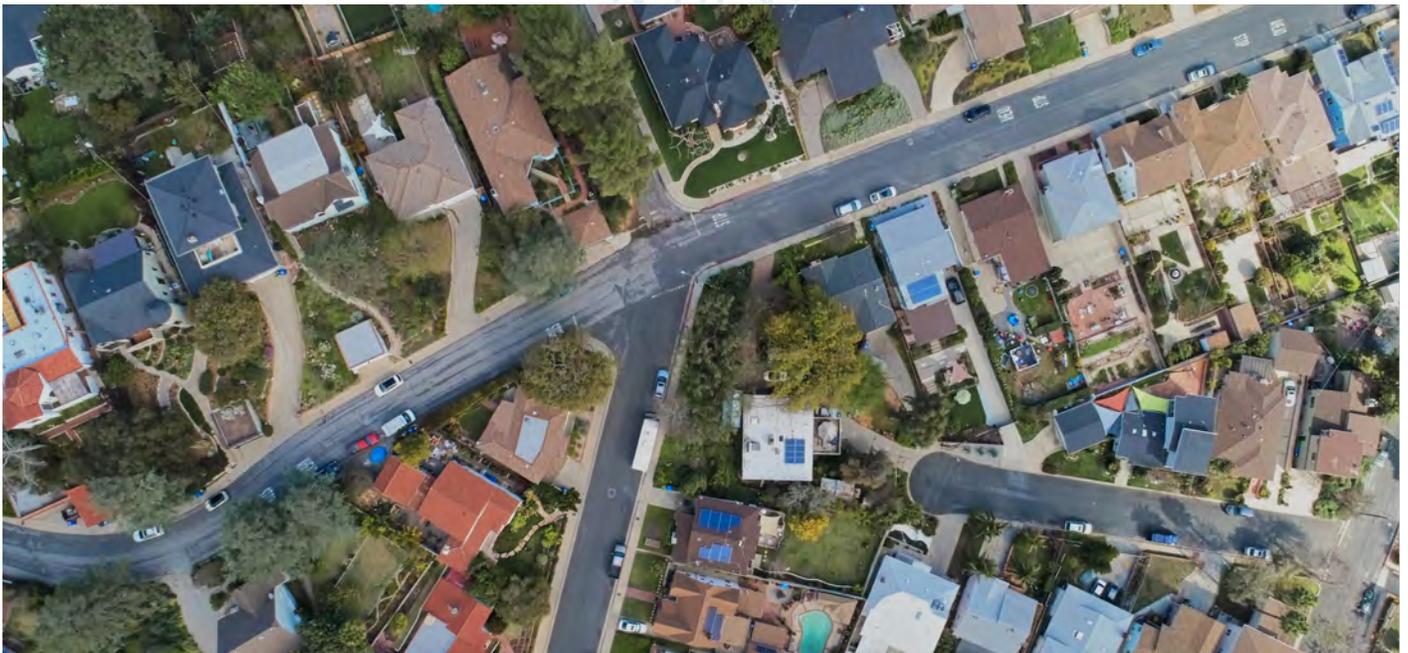
Computations

If the payroll computations (hours worked times rate of pay) or extensions (deductions, net pay) show frequent errors, the employer will be asked to take greater care. Wage restitution may be required if underpayments resulted from the errors.

Deductions

If there are any “Other” deductions that are not identified, or if employee authorization isn’t provided, or if there is any unusual (very high, or large number) deduction activity, the employer will be asked to identify the deductions, provide employee authorization, or explain unusual deductions, as necessary.

HUD does not enforce or attempt to provide advice on employer obligations to make deductions from employee earnings for taxes or Social Security. However, HUD may refer to the IRS or other responsible agency copies of CPRs that show wages paid in gross amounts (i.e., without tax deduction) for its review and appropriate action.



Fringe benefits

If the wage decision contains fringe benefits but the payroll does not indicate how fringe benefits were paid (neither 4(a) nor 4(b) is marked on the Statement of Compliance), the employer may be asked to submit correction certified payrolls and will be required to pay wage restitution if underpayments occurred.

However, if the basic hourly rates for the employees are at least as much as the total wage rate on the wage decision (basic hourly rate plus the fringe benefit rate), no correction is necessary.

Signature

If the payroll Statement of Compliance is not signed or is missing, the employer will be asked to submit a signed Statement of Compliance for each payroll affected. If the Statement of Compliance is signed by a person who is not a principal of the firm and that person has not been authorized by principal to sign, the employer will be asked to provide an authorization or to resubmit the Statement(s) of Compliance bearing the signature of a principal or other authorized signatory.

On-site interview comparisons

If the comparison of on-site interviews to the payrolls indicates any discrepancies (e.g., the employee does not appear on the payroll for the date of the interview), the employer will be asked to submit a correction CPR.

Correction certified payroll

Any and all changes to data on a submitted payroll report must be re-

ported on a certified correction payroll. In no case will a payroll report be returned to the prime contractor or employer for revision.

Restitution for underpayment of wages

Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions. All wages paid to laborers and mechanics for work performed on the project, including wage restitution, must be reported on a CPR. If a violation of labor standards requirements results in an underpayment of wages to employees, the LCA should notify the prime contractor to either make wage restitution or direct its subcontractor to do so. Where restitution amounts are in excess of \$10 per worker, the employer must attest to wage restitution paid on a correction certified payroll.

Notification to the Employer/Prime contractor

The contract administrator will notify the employer and/or prime contractor in writing of any underpayments that are found during payroll or other reviews. The contract administrator will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The employer/prime contractor is allowed 30 days to correct the underpayments. Note that the prime contractor is responsible to the contract administrator for ensuring that restitution is paid. If the employer is a subcontractor, the subcontractor will usually make the computations and restitution payments and furnish the required documentation through the prime contractor.



Notification to the Employer/Prime contractor (continued)

MORE INFO

The contract administrator may communicate directly with a subcontractor when the underpayments are plainly evident and the subcontractor is cooperative. It is best to work with the prime contractor when the issues are complex, when there are significant underpayments, and/or the subcontractor is not cooperative. In all cases, the subcontractor must ensure that the prime contractor receives a copy of the required documentation.

Computing wage restitution

Wage restitution is simply the difference between the wage rate paid to each affected employee and the wage rate required on the wage decision for all hours worked where underpayments occurred. The difference in the wage rates is called the adjustment rate. The adjustment rate times the number of hours involved equals the gross amount of restitution due. Alternatively, wage restitution may be computed by calculating the total amount of Davis-Bacon wages earned and subtracting the total amount of wages paid. The difference is the amount of back wages due.

Total hours worked times (x) adjustment rate (DB rate – rate paid)
= wage restitution due; or

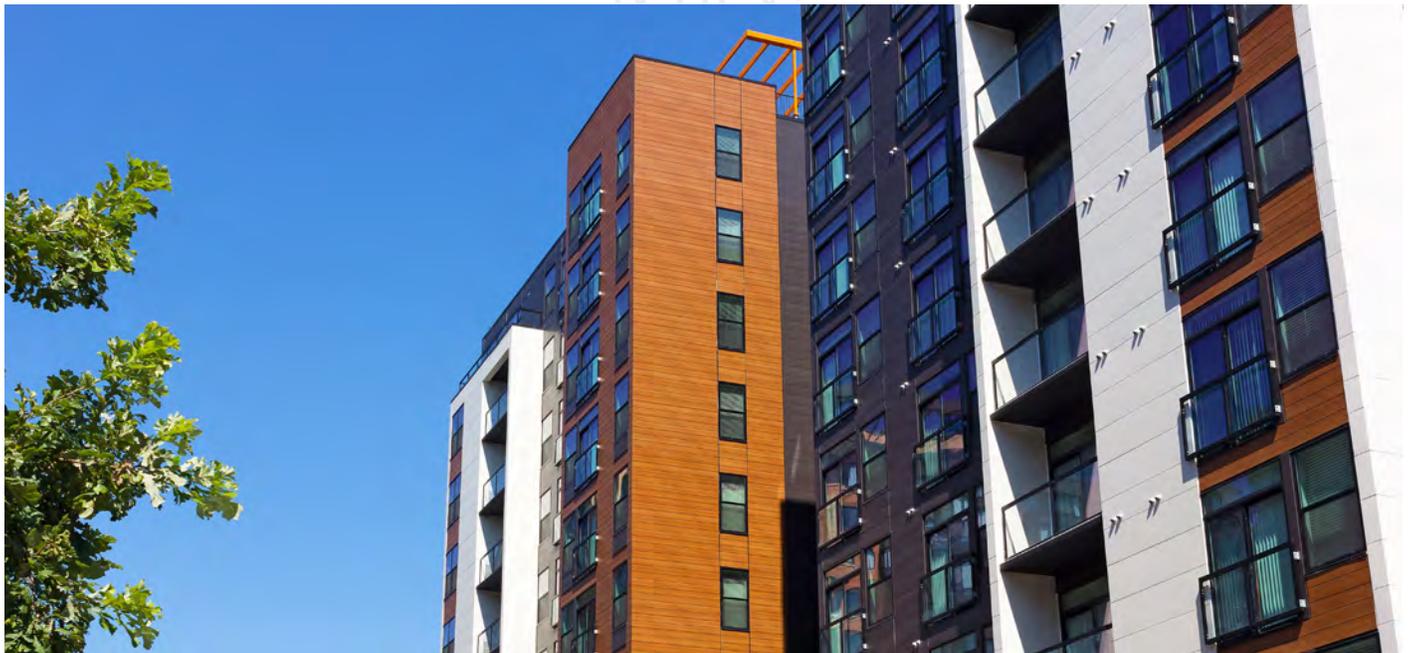
Total wages earned minus (-) total wages paid = wage restitution due.

Correction certified payrolls

The employer will be required to report the restitution paid on a correction certified payroll. The correction payroll will reflect the period for which restitution is due (e.g., Payrolls #1 through #6, or a beginning date and ending date). The correction payroll will list each employee to whom restitution is due and their work classification, the total number of work hours involved (daily hours are usually not applicable for wage restitution), the adjustment wage rate (the difference between the required wage rate and the wage rate paid), the gross amount of restitution due, deductions, and the net amount actually paid. A properly signed Statement of Compliance must accompany the correction payroll. HUD no longer requires the signature of the employee on the correction payroll to evidence employee receipt of restitution payment. In addition, except in the most extraordinary cases, HUD no longer requires employers to submit copies of restitution checks (certified, cashier's, canceled, or other) or employee-signed receipts or waivers.

MORE INFO

In the course of basic enforcement and corrections, the employer need only submit a correction CPR to evidence wage restitution paid. Other documentation such as copies of checks, copies of cancelled checks, receipts signed by the employees, employee signatures on the correction CPR, etc., is not required.



Review of correction CPR

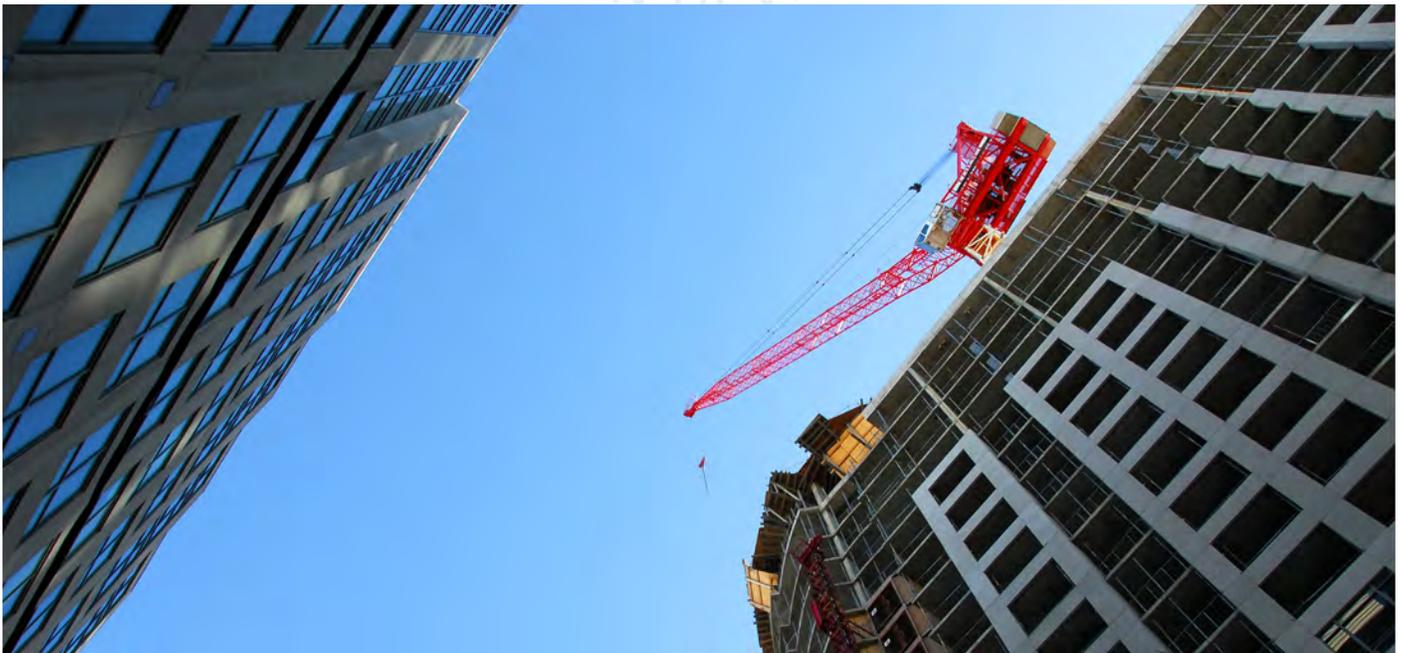
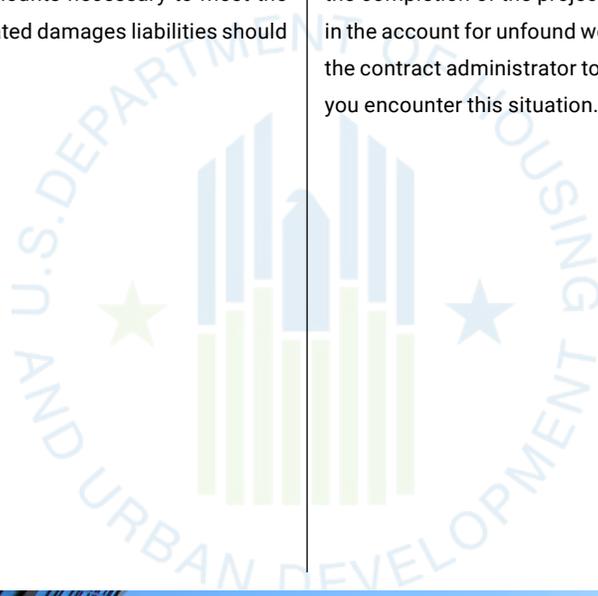
The contract administrator will review the correction certified payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any discrepancies and will be required to make additional payments, if needed, documented on a correction certified payroll within 30 days.

Withholding payments due to the contractor

If wage violations are not corrected within 30 days after notification to the prime contractor, the LCA may cause the withholding of payments due to the contractor in the amount needed to ensure the full payment of restitution and, if applicable, liquidated damages computed for CWHSSA O/T violations. Only the amounts necessary to meet the potential back wage and CWHSSA liquidated damages liabilities should be withheld.

Unfound workers

Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and cannot be located. After wage restitution has been paid to all the workers who could be located, the employer must submit a list of any workers who could not be found and paid (i.e., unfound workers), providing their name, Social Security number, last known address, and the gross amount due. In such cases, at the end of the project the prime contractor will be required to place in a deposit or labor standards escrow account an amount equal to the total gross amount of restitution that could not be paid because the employee(s) could not be located. The contract administrator will continue attempts to locate the unfound workers for three years after the completion of the project. After three years, any amount remaining in the account for unfound workers will be credited and/or forwarded by the contract administrator to HUD. Contact the HUD LSS for your area if you encounter this situation.





ADDITIONAL WORK CLASSIFICATION AND WAGE RATES

See Section 9 in the Contractor Addendum.

SANCTIONS AND RESTITUTION

See Section 9 in the Contractor Addendum.

APPENDIX

- Appendix I-1 Reorganization Plan No. 14 of 1950
- Appendix I-2 Delegations of Authority
- Appendix I-3 Labor Standards Core Work Activities
- Appendix II-1 HUD Davis-Bacon Related Acts
- Appendix II-2 Davis-Bacon Act Copeland Anti-Kickback Act
- Appendix II-3 Contract Work Hours and Safety Standards Act
- Appendix II-4 Federal Labor Standards Coverage in Major HUD Programs
- Appendix II-5 Factors of Labor Standards Applicability
- Appendix III-1 HUD's Willful Violations and Falsification Applicability
- Appendix III-2 Sample Deposit Schedule
- Appendix III-3 Sample Tax Withholding Notice
- Appendix III-4 Unfound Worker Schedule
- Appendix III-5 Refund of Deposit Memorandum Template
- Appendix IV-1 Acronyms and Symbols



DAVIS-BACON AND LABOR STANDARDS CONTRACTOR GUIDE ADDENDUM

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INTRODUCTION

This Guide has been prepared for you as a contractor performing work on construction projects that are assisted by the Department of Housing and Urban Development and subject to Davis-Bacon prevailing wage requirements. This Guide does not address contractor requirements involved in direct Federal contracting where HUD or another Federal agency enters into a procurement contract. In this latter case, the Federal Acquisition Regulations (FAR) are applicable. While the guidance contained in this Guide is generally applicable to any Davis-Bacon covered project, specific questions pertaining to direct Federal contracts should be addressed to the Contracting Officer who signed the contract for the Federal agency.

Our objective here is to provide you with a guide that is simple and non-bureaucratic yet comprehensive, and will help you better understand and comply with Davis-Bacon labor standards. HUD's Office of Davis Bacon and Labor Standards worked closely with the Department of Labor's Wage and Hour Division to make sure that the labor standards provisions in your contract and the specifics of complying with them represent the latest information. It is the Department of Labor that has general administrative oversight of all Federal contracting agencies, such as HUD, which administer the day-to-day responsibilities of enforcing Davis-Bacon provisions in construction contracts that they either fund or assist in funding.

This Guide contains six main chapters. The first chapter includes the laws and regulations associated with Federal labor standards administration and enforcement. The second chapter lists the responsibilities of contractors and of state, tribal, and local contracting agencies that administer HUD programs. The third chapter lists wage basics, including wage decisions, wage classifications, and wage rates, to provide background for the rest of the Guide. The fourth chapter discusses reviewing and reporting payrolls. The fifth chapter delves into additional work classifications and wage rates. The sixth and final chapter discusses sanctions and restitution. For further background, the DBLS Agency Guide may be used as a reference.

Finally, not all HUD construction projects are covered by Davis-Bacon wage rates. For the purpose of this Guide, we are assuming that a determination has already been made that Davis-Bacon wage rates are applicable. Should you wish assistance in determining whether Davis-Bacon wage rates apply to a particular project or if you need other related technical assistance, please consult with the HUD Labor Standards Field staff for your area.

RESOURCE

Visit the Office of Davis Bacon and Labor Standards online:
www.hud.gov/program_offices/davis_bacon_and_labor_standards

BASIC DBA DEFINITIONS

See Section 3 in the Agency Guide.



LAWS AND REGULATIONS

The Davis-Bacon Act (DBA)

The Davis-Bacon Act (DBA) requires the payment of prevailing wage rates (determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government and District of Columbia construction projects in excess of \$2,000. Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works. Most HUD construction work is not covered by the DBA itself since HUD seldom contracts directly for construction services. Most often, if DB applies to a HUD project is it because of a labor provision contained in one of HUD's "Related Acts" (see 5.9 in the Agency Guide). The Related Acts are often referred to as the Davis-Bacon and Related Acts or DBRA.

The Contract Work Hours and Safety Standards Act (CWHSSA)

CWHSSA requires time and one-half pay for overtime (OT) hours (over 40 in any workweek) worked on a covered project. The CWHSSA applies to both direct federal contracts and to federally-assisted contracts where those contracts require or involve the employment of laborers and mechanics and where federal wage standards (e.g., Davis-Bacon or HUD-determined prevailing wage rates) are applicable. CWHSSA provisions apply to all laborers and mechanics, including watchmen and guards, employed by any contractor or subcontractor. CWHSSA also applies to maintenance laborers and mechanics employed by contractors or subcontractors engaged in the operation of Public Housing Agencies (PHA), Tribally Designated Housing Entities (TDHE), and Indian Housing Agencies (IHA) developments.

Exemptions:

CWHSSA O/T provisions do not apply where the federal assistance is only in the nature of a loan guarantee or insurance.

CWHSSA O/T provisions do not apply to prime contracts of \$100,000 or less.

The Copeland Act (Anti-Kickback Act)

The Copeland 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. The Copeland Act requires every employer to submit weekly certified payroll reports, and regulates permissible payroll deductions.

The Fair Labor Standards Act (FLSA)

The FLSA governs matters such as federal minimum wage rates and O/T. These standards are generally applicable to any labor performed and may be pre-empted by other (often more stringent) federal standards such as the DBRA prevailing wage requirements and CWHSSA O/T provisions. The authority to administer and enforce FLSA provisions resides solely with DOL.

Davis-Bacon Regulations

DOL has published rules and instructions concerning Davis-Bacon and other labor laws in the Code of Federal Regulations (CFR). These regulations can be found in Title 29 CFR Parts 1, 3, 5, 6, and 7. Part 1 explains how DOL establishes and publishes DBA wage determinations (also referred to as wage decisions) and provides instructions on how to use the determinations. Part 3 describes Copeland Act requirements for payroll deductions and the submission of weekly CPRs. Part 5 covers the labor standards provisions that are in contracts relating to Davis-Bacon Act wage rates and the responsibilities of contractors and contracting agencies to administer and enforce the provisions. Part 6 provides for administrative proceedings enforcing Federal labor standards on construction and service contracts. Finally, Part 7 sets parameters for practice before the Administrative Review Board. These regulations are used as the basis for administering and enforcing the laws.

DOL Regulations are available online: www.ecfr.gov/current/title-29

Construction Contract Provisions and Labor Standards Administration

Labor standards administration involves the activities that take place primarily before construction begins. Administration sets the stage for the compliance activities that occur during the construction phase. The first and sometimes most difficult step is determining whether and to what extent Davis-Bacon wage standards apply to a particular contract or project. The Factors of Labor Standards Applicability (see Appendix II-6) should be helpful. Most HUD-assisted construction work is covered by Davis-Bacon, but there are some exceptions. The best and safest approach is to first assume that Davis-Bacon requirements will be applicable whenever the contract/project involves construction work valued in excess of \$2,000, then look more closely to see if there is any reason for non-coverage. Each contract subject to Davis-Bacon labor standards requirements must contain labor standards clauses and a Davis-Bacon wage decision. These documents are normally wound into the contract specifications.

The labor standards clauses

The contract for construction is the vehicle to ensure contractor compliance and Davis-Bacon wage enforcement. Therefore, the bid specifications and/or the contract for each project subject to Davis-Bacon wage rates must contain both a Davis-Bacon wage decision and labor standards clauses. The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the Davis-Bacon wage and reporting

requirements and with the O/T provisions of the CWHSSA (applicable only when the prime contract is valued at over \$100,000). The labor standards clauses also provide for remedies in the event of violations, including the withholding of payments due to the contractor to ensure the payment of wages or liquidated damages that may be found due, and sanctions should violations occur. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project. HUD has standard forms that contain contract clauses. For example, the HUD-92554M, Supplementary Conditions Of The Contract for Construction, which is issued primarily for FHA (Federal Housing Administration) multifamily housing and other construction projects administered by HUD; the HUD-4010, Federal Labor Standards Provisions, which is used for CDBG (Community Development and Block Grant) and HOME (HOME Investment Partnerships Program) projects; and the HUD-5370, General Conditions for Construction Contracts (construction contracts >\$150,000) or the HUD-5370-EZ, General Contract Conditions for Small Construction/Development Contracts (construction contracts >\$2,000 but ≤\$150,000) which are used for Public and Indian Housing projects. These should be wound into the contract specifications or incorporated by specific reference in the bid/contract documents (see Labor Relations Letter 96-03).



Davis-Bacon Wage Decisions

The term “wage decision” includes the original decision and any subsequent decisions that modify, supersede, correct, or otherwise change the provisions of the original decision. The term “wage decision” is used within this Guide to mean the Davis-Bacon wage decision. The terms “wage decision” and “wage determination” are used interchangeably. A wage decision is a schedule of construction work classifications, wage rates, and fringe benefits that represent the minimum rates that must be paid to workers employed in those classifications. Wage decisions are established for defined geographic areas, usually by county or group of counties, and four general characters of construction work.

RESOURCE

The Department of Housing and Urban Development (HUD) one stop forms resource page.

www.hud.gov/program_offices/administration/hudclips/forms

RESOURCE

All current Davis Bacon wage decisions can be accessed online at no cost at www.sam.gov





CONTRACTOR RESPONSIBILITIES

The principal contractor is responsible for the full compliance of all employers (the contractor, subcontractors, and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and their subcontractors, subcontractors generally should communicate with the contract administrator only through the prime contractor. (See Contract Administrator Responsibilities, below.)

CONTRACT ADMINISTRATOR RESPONSIBILITIES

The contract administrator is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements. This term is used to represent the person (or persons) who will provide labor standards advice and support to contractors and other project principals (e.g., owner, sponsor, architect), including providing the proper Davis-Bacon wage decision (see 6.1, The Wage Decision) and ensuring that the wage decision and contract clauses are incorporated into the contract for construction. The contract administrator also monitors labor standards compliance (see Section 12, Payroll Compliance Reviews and Corrections, in the Agency Guide) by conducting interviews with construction workers at the job site and reviewing payroll reports, and oversees any enforcement actions that may be required.

The contract administrator could be an employee or agent of HUD, or of a city or county or public housing agency. For HUD projects administered directly by HUD staff, usually FHA-insured multifamily projects, the contract administrator will be the HUD Labor Standards field staff. But many HUD-assisted projects are administered by local contracting agencies such as PHAs, TDHEs, and States, cities and counties under HUD's CDBG and HOME programs.

In these cases, the contract administrator will likely be local agency staff. In either case, the guidance for contractors remains essentially the same.

DOL also has a role in monitoring Davis-Bacon administration and enforcement. In addition, DOL has independent authority to conduct investigations. A DOL investigator or other DOL representative may visit Davis-Bacon construction sites to interview construction workers or review payroll information.

RESOURCE

Program technical guidance

For interpretations of program requirements or handbooks and instructions on the use of forms:

Housing Programs - See our [Contact List](#) for help.



WAGE BASICS

The Wage Decision

Davis-Bacon labor standards stipulate the wage payment requirements for skilled workers, operators, truck drivers, and laborers—for example: carpenters, electricians, plumbers, roofers, rollers, screeds, bulldozers, water wagons, dump trucks, and other construction work classifications that may be needed for the project. The Davis-Bacon wage decision that applies to the project contains a schedule of work classifications and wage rates that must be followed.

Remember, the wage decision is contained in the contract specifications along with the labor standards clauses. See 5.12 in the Agency Guide.

The work classifications and wage rates

A Davis-Bacon wage decision is simply a listing of different work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications.

You'll want to make sure that the work classifications you need are contained in the wage decision, and make certain that you know exactly what wage rate(s) you will need to pay. Some wage decisions cover several counties and/or types of construction work (e.g., residential and commercial work) and can be lengthy and difficult to read. The contract administrator (HUD Labor Standards field staff or local agency staff) is available to assist with any trouble reading the wage decision or finding the applicable work classification(s).

To make reading lengthy wage decisions easier, a contract administrator may prepare a Project Wage Sheet (HUD-4720). This sheet is a one-page transcript that will show only the classifications and wage rates for a project. A blank copy of a Project Wage Rate Sheet is provided in the Appendix.

RESOURCE

A fillable version of this form is available online at HUDClips www.hud.gov/program_offices/administration/hudclips/forms Contact the contract administrator monitoring the project for assistance with a Project Wage Rate.

Posting the wage decision, Davis-Bacon poster, and Additional Classifications wages

The prime contractor is responsible for posting a copy of the wage decision (or the Project Wage Rate Sheet), a copy of the DOL Davis-Bacon poster titled Employee Rights Under the Davis-Bacon Act (Form WH-1321), and Additional Classifications wages at the job site in a place that is easily accessible to all the construction workers employed on the project and where the wage decision and poster will not be destroyed by wind, rain, etc. The purpose of this posting is to provide information to the construction laborers and mechanics working on the project about their entitlement to the prevailing wage for their trade, and to advise them whom to contact (the contract administrator) if they have any questions or want to file a complaint.

RESOURCE

The Employee Rights Under the Davis Bacon Act poster replaces the Notice To All Employees. The new poster is available in English and Spanish online at: www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrmk13.



REVIEWING PAYROLLS

Certified Payroll Reports (CPRs)

To demonstrate compliance with labor standards requirements, each employer shall prepare, certify, and submit payroll reports for each week to the sponsor, applicant, or owner for any contract work that is performed. See 29 CFR § 5.5(a)(3)(ii) for information on CPRs.

CPR format

Employers on an FHA project are required to use the HUD-authorized Electronic Payroll System (EPS) to submit CPR reports. If an approved electronic payroll reporting system is not being used by the LCA, the employer must ensure that all information from DOL Payroll Form WH-347 is included and that the LSS can reasonably interpret it. Form WH-347 is available online at www.dol.gov/whd/forms/wh347.pdf.

Submission requirements

Each employer shall submit payroll reports beginning with the first week such employer performs work on the site of the work. Employers shall submit reports promptly following the close of each such pay week.

“No Work” payrolls

Employers are not required to submit reports for weeks during which no work was performed at the site of work, provided that the payroll reports are numbered sequentially or that the employer has provided written notice that its work on the project has been suspended.

Weekly payroll certification

Each weekly payroll submitted shall be accompanied by a “Statement of Compliance” that bears the original signature of the owner, executive/corporate officer, or a designee authorized by the owner or officer. The signature must be in ink; pencil is not acceptable. Signature stamps, photocopies, and facsimiles are not acceptable. The employer may utilize the reverse side of the DOL Payroll Form WH-347 as its Statement of Compliance or another document that contains the same language prescribed on the reverse of the WH-347.

False Submissions

The falsification of any of the above certifications may subject the employer to civil or criminal prosecution under § 1001 of Title 18 and § 231 of Title 31 of the United States Code (USC).

Payroll Review and Submission

The prime contractor should review each subcontractor’s payroll reports for compliance prior to submitting the reports to the contract administrator. Remember, the prime contractor is responsible for the full compliance of all subcontractors on the contract and will be held accountable for any wage restitution that may be found due to any laborer or mechanic that is underpaid and for any liquidated damages that may be assessed for O/T violations. All the payroll reports for any project must be submitted to the contract administrator through the prime contractor.

An alert prime contractor that reviews subcontractor payroll submissions can detect any misunderstandings early, prevent costly underpayments, and protect itself from financial loss should underpayments occur.

Payroll Retention

Every contractor (including every subcontractor) must keep a complete set of their own payrolls and other basic records—such as employee addresses and full SSNs, time cards, tax records, evidence of fringe benefit payments—for a Davis-Bacon project for at least three years after the project is completed. The prime contractor must keep a complete set of all the payrolls for every contractor (including subcontractors) for at least three years after completion of the project.

Payroll Inspection

In addition to submitting payrolls to the contract administrator, every contractor (including subcontractors) must make their own copy of the payrolls and other basic records available for review or copying to any authorized representative from HUD or DOL.





REPORTING PAYROLLS

Completing a Payroll Report

Each employer shall maintain payroll records with respect to their own workforce employed at the site of the work. The prime contractor shall maintain such records relative to all laborers and mechanics working at the site of the work during the course of the construction work for at least three years following the completion of the work. Such records shall contain:

Project and contractor/subcontractor information

Each payroll must identify the contractor or subcontractor's name and address, the project name and number, and the week ending date. Week dates must be indicated in the spaces provided. Numbering payrolls is optional but strongly recommended.

Employee information

The name and an individually identifying 4-digit number for each laborer and mechanic. Employers must always maintain each employee's address and full Social Security number (SSN) during the construction of the project and for no less than three years following completion. This information must be made available to the prime contractor, HUD, and/or the LCA upon request.

Employers (prime contractors and subcontractors) must maintain the current address and full SSN for each employee and must provide this information upon request to the contracting agency or other authorized representative responsible for Federal labor standards compliance monitoring. Prime contractors may require a subcontractor to provide this information for the prime contractor's records. DOL has modified form WH-347, Payroll, to accommodate these reporting requirements.

Work classification

Each employee must be classified in accordance with the wage decision based on the type of work they perform.

Apprentices or trainees

The first payroll on which any apprentice or trainee appears must be accompanied by a copy of that apprentice's or trainee's registration in a registered or approved program. A copy of the portions of the registered or approved program pertaining to the wage rates and ratios shall also accompany the first payroll on which the first apprentice or trainee appears.

Split classifications

For an employee that worked in a split classification, make a separate entry for each classification of work performed, distributing the hours of work to each classification accordingly, and reflecting the rate of pay and gross earnings for each classification. Deductions and net pay may be based upon the total gross amount earned for all classifications.

Hours worked

The payroll should show only the regular and O/T hours worked on one particular project. The employer must show both the daily and total weekly hours for each employee. If an employee performs work at job sites other than the project for which the payroll is prepared, those "other job" hours should not be reported on the payroll. In these cases, employers should list the employee's name, classification, hours for this project only, the rate of pay and gross earnings for this project, and the gross earned for all projects. Deductions and net pay may be based upon the employee's total earnings (for all projects) for the week.

Rate of pay

Employers must show the basic hourly rate of pay for each employee for one particular project. If the wage decision includes a fringe benefit and the employer does not participate in approved fringe benefit programs, the employer must add the fringe benefit rate to the basic hourly rate of pay, and must list the O/T rate if O/T hours were worked.

Piece-work

For any piece-work employees, the employer must compute an effective hourly rate for each employee each week based upon the employee’s piece-work earnings for that week. To compute the effective hourly rate, divide the piece-work earnings by the total number of hours worked, including consideration for any O/T hours.

The effective hourly rate must be reflected on the certified payroll. This hourly rate may be no less than the wage rate (including fringe benefits, if any) on the wage decision for the classification of work performed. It does not matter that the effective hourly rate changes from week to week, only that the rate is no less than the rate on the wage decision for the classification of work performed.

Remember, the O/T rate is computed at one and one-half times the basic rate of pay plus any fringe benefits. For example, if the wage decision requires \$10/hour basic plus \$5/hour fringe benefits, the O/T rate would be: $(\$10 \times 1.5) + \$5 = \$20/\text{hour}$.

Gross wages earned

Show the gross amount of wages earned for work performed on a particular project. Note: Employees with work hours and earnings on other projects may show gross wages for a particular project over gross earnings from all projects (e.g., \$425.40/\$764.85) and base deductions and net pay on the “all projects” earnings.

Deductions

Show the amounts of any deductions from the gross earnings. “Other” deductions should be identified (e.g., Savings Account or Loan Repayment). Any voluntary deduction (i.e., not required by law or by an order of a proper authority) must be authorized in writing by the employee or provided for in a collective bargaining (union) agreement. A short note signed by the employee is all that is needed and should accompany the first payroll on which the other deduction appears. The note needs to show the type, amount, and frequency of the deduction. A new deduction authorization is required when any of the aforementioned items change.

MORE INFO

Only one employee authorization is needed for recurring (e.g., weekly) “other” deductions. Written employee authorization is not required for income tax and Social Security deductions.



Net pay

Show the net amount of wages paid.

Statement of Compliance

The Statement of Compliance is the certification. It is located on the reverse side of a standard payroll form (WH-347). Employers must be sure to complete the identifying information at the top, particularly if attaching the Statement of Compliance to an alternate payroll form such as a computer payroll. Also, the employer must check either 4(a) or 4(b) if the wage decision contains a fringe benefit. Checking 4(a) indicates that the employer is paying required fringe benefits to approved plans or programs; and 4(b) indicates that the employer is paying any required fringe benefit amounts directly to the employee by adding the fringe benefit rate to the basic hourly rate of pay. If the employer is paying a portion of the required fringe benefit to programs and the balance directly to the employee, the employer must explain those differences in box 4(c).

Signature

For paper payrolls submitted, the payroll is signed with an original signature in ink. The payroll must be signed by a principal of the firm (owner or officer such as the president, treasurer, or payroll administrator) or by an authorized agent (a person authorized by a principal in writing to sign the payroll reports). Signature authorization (for persons other than a principal) should be submitted with the first payroll signed by such an agent. For paper payrolls, signatures in pencil, signature stamps, Xerox copies, PDFs, and other facsimiles are not acceptable.

MORE INFO

Only one Statement of Compliance is required for each employer's weekly payroll no matter how many pages are needed to report the employee data.





ADDITIONAL WORK CLASSIFICATION AND WAGE RATES

After contract award, if it is determined that additional work classifications are required because the wage decision lacks all the necessary classifications and wage rates, the prime contractor and, if applicable, its subcontractors employing workers in such classifications shall request an additional work classification and propose a wage rate and fringe benefits for such classification on form SF-1444, Request for Authorization of Additional Classification and Rate. The contractor or subcontractor shall make its request for a final decision through the LSS or LCA, as appropriate, to DOL at whd-cbaconformance_incoming@dol.gov. The LSS/LCA shall assist the employer in preparing the request and, if necessary, provide guidance on the policies and procedures involved.

Note: Additional work classifications and wage rates may be requested only after the effective wage decision “lock-in” date. (See DOL Regulations at 29 CFR Part 5 § 5.5(a)(1)(ii).)

Additional Work Classification and Wage Rate Parameters

Signature

Additional work classifications must be signed by DBLS for FHA-insured projects managed by HUD and signed by the LCA contracting officer for projects managed by LCAs, then forwarded to DOL with the applicable wage decision where:

The requested work classification is used in the area of the project by the construction industry;

The work that will be performed by the requested work classification is not performed by a work classification that is already contained within the applicable wage decision;

The proposed wage rate for the requested work classification bears a reasonable relationship to the wage rates on the wage decision; and

The workers that will be employed in the requested work classification (if it is known who the workers are or will be) or the workers’ representatives agree with the proposed wage rate.

General guide

The wage rate and fringe benefits proposed for any classification must be in accordance with the guidance available in All Agency Memorandum 213. The proposed wage rate and fringe benefits should bear a reasonable relationship to the entirety of the rates within the relevant category. There are four basic categories: skilled crafts, laborers, truck drivers, and power equipment operators. Additional classifications proposed for power equipment operators must specify the type(s) of power equipment involved.

Making the Request

Although a request for additional work classification and wage rate may be prompted following an LSS/LCA review, the proposal must originate with the prime contractor/employer that will utilize the work classification. The prime contractor/employer must submit the request in writing. A basic request must identify the contract/project involved, the work classification requested, and the wage rate, including any bona fide fringe benefits proposed. In some cases, it may be necessary for the prime contractor/employer to describe the work that the requested work classification would perform. The prime contractor/employer should use form SF-1444, Request for Authorization of Additional Classification and Rate, to submit the request.

LSS/LCA Review of Request

The LSS/LCA will review the prime contractor/employer’s request to determine if it satisfies the approval criteria at 5.12.1.9.2. The LSS/LCA will contact the prime contractor/employer if clarification or additional information is needed to complete the review.

Signing the request, reporting to DOL

If the LSS/LCA review finds that the requested work classifications and wage rate/fringe benefits meet the criteria at 5.12.1.9.2, the LSS/LCA submits the completed SF-1444, related documentation, and the applicable wage decision to the DOL National Office for final decision using DOL’s dedicated email address:

whd-cbaconformance_incoming@dol.gov.

Disagreement with the request; referring for DOL decision

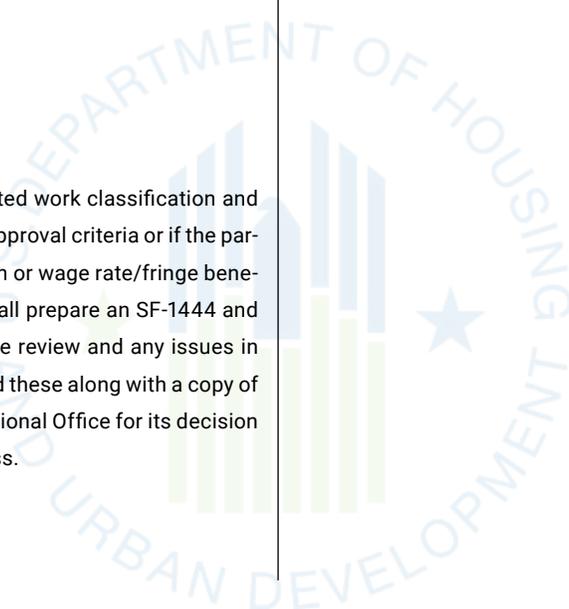
If the LSS/LCA review finds that the requested work classification and wage rate/fringe benefits fails to meet the approval criteria or if the parties do not agree on the proper classification or wage rate/fringe benefits for the work described, the LSS/LCA shall prepare an SF-1444 and a written report explaining the results of the review and any issues in dispute among the parties, and shall forward these along with a copy of the applicable wage decision to the DOL National Office for its decision using the same dedicated DOL email address.

DOL decision

DOL regulations permit 30 days for DOL to respond to the SF-1444. DOL will notify the LSS/LCA in writing of its decision.

DOL approval

When DOL approves the requested additional work classification and wage rate/fringe benefits, the LSS/LCA shall provide a copy of the DOL notice of approval to the prime contractor/employer with instructions that the additional work classification and wage rate/fringe benefits must be posted on the job site with the wage decision.



DOL disapproval

When DOL disapproves the requested work classification and wage rate/fringe benefits, DOL will notify the LSS/LCA in writing of the reasons why the request cannot be approved. DOL may also indicate what work classifications/wage rate/fringe benefits could be approved for the work involved if a modified request is submitted.

Notification to the prime contractor/employer

The LSS/LCA will notify the prime contractor/employer in writing of the results of the LSS/LCA review and/or DOL decision and provide a copy of the DOL notice.

Requests for DOL reconsideration

The LSS/LCA, the prime contractor/employer, or other interested parties may request reconsideration of the DOL decision on a requested additional work classification and wage rate/fringe benefits. Such requests must be made in writing accompanied by a full statement of the interested party's views and any supporting wage data or other pertinent information.





SANCTIONS AND RESTITUTION

Introduction

Even in the best of circumstances, things can go wrong. In a Davis-Bacon context, “things going wrong” usually means there’s a difference of opinion or a dispute about whether and to what extent underpayments have occurred. These disputes are usually between the contract administrator and one or more employers (the prime contractor and/or a subcontractor). The dispute may involve something simple such as an additional classification request that is pending before DOL, or something as significant as investigative findings following a complaint of underpayment. This chapter discusses some of the things you might expect, and what you can do to make your views known and to lessen any delays in resolving the problem or issue.

Administrative Review on Labor Standards Disputes

The labor standards clauses in the contract and DOL regulations provide for administrative review of issues where there is a difference of views between the contract administrator and any employer. The most common circumstances include:

Additional classifications and wage rates

Additional classification and wage rate requests are sometimes denied by DOL. An employer that is dissatisfied with the denial can request reconsideration by the DOL Wage and Hour Administrator. The employer may continue to pay the wage rate, as requested, until a final decision is rendered on the matter. When the final decision is known, the employer will be required to pay any additional wages that may be necessary to satisfy the wage rate that is established.

Reconsideration

DOL normally identifies the reasons for denial in its response to the request. Any interested person (e.g., the contract administrator, employer, or representatives of the employees) may request reconsideration of

the decision on the additional classification request.

The request for reconsideration must be made in writing and must thoroughly address the denial reasons identified by DOL. Employer requests for reconsideration should be made through the contract administrator but may be made directly to DOL. (See DOL Regulations 29 CFR § 1.8.) All requests initiated by or made through the contract administrator or HUD must be submitted through HQLS (Headquarters Office Davis-Bacon and Labor Standards).

Administrative Review Board

Any interested party may request a review of the Administrator’s decision on reconsideration by DOL’s Administrative Review Board. DOL regulations 29 CFR Part 7 explain the procedures for such reviews. (See also 29 CFR § 1.9.)

Findings of underpayment

Compliance reviews and other follow-up enforcement actions may result in findings of underpayment. The primary goal in every case and at every step in this process is to reach agreements about who may have been underpaid and how much wage restitution may be due, and to promptly deliver restitution to any underpaid workers. The contract administrator will usually work informally with employers to reach such agreements.

Rulings and interpretations unrelated to findings of underpayment

DOL is the authority for rulings and interpretations unrelated to findings of underpayments. This includes disputes concerning the prevailing wage rates as determined by DOL, DBRA applicability, character of work decisions, and interpretation and application of DOL regulations at 29 CFR Parts 1, 3, and 5. These and other such matters must be referred to the DOL Wage and Hour Administrator for their ruling and/or interpretation per 29 CFR § 5.13. Any request for a ruling or an interpretation from the DOL Administrator via DBLS must be submitted through HQLS with a copy to the local LSS.

Disputes concerning findings of underpayment

Underpayments usually occur when a contractor or subcontractor does not properly pay wages according to the approved wage determination and it has been identified as part of a Davis-Bacon and DBLS enforcement action. There may be other situations that also create underpayments, and they can originate from the employer, prime contractor, or any other interested party. Any underpayment decision by DBLS will include a formal decision letter with a Notice of Right to Appeal.

DOL review

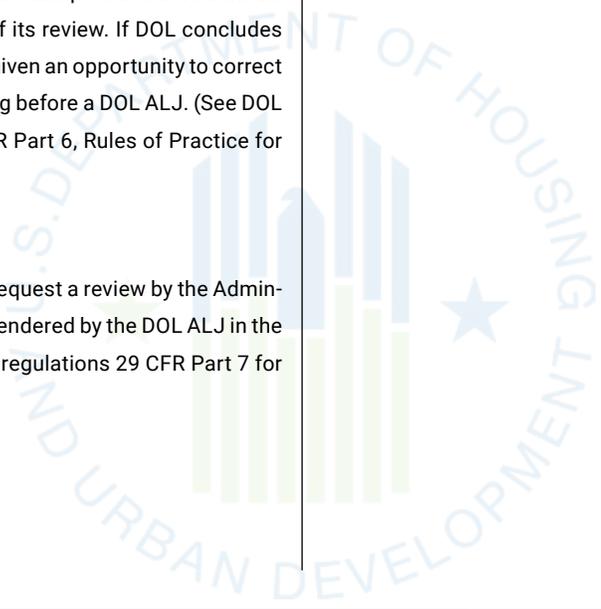
DOL will review the contract administrator’s report and the arguments against the findings presented in the hearing request. DOL may affirm or modify the findings based upon the materials presented. You will be notified in writing by DOL of the results of its review. If DOL concludes that violations have occurred, you will be given an opportunity to correct any underpayments or to request a hearing before a DOL ALJ. (See DOL Regulations 29 CFR § 5.11 (b) and 29 CFR Part 6, Rules of Practice for Administrative Proceedings.)

Administrative Review Board

Contractors and/or subcontractors may request a review by the Administrative Review Board of the decision(s) rendered by the DOL ALJ in the administrative hearing process. See DOL regulations 29 CFR Part 7 for more information about this proceeding.

Withholding

The contract administrator shall cause the withholding of payments due to the prime contractor to ensure the payment of wages that are believed to be due and unpaid (e.g., if wage underpayments or other violations are not corrected within 30 days after written notification to the prime contractor). DOL may also direct the withholding of contract payments for alleged wage underpayments. Withholding is serious and is not taken unless warranted. If withholding is deemed necessary, the contractor will be notified in writing. Only the amounts needed to meet the contractor’s (and/or subcontractors’) liability shall be withheld.



Deposits and Escrows

In some situations, certain labor standards issues are not or cannot be resolved in time to meet project closeout schedules. In order to permit a final closing/closeout to proceed while certain labor issues are outstanding, a deposit account (HUD-administered projects, e.g. multifamily housing-insured and grant programs) or an escrow account (LCA-administered projects, e.g., CDBG, HOME, HOPE VI (Housing Opportunities for People Everywhere)) may be established as a guarantee to ensure the payment of any wages that have been or may be found due to workers that were employed in the construction of the project. Deposit and escrow accounts may also hold fringe benefits payments that are due to plans or programs and/or liquidated damages that are assessed for violations of CWHSSA O/T provisions. The deposit or escrow account is controlled by the contract administrator. When a final decision is rendered, the contract administrator makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

MORE INFO

Remember, the prime contractor is responsible and will be held liable for any wage restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors and any lower-tier subcontractors. See 3.2, Responsibilities of the Principal Contractor, and 12.4, Restitution for Underpayment of Wages, in the Agency Guide.

Where the parties have agreed to amounts of wage restitution that are due, but the employer hasn't furnished evidence yet that all the underpaid workers have received their back wages (e.g., unfound workers)

The amount of the deposit is equal to the total gross amount of restitution due to workers lacking payment evidence. As these workers are paid and proper documentation is provided to the contract administrator, amounts corresponding to the documented payments are returned to the depositor. Amounts for any workers who cannot be located are held in the deposit/escrow account for three years and disposed as described in Section 11.4.1 of this Guide;

Sometimes, wage restitution cannot be paid to an affected employee because, for example, the employee has moved and cannot be located. After wage restitution has been paid to all the workers who could be located, the employer must submit a list of any workers who could not be found and paid (unfound workers). See 12.4.6 in the Agency Guide for more information.

Where underpayments are suspected or alleged and an investigation has not yet been completed

The deposit is equal to the amount of wage restitution and any liquidated damages, if applicable, that are estimated to be due. If the final determination of wages due is less than the amount estimated and placed in the escrow account, the escrow will be reduced to the final amount and the difference will be returned to the depositor. If the parties agree to the investigative findings, the amounts due to the workers will be paid by the employer. As these workers are paid and proper



documentation is provided to the contract administrator, the gross amounts corresponding to the documented payments are returned to the depositor;

If the employer is unable to make the payments to the workers (e.g., lacks the funds necessary), the contract administrator may make disbursements directly to the workers in the net amounts calculated by the employer. The amounts withheld from the workers for tax deduction will be returned to the employer as payments to workers are made. The employer shall be responsible for reporting and transmitting withholdings to the appropriate agencies.

If the employer is not cooperating in the resolution, the contract administrator shall make disbursements to the workers in accordance with the schedule of wages due. Amounts for unfound workers will be retained as described in Section 13.4.6 in the Agency Guide.

If the parties do not agree and an administrative hearing is requested, the escrow will be maintained.

MORE INFO

Remember, if you have any questions or need assistance concerning labor standards requirements, help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Standards staff in your area.

Where the parties are waiting for the outcome of an administrative hearing that has been or will be requested contesting a final determination of wages due

The deposit shall be equal to the amount of wage restitution and liquidated damages, if applicable, that have been determined due. Once a final decision is rendered, disbursements from the escrow account are made in accordance with the decision.

Administrative Sanctions

Contractors and/or subcontractors that violate the labor standards provisions may face administrative sanctions imposed by HUD and/or DOL.

DOL debarment

Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the DBRA will be ineligible (debarred) to participate in any DBRA or Davis-Bacon Act contracts for up to three years. Debarment includes the contractor or subcontractor and any firm, corporation, partnership, or association in which the contractor or subcontractor has a substantial interest. Debarment proceedings can be recommended by the contract administrator or initiated by DOL. Debarment proceedings are described in DOL regulations 29 CFR § 5.12.

HUD sanctions

HUD sanctions may include Limited Denials of Participation (LDPs), debarments, and suspensions.



Limited Denial of Participation

HUD may issue to the employer an LDP, which prohibits the employer from further participation in HUD programs for a period of up to one year. The LDP is usually effective for the HUD program in which the violation occurred and for the geographic jurisdiction of the issuing HUD Office. HUD regulations concerning LDPs are found at 24 CFR §§ 24.700-24.714.

Debarment and suspensions

In certain circumstances, HUD may initiate its own debarment or suspension proceedings against a contractor and/or subcontractor in connection with improper actions regarding Davis-Bacon obligations. For example, HUD may initiate debarment where a contractor has been convicted for making false statements (such as false statements on certified payrolls or other prevailing wage certifications), or initiate suspension where a contractor has been indicted for making false statements. HUD regulations concerning debarment and suspension are found at 24 CFR Part 24.

Falsification of Certified Payroll Reports

Cases that involve certified payroll falsification may be referred to DOL for its investigation at the outset or referred to DOL for administrative review/hearings or other sanctions.

All referrals suggesting consideration for criminal prosecution must be submitted through the established hierarchy:



States may submit any such recommendation to DOL directly.

MORE INFO

Remember, if you have any questions or need assistance concerning labor standards requirements, help is always available. Contact the contract administrator for the project you're working on or the HUD Field Labor Standards staff in your area.



Electronic Systems User Guide for Sub-Contractors (and sub-tier contractors)



Please send suggestions for changes, additions, or deletions to:
U.S. Department of Housing and Urban Development
Office of Labor Standards and Enforcement
Region VI
801 Cherry Street, Suite 2500
Fort Worth, Texas 76102

Updated 4/25/16

NOTE: This is a locally developed document and is not an "official" document. It is intended to only be a guide for navigating through the Elation System



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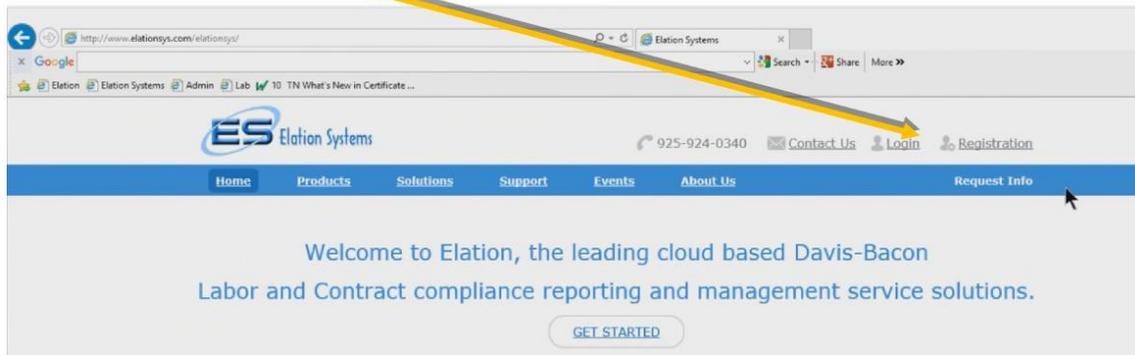
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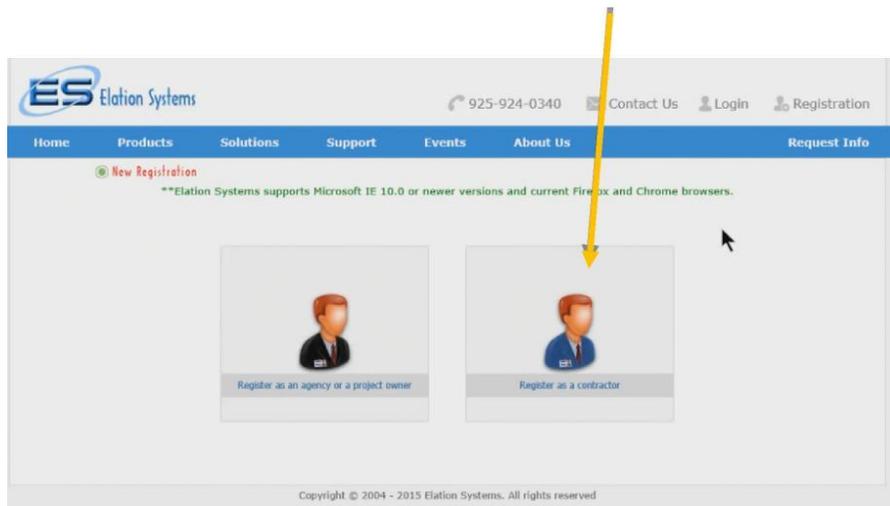
HUD Davis-Bacon Electronic Payroll Certification Submissions Training

Step One: Registering Your Account

1. Log onto Elation's website at www.elationsys.com.
2. Click on the **"Registration"** link in the top right hand corner of the window.



3. Once on the new registration page, select **"Register as a contractor."**





- This will take you to the following screen: “New Registration as a Contractor.”

New Registration
**Elation Systems supports Microsoft IE 10.0 or newer versions and current Firefox and Chrome browsers.

Promotion Code
Promotion Code: *

Business Information
Company Name: *

- In the “Promotion Code” box, to find which code to use, please check the following map to see what HUD region you are in. Then use the Roman numeral for your region in the promo code, e.g., if your project is in **Kansas, Iowa, Missouri, or Nebraska** you are in **Region 7**, and the promo code would be **HUD-VII-2015**.





6. Once you find your region, enter the following code, exactly as written: “HUD-XX(X)-2015.” This promo code lets Elation know you are using the system free of charge.

New Registration
**Elation Systems supports Microsoft IE 10.0 or newer versions and current Firefox and Chrome browsers.

Promotion Code
Promotion Code:

Business Information

Company Name: *

Federal ID No: * (Example: 90-0123456)

DUNS No: (Example: 123456789)

Contractor License Number:

Contractor License Issued By: <-Select State->

Services: No Services Selected [Select Services](#)

Address1: *

Address2:

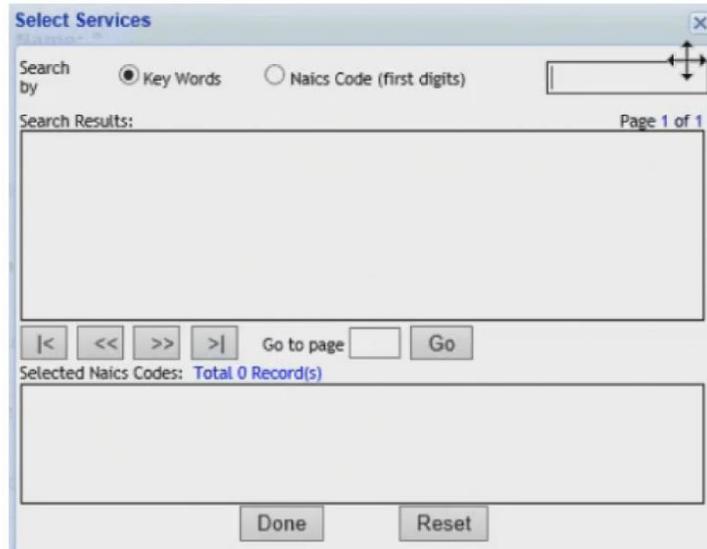
7. If you enter the wrong promo code, Elation will check to see what region you are in and will change it if necessary. Also, if you are a contractor who has locations nationwide, and will be working in more than one region, you will need to create an account for each region.
8. Then follow through each step by adding “**Company Name**,” “**Federal Tax ID Number**,” “**Address**” and “**Zip Code**.” By entering the “**Zip Code**,” the “**City**” and “**State**” will be automatically entered for you.
9. The only other required field is the “**Business Phone Number**.” All other fields (with no asterisk (*)) are optional.)
10. The next step is to enter your NAICS Code, or the services your company provides. Click on the “**Select Services**” hyperlink.

Contractor License Issued By: <-Select State->

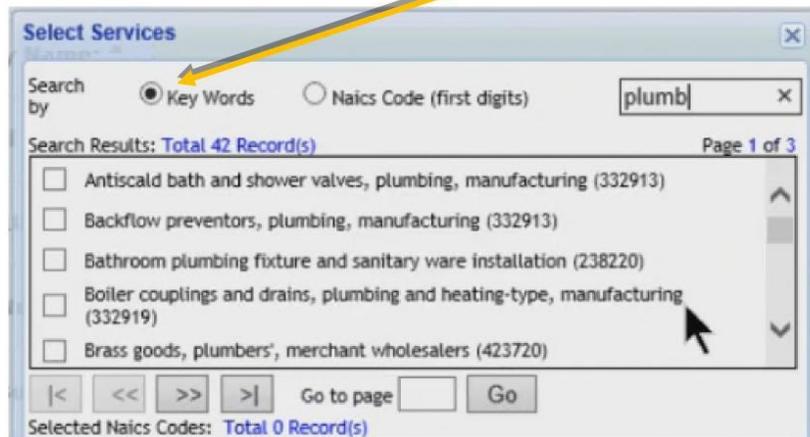
Services: * No Services Selected [Select Services](#)



11. This will bring up the “Select Services” box:



12. In the search box, you can search your services two ways: “Key Words” or “NAICS Code.” To search by “Key Words”, type the first couple of letters of services you provide. As an example, start with “plumbing.” This will pull up all services to do with plumbing.





13. Select your type of services by checking the box next to it. That will put your service in the **“Selected NAICS Codes”** box.

Select Services

Search by: Key Words Naics Code (first digits)

Search Results: Total 43 Record(s) Page 1 of 3

- Fittings and valves, plumbers', merchant wholesalers (423720)
- Flush valves, plumbing, manufacturing (332913)
- Plumbers (238220)
- Plumbers' apprenticeship training (611513)
- Plumbers' brass goods merchant wholesalers (423720)

Selected Naics Codes: Total 1 Record(s)

238220 Plumbers

Done Reset

14. You can then select more services, or click **“Done”**.
15. Now you will see the services you selected on the main screen. This is a required (*) field.

Services: * 238220 (1) [Select Services](#)

16. Then continue to add in your contact information. All of which are required (*) fields.

Administrative Contact Information

First Name: *

Last Name: *

Email: *

Phone: * -

Previous **Next**



17. Now click "Next".
18. On the next page, enter a "Secondary Contact." This is required (*) so you will have a back up to access your Elation account.

Secondary Contact Information		<input type="checkbox"/> Same as business information
First Name: *	<input type="text"/>	
Last Name: *	<input type="text"/>	
Address1: *	<input type="text"/>	
Address2:	<input type="text"/>	
Zip Code: *	<input type="text"/> (Example: <input checked="" type="radio"/> 12345 <input type="radio"/> 12345-6789)	
City: *	N/A	
State Code: *	N/A	

11. Once this is complete, move on to creating your log-in information. Enter your "Company Contact Email Address," what you want to be your "Login Name," and "Password."

Login Information	*This information will be required when you log into your ES account.
Company Contact Email Address: *	<input type="text"/>
Your Desired Login Name: *	<input type="text"/>
Login Password: *	<input type="password"/>
Confirm Password: *	<input type="password"/>

- Clicking the SUBMIT button will start your registration process with Elation Systems, Inc.
- You will receive an email to confirm your registration shortly.
- Please read and follow instructions in the email.
- Please check your JUNK MAILBOX as this email will be coming to you from noReply@elationsystems.com.
- Need Assistance, Click [here](#)

I have read and understood the service agreement.



20. The password you select must adhere to the following conventions and you will get a green circle beside each convention when correct.

Password must:

- Be at least 6 characters
- Have at least one lowercase characters of (a through z, sharp-s, with diacritic marks, Greek and Cyrillic characters)
- Have at least one uppercase characters of (A through Z, with diacritic marks, Greek and Cyrillic characters)
- Have at least one base 10 digits (0 through 9)
- Have at least one nonalphanumeric characters: ~!
@#\$%^&*_-+=`|\(){}[];'"<>.,?/

ES.COM

21. Once Password is confirmed, click on the link to read the **“Service Agreement:”**

Login Information *This information will be required when you log into your ES account.

Company Contact Email Address: *	<input type="text"/>
Your Desired Login Name: *	<input type="text"/>
Login Password: *	<input type="password"/>
Confirm Password: *	<input type="password"/>

- Clicking the SUBMIT button will start your registration process with Elation Systems, Inc.
- You will receive an email to confirm your registration shortly.
- Please read and follow instructions in the email.
- Please check your JUNK MAILBOX as this email will be coming to you from noReply@elationsystems.com.
- Need Assistance, Click [here](#)

[I have read and understood the service agreement.](#)



22. Read the service agreement.

Master Subscription Service Agreement

BY CLICKING THE "ACCEPT" BUTTON DISPLAYED AS PART OF THE ORDERING PROCESS, YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS (THE "AGREEMENT"), GOVERNING YOUR USE OF ELATION SYSTEMS' (THE "ELATION SYSTEMS") ONLINE SERVICE (THE "SERVICE"). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST SELECT THE "I DECLINE" BUTTON AND MAY NOT USE THE SERVICE.

Welcome

As part of the Service, Elation Systems will provide you with use of the Service, including a browser interface and data encryption, transmission, access and storage. Your registration for, or use of, the Service shall be deemed to be your agreement to abide by this Agreement including any materials available on the Elation Systems website incorporated by reference herein, including but not limited to Elation Systems' privacy and security policies. For reference, a Definitions section is included at the end of this Agreement.

1. Privacy & Security

Elation Systems' privacy and security policies may be viewed at <http://www.Elation.com>. Elation Systems reserves the right to modify its privacy and security policies in its reasonable discretion from time to time. Individual users, when they initially log in, will be asked whether or not they wish to receive marketing and other non-critical Service-related communications from Elation Systems from time to time. They may opt out of receiving such communications at that time or at any subsequent time by changing their preference under Personal Settings. Note that because the Service is a hosted, online application, Elation Systems occasionally may need to notify all users of the Service (whether or not they have opted out as described above) of important announcements regarding the operation of the Service.

2. License Grant & Restrictions

Elation Systems hereby grants you a non-exclusive, non-transferable, non-sublicensable right to use the Service, solely for your own internal business purposes, subject to the terms and conditions of this Agreement. All rights not expressly granted to you are reserved by Elation Systems and its licensors.

You shall not (i) license, sublicense, sell, rent, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) create Internet "links" to the Service or "frame" or "mirror" any Content on any other server or wireless or Internet based device; or (iv) reverse engineer or access the Service in order to (a) build a competitive product or service; (b) build a product using similar ideas, features, functions or graphics of the Service; or (c) copy any ideas, features, functions or graphics of the Service. User licenses cannot be shared or used by more than one individual user but may be transferred from time to time to any Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Service.

3. Your Responsibilities

You are responsible for all activity occurring under your User accounts and shall abide by all applicable local, state, national laws, treaties and regulations in connection with your use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. You shall (i) notify Elation Systems immediately of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to Elation Systems immediately and use reasonable efforts to stop immediately any copying or distribution of Content that is known or suspected by you or your Users; and (iii) not impersonate another Elation Systems user or provide false identity information to gain access to or use the Service.

4. Account Information and Data

Elation Systems does not own any data, information or material that you submit to the Service in the course of using the Service ("Customer Data"). You, not Elation Systems, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all reported Data, and Elation Systems shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any reported Data. In the event this Agreement is terminated for any reason by either party, Elation Systems will make available to you a file of the Customer Data within 60 days of termination. If you so request at the time of termination, Elation Systems reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, your non-payment. Upon termination for cause, your right to access or use the reported Data immediately ceases, and Elation Systems shall have no obligation to maintain or forward any reported Data.

5. Intellectual Property Ownership

Elation Systems alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the Elation Systems Technology, the Content and the Service and any suggestions, ideas, enhancements requests, feedback, recommendations or other information provided by you or any other party relating to the Service. This Agreement is not a sale and does not convey to you any rights of ownership in or related to the Service, the Elation Systems Technology or the Intellectual Property Rights owned by Elation Systems. The Elation Systems name, the Elation Systems logo, and the product names associated with the Service are trademarks of Elation Systems or third parties, and no right or license is granted to use them.

6. Third Party Interactions

During use of the Service, you may enter into correspondence with, purchase goods and/or services from, or participate in promotions of advertisers or sponsors showing their goods and/or services through the Service. Any such activity, and any terms, conditions, warranties or representations associated with such activity, is solely between you and the applicable third-party. Elation Systems and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion between you and any such third-party. Elation Systems does not endorse any sites on the Internet that are linked through the Service. Elation Systems provides these links to you only as a matter of convenience, and no extent shall Elation Systems or its licensors be responsible for any content, products, or other materials not available from such sites. Elation Systems provides the Service to you pursuant to the terms and conditions of this Agreement. You recognize, however, that certain third-party providers of ancillary software, hardware or services may require your agreement to additional or different license or other terms prior to your use of or access to such software, hardware or services.

23. When done, check the box "I have read and understood the service agreement."

*This information will be required when you log into your ES account.

Company Contact Email Address: *	<input type="text"/>
Your Desired Login Name: *	<input type="text"/>
Login Password: *	<input type="password"/>
Confirm Password: *	<input type="password"/>

- Clicking the **SUBMIT** button will start your registration process with Elation Systems, Inc.
- You will receive an email to confirm your registration shortly.
- Please read and follow instructions in the email.
- Please check your JUNK MAILBOX as this email will be coming to you from NoReply@elationsystems.com.
- Need Assistance, Click [here](#)

I have read and understood the service agreement.

24. I then click "Submit."



25. By clicking on the “Submit” button, Elation will know you have registered and within 24 hours they will send you a Registration Confirmation Email that looks like this:

Please keep this e-mail for your record.

Elation Systems has received your registration. Please click the following link:
<https://www.elationsys.com/Registration/ConfirmRegistration.aspx?CN=CR-071204101225-5892> to complete your registration.

Registered For: ABC Construction, Inc.
Registration Number: CR-071204101225-5892 Registration Date: 8/12/2004 Registered By: John Dow

A subsequent account activation email will be sent once we confirmed your information.

Do not reply to this e-mail. This message was sent to you using an automated system. This e-mail alias is not monitored for replies. If you need help, please contact us through one of the methods described below.

If you have questions about your registration, contact Elation Systems through the Customer Assistance page at <http://www.elationsys.com/contactus.htm>, or call Elation Systems Customer Service, Monday through Friday between 8:00AM and 5:00PM PST at 1-925-924-0340, or email us at support@elationsystems.com.

19. Make sure you click on the link in the email. This will activate your account. By skipping this step, you will not complete the registration nor have an active Elation account.
27. Once you click on the link, within another three business days you will receive another email confirming your account activation.

Please keep this e-mail for your record.

Elation Systems has reviewed your registration.

Registered For: ABC Construction, Inc.
Registration Number: CR-071204101225-5892 Registration Date: 8/12/2004 Registered By: John Dow

Your registration has completed and your account has been activated on 8/13/2004.

Do not reply to this e-mail. This message was sent to you using an automated system. This e-mail alias is not monitored for replies. If you need help, please contact us through one of the methods described below.

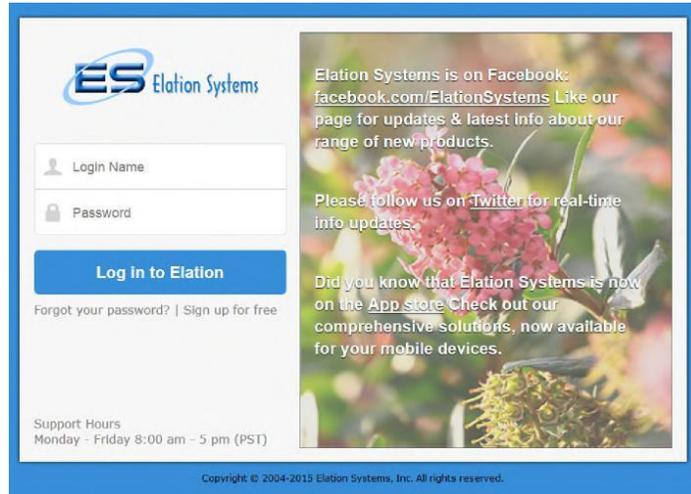
If you have questions about your registration, contact Elation Systems through the Customer Assistance page at <http://www.elationsys.com/contactus.htm>, or call Elation Systems Customer Service, Monday through Friday between 8:00AM and 5:30PM PST at 1-925-924-0340, or email us at support@elationsystems.com.

28. Once you receive this email, you can now login at Elation with the user name and password you created and set up your account. Bookmark this new link: <https://www.elationsys.com/APP/>
29. Once these steps are complete, move onto Step Two: Electronic Signature Authorization.

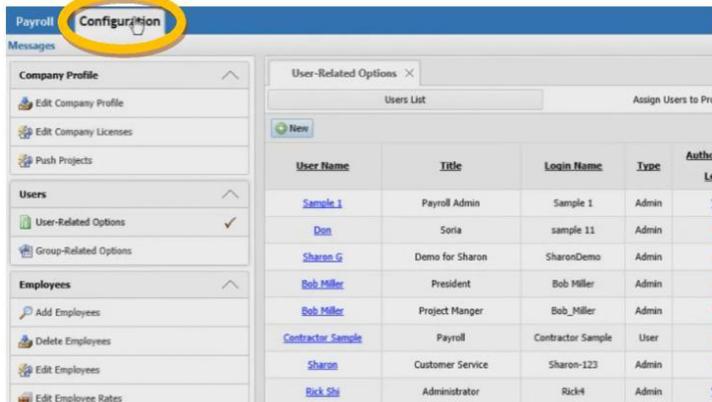


Step Two: Electronic Signature Authorization

1. Login at Elation with the user name and password you created, and start to set up your account. <https://www.elationsys.com/APP/>



13. The first time you login, you'll need to create user accounts. Select the **"Configuration"** tab at the top left of the screen.





- This screen is your **“User Related Options.”** Here you create new user accounts and **“Request Digital Signatures.”** At first the only person you should see on this page is yourself, or who you registered and activated. To use the Electronic Payroll, a digital signature is required. To get a digital signature, you need an Authorization Letter.

User Name	Title	Login Name	Type	Authorization Letter	Digital Signing	Expiration Date	Request Digital Signing
Don	Soria	sample 11	Admin	No	Not Installed		Request New (Fee: \$40)

- First, ensure each user has a **“Title.”** If there is no title in the **“User Related Options,”** click on the hyperlink that is the person’s name to edit the account.

User Info [\[Edit\]](#) Full Name: (First Name Last Name)

Login Name	HUDt	Full Name	Amy Velasquez
User Title	Admin	User Phone	(210) 475-6843
Email Address	Amy.Velasquez@hud.gov	User Type	Company Admin
Mobile APP Only	<input type="radio"/> Yes <input checked="" type="radio"/> No		
<input type="checkbox"/> Change Login Password			

[Close](#)

- Click on the [\[Edit\]](#) hyperlink to add information to the account. The editable sections will turn yellow. Add the information you need to change. You must have a title entered to acquire a digital signature. This is also where you would go to **“Change Login Password”** as well.

User Info [\[Edit\]](#) Full Name: (First Name Last Name)

Login Name	HUDt	Full Name	Amy Velasquez
User Title	Admin	User Phone	(210) 475-6843
Email Address	Amy.Velasquez@hud.gov	User Type	Company Admin
Mobile APP Only	<input type="radio"/> Yes <input checked="" type="radio"/> No		
<input type="checkbox"/> Change Login Password			

[Save](#) [Cancel](#)



- When done, click on the **“Save”** button.
- Go back to the **“Configuration Tab”** and find the user who needs a digital signature. Click on the **“Request New”** link in the **“Request Digital Signing”** column of the account you are using. (There is no fee for any HUD contractor.)

User Name	Title	Login Name	Type	Authorization Letter	Digital Signing	Expiration Date	Request Digital Signing
Don	Soria	sample 11	Admin	No	Not Installed		Request New (Fee: \$40)

- The following form letter will pop up with all the main fields pre-entered from the login information. This is what you need to print out and get your company’s principal to sign. They are the only people who can request digital signatures, and they can request for anyone they want to use the system.
- If you are the principal (e.g., owner, president, etc.) registering someone else to certify payrolls, you will only need to print out **“Section A.”**

Authorize electronic signature

INSTRUCTIONS FOR NOTARIZED LETTER

Instructions for submitting your Notarized Digital Signature Letter

- Print the letter (below the dotted line) on your company letterhead. No substitution of this letter will be accepted.
- The letter must be notarized and signed. **(Important: This document MUST be printed on company letterhead, notarized and signed before a digital signature certificate can be issued.)**
- Fax the letter and notarization to 925-924-0387, or e-mail a PDF file of your letter and notarization to: Support@elationsystems.com.
- Allow up to 48 business hours to process your digital signature certificate. Notification of your digital signature activation and install instructions will be conveyed to you via email.
- Certificates expire one year from the date of issue.
- Your company will be provided two digital signatures free of cost; additional digital signatures certificates are available at a cost.

Elation Systems Customer Support Fax (925) 924-0387 Support@elationsystems.com

Section A (Note: If you are an officer of the company, you may proceed directly to Section B)

Date: _____

Dear Sir:

- If you are the principal registering yourself only need to print out **“Section B.”**

Section B (Note: Section A needs to be completed if the person in this section is not an officer of the respective company)

Date: _____

Dear Sir:

I, Sharon G, the undersigned, am the Demo for Sharon. I confirm and warrant that I have the authority to sign and certify the certified payroll reports, labor and compliance documents based on government regulations on behalf of Elation Systems Co.

I am also declaring that I have the authority to make the above representations on behalf of Elation Systems Co.

In doing so, I understand that Elation Systems will issue me a digital certificate along with my digitized ink signature, which will ultimately enable secure communications and electronic signing.



12. Once you are sure the form is filled out properly, print it on company letterhead (either put paper in the printer, or copy or paste text to a letterhead and then print), and have your company’s principal sign it with a notary. Scan and email, using a **“Read Receipt”** in your email program to support@elationsystems.com.
13. Either way you print your letter, ensure you click on the **“Confirm”** button.

Section B (Note: Section A needs to be completed if the person in this section is not an officer of the respective company)

Date: _____

Dear Sir:

I, Sharon G, the undersigned, am the Demo for Sharon. I confirm and warrant that I have the authority to sign and certify the certified payroll reports, labor and compliance documents based on government regulations on behalf of Elation Systems Co.

I am also declaring that I have the authority to make the above representations on behalf of Elation Systems Co.

In doing so, I understand that Elation Systems will issue me a digital certificate along with my digitized ink signature, which will ultimately enable secure communications and electronic signing.

Sincerely,

Signature: _____

Full name: Sharon G

14. Now when you look at your **“User-Relation Options”** page, under digital signature it will say **“Authorization Letter”** Yes and **“Digital Signature”** Requested.

User Name	Title	Login Name	Type	Authorization Letter	Digital Signing	Expiration Date	Request Digital Signing
Don	Soria	sample 11	Admin	Yes	Not Installed		Requested

15. In three to six business days Elation will send you an email when they complete your digital signature application.
16. The email you will receive is titled **“Digital Signature Certificate – Your Company Name.”** This email has instructions to installing your digital signature:

Your signature authorization letter has been processed and the digital signature certificate has been issued to you and is ready for download and installation. Please login into your Elation Systems account by using your login ID (Your Account Name). Please Note: The certificate installation password (case sensitive) will be needed and it is xXxXxXx when prompted.



17. This email also comes with instructions to install your digital certificate. Here are the steps for *Internet Explorer* users. Please see Appendix E for Chrome users, Appendix F for Firefox users, and Appending G for Safari Users.

- a. Click on your **“Configuration”** tab at the top of your screen.



- b. Now click on your **“User Name”** to edit your account.

User Name	Title
Amy Velasquez	Owner

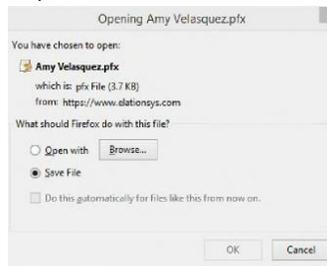
- c. Click the **[Edit]** hyperlink on your account **“User-Related Options”** page.



- d. Now your editable fields are yellow. Click on **“Download your certificate here.”**

User Info		Full Name:(First Name Last Name)	
Login Name	HUDSTest	Full Name	Amy Velasquez
User Title	Owner	User Phone	(210) 475-6043
Email Address	amy.velasquez@hud.gov	User Type	Company Admin
Mobile APP Only	<input type="radio"/> Yes <input checked="" type="radio"/> No		
<input type="checkbox"/> Change Login Password			
<input type="checkbox"/> Change Signature Password			
		Save	Cancel
Download your certificate here (instruction)			

- e. On the next screen, click on **“Save File”** and save it to your desktop.





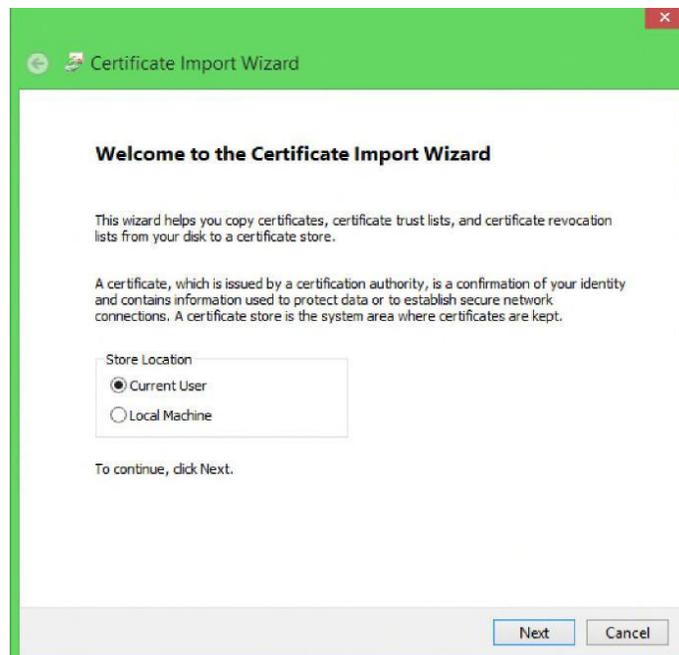
- f. Once that window closes, you'll be back at the **"User-Related Options"** page.
- g. Now your password fields will be highlighted in yellow (meaning you can edit them.) **"Change Signature Password"** and click **"Save."**

Change Signature Password

New Password	<input type="password"/>	Re-Enter New Password	<input type="password"/>
--------------	--------------------------	-----------------------	--------------------------

[Download your certificate here](#) [\(instruction\)](#)

- . Go to your desktop and find your digital signature file. It will be called **"Your Account Name.pfx"** or in the **"Type"** column, it will say **"Personal Information Exchange."** Double click on the file icon.
- a. A **"Certificate Import Wizard"** window will pop up. Select **"Current User"** if you are working on more than one networked computer, and **"Local Machine"** if you work from only one computer. Click **"Next."**





- j. Another window will pop up asking you to browse to the certificate you'd like to install. Click "Browse" and find the file on your desktop where you saved it.

File to Import
Specify the file you want to import.

- k. Once  you've located the file, click on it, and then click "Next." The Wizard will take you to a screen that will ask for the password sent in Elation's email. Type it in there. If you get an error when copying and pasting the password from the email to Elation, there may be an added space at the end of password. Delete the last character and see if that works.

Type the password for the private key.

Password:

- l. If you've tried to enter your password by either typing it in, or copying and pasting from your email, and it still doesn't work, contact Elation's Customer Support to get it fixed.
- m. The next page will ask you where you want to store the digital certificate. Choose "Automatically select the certificate store" And then click "Next."

Certificate Store

Certificate stores are system areas where certificates are kept.

Windows can automatically select a certificate store, or you can specify a location for the certificate.

- Automatically select the certificate store based on the type of certificate
- Place all certificates in the following store

Certificate store:

Browse...



- n. On the next window, click *“Finish.”* You should see the box below pop-up. If you get any other message, please call Elation to get it fixed.



- o. To finish installing your digital signature on your account, you have to set up your browser.
18. This new digital signature is good for one year. If the digital signature needs to be renewed for the same person, Elation will automatically renew it for you. If it's for another person, you need to complete the process explained above.
19. If your company will have more than one person submitting payrolls, this process needs to be accomplished for each user. There are no limits to how many people you can register on your account.
20. You will also use this page, *“User-Relation Options”* to add and remove users. Click *“New”* above the column *“User Name:”*



21. Fill out the following fields for each employee you'd like to have access to Elation.

User Info		Full Name:(First Name Last Name)	
Login Name	<input type="text"/>	Full Name	<input type="text"/>
Login Password:	<input type="password"/>		
User Title	<input type="text"/>	User Phone	<input type="text"/>
Email Address	<input type="text"/>	User Type	<input type="text" value="Company User"/>
Mobile APP Only	<input type="radio"/> Yes <input checked="" type="radio"/> No		
		Save	Cancel



22. When selecting “**User Type**,” use caution. A *Company User* can only change their account information. A *Company Admin* can change anything about your account from adding and removing users to changing the account password. It is recommended that you not give every user Admin rights, only those who have a need for it



23. Remember, everyone who is using Elation for payroll submission must go through this process: primes AND all tier subs.
24. Once these steps are complete, move onto Step Three: Adding Employees.

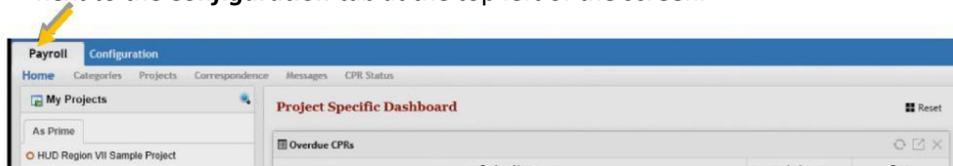


Step Three: Adding Employees

1. Login at Elation with the user name and password you created, and set up your account. Bookmark this new link: <https://www.elationsys.com/APP/>



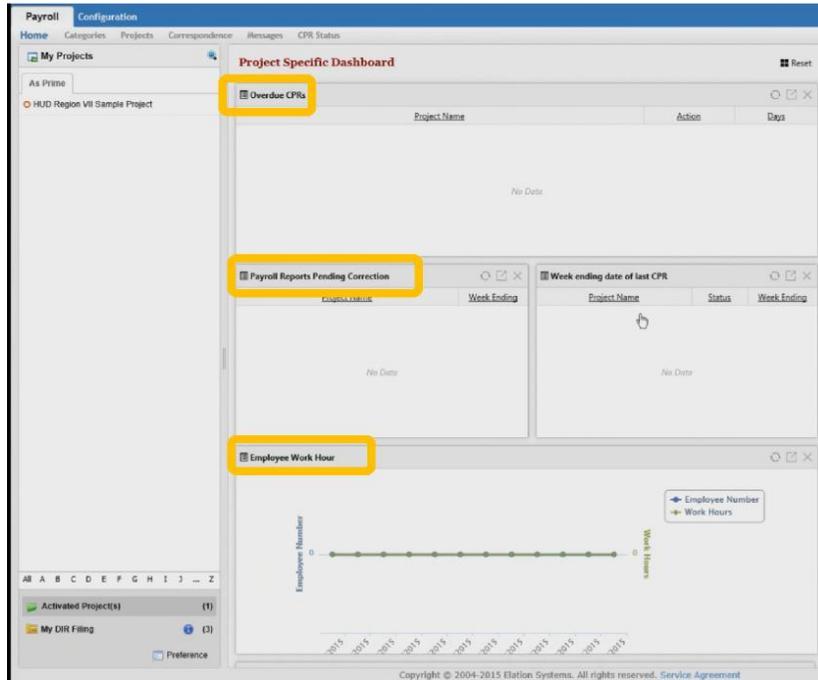
2. When you log in and have an activated project you will now see a **Payroll** tab next to the **Configuration** tab at the top left of the screen.



3. If you have no **“Payroll”** tab or cannot see a specific project that means your Prime has not connected you to that project yet. Please contact your prime to let them know you have been activated or to see if they need more information from you to add your contract.
20. On the left hand side of the screen you will see your activated project(s) under the listing for **“My Projects.”**



5. This screen is your *“Project Specific Dashboard.”* Here you can see all action regarding Certified Payrolls and that project, from *“Overdue CPRs,” “Reports Pending Correction”* and *“Employee Work Hours.”*

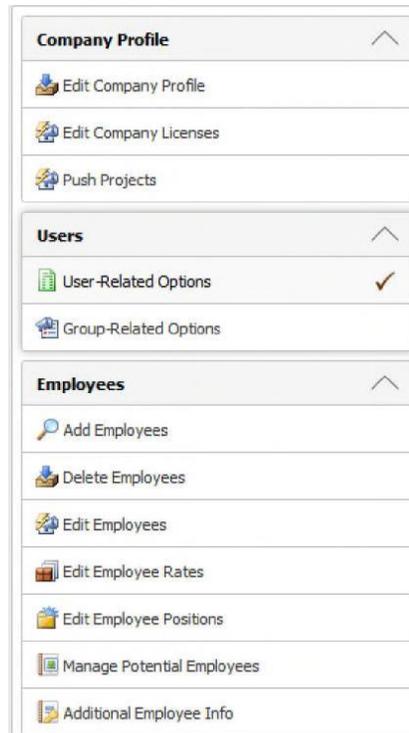


21. To add employees to your project, click on your *“Configuration Tab”* at the top of the screen.





- This will bring up the following menu on the left-hand side of the page:



- Click on the “Add Employees” link under the group “Employees.”



- This will bring up a form you can fill out for each of your employees. Most fields are not required unless you want to track information.



10. The following items circled are required.

GENERAL INFORMATION			
Assigned Employee ID:	<input type="text"/>	N/A if not available	
First Name:	<input type="text"/>	Middle Initial:	<input type="text"/>
Last Name:	<input type="text"/>	Name Suffix:	<input type="text"/>
SSN / Employee ID:	<input type="text"/>	Title:	<input type="text"/>
SSN Sample: xxx-xx-1234		Ethnicity:	<input type="text"/>
Ethnicity:	<input type="text"/>	Gender:	<input type="text"/>
Withholding Exemption:	<input type="text"/>	Home Phone #:	<input type="text"/>
EMPLOYEE HOME ADDRESS			
Address:	<input type="text"/>		
Zip:	<input type="text"/>	City:	<input type="text"/>
		State:	<input type="text"/>

11. The Apprentice Certificate is required if you have a bona fide apprentice enrolled in a Department of Labor approved training program. Otherwise leave this blank.

Worker's Certificate	
Apprentice Certificate	
Effective Date and/or Indentured is not mandatory.	Only applicable to apprentice employee.
Effective From:	<input type="text"/>
To:	<input type="text"/>
Indentured Date:	<input type="text"/>
Upload (Less than 2 MB) (or just drag file(s) on this button and drop)	

- 12. Set up all your employees using these steps.
- 13. Once you have set up your employees, move on to Step Four: Payroll Reporting.



Step Four: Payroll Reporting

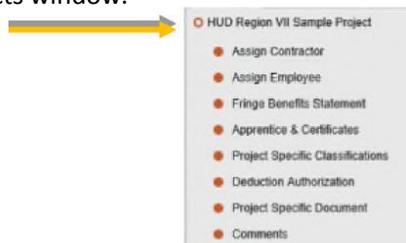
1. Now that you have created a login, registered, received your digital signature, and set up your subcontracts, you are ready to enter payroll data.
2. There are two ways any contractor can enter payrolls into Elation:
 - a. Either upload a pre-prepared Certified Payroll created in another program. Elation works with any payroll program as long as you can export the file as an Adobe .pdf file instead of printing it.
 - b. Manually enter the information into Elation.

CERTIFIED PAYROLL REPORT		
Alten Construction, Inc. 720 12th Street Richmond, CA 94801 LICENSE #: 705713	JOB: Mission Dolores Park Rehab (201402) Project ID No.FCP14012 Contract No. 3073V	PAY DATE: 07/10/15 WEEK ENDING: 07/03/15 WEEK #: 78

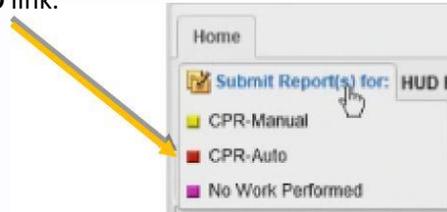
Automatic Payroll Upload Instructions:

(If you will be manually entering your CPRs, skip down to number #20.)

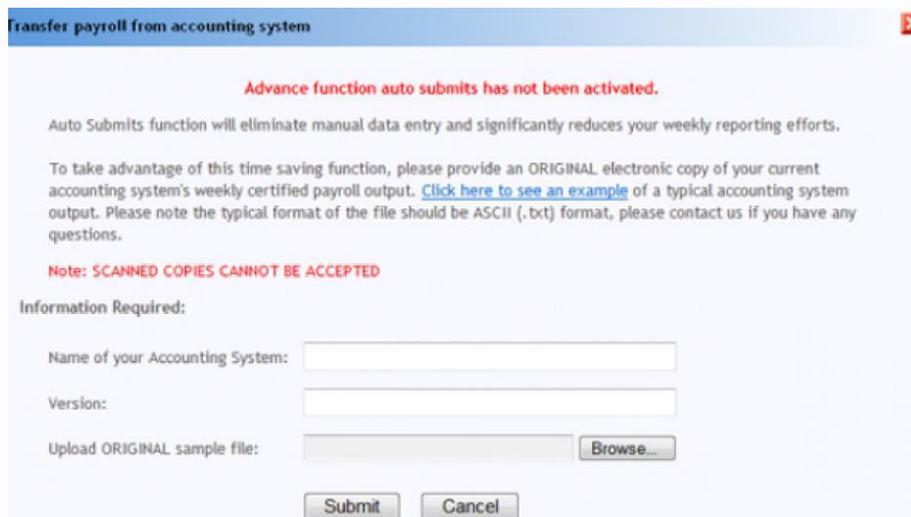
1. To use the automatic upload feature on Elation, *you must first configure your account.* To do this, upload your first pre-prepared payroll. You must export a file that is a computer readable format (e.g., excel, plain text, Adobe pdf, word, etc.)
2. This process will not work if you upload a scanned document that has been saved as a graphic format (e.g., .jpg, .gif, .tiff, etc.) The easiest way to do this is to “export” your payroll from your current program. Elation will import all the information from your payroll, including Craft, Employee Name, Hours Worked, both Standard and Overtime rate of Pay, Fringes Paid and Deductions.
3. To do this, click on the project you will be submitting a payroll for from the My Projects window.



- The on the right side of the screen, under the “Home” tab, click on “Submit Report(s) for:” Here you will have three options: “CPR-Manual,” “CPR-Auto,” and “No Work Performed.” To do an automatic payroll upload, choose the **CPR-Auto** link.



- Once selected, a Transfer payroll from accounting system will open up. Enter the “Name of your Accounting System,” the “Version” and here is where you will upload your exported file. Then click “Submit.”



Transfer payroll from accounting system

Advance function auto submits has not been activated.

Auto Submits function will eliminate manual data entry and significantly reduces your weekly reporting efforts.

To take advantage of this time saving function, please provide an ORIGINAL electronic copy of your current accounting system's weekly certified payroll output. [Click here to see an example](#) of a typical accounting system output. Please note the typical format of the file should be ASCII (.txt) format, please contact us if you have any questions.

Note: SCANNED COPIES CANNOT BE ACCEPTED

Information Required:

Name of your Accounting System:

Version:

Upload ORIGINAL sample file:

- Then browse to where your Certified Payroll is saved. Select the file you just exported. ***Important: the payroll must not be in graphic format, you must be able to select parts of the text with your mouse cursor.**



7. By submitting this first payroll, Elation will configure your account to use the file in your format you. Elation will extract all the data on the uploaded payroll and populate it into the standard payroll reporting template. The data includes names of employees, exemption status, classification(s), hours worked per day (including standard, overtime, and double time), rate of pay, deductions, check date and number.
8. ***Give Elation at least 3 business days to configure your first payroll.*** Once you see it has been imported, your account is set up to use your exported payrolls.
9. The next time you auto upload your CPR you will see a “Transfer payroll from accounting system” window. Here you will select the subcontract number (you probably will have only one, unless you have multiple sub contracts with an upper tier contractor.)
10. The select your ***“Payroll Week Ending Date:” This step is extremely important because once you enter a date here, the rest of your payrolls will have the number prepopulated and you cannot change it. If you enter the first week ending date incorrectly, you will have to delete all your payrolls and start over***

Transfer payroll from accounting system

Upload CPR Data Referenced Sample CPR

Company Name: Elation Systems Co.
Project Name: HUD Region VII Sample Project
Select the subcontract: Prime Contract (HUD-2015-7-1)

This is my Last Certified Payroll Report weekly bi-weekly
 Project Completed

Payroll Week Ending Date:

Payroll File To Be Uploaded:

1. Upload file MUST include complete Employee Name, Address.
2. DO NOT UPLOAD NO WORK PERFORMED REPORTS.

Note: It is your responsibility to ensure the accuracy of the data that will be transmitted, so please be sure to check and verify the data after the automated processing before you sign off and submit the report.



- h. **Statement of Compliance_Submit:** *See below.
 - i. **Print:** use this to print a hard copy of the payroll, if needed.
13. ***Statement of Compliance Submit:** Once you're sure the payroll is in compliance, click this button. The system will validate all the required information based on the wage decision. Once it is verified you will see the statement of compliance. Based on how you pay fringes, you can specify on this page if they are invested into a specific account or paid in cash as part of their hourly wages. Once that's done, click on the **Sign** button.

14. Because you have signed up for and received an electronic signature, this **"Fetch the signature"** box will open up. It will ask for your password and if you verify the information on the payroll is true, full, and correct



15. If so, click the **"I Agree"** button and it will add your digital signature.
16. Once signature is applied, click **"Submit."**

NAME AND TITLE	SIGNATURE
Amy Velasquez, Owner	
<input type="button" value="Submit"/>	

17. If you get any errors when trying to submit your payroll, find out if your Prime Contractor has set up your subcontract. The contract amount (in dollars) is required for you as a sub-contractor to submit a payroll

14. If you are set up correctly, when you go back to the main payroll screen, you'll see your submitted payroll there. It should have an icon that looks like a white piece of paper with a green arrow on it. Now it is ready for your Prime Contractor to review and release to HUD.

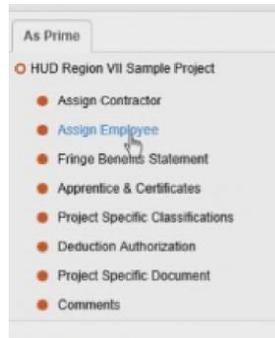
Week Ending	CPR	Submitted Date	Action	Issues	Contract/Subcontract	Payroll NO.
07/03/2015		03/10/2016			HUD-2015-7-1	1

Manual Payroll Entry Instructions:

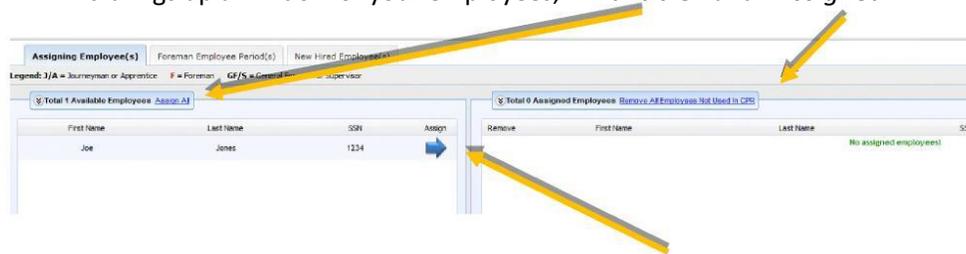
1. If you will be uploading your CPRs for automatic reporting, go back to item #4. You would use manual entry if you do not already have accounting software that creates your payrolls.
2. You've already entered the employees you anticipate to be working on the project into the system, so now you need to add them to the project.



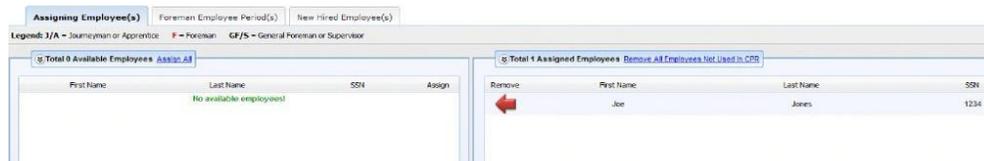
- To do this, click on *“Payroll”* tab, then *“Name of Project”* and then *“Assign Employee.”*



- This brings up a window of your employees, *“Available”* and *“Assigned.”*



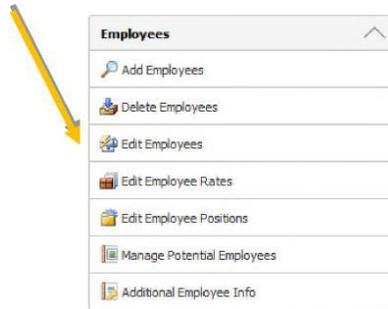
- To assign an employee to your project, click on the blue arrow to move them from *“Available”* to *“Assigned.”*
- Now the employee is *“Assigned”* to the project.



- To remove the employee from the project, click on the red arrow to move them back to *“Available.”*



8. If you've made a mistake or didn't have all the information for your employees, select **"Edit Employees"** and make the changes necessary.



9. Once in the Edit Employees window, click on **"Edit"** by the employee's name you want to change. The same screen you filled out before will come up, but with [Edit] options for each section.



10. Click on your **"Project,"** then **"Fringe Benefit Statement."** Fringe benefit statements are project specific, so if your employee works on more than one project they will need a Fringe Benefit Statement for each. Even if the Fringes are all \$0.00 you still need to complete this step.





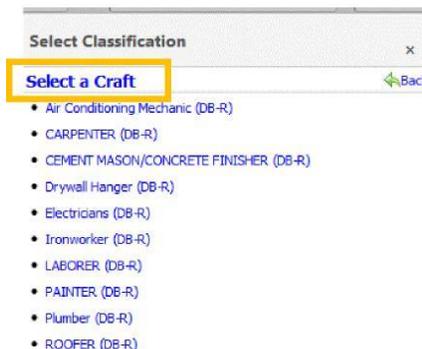
11. The first step to add the Fringe Benefits is classifying your workers. Click on **“Select Classification.”**



12. The following window will pop up. **“Select the Rate Version”** (there should only be one unless you have more than one type of construction going on e.g., building and residential, or an additional classification has been added), and select the **“Construction Trade”** of the employee. Here most employees will be **“Journeymen”** because to use the other two choices you must upload a **“Pre-Apprentice”** or **“Apprentice”** certificate.



13. A new window will pop up, asking you to **“Select a Craft”** available on that Wage Decision. Make your selection from the list. If the **“Craft”** you need is not on this list (a common occurrence) you will have to request an Additional classification. *See Appendix B for instructions.*





- Once you select a **“Craft,”** another window will pop up for **“Select a Class.”** Make your selection here.

- This will populate on the **“Fringe Benefit Statement”** in the upper left hand corner.

- Select the employee(s) to assign these fringes to by clicking in the box by their name or **“All Employees.”** (Note – the **(DB-R)** after the word PAINTER means *Davis-Bacon Residential.*)
- Next add the start date. *Effective date MUST be at least one day prior to date of CPR week beginning date for benefits to take effect. “Same for Premium time” will automatically be checked. If your fringes are different for premium time uncheck this box

- Now add dollar amounts into each field, even if they are all zeroes. If your company does not offer fringe benefits and the Wage Decision does not call for any, below is what your **“Fringe Benefit Statement”** would look like.

Fringe Benefit	Hourly Amount	+	% of Hourly Rate	Check Payable To	Address Hailed To
Vacation	\$ 0.000	+	0.000 %		
Health & Welfare	\$ 0.000	+	0.000 %		
Pension	\$ 0.000	+	0.000 %		
Apprentice / Training	\$ 0.000	+	0.000 %		
Subsistence and/or Travel Pay	\$ 0.000	+	0.000 %		
Total	\$ 0.000	+	0.000 %		



- 19. When done entering data, make sure you **“Save”**

Save

FRINGE BENEFITS FROM COMPANY GLOBAL POOL

- 20. Now you will have a notice at the top of the **“Add New Fringes”** tab – **“PENDING FRINGE BENEFITS”** and below that in red it will tell you how many you need to sign off on. Click on the **“here”** link.

Add New Fringes Employee FB Records Update Fringes

PENDING FRINGE BENEFITS

You have **1** pending Fringe Benefits to be signed off, Click [here](#) to sign off these Fringe Benefits.

- 21. A new window will pop up called **“Sign This Fringe Benefits Statement.”**

Sign This Fringe Benefits Statement																																												
HUD Region VI Test Account																																												
CONTRACTOR FRINGE BENEFIT STATEMENT																																												
Contractor / Subcontractor Name: HUD Region VI Test Account	Contract Number: 115 00000 Contract Location: Boxar	Today's Date: 3/22/2016																																										
Tel: Resident Engineer/District Labor Compliance Officer		Business Address: 615 E. Houston Street, Suite 301, SAN ANTONIO, TX, 78205																																										
In order that the proper Fringe Benefit rates can be verified when checking the payrolls on this above contract, the hourly rates for fringe benefits, substance and/or travel allowance payment made for employees on the various classes of work are tabulated below.																																												
THIS FORM MUST BE COMPLETED AND SUBMITTED WITH THE FIRST CERTIFIED PAYROLL, OR WHEN THERE HAVE BEEN CHANGES																																												
Edit Delete CLASSIFICATION TX160021-M00-0 Journeyman Boxar RODPBR (DB-R) Including Built Up, Composition and Single Fly Roofs	Joe J Jones III (1234)																																											
Effective Date: <u>3/25/2016</u>	<table border="0"> <tr> <td>Vacation</td> <td>\$ 0.000</td> <td>+</td> <td>0.000</td> <td>%</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Health & Welfare</td> <td>\$ 0.000</td> <td>+</td> <td>0.000</td> <td>%</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Pension</td> <td>\$ 0.000</td> <td>+</td> <td>0.000</td> <td>%</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Apprentice / Training</td> <td>\$ 0.000</td> <td>+</td> <td>0.000</td> <td>%</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Other</td> <td>\$ 0.000</td> <td>+</td> <td>0.000</td> <td>%</td> <td>_____</td> <td>_____</td> </tr> <tr> <td>Substance and/or Travel Pay</td> <td>\$ 0.000</td> <td>+</td> <td>0.000</td> <td>%</td> <td>Total \$</td> <td>0.000 + 0.000 %</td> </tr> </table>	Vacation	\$ 0.000	+	0.000	%	_____	_____	Health & Welfare	\$ 0.000	+	0.000	%	_____	_____	Pension	\$ 0.000	+	0.000	%	_____	_____	Apprentice / Training	\$ 0.000	+	0.000	%	_____	_____	Other	\$ 0.000	+	0.000	%	_____	_____	Substance and/or Travel Pay	\$ 0.000	+	0.000	%	Total \$	0.000 + 0.000 %	
Vacation	\$ 0.000	+	0.000	%	_____	_____																																						
Health & Welfare	\$ 0.000	+	0.000	%	_____	_____																																						
Pension	\$ 0.000	+	0.000	%	_____	_____																																						
Apprentice / Training	\$ 0.000	+	0.000	%	_____	_____																																						
Other	\$ 0.000	+	0.000	%	_____	_____																																						
Substance and/or Travel Pay	\$ 0.000	+	0.000	%	Total \$	0.000 + 0.000 %																																						
I certify under the penalty or perjury that fringe benefits are paid to the approved Plans, Funds, or Programs as listed above.																																												
Name And Title: Amy Velazquez/Owner																																												
Signature:		Business Telephone Number: 210-475-6843																																										
<input type="button" value="Sign the Statement"/>																																												

- 22. Click on the **“Sign the Statement”** button.



23. “Fetch the signature” will appear again. Enter your “Signature Password” and digitally sign by clicking on **“I Agree.”**

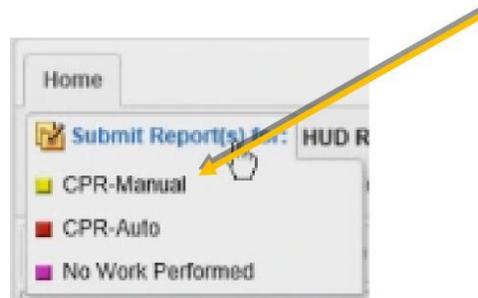
Fetch the signature x

I, **Amy Velasquez**, the undersigned, am the **Owner** with the authority to act for and on behalf of **HUD Region VI Test Account**, certify under penalty of perjury that the records of copies thereof submitted and consisting of **1** pages are the originals or true, full, and correct copies of the originals which depict the payroll record(s) of the actual disbursements by way of cash, check, or whatever form to the individual or individuals named.

Date: **3/22/2016**

Signature Password:

24. Once you have entered Fringe Benefit Statements for all employees, you are ready to submit a payroll manually.
25. Click on your **Project** and then **Submit Report(s) for: CPR-Manual**.





26. When the window for **“Manual Submit”** pops up, **“Select the subcontract,”** **“Enter payroll pay period ending date,”** **“Select number of classifications each employee worked during this payroll period”** and then **“Submit.”**

27. Once you click **“Submit,”** the Payroll Reporting Form will pop up. Here enter the **Payroll Number**, **Hours Worked Each Day** (column 4), **Total Hours** worked – on this project only - (column 5), **Rate of Pay** (column 6).

NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		CONTRACTOR'S LICENSE NO: SPECIALITY LICENSE NO:										
PAYROLL NO.		FOR WEEK ENDING 4/19/2016										
(1) NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(2) EMPLOYEE'S LICENSE EXPIRATION	(3) WORK CLASSIFICATION	(4) DAY AND DATE						(5) TOTAL HOURS	(6) RATE OF PAY		
			Wed	Thu	Fri	Sat	Sun	Mon			Tue	
			13	14	15	16	17	18	19			
			HOURS WORKED EACH DAY									
Joe J Jones III 1122 Boogie Boogie Ave San Antonio,tx 78251 xxx-xx-1234 mailto:thru.employee	M/S	Recr Journeyman PAINTER (DB:R) Including Drywall taping	S								17,000	
			O									
			D									
		<input type="checkbox"/> Owner Operator/IND Contractor/Non Paid App										

28. Note: Only check **“Owner-Operator”** box if the employee is an Owner Operator, Independent Contractor, or Non-Paid Apprentice, and you have documentation to upload as evidence.



29. In column 7, "**Gross Amount Earned (This/All)**," "**This**" box equals the gross amount that the employee earned on this project this week. The "**All**" box equals the Total Gross Amount Earned by an employee for ALL of the work (on other projects) by that employee during this week.

(7) GROSS AMOUNT EARNED (THIS / ALL)
<input type="text"/>
<input type="text"/>

30. In Column 8, enter all deductions coming out of employee's paycheck (e.g., FICA, Federal Tax, State Tax, and others listed as applicable.)
31. Use the "**Other Deds**" (Deductions) box to enter employee deduction amounts that not already listed, but are withheld from the employees' pay checks. (e.g., child support, insurance, tax lien, etc.).

(8) DEDUCTIONS, CONTRIBUTIONS AND PAYMENTS							(9) NET WAGES PAID FOR WEEK
FICA <input type="text"/>	FED TAX <input type="text"/>	STATE TAX <input type="text"/>	SDI <input type="text"/>	VAC HOLIDAY 4.00	HEALTH & WELF <input type="text"/>	PENSION 2.00	<input type="text"/>
TRAINING <input type="text"/>	OTHER REIMB. <input type="text"/>	DUES <input type="text"/>	TRAV SUBS <input type="text"/>	OTHER FRINGE <input type="text"/>	OTHER DEDS <input type="text"/>	TOTAL DEDUCTS <input type="text"/>	

32. To include these other deductions, click on the "**Other Deds**" hyperlink, enter a description and amount, then click Save.

Other Deductions ✖

Field Description	Amount
<input type="text" value="401k Emp. Amount"/>	<input type="text" value="\$ 156.60"/>

Create New Field

Field description: Add Save



33. Create as many field descriptions as needed. Ensure if it is a discretionary (not state or federally mandated) deduction you upload the authorization form signed by each employee. See Appendix C for an example to use.
34. To upload these documents, have the employee sign and then scan as a “.pdf” or graphic file. Open Project and click on the **“Deduction Authorization”** link.



35. Find your employee’s name and upload (or drag and drop)the signed document authorizing the deduction.
36. In column 9, enter **“Net Wages Paid for Week,”** which is **“Gross Amount Earned ALL”** minus **“Total Deductions.”** As of now, Elation only adds the total amount of hours worked. You have to do the calculations manually and enter the data in the specific field.
37. In Column 10, if the employee has Direct Deposit enter “DD” or bank reference number. If a paycheck is issued, enter the check number and issue date.



38. Clicking on the **“Save as Draft”** button will save your work and display an orange icon. This allows you to create a payroll without submitting it.





Certified Payroll Report					
Week Ending	Export to Excel	CPR	Action	Issues/Messages	Contract/Subcontract
10/8/2005					ES2005-1

39. The payroll will be saved as a draft and you will see it on your payroll as an orange arrow. Click on the orange arrow to reopen the draft payroll report. In the lower left corner of report, look at the number after "Go to Page", If number(s) is blue, there are no calculation or compliance errors so you can submit your report.

Go to page: 1

40. If number(s) is red, there is a problem.

Go to page: 1

41. Hover your mouse of the red "1" to determine problem.

S = STRAIGHT TIME OTHER-Any other deductions and/or payments whether or not includ
 O = OVERTIME
 D = DOUBLETIME
 SDI = STATE DISABILITY INSURANCE

Payroll number required!
 Gross this project or gross all projects is empty for: joe j jones iii

Go to page: 1

Page 1

42. Once you correct the problem the number should turn blue. When blue, your payroll has no errors.
43. You can then either **Save this Payroll as a Draft** or Click the **Statement of Compliance_Submit** to submit this payroll report.

Find Employees << Prev Next >> Add an employee Save as Draft Statement of Compliance_Submit Print



End of Work Notices

1. If this is the end of your project, make sure to click the boxes for **"This is My Last Certified Payroll"** and **"Project Completed"** when submitting the last payroll. This lets HUD know not to expect any more payrolls.

This is my last Certified Payroll Report Project completed

2. If you have completed the work on a Subcontract and still are performing work on the project or other Subcontracts, check only **"This is my Last Certified Payroll Report."**
3. If you missed checking either box and need to mark the statement as **"This is my Last Payroll Report"** and **"Project Complete"** you can:
 - f. Submit a **"No Work Performed Statement"** and check the appropriate boxes in the detail window or,

No Work Performed Report

Standard Certified Payroll Report

weekly bi-weekly

Select the subcontract: -- Select a subcontract --

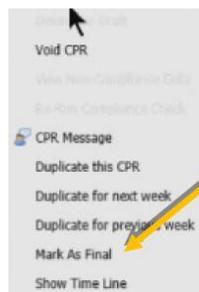
Please enter payroll week ending date: 3/29/2016

Also submit Non-performance Reports for next 0 periods

This is my last Certified Payroll Report Project completed

Submit Cancel

- j. Right click on the Icon in the CPR column and select **"Mark As Final"** or,





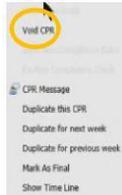
- c. Contact your Prime contractor to Mark your payrolls as "Final" and "Complete".

Payroll Errors or Non-Compliance Issues

- 3. (*All "flagged" icons (errors) are discussed the Appendix A*). Once you review your uploaded payroll report, the system will let you know if it finds issues and if sent to HUD with the flags, HUD will reject the CPR. These can be found as Red Messages either in the top left and top left corner of the payroll report.



- 11. There are two types of ways to correct rejected payrolls: Void CPR and amend a rejected CPR. If it is only an administrative error (wrong payroll number, misspellings, deduction errors, etc.), you can recall the payroll. To do this, right click on the payroll icon, and click on **"Void CPR"**.



- 12. Enter the reason the CPR should be voided in the **"Reason"** box, and then **"Submit."**

Request to Void a Report Refresh Share Close

Request owner to void a CPR

You are requesting the owner of the project to void the **Certified Payroll Report with the ending date on 3/15/2016.**

Reason:



- Now your CPR column will have two of the same payroll weeks, one with errors and the other corrected. The one with errors will say **“Void”** in the Action column.

Week Ending	CPR	Submitted Date	Action	Payroll NO.
07/10/2015		03/10/2016		2
07/10/2015		03/10/2016	Void	2

- HUD will void out the erroneous payroll and your account will have only accepted payroll reports.
- If it is not an administrative error (e.g., wage related non-compliance errors) you will have to **“Amend”** the payroll. To do this, you will have to wait until HUD rejects your payroll. Once you get an email saying it’s been rejected you can fix the problems, cut a restitution check if required, and amend the payroll, sign and resubmit.
- To amend a rejected payroll, click on the red icon with the white x in it.



- This will open up the rejected report. The errors on the page will be highlighted in red.

WORK CLASSIFICATION	HOURS	(A) DAY AND DATE							TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED (THIS PAY)
		Wed 16	Thu 17	Fri 18	Sat 19	Sun 20	Mon 21	Tue 22			
Journeyman Boiler LABORER (DB-R) LABORER	1	8.00	8.00	8.00			8.00	8.00	40.00	5.00	200.00
	0										200.00
	0										200.00

- When HUD rejects a payroll you will get a message letting you know what needs to be corrected.

Reason: Please verify and correct possible non-compliance issues as shown below for:

Project: Dummy Project (Contract/Subcontract: 115-00000)
 Week Ending Date: 03/22/2016
 Contractor / SubContractor: HUD Region VI Test Account

Employee: JOE J JONES III worked as Journeyman level
 LABORER (DB-R) / LABORER (Craft / Class) may have non compliance issues including:
 * Total regular hourly rate (basic regular hourly rate + fringe), which was \$5.000 was \$2.250 less than the required rate of \$7.250
 * Total wages, which was \$200.000, for the week ending on 03/22/2016 was \$90.000 less than the required wages of \$290.000



No Work Payrolls

- The other type of payroll that will need to be submitted is a **“No Work Performed”** Payroll. In your Payroll dashboard, click on **“Submit Report(s) for: No Work Performed.”**



- If you know there is no work for the next couple weeks, you can submit **“No Work”** payrolls all at once. On the **“No Work Performed Report,”** enter the **“Subcontract Number,” “Payroll Week Ending Date,”** and pull down the menu to choose how many weeks of **“No Work”** you are reporting. Then click **“Submit.”**

- On the **“No Work Performed Report”** that pops up, enter your next payroll number and click **“Sign.”**



Appendix A - Flagged Payrolls and Icon's Meaning

To understand what each of the icons on your payroll means, see the Legend at the top of the screen:

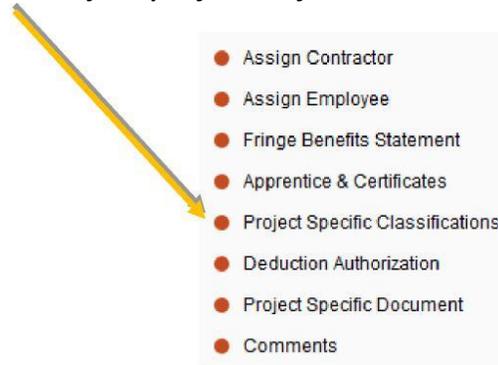


1. The first five icons are **CPR status**:
 - a. An orange arrow means the CPR is still in draft status. This occurs when you fill out the payroll but do not certify it. This can be done so you can enter hours daily, but submit weekly. As long as CPR in draft status they can still be edited.
 - b. A white paper with green arrow means the CPR has been submitted. Once submitted the CPR is official and can no longer be edited.
 - c. A green circle with a white check mark means the CPR has been accepted by HUD.
 - d. A red circle with a white x mark means the CPR has been rejected and must be corrected.
 - e. A white paper with an orange N means it's a No Work Week.
2. The next four icons are "**Discrepancy Icons**:"
 - f. A triangle with an exclamation point means the payroll has been flagged for wage related discrepancies, or possible non-compliance issues.
 - g. A yellow circle with a white exclamation point means there is a missing certificate (e.g., for an apprentice.)
 - h. A yellow light bulb means there are calculation errors in the payroll.
 - i. An orange triangle with an exclamation point alerts you to a problem with the ratio of journeymen to apprentices. The baseline is two journeymen to one apprentice.
3. To find out the exact problem and to correct it, click on each icon to be shown the exact error.



Appendix B - Requesting Additional Classifications

1. If you have a classification that is not on the original Wage Determination, you will need to ask for an additional classification.
2. First we ask that you confirm the classification is not already on the original wage decision. This just duplicates work for all parties.
30. Once you've confirmed the rate is not available to you, in your **"Project"** window, click on **"Project Specific Classifications."**



31. Once you get to the page, click on the tab at the top called **"Rate Requests."**



32. On the next screen, click **"New Request"** in the upper left hand corner.





6. You will see the HUD Form 4230A pop up. Most of the information on the project is already populated on this new form. You will have to add the **“Craft Description”** and **“Class Description.”**

The screenshot shows the HUD Form 4230A with a pop-up dialog box. The dialog has fields for 'Location' (Wyandotte), 'Construction Trade*' (Journeyman), 'Craft Description*' (highlighted with a red box), and 'Class Description*' (highlighted with a red box). Below these fields are 'OK' and 'Close' buttons. The background form shows project details for 'HUD Region VII Sample Project' in Wyandotte, KS, with a wage decision effective date of 07/01/2015.

7. For the **“Craft Descriptions”** you have four choices:
- Laborer
 - Equipment Operator
 - Driver
 - Mechanic

This screenshot shows the same pop-up dialog as above, but with 'Equipment Operator' selected for 'Craft Description*' and 'Fork Lift Operator' selected for 'Class Description*'. The 'OK' and 'Close' buttons are visible at the bottom.

8. Then in the **“Class Description”** put the exact equipment, vehicle, or skill to be used.



- Then click **“OK”** on the small form and that information will be added to the 4230A. Now add the **“Basic Wage”** and **“Fringes”** if any. If you want to add additional classifications to this request, click on the green **“+Add”** button. There is no limitation to the number of additional classifications you can ask for on one form.

8.	WORK CLASSIFICATION(S) <small>(Use reverse or attach additional sheets, if necessary)</small>	HOURLY WAGE RATES	
		BASIC WAGE	FRINGE BENEFIT(S) (if any)
+ Add	(J) Craft: Equipment Operator Class: Fork Lift Operator	15.000	0.000

- Once this Additional Classification is submitted, it goes to HUD and they approve or reject the rate. If approved, they forward it to DOL who has the final say. To help streamline this process, in box **“6. WAGE DECISION NO.”**, please click the box **“Copy Attached”** to forward a copy of the original wage decision with your form. It is also there for you to view to ensure you are asking for a proper wage and classification.

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

[Remove](#) NUMBER: KS150011-MOD-7

[Remove](#) NUMBER: KS150011-MOD-8

COPY ATTACHED

[KS150011-MOD-7](#) [KS15011-MOD-8](#)

- In box **“5. CHARACTER OF CONSTRUCTION”** you need to select the type of construction being performed per the wage decision. It will usually be **“Residential”** but depending on the project could have additional types. In that case you will need to submit a separate additional classification request for the other type(s) of construction.

5. CHARACTER OF CONSTRUCTION

- Building Residential
- Heavy Other (specify)
- Highway



- Carefully review the following section and make sure you check off the appropriate boxes. The boxes in **“Check All That Apply”** allow you to submit supporting documentation (e.g., union contracts, bargaining unit agreement, etc.) Click in that box and an **“Upload File”** link will appear. Once you have checked off the appropriate boxes for your project, click **“Submit.”**

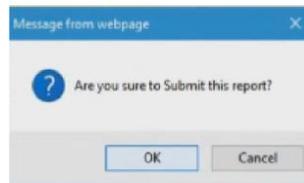
Check All That Apply:

- 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.

- The system once again will ask you **“Are you sure you want to submit this report?”** Click the **“OK”** button.



- Once submitted, you’ll see your additional classification request in the **“Rate Request”** window and under **“Status”** it will say **“Pending Approval by Prime.”** Once the Prime reviews and approves the additional classification, they will push it to HUD and then it will say **“Pending Review by Agency.”**

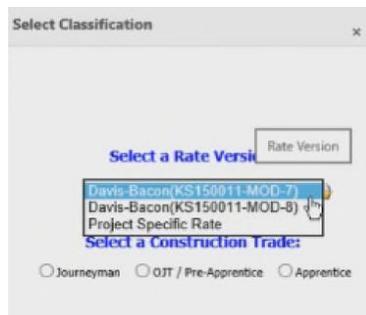
Request Date	Status	Submitted Date
03/10/2016	Pending Approval by Agency	03/10/2016
02/12/2016	Pending Approval by Agency	02/12/2016
02/11/2016	Pending Approval by Agency	02/11/2016
01/26/2016	Pending Approval by Agency	01/26/2016
01/13/2016	Pending Approval by Agency	01/13/2016



15. If the request is approved, the *“Status”* will change to *“Approved”* and if rejected, *“Status”* will change to *“Rejected.”*



19. If an additional classification is rejected by DOL they will tell you why. Otherwise they are conditionally approved by HUD and ready for use in your project.
21. Once you see the additional classification request has been *“Approved”*, fill out new Fringe Benefit Statements for your workers using the new classification.
22. In the *“Select Classification”* box you will now have a *“Project Specific Rate”* option to select for your new classification. The folder will open up with the new classifications approved for your project. Then you can add it to the new Fringe Benefit Statement as you did originally.





Appendix C – Deduction Authorization Form Example

PAYROLL DEDUCTION AUTHORIZATION

This is to authorize _____ to deduct from my paycheck \$ _____. This is for item number(s) circled below.

REPAYMENT OF:

- | | |
|----|-------------------------------|
| 1. | Loan 7 Credit Union |
| 2. | Retirement 8. Profit Sharing |
| 3. | Advance on Wages 9. Donations |
| | to Agencies |
| 4. | Savings 10. Insurance |
| | Premiums |
| 5. | Savings Bonds 11. Union |
| | Dues |
| 6. | Uniform 12. |
| | _____ (Other) |

This deduction will be made _____ one time only
_____ weekly

HUD PROJECT:

Name: _____ HUD# _____

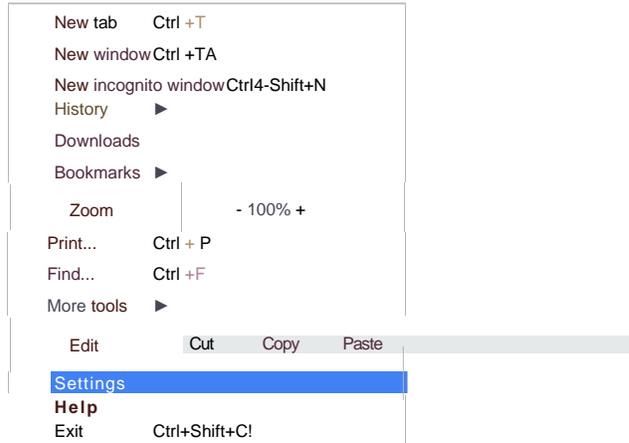
Employee's Name:

Employee's Signature _____ Date:



Appendix D - Digital Signature Installation for Google Chrome Users

1. Open the "Settings" menu.



2. Scroll down to the HTTP/SSL section and click on "Manage certificates."

Google Cloud Print

HTTPS/SSL

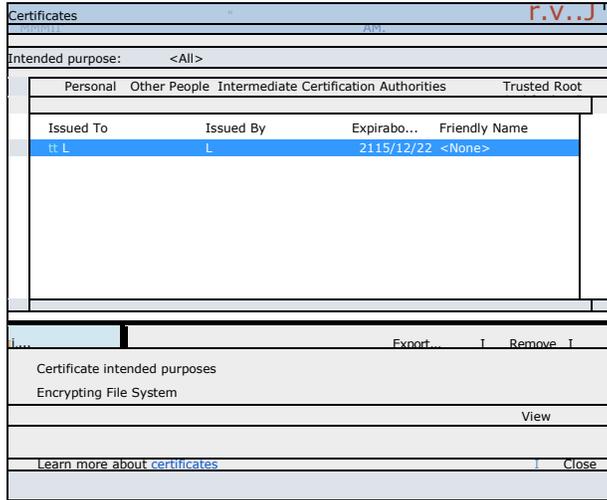
Manage certificates...,

Set up or manage printers in Google Cloud Print. [Learn more](#)

Manage

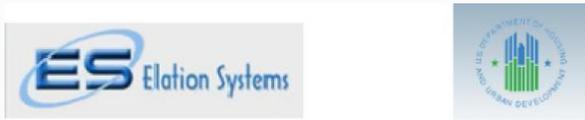


3. A 'Certificates' window will open. Click on the 'Import' button.

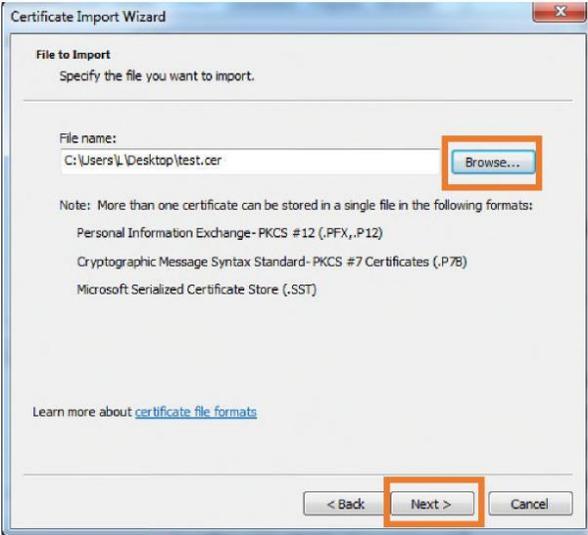


4. Now use the 'Certificate Import Wizard' by clicking on 'Next>'

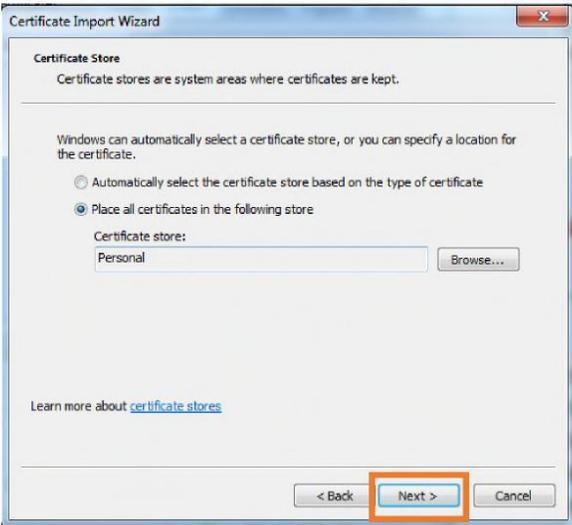




- 5. Now use the “Browse” button to find where you saved your certificate downloaded from Elation.

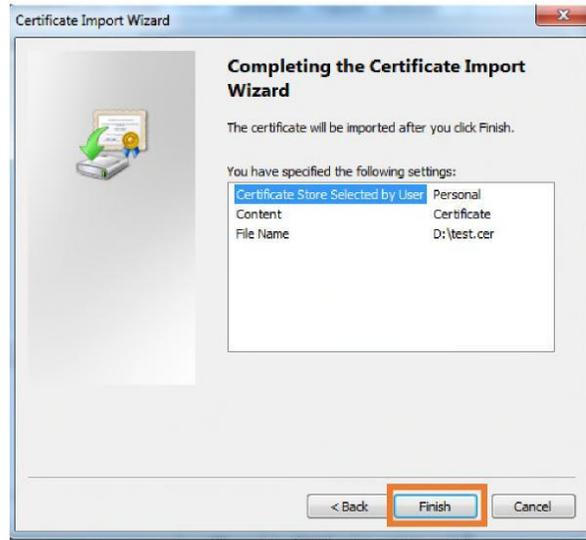


- 6. Once you’ve located the file, click “Next>” to have the “Import Wizard” do the work for you.
- 7. Use the “Place all certificates in the following store” and click “Next>”





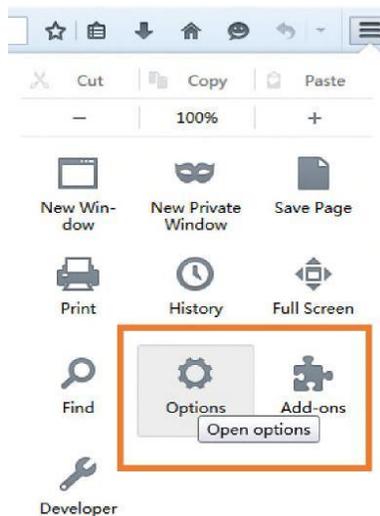
8. Then click "Finish."



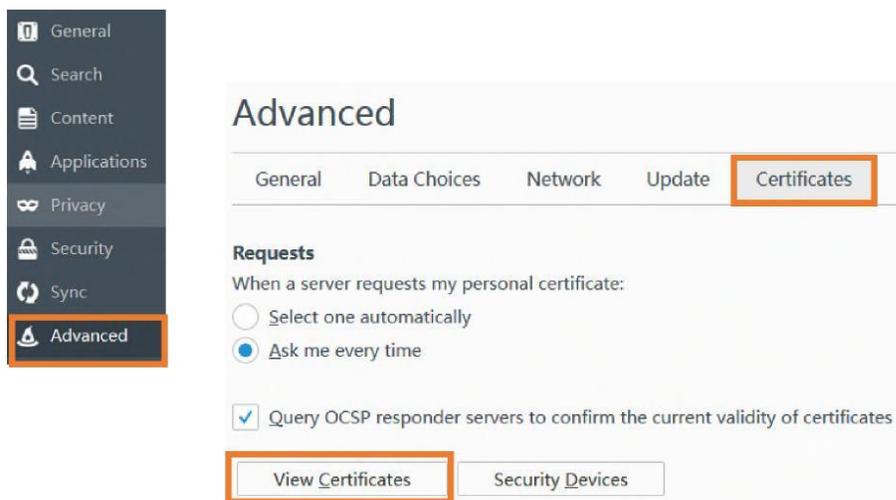


Appendix E - Digital Signature Installation for Firefox Users

1. Select "Options" from the "Tools" menu.



2. Click "Advanced" on the window's menu then select the "Certificates" tab.



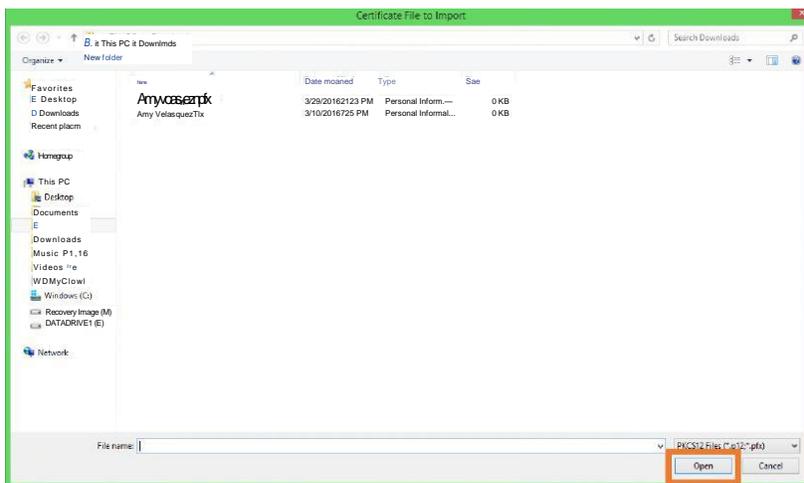
3. Click on "View Certificates."



4. Then click on "Import."

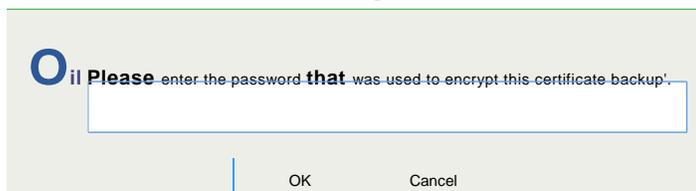


5. Browse to find your certificate and click "Open."



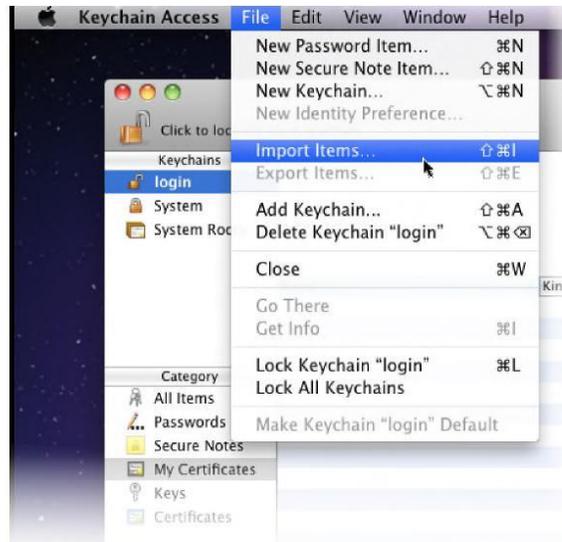
6. Enter the certificate password provided by Elation Systems, and click "OK."

Passwora Reqdrea



Appendix F - Digital Signature Installation for Safari Users

1. Safari uses the Keychain Access utility built into Mac OS to manage digital certificates. Click **“Applications,” “Utilities,” “Keychain Access”** and then **“Login.”**
2. Now click **“File”** and **“Import Items.”** Then navigate to the location of your saved certificate and click **“Open.”**



3. Enter the initial password from Elation and click **“OK”**.





4. **Note:** If prompted to trust certificates issued by your CA automatically, select the *“Always Trust”* option and install your certificate

Appendix G - Elation Customer Assistance

Web Site

www.elationssys.com/contactus.htm

Phone Number

925-924-0340

Hours of Operation

Monday – Friday, 8am to 5pm PST

Email

support@elationsystems.com

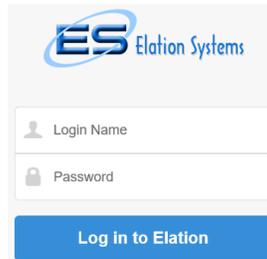


Appendix H- HUD Labor Standards Specialists

OLSE Team Member	Office Location	Phone & Contact Information
Linda Banks	Fort Worth, Texas	817.978.5619 Jerlinda.D.Banks@hud.gov
Karen Clark	San Antonio, Texas	210.475.6818 Karen.Clark@hud.gov
Anthony Jennings	Houston, Texas	713.718.3136 Anthony.T.Jennings@hud.gov
Elizabeth Rodriguez	Fort Worth, Texas	817.978.5621 Elizabeth.Rodriguez@hud.gov
Amy Velasquez	San Antonio, Texas	210.475.6843 Amy.Velasquez@hud.gov

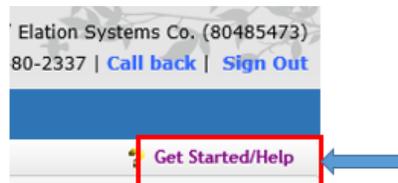
How to Access Elation Systems Webinar Training Session 24x7 for Contractors and Subcontractors Working on HUD Projects

Step 1 – Login in to your Elation Systems account.

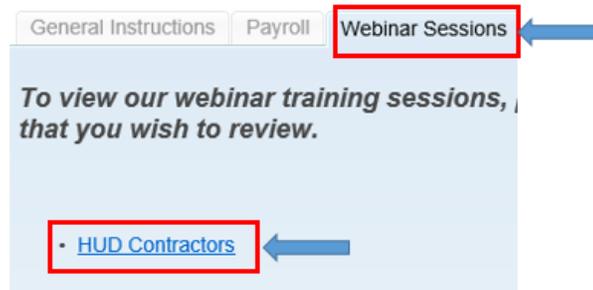


The image shows the Elation Systems login interface. At the top is the Elation Systems logo. Below it are two input fields: 'Login Name' and 'Password'. At the bottom is a blue button labeled 'Log in to Elation'.

Step 2 – Click on the [Get Started / Help](#) link on the upper right corner as show below



Step 3 – Click on the [Webinar Sessions](#) tab in the pop-up screen, and then click on the [HUD Contractors](#) link to start the On-Demand HUD training session as shown below.





**U. S. Department of Housing and Urban Development (HUD)
Region VII, Office of Field Policy and Management
Davis Bacon and Labor Standards (DBLS) Division
400 State Avenue, Gateway Tower Building II, 5th Floor
Kansas City, Kansas 66101**

HUD DBLS Guidance and Federal Labor Standards Requirements Handout

Change “OLSE” to “DBLS” throughout this document.

For Contractors/Subcontractors Working on HUD-funded/assisted or FHA-insured Construction Work Subject to Davis-Bacon/Davis-Bacon Related Acts Compliance – NO PAPER WEEKLY PAYROLL SUBMISSIONS – ONLY ELECTRONIC PAYROLL SUBMISSIONS

PART A – Prime Contractors Responsibilities

1. **Submit a construction start notice to HUD Davis Bacon and Labor Standards Division (DBLS), via email to Fannie.J.Woods@hud.gov and the DBLS Specialist assigned to the construction project. The DBLS Specialist will enter this document into the HUD Davis-Bacon Electronic Certification Submission Payroll (ECSP) System. **Once this notice is received, and the general/prime contractor is registered in the system and notifies HUD accordingly, HUD will activate the project. HOWEVER, the project can only be activated “after” the prime contractor establishes an account through Elation Systems, Inc. the HUD Electronic Payroll System Contractor. Therefore, it is incumbent on the prime contractor to establish immediately an account with Elation Systems, Inc. The prime contractor only establishes “one” account with Elations; and each subcontractor working on the construction project will also have to establish an account with Elation Systems, Inc.****

2. **Submit, before construction starts, to HUD DBLS, via email, a list of all subcontractors, this means 1st tier, 2nd tier, 3rd tier, etc. subcontractors working on the job site, contracted work (i.e. earthwork, plumbing, etc.), total contract amount, and respective points of contact for each subcontractor. Submit this document to HUD DBLS “AND” ENTER ALL THE SUBCONTRACTORS NAMES AND OTHER INFORMATION IN THE HUD ECSP System. The technical support number of the Elation Systems, Inc., the HUD Electronic Payroll System Contractor, is 1-925-924-0340, extension 100. Call us first for any issues related to this system; call them second; and “cc” the assigned HUD DBLS Specialist on any emails between the primes, subcontractors, and Technical Support at Elation Systems, Inc.**
 - a. **Contractors Eligibility Verification.** Ensure the list reflects the dollar amount for each sub contract; and a column labeled “checked SAM.GOV” with sub columns labeled “Yes” and “No” Check yes to indicate that the prime contractor verified the eligibility of all contractors to work on the job site; and the subcontractor has not been barred from working on federally-funded projects. Back up document is the output document from the prime contractor’s www.sam.gov search. Go to www.sam.gov; find the search

module for inserting the contractors name; enter the contractors name; receive the output; and keep a copy of this with the applicable records to verify that this action was done. DO NOT SEND these documents to OLSE; keep in a file that is accessible to inspectors, auditors, etc. Ensure this information is entered on the subcontractors' lists that is submitted to HUD DBLS and entered in the HUD ECSP System, which may require entering this as a comment in the HUD ECSP System.

- b. **E-Verify Employment Requirements.** Ensure on the subcontractors' list, a column that reflects, Employee Eligibility Check Performed, and indicate "yes or no," which indicates that the subcontractors on this job is only hiring eligible persons to work in the United States. DO NOT SEND OLSE any of the documents. Ensure this information is entered on the subcontractors' list that is submitted to HUD OLSE and entered in the HUD ECSP, which may require entering this in the comments section of the HUD ECSP.
- c. **Workers and Construction Project Files.** Ensure the prime contractor has accessed to files that reflect "each worker working (employee or independent contractor) on this job site is eligible to work in the United States." The prime contractor is required to have documentation that reflects all workers, U. S, citizens and non-U. S. citizens, for the prime contractor and sub-contractors, performing work on this project is eligible to work in the United States.
 - i. **Prime Contractor and Subcontractor Obligations:** The prime contractor will provide general oversight to their subcontractors to ensure that they meet their contractual requirements and workers/employees working on a federally-funded project are eligible to work in the United States.
- d. **Copy of Federal Labor Standards Synopsis.** Include a column on the subcontractors' list indicating the date a copy of this synopsis was explained and given to each contractor performing work on the job site.

3. Required Postings – Post immediately:

- a. The **HUD-issued wage decision** for the project on the job site, protected from the elements, in an area that is visible and accessible to all workers (not inside the trailer if most of the workers do not go inside the trailer or office area).
 - i. Upon receipt of a DOL-approved classification, post the DOL letter next to the project wage decision.
- b. The **Davis-Bacon (DB) Poster** in an accessible and highly visible, area to all workers. Post the DB Poster in English and Spanish, for any Spanish speaking workers on the job site. Obtain, if you don't have, the poster from the below websites:
 - i. <http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf> (English version)
 - ii. <http://www.dol.gov/whd/regs/compliance/posters/davispan.pdf> (Spanish version)
- c. **Ensure poster reflects the assigned HUD DBLS Specialist contact name and information.**

4. **Federally-funded prevailing wage job.** Remind the subcontractors and all workers that they are working a job subject to Davis-Bacon prevailing wages – tell them where to find the Davis-Bacon posted wage decision so they can check the required prevailing wage pay and fringes for their trade against their paychecks.
5. **Publicly-funded prevailing wage jobs in the State of Missouri.** If the construction work is a public works and/or public building project in the State of Missouri, the prime contractor is required to obtain and include the State of Missouri Prevailing Wage Decision and the Federal Project Davis-Bacon Wage Decision in all contractors and the language that the contractor is required to pay the higher of the two prevailing wage decisions. This does not apply to multi-family and/or other residential construction.
6. **CONTRACTS:**
 - a. Do not attempt to issue separate contracts to avoid paying prevailing wage rates on all the work performed as part of a HUD-funded/assisted, FHA-insured, Section 202, Section 811, or other Federally-funded construction work. Ensure each contract with a subcontractor contains a detailed scope of work, contract amount, separating the labor costs from materials, equipment costs; a copy of the Wage Decision; a copy of the *HUD- 92554M, Supplementary Conditions of the Contract for Construction*, and a requirement to verify each worker's eligibility to work in the United States in accordance with the federal I-9 verification process and/or E-verify system.
 - b. The failure to have written and signed contracts, with the required prevailing wage language and project wage decision, with each subcontractor, regardless of the subcontractor's tier, i.e. 1st tier, 2nd tier, performing work on the job site is a violation of the Federal Labor Standards that govern Federally-funded prevailing wage construction work. This applies to all subcontractors, including sub tier contracts and contracts with independent contractors.
 - c. During payroll review, requests for copies of contracts between contractors and independent contractors may be requested. Ensure these contracts are specific to the current FHA insured or HUD funded housing development, and include all requirements. The U.S. Department of Labor (DOL) requires that the employer and/or contractor maintain time records, name, date/hours/ rates of pay, etc., that any worker works on the job. HUD DBLS expects all contractors to comply with the DOL requirement.
7. **ISSUED FEDERAL WAGE DECISION and REVIEW for MISSING CLASSIFICATIONS:** Review the issued project wage decision, which is reflected in the HUD ECSP System, with all subcontractors to ensure trades that will be required at the job site are listed on the wage decision. **IF NOT**, complete and submit the *HUD Form 4230A, Request for Additional Classification, or Conformance Request*, with supporting documentation, through the HUD ECSP System. Region

VII, Kansas City, KS, for review and submission to the U. S. DOL for review and final approval of the trade and prevailing wage to the issued wage decision. The Davis-Bacon issued project wage decision does not include “all” trades required for construction of the facility.

THEREFORE, the prime contractor is required to enter the request for conformance or request for additional classification document, HUD Form 4230A, in the HUD Electronic Certified Payroll System for the missing trades for HUD OLSE’s review, approval, and submission to the U. S. DOL for issuance of the DOL approved prevailing wage. Once DOL approves the document, HUD OLSE will enter it into the HUD ECSP System. Below is U. S. DOL guidance for determining recommended wage rates:

- a. The contractor recommends hourly rates and fringes to HUD and the U. S. DOL for consideration only. Ensure all contractors have a clear understanding that the U. S. DOL, Wage and Hour Division, Washington, DC determines and approves all prevailing wage rates on projects subject to federal labor standards. Sometimes, the U. S. DOL approved rates are higher than the recommended rates. If the U. S. DOL approved rates are higher, then the prime and subcontractors are required to pay the higher rate from the first day the work is performed. Restitution payments apply when the paid rate is less than the U. S. DOL approved rates. Refer to the below AAM No. 213 for guidance on recommended wage rates.
 - b. On March 22, 2013, the U. S. DOL, Wage and Hour Division, issued [All Agency Memorandum \(AAM\) No. 213](#) to better reflect DOL’s regulatory requirements and to support improvements in the wage determination process overall. AAM No. 213 clarifies the “conformance” process and application of the Davis-Bacon Act (DBA) requirement that wage rates for additional classifications, when “conformed” to an existing wage determination, bear a “reasonable relationship” to the wage rates in that wage determination.
 - c. Contractors are not required to submit 4230As for apprentice, helper, superintendent, trainee, and/or owner work classification. DOL and HUD do not recognize such classifications.
- 8. LIABILITY:** The prime contractor is liable for any and all violations of federal labor standards by all contractors working on the construction work, subject to Davis-Bacon prevailing wage requirements. Below are some tips to assist with compliance.
- a. Share and emphasize this guidance to all subcontractors working on the job site
 - b. Ensure compliance with the Federal Labor Standards by all subcontractors.
 - c. Know who is working and when they are working on the job site.
 - i. May consider developing a daily sign-in sheet, by company’s name, company’s workers, and include with the Superintendent’s Daily Logs detailing what work each subcontractor performed at the job site on any particular day.
 - ii. Ensure the prime contractor knows the names of all workers, the dates worked on the job site and # of hours worked on the jobs site, per subcontractor, on the job site. **THIS IS REQUIRED DUE TO THE PRIME CONTRACTOR**

HAVING THE ULTIMATE RESPONSIBILITY FOR ENSURING EACH SUBCONTRACTOR LOADS ALL OF HIS/HER WORKERS INTO THE HUD ECSP SYSTEM AND THAT EACH WORKER IS LISTED ON THE WEEKLY PAYROLL BASED ON DATES WORKED AND NUMBER OF HOURS PER DAY.

- d. Review and ensure certified payrolls are accurate and in compliance with Federal Labor Standards prior to entering the weekly payrolls into the HUD ECSP System.**
- i. Payrolls not meeting this guidance will not be accepted.
 - ii. No paper payrolls are allowed or will be acceptable. Each subcontractor is required to have access to the Internet and enter weekly payrolls through the HUD ECSP System. **Prime and subcontractors may call the Elation Systems, Inc., Technical Support System, 1-925-924-0340, extension 100, to obtain a work around method for entering these payrolls IF the subcontractor does not have an electronic or some type accounting system.**
- e. Ensure subcontractors enter weekly payrolls for all “no work weeks.” Continue to number the “no work week” payrolls.
- f. **Ensure all subcontractors submit weekly certified payrolls and the “FINAL” payroll is marked “FINAL.” This is what stops the HUD ECSP System from sending out discrepancy notices—once a contractor has completed his/her portion of the project. When subcontractors complete the job and upload all certified payrolls, ensure the sub’s payroll status is marked completed.**
- g. **HOWEVER, if the subcontractor or another contractor is called back to complete “punch list” items “before” HUD accepts the project, the prime contractor will have to enter the new subcontractor’s name and other information in the HUD ECSP System and enter weekly payrolls for any “punch list” items. Once the punch list items are completed, by each sub, enter the “FINAL” in the last payroll submitted.**

Part B - Prime Contractor and Subcontractors Responsibilities

1. **Ensure prime contractors and subcontractors have established an account with Elation Systems, Inc. so the primes and subcontractors can enter weekly payrolls into the HUD ECSP System. Call Elation Systems, Inc. Technical Support Help Desk, 1-925-924-0340, extension 100, for any assistance with this.**
2. **Ensure prime contractors and subcontractors attend a HUD ECSP Contractors Session. A schedule will be published. If unable to attend one of these sessions, call the Elation Systems, Inc. Technical Support Help Desk, 1-925-924-0340, extension 100, to walk the contractor through the process.**

3. **Pay workers weekly!** This means if a worker performs physical and/or manual labor at the prevailing wage construction site, the worker is classified as a mechanic or laborer. The Davis-Bacon Act requires weekly pay to mechanics and laborers – NOT payment based on an invoice submitted less than weekly. This means self-employer owners/sole proprietors, partners, etc., with no crews, are paid weekly and the subcontractor and prime contractor should have copies of pay stubs and/or other payroll documents showing these workers were paid weekly!
4. **WORK CLASSIFICATIONS:** Use only the classifications listed on the issued wage decision. If the classification is not listed, and the work cannot be conformed to an existing trade, enter, via the HUD ECSP System the required information on the *HUD 4230A, Request for Additional Classification*, and submit electronically to HUD. Mechanics and laborers are paid weekly for the “labor/trade” that is performed on the construction site. Therefore, any contracts that are for material and labor should have separate amounts for each.
 - a. Sole proprietors and self-employed owners are either mechanics (performing a skilled trade) or laborers (non-skilled work) on prevailing wage projects. Therefore, these workers are paid weekly – not when invoices are submitted.
 - b. The U. S. DOL and HUD do not recognize classifications such as owner, independent contractor, superintendent, supervisor, helper, etc. –so not include these words on certified payrolls
 - c. Apprentice is not a DOL-approvable work classification. Review the paragraph on Apprentices in this document.
 - d. NO worker is “exempt” on a FHA-insured or HUD-funded Davis-Bacon Project; therefore do not use the word exempt in any work classification field.
5. **Rates of Pay.** The correct hourly prevailing wage rate is comprised of the basic rate + fringe rate that is reflected on the issued initial closing wage decision for the project. **All contractors are required, weekly, to pay each worker the “hourly total prevailing wage rate” for work performed for all work hours performed at the job site.**
6. **HUD ELECTRONIC CERTIFIED PAYROLL SYSTEM, Effective November 16, 2015** **Prime contractors and subcontractors are to submit weekly certified payrolls to the prime contractor who will input these payrolls into the new HUD Electronic Certified Payroll System. DO NOT HOLD** these weekly payrolls. PRIME CONTRACTORS are required to review these payrolls for compliance by all subcontractors before entering the final payroll into the HUD ECSP System. If the payrolls do not meet the guidance, as provided in this synopsis, payrolls will be flagged, as not acceptable; and error will have to be corrected through the electronic payroll system. An incomplete and/or erroneous payroll creates additional paperwork and unnecessary expenditure of critical man hours by all.

7. **Number certified payrolls sequentially/No Work Week. Number of all payrolls; no work week payrolls required. Each subcontractor is to start with payroll #1.**
8. Although HUD has implemented an electronic payroll processing system, specific information, as described below, is required for all payrolls entered into the system:
 - a. Use an accounting system for payroll reporting that reports all the information required on the WH 347 Form for certified payrolls. NO paper payrolls will be submitted/allowed/acceptable. Call the Elations Technical Support Help Desk at **1-925-924-0340, extension 100, for help with this if your company does not use an electronic accounting system or do not have Internet access. Also, contact your prime contractor for help with this.**
 - b. Ensure all blocks, as applicable, are completed.
 - c. Ensure **the correct work week ending date is reflected and the dates are correct for each day of that work week**. If there is a holiday in a work week and the worker did not work, reflect that day as a holiday (H).
 - d. Ensure the **correct rates of pay are paid weekly** (refer to #6Q and #8 of this handout)
 - e. Enter the supporting documentation for any deduction listed under “other.” (Refer to 6R of this handout)
 - f. **Ensure applicable blocks, i.e. 4 a or b or c**, of the Statement of Compliance (back side of the WH 347Form) are completed.
 - g. Use the remarks section to include any information that explains fringes, restitution payments, underpayments, corrections etc. Number corrected and/or restitution payrolls using the old number and adding either restitution or corrected to the payroll number block. For example 1-Restitution or 2-Corrected.
 - h. Ensure **each company has signed the electronic authorization letter for those persons authorized to sign the statement of compliance.**
 - i. Ensure the Statement of Compliance is submitted with weekly payrolls. .The HUD ECSP System will generate automatically the State of Compliance once the all the payroll and supporting information is entered and after you hit the “save or submit” button.
 - j. Ensure all workers, performing as mechanics and/or laborers, on the job-site, are listed on the weekly certified payroll for the week they worked. Pay workers weekly, not less than

the required hourly total prevailing wage rate (basic + fringe benefit amount on the project wage decision.)

- k. Ensure the following on each certified payrolls:
- i. **Only use the work classification** that is listed on the wage decision for the project. If the work classification is not there or cannot be conformed to an existing trade, **YOU** are required to enter a request for additional classification, using HUD 4230A Form, with supporting documentation, through the HUD ECSP System.
 - l. **Overtime is reflected on the federal certified payrolls for overtime hours, in excess of 40, on the applicable federal job site.** (This means the prevailing wage job hours and other jobs that the worker is working. If the worker's total work hours exceed 40 per week on the prevailing wage job site, overtime pay, based on the federal prevailing wage rate, is required.) **Some states and union contractors may require workers to be paid after 8- or 10- hour work days.** If that is true in your state or through a union contract, pay the worker overtime based on those agreements.
 - m. **CWHSSA.** On projects directly funded by HUD, and the prime contractor's construction contract amount is \$100K or more, the Contract Work Hour Safety and Standards Act (CWHSSA) applies to the prime contractor and all subcontractors. Contractors failing to pay the required overtime will be assessed liquidated damages, of \$25 per day, per worker, per violation. Examples of directly funded projects are the construction funded via the HUD Community Development Block Grant, HOME, Neighborhood Stabilization Program, Disaster Recovery, Public Housing Authorities, the HUD Section 811 and 202 Grant Programs. CWHSSA applies to these projects, as related to overtime violations. The contracting agency will notify the prime contractor of these violations.
 - n. On projects where CWHSSA does not apply, the Federal Labor Standards Act applies to overtime when workers work more than 40 hours per week on the project job site.
 - o. **Gross Pay.** Ensure total gross pay, deductions, and net pay are reflected for workers who work more than the prevailing wage job during a work week—meaning all jobs for that work week.
 - i. **Do not attempt to divide a two-week payroll period into a weekly certified payroll report.** Sometimes, this office will ask for the employer's copy of the worker's pay stub, direct deposit statement, or other information to verify that the worker was paid weekly and not bi-weekly, monthly, or when an invoice is submitted.
 - p. **Worker's Written Authorizations.** Enter written authorizations from workers for "other or miscellaneous" deductions from workers' paychecks. **Only bona fide deductions, as allowed by law, will be allowed.** These other deductions must be for the benefit of the worker and not the employer.

- i. There must be written, signed, and dated agreement, in place, and entered into the HUD electronic payroll system “prior” to the start of the construction job.
- ii. The agreements must clearly state the item, the total payment, the weekly payment amount, and duration of the loan.
- iii. Deductions for tools, gloves, boots, telephones, etc., may not be allowed.
- iv. Deductions for worker’s personal protective equipment, required by law, and for which the employer must pay is not an allowable deduction—authorized or not by the worker.
- v. If an item is required to obtain and/or for continuation of employment, that item is not an allowable deduction. **Some of the fees/other deductions that this office have seen and not allowed and that benefitted the employer were:**
 - 1. Personal protective equipment
 - 2. Transportation charges for temporary workers to go to and return from the job site
 - 3. Administrative fees for deducting child support and/or other court ordered deductions
 - 4. Pre-employment drug screening tests
 - 5. Deductions for lodging
 - 6. Deductions for equipment destruction – unless clearly specified in the employer’s human resources or personnel policy.
 - 7. Deductions for direct deposit of workers’ paychecks.
- q. Do not reflect a work classification for “helper” or “assistant.” Such work classifications are not allowed.
- r. **APPRENTICES and verification: NO worker will be accepted as such, without the required verification documentation entered into the HUD Electronic Payroll System for each apprentice, when he/she appears on the first payroll.** It is the contractor’s responsibility to provide the required documentation and upload as an attachment to each payroll in the HUD electronic payroll system. *Absent such documentation, the worker is classified and paid as a journeyman.*
 - i. **Required paperwork:** 1) title page of the Apprentice Program Standards; 2) a copy of the D-B individual certification/registration for “each” worker classified as an apprentice; 3) a copy of the Program Standards for the Apprenticeship Program – **the Program Standards must show:** 1) ratio of journeyman to apprentice; 2) apprentice rate of pay (based on the apprentice work level); and 3) fringe benefits for each apprentice. NOTE: If the program standards do not

reflect fringe benefits or the rate of pay, then the apprentice will be paid the full journeyman basic wages and fringes.

- s. Include the apprentice's trade and work level, i.e. 1, 2, 3, 4, and percentage of journeyman pay, as part of the work classification.
- t. Apprentices are out-of-ratio when they are working alone any part of the day and/or any day. They are out-of-ratio if the apprentice to journeyman ratio does not match the ratio in the Apprenticeship Program Standards. This is based on the job site, and not the company, as a whole.
- u. Supervision of apprentices. Apprentices are supervised by full journeyman, of the same trade, working for the same employer.
- v. **General/prime contractors must enter the ratio for each trade, with apprentices on the job site, in the Journeyman to Apprentice (J/A) Apprentice Ratio Module in the Elation Systems.** The HUD DBLS Specialist will not accept payrolls, reflecting apprentices, without the appropriate supporting documentation will not be accepted.

9. INDEPENDENT CONTRACTORS OR 1099 WORKERS:

- a. Most workers on prevailing wage projects do not meet the criteria for classification as independent contractors. For HUD prevailing wage projects, any worker classified as an independent contractor and/or 1099 worker must meet the required city and state requirements for such classification. Failure to meet those requirements may result in fines and other penalties assessed against the contract classifying workers, as such.
- b. Any certified payrolls that include the term "1099 worker or independent contractor" for a worker **will require supporting documentation, entered into the HUD Electronic Payroll System** that validates the worker's status as an independent contractor. The required supporting documentation: 1) city business license or state certification as a business and/or independent contractor; 2) a copy of the required contract, containing the required Federal Labor Standards Compliance language and the project's Davis-Bacon wage decision, between the worker and the contractor or subcontractor that hired the independent contractor; and 3) other documents that validates, within the respective State, County, or City, the worker's status as an independent contractor.
- c. ABSENT this information, this office will not accept certified payrolls that list workers as independent contractors and/or 1099 workers. Contractors and subcontractors are required to comply with all U. S. Department of Labor and Federal Internal Revenue Status Statutes that apply to employees/workers. During HUD's review of certified payrolls and failure of the prime contractor or any subcontractor on a HUD-funded job to provide the requested information to verify a contractor or subcontractor, at any tier, as an independent contractor may be referred to the appropriate State Office for review of

the worker's status. Although the contractor may supply the required information, HUD retains the authority to refer the contractor to the appropriate State Office for review of the worker's status.

10. FRINGE BENEFITS:

- a. **Complete the itemized fringe benefits statement that is in the HUD ECSP System.** **This is** a list that reflects the hourly breakdown of fringe benefits for **each worker** receiving fringe benefits, when the hourly basic wage is less than the total prevailing wage. This is done the first time the worker appears on the certified payroll.
 - i. Ensure the fringe benefits for apprentices, as reflected on the fringe benefits statement, are the same fringes entered in the *Apprentice Wage Schedule Module* in the Elation Systems.
- b. **DO not enter a generic union statement of benefits, since each worker is different.** Some workers may or may not be vested and may or may not participate in an employer-paid fringe benefit program.
- c. Enter what you, as the employer, pay specifically as a fringe benefit on behalf of each worker.
- d. Reflect the name, address, and contact number of the 3rd Party Administrator for the fund; and frequency of deposits to the fund.

11. Sole proprietors, self-employed owners, working with no crew. The prime contractor or the contracting entity will keep track of work dates, weekly work hours, pay workers weekly, complete and enter into the electronic payroll system the weekly certified payrolls for subcontractors who are self-employed or sole proprietors with "no crew working with them." **Self-employed owners, with working crews,** may complete, certify, and submit the required weekly certified payrolls. HUD Labor Relations Letter 96-01 applies to this issue.

12. HUD-11 Record of Employee Interview: Usually during an on-site inspection, the HUD inspector will interview workers and complete the HUD Form-11, Record of Employee Interview. The HUD inspector forwards a copy to DBLS for review and comparison of submitted payroll data. The HUD DBLS Staff will enter this information and compare the data to the respective payroll in the HUD ECSP System. If the payroll is missing from the ECSP System or the worker's name is not listed on the payroll, then a notice or flag will appear in the ECSP System.

13. Resources:

- a. **HUD Electronic Certification Submission Payroll (ECSP) System** - Elation Systems, Inc. Technical Support Help Number: **1-925-924-0340, extension 100.**
- b. HUD DBLS Homepage with links to the U. S. Department of Labor Websites

- i. http://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_standards_enforcement
 - c. HUD Guidebook, Making Davis-Bacon Work . . .
 - i. <http://portal.hud.gov/hudportal/documents/huddoc?id=4812-LRguide.pdf>
 - d. HUD Labor Relations Letter 96-01
 - i. http://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_standards_enforcement/olr_9601
 - e. Required Forms
http://portal.hud.gov/hudportal/HUD?src=/program_offices/labor_relations/olrform
 - f. Contractors Eligibility Verification
 - i. www.sam.gov
 - g. Working in the United States
 - i. <http://www.uscis.gov/>
- 14.** Contact the prime contractor for any labor standards requirements issues. The prime contractor will contact this office to address issues which require a response from HUD OLSE, Region VII. A Regional Contractors Industrial Relations Specialist (CIRS) will respond to the questions. If a subcontractor is unable to resolve the issue through contact with the Prime Contractor, the subcontractor may call 314.418.5261 and speak with Fannie Woods, Director/Regional Supervisor, Davis Bacon and Labor Standards (DBLS) Division, Region VII, Kansas City, KS. Fannie's email address is Fannie.J.Woods@hud.gov.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

October 5, 2015

Special Attention of
All FHA Approved Multifamily Mortgagees
All FHA Approved 232 and 242 Mortgagees

MORTGAGEE LETTER 2015-25

SUBJECT: Implementation of Electronic Submission of Davis-Bacon Wage Rate
Certifications

With this Mortgagee Letter, the Department of Housing and Urban Development (HUD) introduces a new method for submission of Davis-Bacon Prevailing Wage Payroll Certifications that are to be completed by construction contractors and submitted to the Labor Enforcement Field Staff at HUD. The objective is to automate the payroll review process through a subscription Commercial Off The Shelf (COTS) web-based service for federally funded and/or assisted construction projects receiving HUD grants, loans, loan guarantees and/or insurance to improve HUD's Davis-Bacon oversight and compliance.

I. PURPOSE

A. Background

The Office of Labor Standards and Enforcement (OLSE) is responsible for the administration and enforcement of Federal labor standards provisions in HUD programs. These standards include those contained within the Davis-Bacon and other Related Acts (DBRA), the Copeland Act and the Contract Work Hours and Safety Standards Act. Additionally, the Office of Labor Standards is responsible for the administration and enforcement of prevailing maintenance wage requirements of the U. S. Housing Act of 1937, the Native American Housing Assistance and Self-Determination Act of 1996. OLSE seeks to implement a web-based, electronic certified payroll tracking subscription to monitor compliance with the Davis-Bacon and Related Acts (DBRA).

B. General Objectives of the Davis-Bacon Payroll Subscription

The overall objective of this Mortgagee Letter is to announce HUD's planned implementation of an automated payroll review process via a subscription to a web-based service for federally funded or assisted construction projects receiving HUD grants, loans, loan guarantees, and/or insurance to improve HUD's Davis-Bacon oversight and compliance.

The subscription service shall enable OLSE to improve its monitoring and compliance oversight functions of Davis-Bacon wage rates for all HUD directly administered projects (multifamily, hospitals, nursing homes, Rental Assistance Demonstration (RAD) Sections 202 and

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811 and other assisted construction) that are subject to Davis-Bacon wage requirements. This web-based subscription service is to be used on all in-house contracts where staff performs the administration and enforcement of labor standards compliance, and will likely expedite the review and approval process functions. In-house labor compliance is performed for all multifamily insured projects.

C. Implementation of the Electronic Submission of Davis-Bacon Payroll Certifications in HUD Programs

This Mortgagee Letter describes and identifies:

1. The implementation schedule for preliminary use, then mandatory use, of the Davis-Bacon Electronic Certification Submission tool;
2. The HUD programs that will use the program for submission of the Davis-Bacon reports to fulfill the Davis-Bacon Electronic Certification Submission Program requirements;
3. The system user access credentials and methods; and
4. The training and self-help resources, technical assistance and help desk resources available to users.

D. Standard Names

To avoid confusion and to aid communication, the common name for the combination of software and systems tools herein described for the electronic submission of Davis-Bacon wage rates certification is the "Davis-Bacon Electronic Certification Submission Program" or the "Davis-Bacon ECSP."

II. IMPLEMENTATION CALENDAR AND PROGRAMS COVERED

A. Calendar for Implementation/Participants

All program participants are invited and encouraged to begin using the Davis-Bacon ECSP for the submission of Davis-Bacon wage reports submitted to HUD beginning on the first business day following 30 days after the date of publication of this Mortgagee Letter.

Participants include all general contractors required to use Davis-Bacon prevailing wages and participating in HUD/FHA insured multifamily programs and/or directly administered projects that are subject to Davis-Bacon wage requirements. The program will initially be implemented for new construction/substantial rehabilitation projects located in the Southwest Region that have yet to reach initial endorsement. **Use of the Davis-Bacon ECSP will be mandatory for all Davis-Bacon Payroll certification submissions after March 31, 2016 for all projects that are less than 50% complete. This requirement applies to all programs identified in paragraph B below.**

B. Applicability to HUD Programs

This Mortgagee Letter applies to all FHA insured construction loans; Section 542 Risk Share construction loans, any healthcare construction loans (Section 232, 242 or Title XI) and to all

Public Housing Authority construction loans, specifically including FHA insured construction loans made through the Rental Assistance Demonstration (RAD) program.

III. SYSTEM ACCESS AND USER CREDENTIALS

A. System Summary

The Davis-Bacon ECSP provides the following functions in managing prevailing wage data. These are:

- Electronic submission of Certified Payroll data from contractors and subcontractors;
- Access by contractors and subcontractors from any location via the Internet;
- Ability to import and export data files from the contractors' and subcontractors' existing payroll systems;
- Storage and maintenance of Federal prevailing wage rates including fringe benefits, workers compensation classification codes, and trade classifications;
- OLSE's/HUD's ability to provide email notification of non-compliance with the various programs to contractors and subcontractors;
- Capability to calculate restitution and generate e-mail alerts of non-compliance to contractors and program administrators;
- Reproduction of semi-annual and annual certified payroll reports in both digital and hard copy formats; and
- Standard and ad-hoc reporting functions delineated by the OLSE/HUD (statistical and graphical formats) made available via hard copy and digitally.

B. User Credentials & Access

Credentials, passwords and roles for the Davis-Bacon ECSP will be managed as follows:

1. Prime/General Contractors and Subcontractors - will access the submission portal through the web based connection which will provide identification and a password specific to the user. The ID will be the email address on record of the individual. An initial Password will be provided that can be changed after the individual logs into the system. Individuals will also select a PIN which becomes their Electronic Signature for signing Payrolls. The secure website connection is located at: <http://www.elationsys.com/elationsys/Solutions/Default.aspx>
 - a. Customer support for users' application, authorization, and authentication questions is provided through the Customer Service Team. Contact information for the Team will be communicated when the Contractor is assigned to the

project. Prime Contractors will receive phone numbers and email addresses for the Support Team. Subcontractors will receive email addresses.

2. HUD Supervisors in OLSE who are responsible for staff review of wage rate should request access, and an appropriate role for staff whose work assignments will include review or management of certifications. Available roles include the following:
 - a. Assigner: a person who will assign certifications to others for review;
 - b. Reviewer: a person who will review and make a decision on a wage rate certification assigned to them. A person in a reviewer role may reassign a file to another person with the reviewer role. Only a person in the reviewer role may approve or reject a submitted wage rate certification.
 - c. Viewer: A person who may have read only access to submitted wage rate certifications.
3. Users should be aware that credentials and permissions unused for 90 days are terminated as a security safeguard. When user credentials are terminated the user must contact the Prime Contractor if the user is a subcontractor. A Prime Contractor must contact the Support Team in order to have access restored.
4. All users should bear in mind that the Support Team will answer access and software related questions, including technical questions about the data included on the wage certifications. They will not provide compliance decisions but they will provide information to be used by the Prime Contractor or HUD Labor Relations Specialist to make a decision.

IV. TRAINING FOR THE DAVIS-BACON ECSP, AND FUTURE REVISIONS

Training for Davis-Bacon ECSP users will be provided by OLSE in a variety of ways including live presentations at industry related meetings and webinars. Many resources are available, such as the “Instructions for Use of the Davis-Bacon ECSP,” a guide which addresses all aspects of preparing and submitting wage rate certifications using the Davis-Bacon ECSP. Local Labor Relations contact information is available on the Davis-Bacon ECSP home page. Instructions may be downloaded from the Davis-Bacon ECSP home page at:

<http://www.elationsys.com/elationsys/Solutions/Default.aspx>

V. PAPERWORK REDUCTION ACT

The information collection requirements contained in this document and the Davis-Bacon ECSP have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 1235-0008. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information

unless the collection displays a currently valid OMB control number.

If there are any questions, and/or concerns regarding this Mortgagee Letter please contact Thomas Bernaciak at (202) 402-3242, in HUD Headquarters, Office of Multifamily Production or contact Vance Morris at (202) 402-2419, Office of Healthcare Programs. Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Edward L. Golding
Principal Deputy Assistant Secretary for Housing

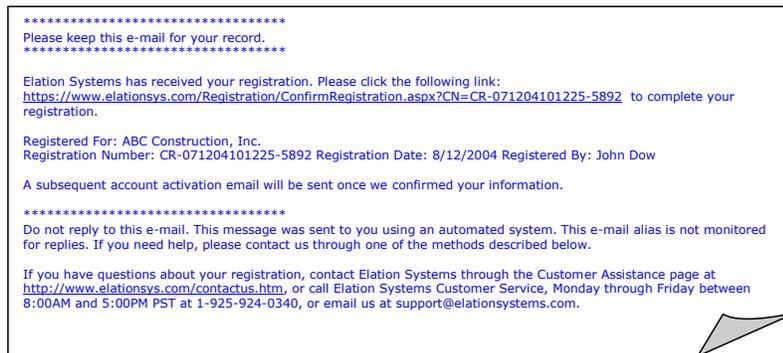
Davis-Bacon Electronic Certification Submission Program Registration Instruction

Please follow the steps described below to establish your on-line account for the web based Davis-Bacon Electronic Certification Submission Program (ECSP) provided by Elation Systems. For your online security, please use latest browsers such as Internet Explorer (IE) 11, latest version of Chrome and Firefox.

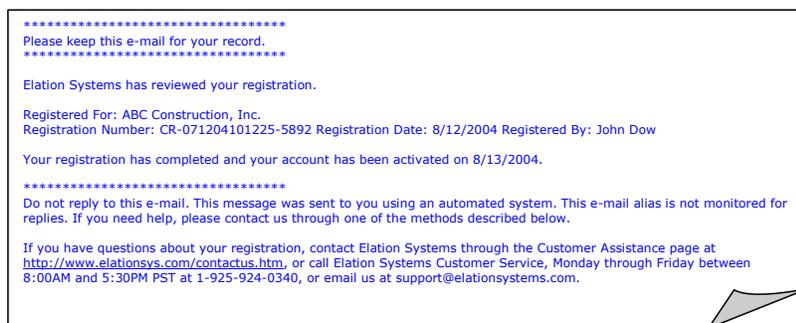
1. Contractors and subcontractors must establish an account with Elation Systems' on-line services by registering over the web. The web address for registration is <https://www.elationsys.com/app/registration>. The special **promotional code is: HUD-IV-2015**.

NOTE: If your company already has an account with Elation Systems, you do not need to register again.

2. You will receive a confirmation email after completing registration form and the following is an example of the email. Please make sure to **click** on the link provided in the email to complete the registration process.



3. Once above steps are completed, you will receive an account activation email and following is an example.



4. After receiving the activation email, you may start to use the on-line reporting services by using the "User Name" and "Password" you specified at time of your registration.

Thank you!