

## EXHIBIT 4-N.1

### INSTRUCTIONS FOR COMPLETING WEEKLY PAYROLL FORM, WH-347

*(Applicable to Contracts Entered into Pursuant to Invitations for Bids Issued or Negotiations Concluded On or After January 18, 2009)*

Under the Davis-Bacon and related Acts, the contractor is required to pay not less than prevailing wage, including fringe benefits, as predetermined by the U.S. Department of Labor. The contractor's obligation to pay fringe benefits may be met either by payment of the fringe benefits to bona fide benefit plans, funds or programs or by making payments to the covered workers (laborers and mechanics) as cash in lieu of fringe benefits.

This payroll provides for the contractor to show on the face of the payroll all monies to each worker, whether as basic rates or as cash in lieu of fringe benefits, and provides for the contractor's representation in the statement of compliance on the payroll (as shown on page 2) that he/she is paying for fringe benefits required by the contract and not paid as cash in lieu of fringe benefits. Detailed instructions concerning the preparation of the payroll follow.

**Contractor or Subcontractor:**

Fill in the Contractor's or Subcontractor's name, as applicable, and check the appropriate box.

**Address:**

Fill in the Contractor's or Subcontractor'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:**

Self-explanatory.

**Project or Contract No.:**

Self-explanatory.

**Column 1 - Name and Individual Identifying Number of Worker:**

Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each **weekly** payroll submitted.

**NOTES:**

- **Sole Proprietor (no employees)**

The sole-proprietor cannot submit a payroll (Form WH-347) reporting himself or herself as simply “owner” signing the certification as to his/her own wage payment. Instead, he or she needs to be listed on the payroll (Form WH-347) of the general contractor, including their name, work classification, hours worked, and wages received, just like any other worker that would be reported on the form.

In the case of the sole-proprietors, the HOME Program suggests that the Prime Contractor include all sole-proprietors working for the given week on **their weekly payroll**. There can be a question concerning how much to include as the pay rate, since subcontracts are normally bid as a lump sum amount. It has been the HOME Program’s experience that, in almost all cases, the pay rate estimated by the sole-proprietor is above the amount required by Davis Bacon, though in the end it does not necessarily remain at the same rate if cost estimates or unforeseen circumstances come into play and some of the funding needs to go into additional materials/and or hours spent on the project. The HOME Program’s advice to sole-proprietors would be to be conservative at the beginning of the project and report lower, more conservative rates, but **no less than the minimum prevailing rate** (including fringe benefits and overtime, if any) for the respective classification. Then toward the end of the project, adjust the rate of pay up, taking into account the remaining funds available under their contract. This method would help to ensure that all costs are covered, the job gets completed, and the minimum prevailing wage rate has been met throughout the project.

- **Owners (working with their employees)**

The only time pay information does not need to be reported for an owner is if the owner has employees of his or her own, working on the job site with him/her. In this case the owner would complete Payroll Form WH-347, list him/herself as the owner and list his/her daily and total hours worked, but would not be required to list a rate of pay or amounts earned for him/herself. He/she would then list out all his/her employees, last four digits of the employees social security number, work classification, hours worked, wages earned, etc. on the form

- **Foremen and Supervisors**

Foremen or supervisors that regularly spend **more than** 20% of their time performing construction work are covered “laborers” and “mechanics” for labor standards purposes for the time spent performing construction work, and must be reported on the Payroll Form WH-347 by the contractor/subcontractor. The only exception to this is people whose duties are primarily administrative, executive or clerical (e.g., superintendents, office staff, timekeepers, messengers, etc.). Individuals who fall into this “exclusion” category do not need to be reported.

See **Letter No. LR-96-01** (Labor Standards Compliance Requirements), issued by the HUD Office of Labor Relations, for additional guidance.

**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 classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. 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.

**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. If more than five deductions are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to

the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR, 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.

**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 USC §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 1 and 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 on page 2 the payroll form 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.