



Federal Requirements for Construction Contracts

LABOR LAWS

FEDERAL REQUIREMENTS FOR CONSTRUCTION CONTRACTS

LABOR LAWS

Applicable Laws

1. Davis Bacon Act

This Act stipulates that all laborers and mechanics employed by the contractors and subcontractors on federally assisted projects shall be paid wages at rates no less than those prevailing on similar construction in the area as determined by the Secretary of Labor.

2. Contract Workhours and Safety Standards Act

This stipulates that laborers and mechanics employed on federally assisted projects receive 1 1/2 times their standard rate of pay for all hours worked in excess of 8 hours per day or 40 hours per week.

3. Copeland "Anti-kickback" Act

This Act stipulates that all laborers and mechanics on federally assisted projects are paid unconditionally, not less than once a week, and without deductions or rebates for any purpose other than "permissible" salary deductions. The weekly payments must be in the full amount stipulated by the wage decision issued by the Secretary of Labor. Correspondingly, all contractors and subcontractors must submit weekly payrolls and certifications of compliance to the Office of Housing and Community Development (OHCD).

Subrecipient's Responsibilities

Formal advertising and sealed bids are required for construction contracts in excess of \$10,000. All bids also shall be opened publicly at the time and place stated in the invitation for bid. Invitation for Bid shall include "*Contractor's Qualification Statement*" form found in the form section of the manual.

1. Subrecipient must inform all contractors and subcontractors performing on a construction contract of the Labor Standards requirements and require them to sign and submit the "*Contractor's Certification and Subcontractor Certification Concerning Labor Standards and Prevailing Wage Requirements*" forms.
2. Subrecipient must require contractors to post wage determination prominently at

the work site and monitor to assure that they remain posted throughout the project.

3. Subrecipient must maintain full documentation evidencing all administrative and enforcement activities with respect to Labor Standards requirements. Such documentation shall include:
 - a. All weekly payroll records submitted by contractors and subcontractors (Forms WH-347, “*Payroll*” and WH-348, “*Statement of Compliance*”)
 - b. Request for wage decisions (DOL Form 308)
 - c. Any request for additional classifications
 - d. Copies of Wage Decisions and effective modifications
 - e. Notice of Start of Construction
 - f. On-site inspection reports
 - g. Preconstruction Labor Standards Checklist (See Form)
 - h. Employee authorization for nonessential deductions (union dues, uniforms, insurance, etc.)
 - i. Equal Opportunity Checklist (See Form)

Administration of Labor Standards Provisions

In complying with the Labor Standards requirements, OHCD must include certain provisions in its construction contracts and take certain actions to ascertain compliance.

1. Securing and Enforcing Wage Determinations

a. Wage Decisions

Included in the Contract Documents must be a section which list the minimum wages and benefits required to be paid to each classification of workers who will be utilized in carrying out the project.

b. Job Classifications and Related Issues

All workers must perform in and be paid according to a job classification as listed on the Wage Determination in the Contract Documents. Contractor shall complete a “*Register of Assigned Employees*”, “*Monthly Register of Contractors, Subcontractors and Suppliers*” and “*Monthly Employment Utilization Report*” (See Forms).

- (1) **Unclassified Jobs** - All jobs must be classified and given an assigned Wage Determination. If a worker will be utilized in a job which is not identified on a Contract Wage Decision, or there is a doubt or dispute regarding what wage rate or classification the worker's job corresponds to, the following actions must be taken:

Additional Classifications

The wage scales issued should list and identify the general types and classifications of jobs necessary to complete the project. It may, however, in certain cases, be necessary to obtain special or other needed job classifications. Request for additional job classifications are handled separately through OHCD. These requests should be made by the contractor.

The request should identify the additional job classification needed and the proposed hourly pay scale and applicable benefits. If applicable, supportive information from other contractors employing similar trades and classifications should be attached. OHCD will concur with or disapprove the contractor's suggested pay rates.

- (2) Dual Classifications - Workers engaged in more than one trade or classification must be paid either:
 - (i) the wage for that classification which pays the higher rate; or
 - (ii) 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.

- c. Subcontractors - A bona fide subcontractor with an established business must list on his payroll records all workmen engaged on the contracted work, including himself, if he performs contracted 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.

2. Verification of Contractor Eligibility

No contractor or subcontractor who is disbarred by the Department of Labor, the Department of Housing and Urban Development is eligible to work on projects assisted with Federal funds.

3. Pre-Construction Conference

Subrecipient must hold a Preconstruction Conference for the purpose of apprising the principal contractor and all available subcontractors of their responsibilities and obligations concerning Labor Standards provisions.

The "*Labor Standards Checklist*" form must be reviewed and signed by the prime contractor and all subcontractors present.

A report on the Preconstruction Conference must be prepared and retained.

The report must contain:

- Project name, location, and description
- Name contractor and known subrecipients
- Contract Amount
- Date and place of conference
- Conference attendees
- Summary of items covered

4. Weekly Payroll Reports

Every contractor and subcontractor who participates in the project must submit weekly payrolls to Subrecipient. Contractors must use either DOL Form WH-347 “Payroll”, or a payroll form of his own choice, provided such form is approved by OHCD. The contractor must submit a copy of either DOL Form WH-348, “Statement of Compliance”, (which contains the weekly statement and related instructions), or any form containing the identical wording contained in Form WH-348.

This form must be submitted promptly for every work week of the project no later than seven (7) days following completion of work.

The payrolls shall be examined promptly upon receipt in order to solve problems and undertake any corrective actions before they become serious and while workman are still available. Payrolls must be maintained for three years.

The examination of Payroll Report forms should include the following:

Address and Social Security Number - Each worker's permanent home address and social security number must be reported on the first payroll on which his name appears. The home address should be verified by employee interviews. If the worker's name is identified in subsequent reports, the address and social security number need not be repeated provided that the contractor reports changes of address.

Completeness - Each payroll report should be examined to determine if it includes all required items of information. If it is incomplete, it should be returned to the contractor for either completion or submittal of a new report. If falsification is suspected, the payroll report should not be returned.

Classifications and Wage Rates - Each job classification and corresponding wage rate listed on the payroll report form should be compared with those on the applicable Wage Decision to determine whether the report rate is at least equal to that required by the Decision. If the wage rate is lower than required,

the contractor should be immediately requested in writing to pay the required rate and make proper restitution.

Computations - Payroll computations should be spot-checked to determine whether payrolls are substantially accurate. Minor errors may be ignored, but if such errors are numerous, the contractor should be advised that greater care should be exercised.

Deductions - Deductions should be reviewed to determine their permissibility, and whether they are authorized.

Discrepancies - It is not necessary to investigate discrepancies which 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 action.

Monitoring Compliance

Once the requirements are clearly communicated and the work is begun it is essential that Subrecipient monitor compliance thoroughly and promptly in order to minimize the seriousness and scope of potential violations, and thereby avoid disruption of the Project.

Compliance monitoring shall consist of two basis elements: (1) The review of weekly Payroll Reports and (2) active job site interviews and job inspections to confirm information contained in the Payroll Reports.

1. Review of Weekly Payroll Reports - Weekly Payroll Reports shall be examined carefully each week to determine thoroughness and consistency with previous payrolls. Special deductions, work hours, and pay rate according to job classifications and determination wage rate.
2. Field Inspections - In performing the field inspections the Subrecipient shall utilize a general site observation and employee interviews. The presence of the required job poster and wage rate notice should be checked.
 - a. Site Observations - After receiving the payroll records to determine the types an number of each type of worker engaged in the project, the Subrecipient will view work on the site at various times to become familiar with the work and activities of various workers. If there appears to be a discrepancy or if one or more workers appear to be

performing more than one trade, these should be checked through Employee Interviews.

- b. Employee Interviews – Subrecipients shall verify Payroll Record information through interviews with employees utilizing the “*Record of Employee Interview*” form. Employees shall 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.

- (1) Conducting the Interview - Unless there is a reason to suspect falsification or intimidation the employee interview should take place at the job site during work hours.

Subrecipients shall first observe what job the worker to be interviewed appears to be performing. The representative shall approach the worker at a time convenient in the work, identify himself and the purpose of the interview, and conduct the interview in such a place and manner as to maximize privacy and avoid disruption of work.

The worker should be informed that the information given is confidential, and that his 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.

Subrecipients shall cover the items on the interview form thoroughly. Special care shall be made to establish clearly what the worker's job classification actually is on that particular project, the last date he worked on that particular project before today (day interview), and his rate of pay on that particular project.

- (2) Post Interview Review - After completion of the interview, Subrecipients shall note on the form whether the employee's statements were consistent and whether they verified what was observed. The information from the interview should be checked against that included in the Contract and the employer's payroll records. Appropriate action should be initiated to clear any discrepancies and questionable items.

Enforcement Actions

Subrecipients shall initiate an investigation when apparent violations of a significant nature are discovered. Violations of a significant nature will be types which are not readily adjustable through an informal process. These would

include valid complaints of 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.

If the above conditions are upon investigation found to be valid and the contractor is found to be in violation, the evidence of violation shall be submitted to the Department of Labor for action, if warranted.

1. Correcting Violations - If the violations resulted in underpayment of wages, Subrecipient shall take action to ensure proper restitution. The contractor shall be informed in writing of the action to be taken in adjusting wages and the amount of payments to be made in back wages to affected employees. The contractor shall evidence such restitution by submitting a supplemental payroll containing amounts paid and copies of both sides of canceled checks issued to the appropriate employees. Should the contractor fail to make full restitution and correct violations within a reasonable period of time, the Subrecipient may withhold as much of the amounts due the contractor as is necessary to ensure payment to workers.

Withheld funds shall be set aside in a special account for wage restitution. From this account the Subrecipient shall pay either the contractor at such time as he produces evidence of restitution, or the affected workers directly.

Should the contractor dispute the findings and actions of the Subrecipient, the situation shall be promptly reported to OHCD and the Department of Labor for consideration and appropriate action.

The Contractor's Guide to Davis-Bacon can be found on the HUD web page www.hud.gov/olr/olrwrepl.html

Contractor's Certification Concerning Labor Standards and Prevailing Wage Requirements

To: (Appropriate Recipient):	Date
	Project Number:
	Project Name:

1. The undersigned, having executed a contract with _____ for the construction of the above identified project, acknowledge that:
 - (a) The Labor Standards provisions are included in a foresaid contract:
 - (b) Correction of any infractions of the aforesaid conditions, including infractions by any of his subcontractors and any lower tier contractors, is his responsibility.

2. He certifies that:
 - (a) Neither he nor any firm, partnership or association in which he has substantial interest is designated as an ineligible contractor by the Comptroller General of the United States pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, Part 5 (29 CFR, Part 5) or pursuant to Section 3(a) of the Davis-Bacon Act, as amended.
 - (b) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designated as an ineligible contractor pursuant to any of the aforementioned regulatory or statutory provisions.

3. He agrees to obtain and forward to the aforementioned recipient within ten days after the execution of any subcontract, including those executed by his subcontractors and any lower tier subcontractors, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements executed by the subcontractors.

4. He certifies that:
 - (a) The legal name and the business address of the undersigned are:

- (b) The undersigned is:

Single Proprietorship	A Corporation Organization in the State of
A Partnership	Other Organization

- (c) The name, title and address of the owner, partners or officers of the undersigned:

<i>Name</i>	<i>Title</i>	<i>Address</i>

(d) The name and address of all other persons, having a substantial interest in the undertaking and the nature of the interest are named below:

<i>Name</i>	<i>Title</i>	<i>Address</i>

(e) The names, address and trade classification of all other building construction contractors in which the undersigned has a substantial interest are named below:

<i>Name</i>	<i>Title</i>	<i>Address</i>

Contractor

By:

Signature

Name and Title

Date

Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements

To: (Appropriate Recipient):	Date
	Project Number:
	Project Name:

1. The undersigned, having executed a contract with _____
(Contractor or Subcontractor)

for _____ in the amount of \$ _____
(Nature of Work)

in the construction of the above-identified project, certifies that:

- (a) The Labor Standards Provisions of the Contract For Construction are included in the aforesaid contract.
- (b) Neither he nor any firm, corporation, partnership or association in which he has a substantial interest is designated as an ineligible contractor by the Comptroller General of the United States pursuant to Section 5.6(b) of the Regulations of the Secretary of Labor, Part 5 (29 CFR, Part 5), or pursuant to Section 3(a) of the Davis-Bacon Act, as amended.
- (c) No part of the aforementioned contract has been or will be subcontracted to any subcontractor if such subcontractor or any firm, corporation, partnership or association in which such subcontractor has a substantial interest is designated as an ineligible contractor pursuant to the aforesaid regulatory or statutory provisions.

2. He agrees to obtain and forward to the contractor, for transmittal to the recipient, within ten days after the execution of any lower subcontractor, a Subcontractor's Certification Concerning Labor Standards and Prevailing Wage Requirements, executed by the lower tier subcontractor, in duplicate.

(a) The workmen will report for duty on or about _____
(Date)

3. He certifies that:

(a) The legal name and the business address of the undersigned are:

(b) The undersigned is:

Single Proprietorship	A Corporation Organization in the State of
A Partnership	Other Organization

(c) The name, title and address of the owner, partners or officers of the undersigned:

<i>Name</i>	<i>Title</i>	<i>Address</i>

(d) The name and address of all other persons, having a substantial interest in the undertaking and the nature of the interest are named below:

<i>Name</i>	<i>Title</i>	<i>Address</i>

(e) The names, address and trade classification of all other building construction contractors in which the undersigned has a substantial interest are named below:

<i>Name</i>	<i>Title</i>	<i>Address</i>

Contractor

By:

Signature

Name and Title

Date

Register of Assigned Employees

Project:	Contract Amount\$
Contractor:	Public Body:
Section 3 Area:	Employment Goal (if applicable) Minority Female

Name	Trade & Job Classification	Date Hired or Recalled	Minority Status	Other Status
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Vietnam Veteran
			<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Handicapped
Permanent Address	Rate of Pay & Benefits	Authorized Payroll Deductions	Gender	

Name	Trade & Job Classification	Date Hired or Recalled	Minority Status	Other Status
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Vietnam Veteran
			<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Handicapped
Permanent Address	Rate of Pay & Benefits	Authorized Payroll Deductions	Gender	

Name	Trade & Job Classification	Date Hired or Recalled	Minority Status	Other Status
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Vietnam Veteran
			<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Handicapped
Permanent Address	Rate of Pay & Benefits	Authorized Payroll Deductions	Gender	

Name	Trade & Job Classification	Date Hired or Recalled	Minority Status	Other Status
			<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Vietnam Veteran
			<input type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> Handicapped
Permanent Address	Rate of Pay & Benefits	Authorized Payroll Deductions	Gender	

Monthly Register of Contractors, Subcontractors and Suppliers (Each Procurement over \$10,000)

Project:	Contract Amount\$	
Contractor:	Public Body:	
Section 3 Area:	Month Covered:	Date:

Name, Address and IRS # of Company	Contract Description Or Item(s) Supplied	Amount of Purchase Stated in Dollars (round to nearest \$100)	Type of Business
			<input type="checkbox"/> Local Business <input type="checkbox"/> Female Owned <input type="checkbox"/> Minority Owned Minority Group _____
			<input type="checkbox"/> Local Business <input type="checkbox"/> Female Owned <input type="checkbox"/> Minority Owned Minority Group _____
			<input type="checkbox"/> Local Business <input type="checkbox"/> Female Owned <input type="checkbox"/> Minority Owned Minority Group _____
			<input type="checkbox"/> Local Business <input type="checkbox"/> Female Owned <input type="checkbox"/> Minority Owned Minority Group _____
			<input type="checkbox"/> Local Business <input type="checkbox"/> Female Owned <input type="checkbox"/> Minority Owned Minority Group _____
			<input type="checkbox"/> Local Business <input type="checkbox"/> Female Owned <input type="checkbox"/> Minority Owned Minority Group _____

Record of Employee Interviews

Contractor or
Subcontractor

Name of Project

1. Name of Employee		
2. Permanent Home Address	Located In Project Area? ____ Yes ____ No	
3. Last Date Worked This Project	Number of House Worked That Day	
4. Hourly Pay Rate \$	5. Job Classification	
6. Duties		
7. Tools or Equipment Used		
8. Paid at Least Time and Half for All Hours Worked Overtime? ____ Yes ____ No		
9. Ever Threatened, Intimidated or Coerced Into Giving Up Any Part of Pay? ____ Yes ____ No		
10. Duties Observed by Interviewer		
11. Minority Status ____ Yes ____ No		
12. Gender ____ Male ____ Female		
13. Date Hired (month & year)		
14. Date Recalled if Applicable		
Remarks:		
Signature of Interviewer		
Date		

Contractor's Qualification Statement

All questions must be answered in full. Additional sheets for clarification of answers or additional information may be attached. This statement must be notarized.

1. Name, address, phone number of company

2. Owner, principal officer, date and place organized

3. General character of work performed

4. Any work awarded failed to be completed or contracts defaulted on - where and why

5. List of three most important recent contracts over \$30,000. State the owner, work, approximate cost, place, date started and date completed.

a. _____ \$ _____
_____ From _____ To _____

b. _____ \$ _____
_____ From _____ To _____

c. _____ \$ _____
_____ From _____ To _____

6. List the contracts upon which you are currently working. Include owner, location, approximate cost, and estimated date of completion.

7. List your major equipment available for use on this project.

8. List of three material suppliers and amount of credit available

9. Bank references and credit available

_____	_____
_____	_____

10. Insurance coverage and amount

_____	_____
Liability - Property	
_____	_____
Liability - Personal Injury	
_____	_____
Vehicle and Equipment	
_____	_____
Other - Identify	

11. Bonding reference - List surety and highest coverage

12. Subcontractors utilized - List name, address, specialty and years experience

13. Provide a general description of the experience of the company and its key personnel.

14. Number of current full time employees _____
Number employed at highest level in past twelve months _____

15. Are you on any list of debarred contractors maintained by the U.S. Department of Labor, the U.S. Department of Housing and Urban Development or the Virginia Department of Highways?

Yes _____ No _____

The undersigned hereby authorizes and request any person, firm or Corporation to furnish any information requested by _____ in verification of the recitals comprising this statement of contractor's qualifications:

Contractor: _____

By: _____

Title: _____

Date: _____

STATE OF _____)

SS

COUNTY OF _____)

_____ being duly sworn deposes and says that he is _____ of _____ and that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19____

Notary Public

My Commission Expires _____, 19____

Labor Standards Checklist 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 job classifications.
 - b) must be paid time and a half for all work beyond 8 hours per day and 40 hours per week.
 - c) must be paid at least weekly.
 - 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 classification and duties.
 - b) of their wage rate and fringe benefits.
 - c) that they may be interviewed on the jobsite and are required to cooperate.
 - d) of deductions from pay.
- Contractors will obtain each worker's name, permanent address and social security number prior to assigning them to jobsite.
- Contractors will obtain certification of any apprentices and trainees including registration number and year of program, and will submit the same to County.
- Contractors are aware that they are responsible for the compliance of their subcontractors with Labor Standards provisions.
- Prime contractors has received and will post in a prominent place on the site:
 - a) Wage Decision
 - b) Notice to Employee (WH 1321)
 - c) Safety and Health Protection on the Job (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.

- Contractors will maintain employment and payroll records accessible to the County and appropriate federal agencies for 3 years.

County Body:

Signature

Title

Prime Contractor:

Signature

Title

Company

Subcontractor:

Signature

Title

Company

Equal Opportunity Checklist Pre-construction Conference

- Contractors have reviewed and understand Equal Employment/Section 3 contract provisions.

- Contractors must inform unions or other sources of workers of E.O. requirements such as
 - a) taking applications at jobsite;
 - b) advertising in local or appropriate media.

- * Contractors have received County forms Attachment S and T, Register of Assigned Employees and Register of Material, Equipment and Service Suppliers and have been instructed to submit initial forms at Start of Construction and then monthly.

- Contractors are aware of goals for utilization of minority and female workers.

- Contractors are aware that they are obligated to the greatest extent feasible to hire low income project area residents as workers and trainees and to utilize project area businesses and businesses owned by project area persons.

- Prime contractors have been given E.O. poster and will display it in prominent place at jobsite.

- * If contractors employ more than 50 persons and contract is over \$50,000 they have submitted for EE0-1 to the Department of Labor.

County Body:

Signature

Title

Prime Contractor:

Signature

Title

Company

Subcontractor:

Signature

Title

Company

Subcontractor:

Signature

Title

Company

* Denotes those items which must be submitted by Contractor.