



Federal Labor Standards with HOME Program Funds

Virginia Department of Housing and Community Development

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These procedures outline the requirements for Federal Labor Standards (FLS) that must be followed when undertaking construction projects funded with HOME Investment Partnerships (HOME) funds. The Virginia Department of Housing and Community Development (DHCD) must ensure contractors and subcontractors observe them to ensure compliance with the federal and state labor laws and requirements.

Federal Labor Standards

The Federal Labor Standards (FLS) for contracts utilizing HOME funds are primarily set forth in the following three statutes:

- The *Davis-Bacon Act* (40 USC 276(a-a5);
- The *Copeland “Anti-Kickback” Act* (40 USC 276(c); and
- The *Contract Work Hours and Safety Standards Act* (CWHSSA) (40 USC 327-333).

Davis-Bacon Act

The *Davis-Bacon Act* (Davis-Bacon) requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Department of Labor (DOL) and are issued in the form of federal Wage Decisions for each classification of work. Generally, the law applies to all construction, alteration, and/or repair contracts in excess of \$2,000, however under the National Affordable Housing Act of 1990, the HOME Program regulations, (found at 24 CFR 92.354) states **“every contract for the construction (rehabilitation and new construction) of housing that includes twelve (12) or more units assisted with HOME funds must contain a provision requiring the payment of not less than the wages prevailing in the locality”**. First Time Homebuyers Assistance and Single Family Homeowner Occupied Rehabilitation activities do not trigger Davis-Bacon when *only* engaging in that activity.

Note: Davis-Bacon may still apply if HOME funds are used for a fraction of the project cost, construction or non-construction. HOME funds do not have to fund the entire project in order to trigger the regulation. However, once triggered, labor standards are applicable to the construction of the entire project; including the portions of the project that are not assisted with HOME funds.

Copeland “Anti-Kickback” Act

The *Copeland “Anti-Kickback” Act* requires that workers be paid at least once a week, and without any deductions or rebates except permissible deductions. Permissible deductions include taxes, deductions the worker authorized in writing, and those required by court processes. The Act also requires that weekly *Statements of Compliance* (Optional Form WH-347) be submitted to the Contract Compliance Officer (CCO). The Act applies to all contracts covered by Davis-Bacon.

Contract Work Hours and Safety Standards Act

The *Contract Work Hours and Safety Standards Act* requires that workers receive "overtime" compensation at a rate of 1 ½ times their basic rate of pay for all hours worked in excess of 40 hours in a work week. It applies to all construction contracts funded in whole or in part with HOME funds.

These statutes require that DHCD develop internal procedures that comply with all federal labor standards provisions and compliance procedures. Applicable wage rates and FLS provision requirements must be included in the program agreement between DHCD and the Contractor.

Exemptions

There are certain exemptions where Federal Labor Standards do not apply:

- Construction contracts at or below \$2,000. Note that arbitrarily separating a project into contracts below \$2,000 in order to circumvent the requirements is not permitted; *Davis-Bacon may still apply if HOME funds are used for a fraction of the project cost.*
- Rehabilitation and new construction of housing containing less than 12 units;
- Housing activities carried out by employees of Local Government
 - also known as “force account labor”;
- Housing activities conducted under volunteer labor; and
- Housing activities conducted under sweat equity.

Contract Compliance Officer

DHCD *must* identify one staff person, known as the Contract Compliance Officer (CCO), who is responsible for ensuring compliance with the federal labor standards. The CCO *must* undertake the following activities:

1. Verify that the Contractor has not been debarred;
2. Obtain the Wage Decision;
3. Conduct weekly reviews of the payrolls to ensure that all employees are being paid in compliance with federal guidelines and that all other labor standards provisions are being observed i.e., job classifications and payroll deductions;
4. Conduct on-site interviews with construction workers;
5. Enforce the federal labor standards; and
6. Take corrective actions.

Verifying Contractor and Subcontractor Eligibility

A contractor or subcontractor who is debarred by the Department of Housing and Urban Development (HUD), DOL, or by an agency of the Commonwealth of Virginia is *NOT* eligible to work on any HOME funded project. The CCO must verify that the Contractor is not on the list of debarred contractors. The Contractor is responsible for obtaining clearance of all subcontractors. Verification of contractor and subcontractor eligibility must be included in the

project file and is available on the System for Award Management (SAM) website at www.sam.gov.

Securing the Wage Decision

Wage Decisions are issued by DOL periodically throughout the year. They are a listing by type of construction of different job classifications and the minimum wages and fringe benefits that must be paid to anyone performing work in those classifications. All HOME projects, except for the activities listed above, are required to use Wage Decisions.

Wage Decisions can be found on-line at the Wage Determinations On-Line.Gov website at www.wdol.gov. This is the *only* on-line location endorsed by DOL. The rate received will be an area rate. Area rates do not have an expiration date and are valid until new rates or modifications are issued. The Contractor and his subcontractors are legally bound by the issued area rates *and* any modifications or new rates issued by DOL.

Federal wage determinations are generally issued for four types of construction work; Residential, Building, Heavy, and Highway. It is important to understand the difference when determining which construction type is involved in order to select an appropriate determination.

- **Residential projects** involve the construction, alteration or repair of single-family houses or apartment buildings no more than four stories tall.
- **Building construction** generally includes construction of sheltered enclosures with walk-in access for housing persons, machinery, equipment or supplies, and apartment buildings greater than four (4) stories high. This includes all construction within and including the exterior walls, both above and below grade.
- **Heavy construction** is generally considered for all construction not properly classified as highway, residential, or building. Construction of dams, bridges, water, sewer line and flood control projects will typically be categorized as heavy construction.
- **Highway projects** include construction, alteration or repair of roads, streets, highways, runways, parking areas, sidewalks and most other paving work not incidental to building or heavy construction.

In lieu of the full wage decision, the CCO can decide to use a project wage rate sheet to:

- Verify contractor and subcontractor's understanding of wage rates that must be paid;
- Post information for laborers and mechanics to understand their rights; and
- Assist in the review of Certified Payroll Reports.

The Project Wage Rate Sheet can be found at www.hud.gov/offices/adm/hudclips/forms/files/4720.doc.

Note: The full text of the wage decision must be included in the program agreement.

Dual Wage Decisions

Dual Wage Decisions are issued when a project consists of more than one significant category, which is defined by DOL as at least 20% of the total construction cost. This will be determined by the CCO and the Contractor before construction commences. The contract will either be broken out by Wage Decision or by subcontract or the Contractor may pay wages by breaking out payroll information by Wage Decision or pay the higher wage rate of the decisions issued. This item must be clearly discussed at the pre-construction conference.

Issuing the Wage Decision

The CCO is responsible for ensuring the Wage Decision, affirmative action goals, and Federal Contract Inserts are provided once the program agreement is executed.

Note: If DHCD executes the program agreement but construction does not start within one hundred-eighty (180) days, DHCD must determine if the wage decision has been modified. If a modification has occurred, DHCD must issue an addendum to the program agreement to incorporate this modification.

DOL Posters

Before construction commences, the CCO will provide posters related to federal labor standards to the Contractor. The posters must be prominently posted throughout the construction site. The CCO must ensure that the posters and the Wage Decision(s) are posted at the construction site in a place that is easily accessible to all of the construction workers employed at the project and where they will not be destroyed by the weather.

For copies of the DOL posters in Spanish call DOL or go to www.dol.gov/osbp/sbrefa/poster/main.htm.

Labor Standards Checklist

At the pre-construction conference, the Contractor and all known subcontractors must sign the Labor Standards Checklist, certifying that they will comply with the Federal Labor Standards. The CCO must ensure that any additional subcontractors sign the checklist. The pre-construction conference is NOT mandatory under the Federal Labor Standards requirements. If the Contractor has prior Davis-Bacon experience and has demonstrated successful performance a conference may not be needed. However, it is recommended to ensure that all parties involved understand the requirements and expectations; especially if some are inexperienced with the regulations. See Appendix A for a sample Labor Standards Checklist.

Monitoring the Use of Job Classifications

All construction workers must perform in and be paid according to a specific job classification as listed on the Wage Decision. A construction worker is defined as anyone who is performing construction work on the project, including trade journeymen, flagmen and guards. Employees with duties that are primarily administrative, executive or clerical in nature are exempt from Davis-Bacon requirements.

Apprentices and trainees may only be so classified if they are part of an apprenticeship program recognized by the Virginia Department of Labor and Industry. See below for a greater discussion on apprentices and trainees.

Note: Foremen or supervisors who regularly spend more than 20% of their time performing construction work are workers for the time spent performing construction work. This time must

be included on the payroll report and they must be paid at least the hourly rate of any job that they perform.

Additional Job Classifications

The wage rates issued by DOL must list and identify the general types and classifications of jobs necessary to complete the project. Upon receipt of the Wage Decision, the Contractor and its subcontractors must determine if all of the necessary classifications are listed. If not, once construction has started, the Contractor *must* submit a signed, written request to the CCO naming the additional job classification(s) needed and the recommended wage rate(s), including any fringe benefits, for each required classification. Subcontractor's requests must be submitted through the prime contractor.

The request should include the following information:

- The work to be performed by the additional classification is not being performed by an existing classification in the applicable wage decision;
- The proposed classification(s) is used 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 applicable wage decision;
- The contractor used the classification(s) and the proposed wage(s) and any fringe benefit(s) developed in preparing the request; and
- The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). Attach supporting documentation.

The proposed wage must be closely aligned with other wage rates already listed in the Wage Decision. For example, the wage rate proposed for an Electrician must be at least as much as the lowest wage rate for other trade classifications already in the Wage Decision. Furthermore, no additional job classification can be paid a wage rate lower than the lowest one listed for laborers.

The request must also contain signed statements from the affected employees certifying that they agree on the classification(s) and pay rate(s). DHCD will submit the additional job classification request to DOL for approval. If approved, DOL regulations permit thirty (30) days from its receipt of the request to concur with or disapprove of the Contractor's suggested pay rates. Upon DOL approval, a notice of approval will be provided. If DOL disapproves the request, DOL will notify DHCD of the reasons why the request cannot be approved and which work classifications/wage rates could be approved for the work involved if a modified request is submitted.

Dual Classifications

Workers engaged in more than one trade or classification must be paid either:

- The wage for that classification which pays the higher wage rate; or
- The rate specified for each classification for the time actually worked in it, provided that the contractor's payroll accurately documents the time spent in each classification.

Dual Wage Decisions

Often when multiple Wage Decisions are utilized a particular job classification will appear on both decisions; however, the minimum hourly wage rate, as specified by each decision, may differ. In such cases the Contractor may choose one of the following alternative guidelines to adhere:

- Workers may be paid the wage rate for the job classification which pays the higher wage rate of the two decisions. However, when the job classification appears on only one Wage Decision and the work is being done under the other Wage Decision, a request for an additional job classification must be submitted;
- Workers may be paid the wage rate specified for each job classification, according to the applicable Wage Decision with regards to work being performed, provided that the contractor's payroll accurately documents the time spent in each job classification; or
- Break-out all work into subcontracts according to the applicable Wage Decision and pay workers accordingly.

Subcontractors

A bona fide subcontractor with an established business must list on his payroll records all workers engaged on the contracted work, including himself, if he performs construction work. As the owner of the firm, he need only list his name and that he is the owner. If he has no other employees and claims that he is a subcontractor, he must be carried on the prime contractor's payroll and be paid at least the hourly rate and benefits which correspond to the classification in which he works.

Proof or evidence that a bona fide subcontracting business exists would include a business license, a contractor's license, contractor identification and address, or employer identification number.

Apprentices and Trainees

The only workers who can be paid less than the wage rate on the Wage Decision for their work classification are apprentices and trainees in an *approved program*. The CCO must contact the Virginia Department of Labor and Industry and get verification that any program claimed by the prime or subcontractors has actually been approved. The CCO must also get documentation of the specific status of individual employees. The Virginia Department of Labor and Industry web site can be found at www.doli.virginia.gov.

Apprentices and trainees are permitted to work at a predetermined rate which is less than the determined rate for their job classification if:

- They are employed and individually registered in a bona fide apprenticeship or training program, which is registered with the DOL, Manpower Administration, Bureau of Apprenticeship and Training (BAT), or with the Virginia Bureau of Apprenticeship Training;
- They are employed in the first ninety (90) days of probationary employment as an apprentice or trainee in such a program and has been certified by DOL or the Virginia Bureau of Apprenticeship Training to be eligible for probationary employment as an apprentice or trainee;

- They are paid at the rate specified in the approved apprenticeship program for their level of progress; and
- The ratio of apprentices/trainees to journeymen is not greater than that permitted under the registered program.

If the person classified as an apprentice or trainee does not meet the above conditions, they may not be so classified and must be paid at the rate of the job classification in which they are performing.

Helpers and Assistants

Workers cannot be classified as helpers or assistants when those terms are synonymous with a trainee in an informal training program. Rather, they must be classified as laborers. They also must be paid at least as much as a laborer, but may certainly be more than a laborer. If the work being performed is not generally manual in nature and does involve the use of equipment, tools or tasks normally associated with the work of a journeyman, the worker must be paid the wage for the job classification he or she is performing.

Monitoring Compliance

Compliance monitoring consists of two basic elements:

1. Payroll Reviews; and
2. Conducting Field Inspections.

Payroll Reviews

The Contractor must submit all Certified Payroll Reports to the CCO weekly commencing the work ending with the effective date of the Notice-to-Proceed until the week ending the date of Final Inspection. Contractors should number the Payroll Reports beginning with #1 and clearly mark the last Payroll Report of the project "Final". If there is a temporary break in work, the Payroll Report should be marked "No Work" or numbered in consecutive order and submitted. Contractors must either use DOL Form WH-347, Payroll Report, or a payroll form containing all of the information that is required on WH-347 and is approved by the CCO. See Appendix B for an explanation and sample Certified Payroll Report.

The Payroll Reports are referred to as certified because each payroll is signed and contains language certifying the information is true and correct. The Statement of Compliance must have an *original* signature, in ink or other permanent marker, of the owner, corporate officer or a designee authorized in writing by the owner or a corporate officer. The payroll certification language is found on DOL form WH-348, Statement of Compliance. Contractors must submit weekly form WH-348 or its equivalent. See Appendix B for an explanation and sample Statement of Compliance.

The Certified Payroll Report and the Statement of Compliance must be submitted promptly for every work week of the project no later than seven (7) work days following completion of the work week. Payroll Reports must be submitted directly to the CCO, not the Project Engineer, on a weekly basis.

It is very important that the first Payroll Report is correct because the CCO will be able to establish the proper tone with the prime and subcontractors, ensure mistakes are not repeated, and if required, restitution can be made while the location of workers is still known.

The use of the Log of Payroll Reports and the Log for Reviewing Employees on payrolls will greatly assist monitoring. The Log of Payroll Reports is filled out each week to summarize the Payroll Report review. The Log for Reviewing Employees on Payrolls is good for tracking Local (Section 3) County Workers, Minority and Female Hires, the number of interviews conducted, and comparing the wage rates listed on the Wage Decision, the Payroll Report and the Register of Assigned Employees. See Appendix C & D for a sample Log of Payroll Reports and Log for Reviewing Employees on Payrolls.

Each Payroll Report should be initialed and dated after each review to document compliance if the two logs are not used.

The examination of Payroll Report forms should include the following:

- **Completeness**

Each Payroll Report must be examined to determine if it includes all required items of information and is accompanied by the signed Statement of Compliance. If the Owner or Officer did not sign the Statement, authorization for the employee signing the Statement must be obtained.

Note: The CCO must ensure that the section of the Statement of Compliance which specifies how fringes will be paid is filled out as this is frequently overlooked by the Contractor.

If a Payroll Report is found to be incomplete, a copy must be returned to the Contractor for either completion or submittal of an amended report. If falsification is suspected, the Payroll Report should not be returned; rather a report of such findings should be submitted to HUD Office of Labor Relations.

- **Employee Information**

Each worker's employee identification number must be reported on the first Payroll Report on which his name appears. The employee identification number must be reported each time there is a change in this information.

- **Job Classifications and Wage Rates**

Each job classification and corresponding hourly rate and fringe benefit listed on the Payroll Report *must* be compared with those on the applicable Wage Decision to determine whether the reported hourly rate and fringe benefit is at least equal to that required by the Wage Decision. If the hourly rate and fringe benefit is lower than required, the Contractor must be notified *immediately* in writing to pay the required rate and make proper restitution.

The CCO must confirm that a copy of the apprentice's or trainee's registration in a registered or approved program is attached to the first Payroll Report that the apprentice or trainee appears. The CCO must also verify the ratio between trade journeymen and apprentices complies with the approved apprenticeship program.

- **Computations**

Payroll computations must be reviewed to determine whether payrolls are substantially accurate. If the value of the hourly rate and the fringe is equal to or exceeds the wage decision the Contractor has met their Davis-Bacon obligation. If the hourly rate and the fringe is less than the wage decision the Contractor must be notified immediately in writing of the discrepancy and the balance must be paid to the employee immediately.

Overtime hours must be paid at no less than 1.5 times the hourly rate plus the straight-time rate of any required fringe benefits for the time worked on the Davis-Bacon project. The Contractor is held responsible for paying the overtime hours not worked on the Davis-Bacon project and remaining in compliance with the Fair Labor Standards Act.

- **Deductions**

The Contractor is to show the amounts of any deductions from the gross earnings. Other deductions *must* be reviewed to determine their permissibility. Permissible salary deductions include deductions made in compliance with Federal or State law, court authorized deductions, and any deduction constituting a contribution on behalf of the person employed.

The employee *must* authorize any voluntary non-standard deduction in writing. These may include bond purchases, loan repayments, charitable contributions, uniforms, union fees, and health insurance premiums. The authorization must itemize each deduction by type, the associated amount and when the authorization expires. If the amount authorized changes, a new authorization must be submitted to the CCO. See Appendix E for a sample Authorization of Payroll Deductions Form.

- **Discrepancies**

It is not necessary to investigate discrepancies that do not indicate an underpayment. If there is a difference between the amount reported on the Payroll Report and that amount stated by the worker and both amounts are higher than required by the Wage Decision, no action is required. If, however, either the amount reported paid on the Payroll Report or the amount stated by the worker is *lower* than that amount required, it is necessary to take appropriate corrective action.

Note: The CCO can perform spot-checks of the Certified Payroll Reports if the contractor and subcontractors have continually met labor standards compliance only after reviewing the first several Payroll Reports and On-Site Interviews. Subsequent reviews may be less frequent and/or less intensive.

Conducting Field Inspections

The CCO *must* carry out field inspections to verify and monitor the information reported in the Payroll Reports. Resident Project Representatives of the Engineer (RPRs) cannot be utilized for Davis-Bacon monitoring activities. In performing the field inspections, the CCO must employ a general site observation and employee interview process.

Site Observation

After receiving and carefully reviewing the payroll records, the CCO must monitor on-site construction activities at various times to become familiar with the activities performed by various workers and determine whether the types and numbers of workers generally coincide with the Payroll Report. If there appears to be a discrepancy or if workers appear to be performing more than one trade, these must be checked through Employee Interviews.

The CCO must note the person who appears to be the job superintendent. The CCO should also verify that the Wage Decision and DOL posters have been posted.

Employee Interviews

The CCO is required to verify Payroll Record information through interviews with employees utilizing the Record of Employee Interview form. Employees should be selected for interviews either at random or on the basis of suspected irregularities as determined through the site visit or Payroll Report.

The number of interviews necessary is determined by the size of the Project. Before construction commences or during the pre-construction conference, if one is held, the CCO should request a construction schedule to determine the number of trades that will be on the project site and when they are scheduled to begin and complete work. A minimum of at least one worker per trade and 20% of the total number of workers must be interviewed. Interviews must be conducted during construction a minimum of once a month. Interviews of foremen only apply if they are working foremen. However, if the parties have previous Davis-Bacon experience, the CCO may decide to target on-site employee interviews by limiting the reviews to detect violations and focus on the suspected or alleged violators. See Appendix F for an explanation and sample Record of Employee Interview.

Interviews must take place during the times in which each subcontractor is on the job site to assure that all trades are covered. Additionally, unless there is reason to suspect falsification or intimidation, the employee interview should take place at the job site during work hours. However, if need be, the interviews can be done by mail.

The CCO should first observe what job the worker to be interviewed appears to be performing, noting the tools and equipment used. The CCO should approach the worker at an appropriate time, identify him or herself and state the purpose of the interview. The actual interview should be conducted in such a place and manner as to maximize privacy and avoid disruption of the work being performed.

The worker should be informed that the information given is confidential, and that their identity will be disclosed to the employer only with the employee's written permission. The employee should be informed that the purpose of the interview is to obtain information for use in determining whether the required wages are being paid.

The CCO should cover the items on the interview form thoroughly. Special care should be made to establish clearly what the worker's job classification actually is on that particular project, the last date worked on that particular project prior to the day of the interview, and rate of pay on that particular project.

After completion of the interview, the CCO *must* note on the Record of Employee Interview whether the employee's statements were consistent and the CCO's observations were verified.

Note: The CCO must cross-reference the information from the employee interview against that included in the weekly Payroll Report, the Log for Reviewing Employees on Payrolls, and the Wage Decision. The CCO indicates he or she has completed the required cross-reference by filling out the bottom portion of the Record of Employee Interview form.

Appropriate action must be initiated to clear any discrepancies and questionable items. Questionnaires are mailed to employees when DHCD has reason to doubt the accuracy of the payrolls and underpayments are suspected. The questionnaires are used to verify the accuracy of the payrolls and/or the employees' working conditions. The information gathered through the use of questionnaires may be used to develop complaints of underpayment. Questionnaires *must* be mailed to every employee in the job classification to avoid identifying the employee(s) in question.

Enforcing Labor Standards

When apparent violations of a significant nature are discovered, the CCO must initiate an investigation and contact DOL. Violations of a significant nature would be types that are not readily adjustable through an informal process. These would include:

- Valid complaints of an employee or another knowledgeable party;
- Habitual contract violations which indicate carelessness on the part of the Contractor in respect to all of his contractual responsibilities;
- Habitual delay in furnishing required payrolls, certifications and statements without satisfactory explanation;
- Discrepancies in time or payroll records and observed conditions which evidence apparent falsification; and
- Apparent violation of the Copeland "Anti-Kickback" Act and/or the Contract Work Hours and Safety Standards Act.

The CCO must contact the DHCD Housing Program Administrator immediately if violations such as those listed above are substantiated. Evidence of such violations must be submitted to DOL for action.

Taking Corrective Action

It is important that errors, incompleteness, and violations are identified and that corrective action is taken immediately. Generally speaking, the sooner a problem is addressed, the easier it is to remedy the situation.

If violations resulted in underpayment of wages, the CCO must take one of the following actions to ensure proper restitution:

- For minor errors, DHCD may call the Contractor directly to resolve and document with a memo to the file.
- For major issues, the following steps must be taken:
 1. The CCO computes the restitution and payment to worker;

2. Contractor must be informed in writing to begin paying the required wage rate immediately. The letter should identify the amount of restitution owed to each affected employee;
3. The Contractor *must* document such restitution by submitting a supplemental Payroll Report containing amounts paid and copies of both sides of cancelled checks issued to the appropriate employees, and
4. The CCO reviews the corrected payroll for compliance.

Should the Contractor fail to make full restitution and correct violations within a reasonable period of time, the CCO *must* withhold as much of the amounts due the Contractor as is necessary to ensure payment to workers. Withheld funds should be set-aside in a special non-interest bearing escrow account for wage restitution. From this account, the CCO shall pay either the Contractor at such time as he produces evidence of restitution or the affected workers directly.

If an employee is owed restitution and cannot be located, the restitution remains escrowed while the employee is being located. After three (3) years, the amount remaining in the escrow account for the unfound worker is credited to HUD with a schedule showing the employees name, last known mailing address, full Social Security number and the amount they were owed.

Note: The CCO will contact the DHCD Housing Program Administrator for additional guidance.

Should the Contractor dispute the findings and actions of the CCO, the situation shall be promptly reported to HUD Office of Labor Relations for consideration and appropriate action. HUD will then review the file to determine whether sufficient evidence exists to submit the file to the National DOL office. If findings fall in a “gray area,” HUD will meet with DHCD and the Contractor to negotiate a resolution to the findings.

DHCD must report to HUD whenever an employer is found to have underpaid its employees by \$1,000 or more. In addition, DHCD must report on all covered contracts awarded and on all enforcement actions taken every six months. HUD collects the reports from its client agencies and compiles a comprehensive report to DOL covering all Davis-Bacon construction activity.

The Semi-Annual Report form (HUD-4710) and instructions (HUD-4710i) are available on HUD’s web site at HUDClips found at www.hud.gov/offices/adm/hudclips. These reports are due on April 30 and October 31 each year. The first report for each year covers October 1 through March 31; the second report covers April 1 through September 30.

Labor Standard Files

DHCD is responsible for the maintenance and preservation of labor standards files for each prevailing wage project. The files shall be kept current, maintained in a consistent manner throughout construction, and preserved for at least three (3) years following final closing or the final disposition of any compliance issues, whichever occurs last. At all times, the files must be safeguarded to prevent unwanted disclosure of sensitive information. See Appendix H, Federal Labor Standards Project File Checklist.

Appendices

Appendix A: Labor Standards Checklist

Appendix B: Certified Payroll Report & Statement of Compliance

Appendix C: Log of Payroll Reports

Appendix D: Log for Reviewing Employees

Appendix E: Authorization of Payroll Deductions

Appendix F: Record of Employee Interview

Appendix G: Memorandum of Understanding

Appendix H: Federal Labor Standards Project File Checklist

Appendix I: Related Resources - Websites

Explanation of Form (Part of Wage Decision Packet)

What it is Used For: This is required to assure that all required Labor Standards requirements are explained and all appropriate forms are conveyed to the Contractor and subcontractors.

When it is Used: During the Pre-construction Conference.

Where it Goes: To Grantee's Labor Standards project file.

Instructions: Part of the 'wage decision packet' sent by DHCD with the Wage Decision applicable to the activity(s) being contracted. Use the checklist to check off labor standards items as they are addressed at the Pre-construction Conference. Have the Contractor and any known subcontractors sign this checklist after completing review of items. **Any subcontractors hired subsequent of the Pre-construction Conference must also sign the checklist.**

See also "Labor Standards Checklist," as found in Chapter 8: Federal Labor Standards and Equal Opportunity Requirements.

Labor Standards Checklist

(To be Completed Initially at Pre-Construction Conference)

- Contractors have reviewed and understand all Labor Standards contract provisions.
- Contractors have reviewed and understand wage decision and job classifications.
- Contractors have been informed that all workers:
 - a) must be paid at least the appropriate minimum wage for the job classification;
 - b) must be paid time-and-a-half for all work beyond 40 hours per week;
 - c) must be paid at least weekly; and
 - d) must perform only the work which is covered by the job classification they are listed and paid in. If a worker performs in more than one job classification, he must be paid either the wage of the highest paid job he works or time cards signed by the worker must document the amount of time worked in each job during the week.
- Contractors will inform all workers:
 - a) of their job classifications and duties;
 - b) of their wage rates and fringe benefits;
 - c) that they may be interviewed on the jobsite and are required to cooperate; and
 - d) of deductions from pay.
- Contractors will obtain each worker's name, permanent address, and social security number prior to assigning them to a jobsite.
- * Contractors will obtain certification of any apprentices and trainees, including registration number and year of program, and will submit the same to the Public Body.
- Contractors are aware that they are responsible for the compliance of their subcontractors with Labor Standards provisions.

- Contractors must verify that the subcontractor(s) is/are not debarred from Federal or State contracts.
- Contractors will construct and erect a project identification sign at the construction site identifying DHCD as a funding source per specifications as stated in contract documents.
- Prime contractor has received and will post in a prominent place on the site:
 - a) Wage Decision;
 - b) Labor Standards poster: "Notice to All Employees..." (Davis-Bacon Act) WH- 1321
 - c) "Safety and Health Protection on the Job" poster (VA DOL).
- * Contractors have received Payroll report form (WH-347) and understand:
 - a) how it is to be filled out;
 - b) that it must be filled out completely;
 - c) that it must include every worker assigned to the project (excluding non-working, supervisory, or clerical personnel);
 - d) that Payroll reports must be submitted for every week or part of a week during the course of the contract, and must be submitted by all subcontractors. Payroll reports will be submitted to the Grantee within seven (7) days of the end of the work week.
- Contractors will maintain employment and payroll records which will be accessible to the Public Body, DHCD, and appropriate federal agencies for 3 years.

* Denotes those items which must be submitted by the Contractor.

(Public Body):

Signature

Title

(Prime Contractor):

Signature

Title

Company

(Subcontractor):

Signature

Title

Company

**CERTIFIED PAYROLL REPORT
& STATEMENT of COMPLIANCE
(FORM WH-347 & 348)**

Explanation of Form

What it is Used For: The contractor and subcontractors submit their weekly Payroll Report to the Grantee each week or part of a week in which there are employees assigned to the project. All workers assigned that week **MUST** be included.

When it is Used: During the construction phase of the project.

Where it Goes: In the Grantee's Labor Standards project file.

General Instructions: The Grantee must review each Payroll Report to assure that the Contractor and all subcontractors are complying with *Davis-Bacon Act*, *Contract Work Hours and Standards Act*, and *Copeland "Anti-Kickback" Act* requirements. Payroll records must be verified by field inspections (See Appendix 51 for *Record of Employee Interview* form) and checked against the *Register of Assigned Employees* (See Appendix 54 for form).

Form Instructions:

PAYROLL REPORT

Contractor or Subcontractor: Fill in your firm's name and check appropriate box.

Address: Fill in your firm's address.

Payroll No.: Beginning with the number "1", list the payroll number for the submission.

For Week Ending: List the workweek ending date.

Project and Location: List the project's name as found on the HOME Agreement.

Project or Contract No.: List the project's CIG number.

Column 1 - Name and Individual Identifying Number of Worker: Enter each worker's full name and an individual identifying number on each weekly payroll submitted e. g.; the last four digits of the employee's Social Security number (SSN). Full SSN shall not be included on the payroll. Employers must maintain the current address and full SSN for each employee and must provide this information upon request to the Grantee and DHCD.

Column 2 - No. of Withholding Exemptions: This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.

Column 3 - Work Classifications: List the classification as shown on the wage decision issued for this project. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, consult with your Grantee's Contract Compliance Officer. An individual may be shown as having worked in more than one classification provided an accurate breakdown of hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries. When listing a sole proprietor/subcontractor on a payroll, a prime contractor should record the sole proprietor/subcontractor's information in the same manner as an employee.

Column 4 - Hours worked: List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".

Column 5 - Total: Self-explanatory.

Column 6 - Rate of Pay (Including Fringe Benefits): In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.

Column 7 - Gross Amount Earned: Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus

"\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

Column 8 - Deductions: Five columns are provided for showing deductions made. An Employee Payroll Deduction Authorization must be provided for any deduction listed in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.

Column 9 - Net Wages Paid for Week: Self-explanatory.

Totals - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.

***Submission of Payrolls – Certified payroll reports may be submitted electronically, i.e., via the internet. However, the electronic signature/submission does not mean pdf. files of signed payrolls attached to an email, or faxed copies of signed payrolls. These methods are comparable to photocopies and are not acceptable submissions.**

STATEMENT OF COMPLAINCE

Statement Required by Regulations, Parts 3 and 5: While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Items 1and 2: Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "*See Deductions* column in this payroll." *See* "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.

Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits: If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).

Contractors who pay no fringe benefits: If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).

Use of Section 4(c), Exceptions

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

***If the wage decision(s) issued required no fringes to be paid, do not check off any of the boxes in Section 4. Make a note in the "Remarks" box that no fringes are required to be paid by the wage decision(s) issued.**

PAYROLL

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



Rev. Dec. 2008

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

OMB No.: 1215-0149
 Expires: 12/31/2011

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

Public Burden Statement

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

Date _____

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

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the
(Contractor or Subcontractor)

_____;
(Building or Work)

_____ day of _____, _____, and ending the _____ day of _____, _____,
all persons employed on said project have been paid the full weekly wages earned, that no rebates have
been or will be made either directly or indirectly to or on behalf of said

_____ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part
3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

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

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

(4) That:

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

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

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

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

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION
REMARKS:	
NAME AND TITLE	SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.	

Appendix

C

LOG OF PAYROLL REPORTS

Appendix

D

**LOG FOR REVIEWING EMPLOYEES
ON PAYROLLS**

AUTHORIZATION OF PAYROLL DEDUCTIONS

I, _____ (*Employee's Name*), hereby authorize _____ (*Company's Name*) to deduct the following amount(s) from my weekly earnings in the following categories:

Purpose	Amount	Authorization Expires
1. Health Insurance	_____	_____
2. Intensive Care Insurance	_____	_____
3. Cancer Insurance	_____	_____
4. Uniforms	_____	_____
5. Child Support	_____	_____
6. Garnishment Payments	_____	_____
7. Christmas Fund	_____	_____
8. Savings Account	_____	_____
9. Other (Specify) _____	_____	_____
TOTAL	_____	_____

 Signature

 Type or Write Name

 Date

Explanation of Form

What it is used for: To be used to interview project workers in order to determine that the Contractor and all subcontractors are complying with *Davis-Bacon Act*, *Contract Work Hours and Standards Act*, and *Copeland "Anti-Kickback" Act* requirements. It is used as a test against payroll information. It is also used to verify compliance with Section 3 requirements.

When it is Used: During the construction phase of the project.

Where it Goes: Grantee's Labor Standards project file.

General Instructions: Employees should be selected for interviews either at random or on the basis of suspected irregularities as determined through the site visit or Payroll Reports. The number of interviews necessary is determined by the size of the Project. **A minimum of at least one worker per trade and 25% of the total number of workers must be interviewed. Interviews must be conducted during construction a minimum of once a month** to determine the Contractor's compliance with the aforementioned federal requirements. Interviews **must** take place during the times in which **each** subcontract is being performed to assure that all trades are covered. This may mean that interviews will have to be conducted during evening or weekend hours.

Form Instructions: Items 1a – 1c: Self-explanatory.

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available.

Items 3a – 4c: Enter the employee’s responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 – 7: Try to get specific responses from the employee so it is easier to verify that the work observed is consistent with the job classification listed on the payroll report. For example, the job classification (#5) must identify the trade involved e.g.; Carpenter, Electrician, Plumber, etc.

Items 8 – 12b: Self-explanatory. If the employee will not sign the form, just note it in the appropriate box.

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? What activities was the employee doing e.g.; dumping gravel, laying down pipe, connecting pipe in a ditch, etc. What tools and pieces of equipment was the employee using e.g.; shovel, level, pipe, pry bar, etc.

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 – 17b: The information on the form may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

After completion of the interview the Contract Compliance Officer **must** note on the form whether the employee’s statements were consistent and whether they verified what was observed.

The Contract Compliance Officer must cross reference the information on the Record of Employee Interview form with

information from the Contractor's weekly Payroll Report, the Register of Assigned Employees, and the Wage Decision, indicating so by filling out the bottom part of the form. Appropriate action must be initiated to clear any discrepancies and questionable items.

Record of Employee Interview

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

OMB Approval No. 2501-0009
(exp. 10/31/2010)

Sensitive Information. The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained.

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <input type="checkbox"/> No <input type="checkbox"/>		
3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	
				Vacation Yes <input type="checkbox"/> No <input type="checkbox"/>	4c. Pay stub? Yes <input type="checkbox"/> No <input type="checkbox"/>
				Medical Yes <input type="checkbox"/> No <input type="checkbox"/>	
				Pension Yes <input type="checkbox"/> No <input type="checkbox"/>	

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

6. Your duties

7. Tools or equipment used

	Y	N		Y	N
8. Are you an apprentice or trainee?	<input type="checkbox"/>	<input type="checkbox"/>	10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?	<input type="checkbox"/>	<input type="checkbox"/>
9. Are you paid for all hours worked?	<input type="checkbox"/>	<input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?	<input type="checkbox"/>	<input type="checkbox"/>

12a. Employee Signature	12b. Date
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13. Duties observed by the Interviewer (Please be specific.)

14. Remarks

15a. Interviewer name (please print)	15b. Signature of Interviewer	15c. Date of interview
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Payroll Examination

16. Remarks

17a. Signature of Payroll Examiner	17b. Date
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Previous editions are obsolete

Form HUD-11 (08/2004)

Appendix G

MEMORANDUM OF UNDERSTANDING

BETWEEN

STATE OF VIRGINIA, DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

AND

(NAME OF ENTITY)

This Agreement is made and entered into by and between the State of Virginia, Department of Housing and Community Development ("DHCD") and the name of entity ("entity abbreviation"). The DHCD and entity abbreviation are collectively referred to as "the parties."

With the specific and mutual goals of providing clear, accurate, and easy-to-access compliance information to employers, employees, and other stakeholders, and of sharing resources and enhancing enforcement by, as appropriate, conducting coordinated enforcement actions and sharing information consistent with applicable law, the parties agree to enter into this Agreement.

THEREFORE, IT IS MUTUALLY AGREED THAT:

Purpose

The parties recognize the value of establishing a collaborative relationship to promote compliance with the Federal Labor Standards. The parties enter into this Agreement to more effectively and efficiently communicate and cooperate on areas of common interest, including but not limited to sharing training materials, and providing employers and employees with compliance assistance information to protect the wages of America's workforce. It also includes coordinated enforcement actions and sharing information as appropriate.

Agency Responsibilities

The DHCD and entity abbreviation are responsible for administering and enforcing a wide range of federal labor laws, including the Davis-Bacon Act (40 USC 276(a-a5), Copeland "Anti-Kickback" Act (40 USC 276(c), and Contract Work Hours and Safety Standards Act (CWHSSA) (40 USC 327-333). This agreement does not limit the DHCD's enforcement of these and other statutes.

The following establishes each party's responsibilities:

Task	Responsible Party
Obtain applicable Wage Decision(s)	TBD
Verify Wage Decision(s) included in/with the program agreement	TBD

Wage Decision modification provided to contractor as addendum to program agreement (if applicable)	TBD
Confirm contractor/subcontractor eligibility status	TBD
Explain responsibilities on a federally funded project to all parties at the preconstruction conference/prior to the start of construction	TBD
Submit Additional Classification request(s) to DOL and distribute to all parties	TBD
Verify accuracy of the Certified Payroll Reports & Statements of Compliance	TBD
Conduct On-Site Interviews and confirm on-site postings	TBD
Compare On-Site Interview information with the Certified Payroll reports for accuracy	TBD
Manage complaints from workers and necessary actions taken	TBD
Contact DOL for restitution guidance	TBD
Semi-Annual Labor Standards Enforcement Report	TBD

Contacts

- Each party will designate a contact person responsible for coordinating activities covered under this Agreement.
- Each party will designate a representative to meet annually to review areas of mutual concern and the terms and conditions of this Agreement.

Enforcement

Where appropriate and to the extent allowable under law,

- Any or all of the parties may conduct coordinated enforcement actions of common interest periodically, as mutually agreed upon.
- The parties will make reasonable efforts to coordinate their respective enforcement activities and assist each other with enforcement, to the extent practicable.
- The parties may make referrals of potential violations of each other's statutes.

Effect of Agreement

- This Agreement does not authorize the expenditure or reimbursement of any funds. Nothing in this Agreement obligates any party to expend appropriations, enter into any other contract, or incur other obligations.
- By entering into this Agreement, the parties do not imply an endorsement or promotion of the policies, programs, or services of the other.

- Nothing in this Agreement is intended to diminish or otherwise affect the authority of any party to implement its respective statutory functions.
- This Agreement contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or be binding upon the parties. This agreement is not intended to confer any right upon any private person or other third party.
- Nothing in this Agreement will be interpreted as limiting or superseding the parties' normal operations. This agreement also does not limit or restrict the parties from participating in similar activities or arrangements with other entities.
- This agreement will be executed in full compliance with the Privacy Act of 1974, 20 CFR 603, and any other applicable federal laws and laws of the State.

Exchange of Information

- The DHCD and the entity abbreviation endeavor to cooperate with other government agencies to the fullest extent possible under the law, subject to the general limitation that any such cooperation must be consistent with each party's own statutory obligations and enforcement efforts. It is the parties' view that sharing of information- including certain documents, factual materials, mental impressions, memoranda, interview reports, research and other information, some of which may be privileged- in cases of common interest is to the parties' mutual benefit.
- Exchange of such information pursuant to this Agreement is not a public disclosure under the Freedom of Information Act, 5 U.S.C. § 552.
- Information that is otherwise discoverable and not privileged shall not become privileged simply because it was shared between the DHCD and entity abbreviation.
- Privileged information means information that may be exempt from disclosure to the public or other unauthorized persons under state and/or federal statutes, or otherwise may properly be withheld from disclosure. Such information may include but is not limited to: the identities of persons who have given information to the parties in confidence or under circumstances in which confidentiality can be implied; any employee statements in any of the parties' enforcement files that were obtained under these conditions; information concerning investigative techniques or procedures that if disclosed could lessen investigative effectiveness; internal opinions and recommendations of federal or state personnel, including (but not limited to) investigators and supervisors; information or records covered by the attorney-client privilege and/or the attorney work-product privilege; personal information on living persons; individually identifiable health information; and confidential business information and trade secrets. Any physical material or other documents containing such information should be clearly marked "privileged" before it is provided pursuant to this Agreement.
- Acknowledging that privileges and protections (including without limitation the investigative files privilege, informant's privilege, attorney-client privilege, work product doctrine, deliberative process privilege, and confidentiality agreements or orders) may apply to certain

shared information, the parties wish to pursue their common but separate interests without waiving any privilege or protection that may apply to that shared information.

- When privileged information is shared it shall be used and accessed only for the limited purposes of carrying out activities pursuant to this Agreement as described herein. The information shall not be duplicated or further disclosed without the written authorization of the party that provided it, unless the information is required to be disclosed by Court order or other legal authority. The parties shall instruct all such authorized individuals about the confidentiality requirements under both applicable state and federal law and the Common Interest Agreement itself, and about the potential sanctions for unauthorized use, browsing, or disclosure of privileged information.
- In the event that there is a public proceeding, such as a trial, in which privileged information may be used or testimony of either party's employees sought, prompt notice shall be given to the other party to enable it to take such action, if any, that it deems appropriate under the circumstances.
- Should either party receive a request or subpoena that would, fairly construed, seek production of privileged information that it received pursuant to this Agreement, the party receiving such a request or subpoena shall take reasonable measures, including but not limited to asserting the common interest privilege, to preclude or restrict the production of such information, and shall promptly notify the party providing such information that such a request or subpoena has been received, so that the party providing such information may file any appropriate objections or motions, or take any other appropriate steps, to preclude or condition the production of such information.
- Neither party shall have authority to waive any applicable privilege or doctrine on behalf of the other party, nor shall any waiver of an applicable privilege or doctrine by the conduct of one party be construed to apply to the other party.
- The requirements of this Agreement, as applied to all privileged information, shall survive all of the following: (a) withdrawal by any party from this Agreement; (b) termination of this Agreement, (c) final disposition of claims or actions whether by judgment, settlement or other means of disposition.
- Neither party shall further disclose to any person or entity any privileged information provided under this Agreement except to authorized personnel. Such authorized personnel shall be required to agree not to use or disclose such privileged information except as designated or assigned by the disclosing agency or Department, which is otherwise bound by the terms of this Agreement.

Subject to the foregoing constraints:

- The parties agree to exchange information on laws and regulations of common concern to the other parties, as requested and to the extent practicable.
- The parties will establish a methodology for exchanging investigative leads, complaints, and referrals of possible violations, to the extent feasible and allowable by law and policy.

Resolution of Disagreements

- Disputes arising under this Agreement will be resolved informally by discussions between parties' Points of Contact, or other officials designated by a party.

Period of Agreement

- This Agreement becomes effective upon the signing by all parties, and will expire __ years from the effective date. This Agreement may be modified in writing by mutual consent of all parties. Any party may withdraw from participation in this Agreement by giving thirty (30) days advance written notice prior to the date of intended withdrawal. Renewal of the Agreement may be accomplished by written agreement of all parties.

This agreement is effective as of the ____ day of _____, (year).

State of Virginia, Department of Housing Community Development By: _____ Name Title	Name of Entity By: _____ Name Title
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Appendix H

Federal Labor Standards Project File Checklist

At project completion, each project file should contain the following labor standards compliance items:

	Wage Decision(s)
	Wage Decision(s) included in/with program agreement
	Wage Decision modification provided to contractor as addendum to program agreement
	Additional work classification request & response documentation
	Verification of contractor/subcontractor eligibility (SAM)
	Labor Standards Checklist (Attachment A)
	Certified Payroll Reports:
	Name & address of contractor/subcontractor
	Payroll number corresponds to previous payroll report received
	Payroll week ending date is correct
	Project name & number is correct
	Employee name & employee identification number
	Correct & complete work classification
	Payroll days & dates correspond to the week ending date
	Calculations are correct and total to net wages paid (e.g., hours worked, rate of pay, gross amount earned, deductions)
	Documentation for all deductions (if applicable)
	Evidence that payrolls were reviewed
	Final Certified Payroll

	Statements of Compliance:
	Correct name & title of the individual responsible for certifying payroll report
	Work start & end dates match the dates reported on the payroll report
	Notation of how fringe benefits were paid
	Employee Interviews:
	Days worked match payroll reports
	Hourly rate of pay & fringe benefit documentation match the payroll report
	Job performed match the duties observed during interview & work classification reported on payroll report
	Employee receives correct overtime pay (if applicable)
	Evidence that on-site interviews were checked against payrolls & applicable wage rate decision
	Evidence of restitution/resolution of identified discrepancies
	Complaints from workers & documentation of actions taken (e.g., e-mails or certified letters (if applicable))
	Semi-Annual Labor Standards Enforcement Reports

Appendix I

Related Resources – Websites:

HUD: U.S. Department of Housing and Urban Development Office of Labor Relations
www.hud.gov/offices/olr

- **Updated: Contractors Guide to Prevailing Wage Requirements**

MAKING DAVIS-BACON WORK: A Practical Guide for States, Indian Tribes and Local Agencies
<http://www.hud.gov/offices/adm/hudclips/guidebooks/HUD-LR-4813/4813-LR.pdf>

Federal Wage Determinations On-Line
<http://www.wdol.gov>

SAM: System for Award Management (search EPLS records)
<https://www.sam.gov/portal/public/SAM>

HUD: Code of Federal Regulations – Title 24
<http://www.gpo.gov/fdsys/pkg/CFR-2010-title24-vol1/content-detail.html>

HUD: Code of Federal Regulations – Title 29
<http://www.gpo.gov/fdsys/pkg/CFR-2010-title29-vol1/content-detail.html>

HUDClips (Forms and Publications)
<http://www.hud.gov/offices/adm/hudclips>

Department of Labor: Wage and Hour Division Forms/Posters
<http://www.dol.gov/whd/programs/dbra/forms.htm>

Department of Labor: Davis-Bacon and Related Acts (DBRA) Compliance/Laws
<http://www.dol.gov/compliance/laws/comp-dbra.htm>

DOL: Wage and Hour Division (WHD) – Davis-Bacon and Related Acts Home Page
<http://www.dol.gov/whd/programs/dbra/>

WHD – Prevailing Wage Resource Book
<http://www.dol.gov/whd/recovery/pwrb/toc.htm>

Field Operations Handbook – General & Statutory Provisions: DBRA & CWHSSA
http://www.dol.gov/whd/FOH/FOH_Ch15.pdf

Federal Labor Standards Requirements in Housing and Urban Development Programs (1344.1)
http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/sech/13441