

## CHAPTER 6 -- LABOR STANDARDS

I. OVERVIEW.....	6-2
II. APPLICABLE REQUIREMENTS.....	6-2
A. FEDERAL LABOR STANDARDS REQUIREMENTS.....	6-3
1. Contract Work Hours and Safety Standards Act.....	6-3
2. Copeland "Anti-Kickback" Act.....	6-4
3. Davis - Bacon Related Acts .....	6-4
4. More Information About Davis - Bacon Act Compliance (website) .....	6-7
5. Labor Standards and CDBG Projects Within Indian Reservations .....	6-7
B. STATE LABOR STANDARDS REQUIREMENTS.....	6-8
1. Public Construction Contracts: Special Labor Conditions.....	6-8
2. Workers' Compensation Act .....	6-8
III. GRANTEE LABOR STANDARDS RESPONSIBILITIES .....	6-9
Step 1 - Designate a Person to Monitor Prevailing Wage Compliance (Compliance with federal Davis - Bacon wage provisions) .....	6-9
Step 2 - Include Labor Standards Provisions in Bid Documents .....	6-9
Step 3 - Request the Wage Rate Determination.....	6-10
Zone Hourly Rate Pay.....	6-11
Overtime Pay.....	6-12
Unclassified Workers .....	6-13
Step 4 - Re-verify the Wage Rate in the Solicitation for Bids.....	6-13
Step 5 - Verify Bidder Eligibility.....	6-14
Step 6 - Inform Contractor of Federal Requirements by Conducting A Pre - construction Conference.....	6-15
Step 7 - Monitor Contractor Performance.....	6-17
Use of Volunteers .....	6-18
Step 8 - Investigate Labor Standards Violations .....	6-19
Step 9 - Maintain Labor Standards Files .....	6-19
EXHIBITS.....	6-20

## CHAPTER 6

### LABOR STANDARDS

#### I. OVERVIEW

This chapter provides an overview of federal and State requirements which govern the wages and working conditions for laborers and mechanics employed under construction contracts funded in whole or in part by CDBG funds.

- **Compliance with labor standards provisions by the CDBG recipient is a condition for receipt of CDBG assistance.**
- **Section III (Grantee Responsibilities) in this chapter describes responsibilities of the grantee to ensure compliance with federal labor standards.**
  - **These requirements include:**
    - (a) Designating a project labor standards officer -- an individual representing the CDBG grantee -- before the beginning of construction whose job will be to ensure compliance with all applicable labor standards provisions and to act as liaison with the contractor and the Montana Department of Commerce/MDOC (Step 1);
    - (b) Ensuring that all construction bid documents, contracts and subcontracts contain applicable federal labor standards provisions (federal Davis-Bacon wage rates and other worker protections provisions) and the current federal wage determination(s), and that all contractors are eligible to receive federal funds in payment for work on your project (Steps 2, 3, 4, and 5);
    - (c) Conducting a pre-construction conference to inform all contractors and subcontractors of their labor standards and civil rights and other obligations (Step 6);
    - (d) Conducting interviews of the selected construction contractors' employee and checking that labor standards posters and wage determinations are posted and accessible at the project site (Step 7);
    - (e) Weekly reviewing weekly payrolls for correctness (Step 7) and maintaining records that documenting that that the weekly reviews have been conducted;
    - (f) Resolving all labor standards violations promptly (Step 8); and
    - (g) Maintaining detailed records to document all administrative and enforcement activities with respect to labor standards (Step 9).

#### II. APPLICABLE REQUIREMENTS

The following laws provide the legislative authority for the requirements related to workers' wages and hours on projects receiving federal assistance.

- **HUD Form 4010** (included as **Exhibit 6-A** of this CDBG Manual) provides a summary of the federal labor standards provisions which must be complied with.
  - **All construction contracts entered into by CDBG recipients (or their subrecipients) which will be paid in whole or in part with CDBG funds, must contain a copy of HUD Form 4010 (Exhibit 6-A) or its equivalent.**

- A copy of **HUD Handbook 1344.1, (REV. 2), Federal Labor Standards Compliance in Housing and Community Development Programs**, is available to each public facilities grantee and additional copies are available upon request from CDBG staff.
  - It is available on the internet at:
  - [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/handbooks/sech/13441](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/sech/13441) Any community that will be involved in construction activities as part of its CDBG project should review it and retain a copy for its files.
  - This handbook provides detailed guidance for achieving compliance with the federal labor standards provisions discussed in this chapter.
- In addition to compliance with **labor standards**, grantees must comply with applicable **civil rights requirements** as explained in Chapter 5.

## A. FEDERAL LABOR STANDARDS REQUIREMENTS

### 1. Contract Work Hours and Safety Standards Act (CWHSSA)

(40 USC 327-330), as supplemented by U.S. Department of Labor regulations 29 CFR, Part 5), available on-line at <http://www.dol.gov/compliance/laws/comp-cwhssa.htm>

- This act was enacted in 1962 and consolidated a number of “eight hour” laws, some dating back to the 1890s, which provided for overtime pay after 8 hours a day on federal construction contracts. It also provided for overtime pay after 40 hours a week.
- CWHSSA requires overtime pay for laborers and mechanics at a rate of one and one-half times the basic rate of pay for hours worked on covered contracts in excess of 40 in a workweek.
  - Effective January 1, 1986 the daily (8-hour) overtime requirement was eliminated. Therefore, the Fair Labor Standards Act (FLSA) and CWHSSA requirements are the same. In situations where there are concurrent FLSA and CWHSSA violations, the back wages should be computed and reported under CWHSSA rather than FLSA. In addition to back wages for unpaid overtime hours, CWHSSA also requires an assessment of liquidated damages at the rate of \$10 per day for each day that each laborer and mechanic worked without payment of the required overtime compensation.
- The CWHSS Act applies to all federally assisted contracts in excess of \$100,000 for construction contracts.
- Under Section 103 of the CWHSS Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 and one-half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- Section 107 of the CWHSS Act applies to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health and safety as determined under construction, safety and health standards promulgated by the U.S. Secretary of Labor.

- CWHSSA has no job site limitation. If an employee performs part of the construction work at the job site and part of the work at a shop, the statute applies to all hours of the contract work.

2. **Copeland "Anti-Kickback" Act**, <http://www.dol.gov/compliance/laws/comp-copeland.htm> (18 USC 874), as supplemented in U.S. Department of Labor regulations (29 CFR 3, <http://www.gpo.gov/fdsys/pkg/CFR-2009-title29-vol1/content-detail.html> )

- The Copeland "Anti-Kickback" Act and implementing regulations in 29 CFR 3 collectively provide for the following three safeguards: prohibits "kickbacks" of wages and back wages; requires contractors on DBRA covered project to submit weekly a "statement of compliance" (i.e., that the contractor has paid the required wages); and regulates payroll deductions from wages.
- This Act prohibits any contractor or subcontractor from inducing, by any means, any person employed in the construction, completion, or repair of public works, to give up any part of the compensation to which he or she is rightfully entitled.
- 29 CFR 3.5 permits the following deductions from wages without the approval of the Secretary of Labor:
  - a. Deductions for social security or federal or state income tax withholding.
  - b. Deductions for bona fide prepayment of wages.
  - c. Deductions for court ordered payments.
  - d. Deductions for contributions to fringe benefit plans, provided that the deduction is not prohibited by law, that it is either voluntarily consented to by the employee in writing in advance of the time the work is done or provided for in a collective bargaining agreement, that no profit or other benefit is obtained by the contractor, and that the deduction serves the convenience of the employee.
  - e. Deductions for purchase of U.S. savings bonds when voluntarily authorized by the employee.
  - f. Deductions to repay loans or to purchase shares in a credit union.
  - g. Deductions voluntarily authorized for contributions to organizations such as the Red Cross, United Way, or similar charitable organizations.
  - h. Deductions to pay union initiation fees and membership dues, provided that a collective bargaining agreement provides for such deductions.
  - i. Deductions for the "reasonable cost" of board, lodging, or other facilities meeting the requirements of section 3(m) of FLSA.
  - j. Deductions for the cost of safety equipment purchased by the employee, if the equipment is not required by law to be furnished by the employer and if the cost on which the deduction is based does not exceed the actual cost to the employer.
- 29 CFR 3 requires contractors and subcontractors on federal Davis-Bacon covered construction projects to submit each week a "statement of compliance" certifying compliance with the Davis-Bacon Related Acts requirements. This "statement of compliance" is usually referred to as the certified payroll.

3. **Davis-Bacon Related Acts (DBRA)**, on-line at <http://www.dol.gov/whd/programs/dbra/> as amended (40 U.S.C. 276 to A-7), and as supplemented by U.S. Department of Labor regulations (29 CFR 5, on-line at [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title29/29cfr5\\_main\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title29/29cfr5_main_02.tpl))

- Congress has extended Davis-Bacon prevailing wage requirements to other laws (related Acts) which provide federal assistance for construction through grants, loans, loan guarantees, or insurance rather than direct contracts for construction with federal agencies.
- Most of the related laws are listed in 29 CFR 5.1(a). They include by reference the requirements for payment of prevailing wages set in accordance with the Davis-Bacon Act. Many of the related Acts contain coverage criteria specific to projects funded under those statutes.
- A determination whether the Davis-Bacon prevailing wage provisions apply to all or a portion of an assisted project requires an analysis of the actual labor standards provision in the related Act.
  - For example, the labor standards provision of the Housing and Community Development Act of 1974 does not apply to the rehabilitation of residential property designed for fewer than 8 families.
  - Certain statutes require the payment of Davis-Bacon prevailing wage rates only to those portions of a construction project assisted with federal monies while other statutes – by virtue of the language of the labor standards provision – clearly require the payment of prevailing wage rates to all construction work on a project funded “in whole or in part” by federal monies.
- **The Act applies to construction contracts over \$2,000** and mandates that:
  - all laborers and mechanics be paid unconditionally and not less often than once a week,
  - without subsequent deduction or rebate on any account except "permissible" salary deductions,
  - the full amounts due at the time of payments, computed at wage rates not less than those contained in the appropriate Davis-Bacon wage determination issued by the U.S. Department of Labor.
    - Davis-Bacon wage rate webpage: <http://www.wdol.gov/>
    - Montana federal Davis-Bacon wage rates webpage:  
<http://www.wdol.gov/wdol/scafiles/davisbacon/mt.html>
- CDBG grantees must include a copy of the current prevailing wage determination issued by the U.S. Department of Labor in each bid solicitation.
  - The bid document must state that the award of a contract is conditioned upon the acceptance of the wage determination.
  - The grantee must report all suspected or reported violations to MDOC.

**Comment: Federal Davis-Bacon Wages in the HOME Program and in the CDBG Program**

- Many projects funded by the Montana Department of Commerce include both **CDBG** funds and **HOME** (Home Investments Partnerships Program) funds.
- Even though HUD funds the **HOME** and **CDBG** programs, they are guided by different regulations and statutes.

**MDOC HOME Program:** <http://housing.mt.gov/HM/default.mcp>x

**MDOC CDBG Program:** <http://comdev.mt.gov/CDBG/default.mcp>x

**HOME funds and payment of federal Davis-Bacon wages:**

- In contrast to the CDBG program, Davis-Bacon is triggered when **HOME** funds are used to finance the **construction of new affordable housing with 12 or more units**. (See 24 CFR 92.354 for more details on the HOME program and Davis-Bacon.)
- **HOME**-assisted contracts for the **rehabilitation or new construction of eleven or less residential units are exempt** from Davis-Bacon requirements

**CDBG funds and payment of federal Davis-Bacon wages:**

- **CDBG**-assisted contracts for **construction of new housing** require compliance with the provision of the Davis-Bacon Act. According to Section 110(a) of the Housing and Community Development Act (HCDA) of 1974 (as amended), **Davis-Bacon wage requirements are triggered in the CDBG Program as follows:**

**(i) When CDBG is used to finance construction work in whole or in part -- laborers and mechanics employed by contractors or subcontractors in such construction work shall be paid wages at rates not less than those prevailing on similar construction work in the same locality. **This provision does not mention anything about a number of units; it only states that Davis-Bacon is triggered when CDBG is used to finance construction work in whole or in part. The key activity here is “construction” that triggers the use of Davis-Bacon wages.****

**(ii) When CDBG is used to finance the rehabilitation of a residential property that has at least 8 units. Key aspects of this provision are “rehabilitation”, “residential”, and “8 units”. The activity must be rehabilitation; the property must be residential (be it an apartment complex, a home or an assisted living facility); and must have at least 8 units. **CDBG**-assisted contracts for the **rehabilitation of seven or less residential units in a single residential are exempt from compliance with the provisions of the Davis-Bacon Act.****

**Example:** A community wants to use **CDBG** funds to finance the building of an assisted living facility (which is the same as constructing the facility); therefore, Davis-Bacon wage requirements are under criterion item (i) above since the activity is construction. The number of units involved is irrelevant.

**Example:** A community plans to use **CDBG** funds to finance the **rehabilitation of homes for 9 households at 9 different locations**. Davis-Bacon wage requirements **do not apply** to this rehabilitation work – since the work will not be done at one residential property. Each of the 9 separate **residential** properties has only one housing unit – none of the properties has at least 8 units.

4. **For more information about Davis-Bacon Act compliance**, contact your CDBG project liaison. For updated regulations and guidance, you can visit **the Davis-Bacon Act compliance website** at <http://www.dol.gov/compliance/laws/comp-dbra.htm>

5. **Labor Standards and CDBG Grants to Montana Counties for Projects within Montana's Indian Reservations**

- Under federal law, eligible applicants for Montana Department of Commerce's **State CDBG Program** funding are limited to general-purpose local governments -- i.e., counties, incorporated cities and towns, and consolidated city-county governments.
- Among Montana municipalities, only Billings, Great Falls, and Missoula are ineligible to apply to the State CDBG Program because they receive CDBG funds from a separate HUD allocation for communities with populations over 50,000 (the **CDBG Entitlement Communities Program**). You can get information about the Entitlements CDBG Program at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs/entitlement](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/entitlement)
- Since 1982, Montana's CDBG Program has been providing infrastructure, affordable housing, and economic development assistance to Montana incorporated cities, towns, and counties. **This assistance has included funding for incorporated communities located within Montana's tribal reservations, such as Browning, Lodge Grass, and Poplar. The CDBG program has also assisted county water and sewer districts located on reservations, such as the Ashland Water and Sewer District where Rosebud County agreed to sponsor the project.**
- **Tribal governments are not eligible under federal law to receive CDBG grants from a state CDBG Program.**
  - However, there is a separate **Indian CDBG Program** for Tribal governments. <http://www.hud.gov/offices/pih/ih/grants/icdbg.cfm>
  - Thus, Montana's Indian tribes also receive CDBG funds, but from a separate HUD **Indian CDBG (ICDBG) Program**. The ICDBG Program provides eligible grantees with direct grants for use in developing viable Indian and Alaska Native Communities, including decent housing, a suitable living environment, and economic opportunities, primarily for low and moderate income persons. For more information regarding the Indian CDBG program, please contact the Office of Native American Programs at the HUD – Denver, Colorado regional office -- (303) 672-5465; website listed above.
- While Tribal governments cannot apply directly for State CDBG Program funds, **counties can apply for Montana CDBG funds for projects to assist unincorporated communities or tribal utility authorities within a reservation boundary.**

- While county governments can apply for and receive grants on behalf of projects on a reservation or to benefit tribal members, there are two important cautions that must be observed:
  - 1) the local county government needs to ensure that they have legal authority to carry out activities on a reservation; and
  - 2) Indian Preference hiring rules apply only to the Indian CDBG Program; it would violate civil rights laws for State CDBG funds to assist an activity where one must be Native American to participate.

**Background:** On October 25, 2005, at Montana's request, HUD clarified that it is permissible, under federal law, for a county CDBG recipient to assist projects principally benefiting county residents who are members of an Indian Tribe. When members of an Indian Tribe are also residents of a county, that county can use CDBG funds to assist public facilities or services predominantly used by Indians, including those who live on Indian reservations or on allotted Indian land. Therefore, the Montana State CDBG Program now allows State CDBG funds to be awarded to counties that apply on behalf of tribal utility authorities to assist tribal communities, providing all other federal and state CDBG requirements are met. All such applications will be considered during the regular grant competition for public facilities applicants.

## B. STATE LABOR STANDARDS REQUIREMENTS

 **If Community Development Block Grant (CDBG) funds will be used to help fund a public facilities project, the federal (Davis-Bacon) prevailing wage requirements supersede those of the State of Montana's Department of Labor and Industry.**

The following laws provide the statutory authority for the state requirements related to workers' wages and hours on local government public facility projects.

1. **Public Construction Contracts: Special Labor Conditions (Title 18, Chapter 2, Part 4, MCA)** This Montana law includes special labor requirements applicable to state or local public works projects. Section 18-2-402, [http://leg.mt.gov/bills/mca\\_toc/18\\_2\\_4.htm](http://leg.mt.gov/bills/mca_toc/18_2_4.htm), provides for the Montana Commissioner of Labor to determine the prevailing wages that will apply to public works projects which are **not** subject to the **federal** prevailing wage law (the federal Davis-Bacon Act). The **Montana** prevailing wage law is often referred to as the "Little Davis-Bacon Act." **CDBG-funded projects are subject to the federal prevailing wages law.**

**Section 18-2-403, MCA**, <http://leg.mt.gov/bills/mca/18/2/18-2-403.htm>, requires that a **preference for the hiring of Montana residents for construction work** be included in all bid specifications and contracts for public works projects that are **not subject to federal requirements that prohibit such preferences**. **CDBG-funded projects are subject to the federal prevailing wages law.**

2. **Workers' Compensation Act (Title 39, Chapter 71, Part 1)**. This law requires employers to provide workers' compensation insurance to assure wage supplements and medical benefits for workers suffering from work-related injury or disease. For the Workers' Compensation law, see [http://leg.mt.gov/bills/mca\\_toc/39\\_71\\_1.htm](http://leg.mt.gov/bills/mca_toc/39_71_1.htm). For more information visit the Montana Department of Labor's Workers' Compensation website: <http://erd.dli.mt.gov/workers-comp-regulations-bureau.html>

**NOTE: The above is a brief summary of Montana's major labor laws. Local officials and staff or project consultants should always consult the actual text of current Montana law and regulations if any questions arise.**

For guidance on the application of Montana's labor laws contact:

Labor Standards Bureau, <http://erd.dli.mt.gov/labor-standards-bureau.html>  
Montana Department of Labor and Industry  
P.O. Box 6518  
Helena, MT 59604-6518  
Telephone: (406) 444-1376

### **III. GRANTEE LABOR STANDARDS RESPONSIBILITIES**

CDBG recipients must take the following actions to ensure that all requirements related to labor standards are satisfied for CDBG-funded construction projects. As noted earlier, applicable civil rights requirements must also be complied with.

#### **Step 1 - Monitor and Assure Compliance with Federal Davis-Bacon Wage Provisions**

**Assuring compliance with the applicable federal Davis-Bacon prevailing wage provisions by CDBG recipients is a condition for receipt of CDBG funds.**

- Local officials should designate a person who will be responsible for assuring prevailing wage compliance (i.e., compliance with federal Davis-Bacon wage provisions). This designation should be in the CDBG recipient's Project Management Plan, discussed in Chapter 1, Project Startup, and before holding the pre-construction conference.
- This person will be responsible for ensuring compliance with federal labor requirements -- **by means of documented weekly reviews of all weekly payrolls and interviews with contractors' employees** -- and will serve as liaison with the contractor, the project engineer or architect, and MDOC. In most cases, this will be the project manager who has been assigned overall administrative responsibility. In some cases, the project engineer/architect may be assigned to oversee prevailing wage compliance.

#### **Step 2 - Include Labor Standards Provisions in Bid Documents**

**The Department of Labor regulations (at 29 CFR Part 1) establish the procedures for predetermining the wage rates required to be included in bid specifications and contracts for construction projects to which the federal Davis Bacon Act and related Acts apply.**

- Contractors need to see the minimum wages they will be required to pay while they develop their cost estimates for work to be performed.
- Workers need to know what wages and benefits are required by the federal Davis Bacon Act; and the Davis-Bacon wages need to be posted at the work site.
- Additionally, each bidder and the contractor selected is required to provide specific certifications assuring the CDBG recipient that they will comply with the prescribed labor standards requirements.

- Specific bid and contract language and certifications are provided for construction contracts in the *CDBG Supplemental General Conditions and Federal Labor Standards Provisions*, which appears as **Exhibit 9-B** in Chapter 9 of this Manual, Construction Management: Public Facilities and New Housing Construction.

- It is generally the responsibility of the CDBG grantee whose projects include Davis-Bacon covered construction to:
  - Ensure that the proper Davis-Bacon wage determination(s) is/are applied to such construction contract(s). See 29 CFR 1.5, and 1.6(b).
  - Advise contractors which schedule of federal prevailing wages applies to various construction items if a contract includes multiple wage schedules.
  - Be able / ready to advise contractors regarding the duties performed by the various crafts in the wage determination, if they inquire.
  - If two or more classifications in the applicable wage determination may perform the work in question, an area practice survey or other method of identifying the proper Davis-bacon wage may be required. Contact your CDBG liaison for guidance in handling this situation -- and also if the Davis-Bacon wage rate determination does not list a job category that is being utilized in the construction project.

- Bidders must also comply with civil rights requirements as described in Chapter 5, Civil Rights. The prescribed civil rights language for bid documents and contracts is also included in the *Supplemental General Conditions* of **Exhibit 9-B**. These contract provisions require that each contractor develop and document specific plans to:
  - utilize local businesses (Chapter 5's **Exhibit 5-C** contains the required Section 3 clauses and has more details about Section 3);
  - promote nondiscrimination;
  - hire local low and moderate income persons (in compliance with Section 3 rules); and
  - utilize minority and Disadvantaged Business Enterprises (DBE) businesses.
- CDBG recipients are also required to maintain current data on bid awards to contractors and subcontractors in their labor standards file.
  - The *Contract Reporting Form (Exhibit 5-J)* must be completed at the time each contract and subcontract exceeding \$10,000 is awarded,
    - including those with contractors and subcontractors that are not Disadvantaged Business Enterprises (DBEs – see Chapters 5 and 9).

 **Step 3 - Request The Federal Davis-Bacon Wage Rate Determination**

- **A “Request for Wage Determination” should be submitted to CDBG within the 90 days prior to a scheduled bid opening date. (See Exhibit 6-B.)**
  - This request may be made by letter, electronic mail, fax, or a telephone call to the MDOC CDBG staff assigned as liaison for your project. If you request the wage determination (called a “general decision”) by telephone, be sure to make and retain notes indicating the date and time of your request to MDOC.

- Federal Davis-Bacon wage rate determinations (“general decisions”) are issued by the U.S. Department of Labor for each State and county by means of issuing a “general decision” (published at <http://www.access.gpo.gov/davisbacon/mt.html>). Subsequent modifications of the original decision are also issued (also published at <http://www.access.gpo.gov/davisbacon/mt.html>)
- These wage rate determinations are meant to be all-inclusive and representative of an area's prevailing basic wage (hourly wage) and fringe benefits for every type of job classification of laborers and mechanics within their respective industry category. These hourly wage rates will vary for the different *zones* that might be involved in a construction project. (See more below about “zones” and “zone hourly rate pay.”)
  - Your project’s CDBG liaison will regularly review the wage determinations posted by the U.S. Department of Labor and will forward a copy of the applicable determination for inclusion in the bid document.
    - **To identify the correct wage determination, it is very important that the CDBG liaison be provided the following information, since each of these factors affects which rates are applicable to your project:**
      - estimated contract cost;
      - type of work (e.g., installation of waterlines, building construction, new housing construction, etc.)
      - anticipated bid opening date (wages rates published ten days before a bid open must be used); and
      - exact project location.
  - **Your project’s location may be in more than one wage district. When entering into construction services contracts that cover more than one wage district,** be aware of the requirements of ARM 24.17.144(2) which states:
    - “If a contract for public works is to be performed in more than one district where a different standard prevailing rate of wages is established for a particular craft, classification or type of worker, the highest rate is the rate to be included in the bid specifications and contract provision.”
    - **This requires the contractor to pay the highest of the wage rates in effect for the districts covered by the contract.**

### Zone Hourly Pay Rate (“Zone Pay”)

“Zone pay” is actually “zone hourly rate pay” and it is **an amount that is to be added to the base hourly rate when calculating pay, including both regular pay and overtime pay.** The Denver office of the U.S. Department of Housing and Urban Development has confirmed that these zone rate requirements apply to the Montana State CDBG Program.

**The published hourly wage** (that is, the base hourly rate) **combined with the zone hourly pay amount** (that is, the **zone hourly rate** that is listed in the federal wage rate determination that applies to the project) **becomes an employee’s base rate** (on which both **regular pay** and **overtime pay** are based).

“Zone pay” is thus a zone **hourly rate** – it is not travel pay. “Zone pay” is **additional hourly pay** related to proximity to services. “Zone hourly rate” is the terminology used in the federal Davis-Bacon wage rate determination documents for Montana, which can be found at the following website: <http://www.wdol.gov/wdol/scafiles/davisbacon/mt.html> Zone rate pay is not like fringe pay, since **zone rate pay is properly described as a “zone hourly rate”** and, as stated above, “zone pay” **it is**

**an amount that is to be added to the base hourly rate when calculating pay, including when calculating both regular pay and overtime pay.**

There are three “zone hourly rates applicable to *Heavy Construction* wages. The zone hourly rates applicable to each project shall be determined by measuring the road miles over the shortest practical maintained route from the nearest County Court House of the following listed towns to the center of the job: Billings, Bozeman, Butte, Great Falls, Havre, Helena, Kalispell, Lewistown, Miles City, Missoula.

**Zone 1:** 0 to 30 miles (Base Pay)

**Zone 2:** 30 to 60 miles (Base Pay + Zone 2 Hourly Rate)

**Zone 3:** Over 60 miles (Base Pay + Zone 3 Hourly Rate)

***Example of how to include zone hourly pay rates in calculations of pay due:***

If the *base hourly rate* for a worker (as listed in the federal Davis-Bacon wage rate determination document for the project) is \$21.09 and the *zone pay* is listed as \$4.70, then the *appropriate employee's base hourly rate* is \$25.79 an hour (\$21.09/hour + \$4.70/hour).

Under CDBG rules, that rate (\$25.79 in this example) is the rate that is to be used in calculating pay for regular hours and also for overtime hours.

Overtime pay = 1.5 x [\$21.09 base hourly pay rate + \$4.70 zone hourly pay rate] + fringe pay.

**Overtime Pay**

**Overtime pay must be provided after 40 hours have been worked in a workweek.**

**Overtime pay = (base hourly pay rate + zone hourly pay rate) x (1.5) + fringe pay**

- **Federal Davis-Bacon wage rate determinations are issued in the four basic categories within the construction industry:**
  1. ***Heavy Construction***
  2. ***Highway Construction***
  3. ***Building Construction, and***
  4. ***Residential Construction.***
  
- In most cases, CDBG projects will use only one of the prevailing wage rates rate categories (usually the federal *Heavy Construction* prevailing wage rates for Public Facilities projects) and usually *Residential Construction* rates for projects such as the construction of new senior housing or construction of new low-income housing.)
  - **However, in certain cases, more than one wage determination needs to be included in the bid document by the project engineer or architect.**
  
  - A guideline from the HUD Labor Relations Office in Denver, referred to as the "**80-20 Rule**," can generally be followed to determine when more than one wage determination should be used for CDBG-funded construction contracts.
    - Work with your CDBG project liaison to get approval for your bid solicitation document (which should include only wage rates that have been reviewed and approved by MDOC/CDBG).

- **Example #1:** This "rule-of-thumb" provides that if building construction is a "significant component" of the project (the budget for building construction exceeds 20% of the total anticipated construction contract amount), then the project engineer should include *both* Heavy Construction *and* Building Construction rates in the bid document.
  - In addition the HUD Labor Relations Office has advised that where building construction exceeds \$1 million dollars in value, the Building Construction wage rates should be included in the bid document.
- **Example #2:** The same "**80-20 Rule**" would apply to a public facility project which is principally building construction, such as a sewage treatment plant building, but which also includes more than 20% of non-building construction activity. In such cases, the project engineer should include both Building Construction and Heavy Construction prevailing wage rates in the bid document.

**This is a guideline, not a rigid requirement. If your project appears to fall under the "80-20 Rule" -- or where another component representing a significantly different activity may exceed \$1 million in value, consult your CDBG liaison for guidance.**

▪ **Unclassified Workers: Job Classifications Not Listed in the Wage Determination**

- In the event the construction project will involve laborers or mechanics **with job classifications that do not appear in the wage determination document provided**, the CDBG recipient must make a request to MDOC for an appropriate classification.
- HUD Form 4230A, "Report of Additional Classification and Wage Rate" (**Exhibit 6-C**) should be used for this request.

 **Step 4 – Re-verify the Wage Rate in the Solicitation for Bids**

- A copy of the current wage rate determinations provided by the CDBG liaison must be included in any solicitation for bids. Grantees must be sure to verify that the determination is the most current available from the U.S. Department of Labor.
  - Therefore, **not less than fifteen work days prior to the bid opening**, your CDBG liaison must be contacted by telephone, electronic mail, fax, or in writing to determine whether the wage rate decisions included in the bid solicitation are still current.
  - Federal Davis-Bacon wage rates for Montana are posted at the Davis-Bacon website's page for Montana, <http://www.access.gpo.gov/davisbacon/mt.html>. Advance notice of any rate changes are also posted weekly at <http://www.wdol.gov/newdba.aspx>.
  - In those instances where the U.S. Department of Labor has issued a modification of an earlier wage determination that was thought to be applicable to a project MDOC may require local officials to provide the new rate decision to all potential bidders by addendum, should a reasonable amount of time allow for this procedure.
    - Modifications to applicable wage rate determinations for your project that are **posted by HUD at the Davis-Bacon website ten days before bid opening need to be utilized.**
    - Modifications to the wage rate determination that are **posted at the Davis-Bacon webpage less than ten days before bid opening do not have to be used in the project.**

- The federal Davis-Bacon wage rates applicable at the time of the bid opening are those that are applicable for the duration of the contract entered into with the lowest responsive bidder.)

**You should note that Davis-Bacon wage determinations have the following time limitations:**

- a) If the wage determination received from MDOC is not used for bid solicitation within 180 days of issuance, it is void and a new request for determination must be submitted to MDOC.
- b) If a contract is not awarded within 90 days of the bid opening, any applicable later modifications to the original wage determination must be included in the contract.
- c) If construction has not commenced within 90 days of the signing of the contract, any applicable later modifications to the original wage determination must be included in the contract.

According to the HUD Labor Relations Office, the modifications under items **b** and **c** above can be incorporated by a Change Order, and do not require re-bidding.

Grantees should also check with their legal advisors and consultant engineers/architects and with CDBG staff, since there may be more restrictive or different time frames, such as 60 days under State law, for such contract changes in the actual bid document. If this situation arises, please contact your CDBG liaison for guidance.

**Step 5 - Verify Bidder Eligibility**

- The U.S. General Services Administration maintains lists of contractors that have been found in serious violation of federal labor standards or other requirements, and therefore have been debarred, suspended, or otherwise declared ineligible for participation in federally assisted construction projects. CDBG **grantees are required to obtain MDOC clearance (by means of CDBG conducting a state and federal debarment check) on all tentatively proposed prime contractors (and identified subcontractors) and consultants prior to awarding any CDBG funded contracts.**
- As soon as possible following the bid opening, and before awarding any construction or consultant contract, notification must be given to MDOC of (1) the name of the firm selected for contract negotiation on the pending contract and (2) its principal owner(s) and subcontractors.
  - See sample letter, **Exhibit 6-D**. A copy of the letter requesting a debarment check can also be sent by facsimile machine (fax) to expedite the request. The request can also be made by telephone to the MDOC CDBG staff assigned as liaison for your project.
  - DUNS numbers for all the contractors are required so that CDBG can conduct the required federal debarment check. This new requirement, effective January 1, 2009, was listed in Appendix Q of the 2009 CDBG Housing and Public Facilities Grant Application Guidelines, on line at <http://comdev.mt.gov/CDBG/requiredappforms.mcp>
    - The requirement that the local government's DUNS (Data Universal Numbering System) Number must be provided by all applicants is a compliance requirement of the Federal Funding Accountability and Transparency Act of 2006 which went into effect January 1, 2009. **A contractor can get a DUNS number from the Dun & Bradstreet (D&B) Government Customer Response Center, <http://fedgov.dnb.com/webform/displayHomePage.do>**

- Getting a DUNS number can be done on the Web at the address above -- and it can also be obtained over the phone (call 1-866-705-5711). See [http://fedgov.dnb.com/webform/pages/reqDuns\\_phone.jsp](http://fedgov.dnb.com/webform/pages/reqDuns_phone.jsp)
- The CDBG liaison will then check the General Services Administration's "System of Awards Management" (at <https://www.sam.gov/portal/public/SAM/>). CDBG will also check the State of Montana debarment system, <http://gsd.mt.gov/ProcurementServices/debarredsuspendingvendors.mcp.x>, to determine if that contractor's name, any principal's name, or the name of his/her firm appears.
- MDOC will provide the grantee with a notice stating whether the prospective contractor is eligible or ineligible to be retained for the project.
  - If the contractor is determined to be ineligible, the contract may be offered to the first alternate bidder or the bidding procedures may be reopened.
  - A copy of any correspondence sent or received from MDOC or notes taken for telephone contacts with MDOC should be retained to document this step.



### Step 6 –

### Inform Contractor(s) of Federal Requirements by Conducting a Pre-construction Conference and by Posting Important Documents at the Work Site

- **Following the contract award for construction projects involving CDBG funds, the CDBG recipient should hold a pre-construction conference.**
  - The CDBG recipient and prime contractor should **include all subcontractors** in the discussions to ensure that they are aware that they must also comply with the federal labor standards and equal employment opportunity provisions. The project architect and/or engineer (if applicable) will attend the conference to cover the technical or other contract related issues for the CDBG recipient.
  - The CDBG recipient's project manager should be invited to cover the federal or state compliance issues.
- **The pre-construction conference represents a key opportunity prior to the beginning of project construction for giving instructions to the contractor.** A well-planned and executed conference can help prevent problems and misunderstandings that could delay the project.
  - **To assist CDBG recipients in preparing for and conducting the required pre-construction conferences for CDBG funded construction contracts, a Pre-construction Conference Planning Guide (Exhibit 6-E) has been provided.** This contains guidance for conference preparation, a general format to be used as an agenda, supplemental information on labor standards and civil rights requirements, and a blank conference checklist and agenda which should be followed to record minutes for the conference.
- **At a minimum**, the pre-construction conference should include discussions of:
  - prevailing wage requirements, including posting prevailing wages continually at the job site;
  - employment of apprentices or trainees;
  - weekly pay for employees;
  - submission of weekly payrolls;
  - penalties if prevailing wage requirements and labor standards requirements are not complied with;
  - payment of overtime;
  - equal employment opportunity requirements;
  - employment of minorities and local workers;

- ❑ use of DBEs and local businesses;
  - ❑ notices that must be posted at the job site;
  - ❑ the use of bona fide, registered subcontractors; and
  - ❑ key responsibilities of the contractor, engineer/architect, and project manager.
- In order to document discussions that occur during the pre-construction conference, **the CDBG recipient is required to prepare minutes of the pre-construction conference.**
    - A verbatim record is not necessary -- the names of the persons who attend and a summary of the comments and issues covered is sufficient.
    - **A copy of the minutes should be maintained on file by the Project Manager as well as forwarded to the project's MDOC CDBG liaison.**

 **Copies of pages 6-E.2 through 6-E.8 of Exhibit 6-E should be provided to each contractor representative who attends the pre-construction conference.**

**This helps to document that the key requirements have been covered. The form also provides a space for the participants to sign their names to acknowledge that compliance issues were discussed.**

- **Notices that must be posted at the construction site** include:
  - Notice to Employees Working on Federal or Federally Financed Construction Projects, Form WH-1321 (**Exhibit 6-F**);
  - a copy of the wage rate decision;
  - Equal Employment Opportunity poster (**Exhibit 6-G**); and
  - Job Safety and Health Protection poster (**Exhibit 6-H**);
    - For posting the required notices at the job site, the contractor may use a bulletin board affixed to the inside or outside of a temporary field office or storage trailer, or if none of these are utilized, on a plywood billboard located near the site of construction activities.
    - The current wage rates would typically be put under a weatherproof plastic covering and posted with the required notices. Regardless of the method used, it is the contractor's responsibility to provide adequate information to his employees regarding payroll and labor protections.
- **Contractor reporting requirements** include:
  - **Weekly Payroll Reports**, which must be submitted **weekly** by both the prime **contractor** and **subcontractor(s)**; and
  - Notice of Approved Apprenticeship or Trainee Program, which must also be submitted -- if applicable.

- Contractors are urged to use the U.S. Department of Labor (DOL), Payroll Form WH-347. (See sample Form WH-347, **Exhibit 6-I**.) Contractors may also use and furnish computerized weekly payrolls in lieu of the standard Payroll Form WH-347, if the basic information contained on the WH-347 is provided and the contractor includes a signed certification, which is located on the reverse side of the WH-347. The text of the "weekly statement with respect to the payment of wages," which is required by regulations of the U.S. Secretary of Labor, appears on the reverse side of the Exhibit 6-I form.
- Contractors can use a numerical code system for reporting job classifications on their payroll form, if the contractor submits a copy of the numerical code system with the initial payroll report and the codes appear to accurately reflect the actual duties of workers observed at the job site.
- **Exhibit 6-I (Weekly Payroll Report Forms, WH-347)** contains not only samples of these forms but also examples and instructions for the contractor to follow for completing and filing all the required weekly payrolls on the project.
  - For example, the CDBG recipient should be aware that weekly payroll reports are also required from subcontractors identified as "working owners."
  - A "sole-proprietor" who performs work on the project must still submit weekly payrolls showing himself or herself as "owner", the work classification and the daily and total hours worked.
- To provide additional detailed guidance to contractors for the proper completion and use of the above weekly payroll reports, see "Contractor Payroll Information" (**Exhibit 6-J**). These forms may be ordered from the Superintendent of Documents, Government Printing Office, Washington, D.C. 80402.

 **Step 7 – CDBG Grantees Monitor Contractor(s) Performance**

- It is the Project Manager's responsibility to monitor construction activities to ensure that:
  - a. all required notices are posted prominently at the construction site,
  - b. the contractor's weekly payroll reports are accurate and submitted weekly as required, and
  - c. that the contractor is complying with applicable labor standards.
- This monitoring function can be accomplished through the following activities:
  - **conducting on-site inspections** to ensure that required notices and copies of the applicable wage rates are posted at reasonably accessible locations for the workers to review;
  - **conducting (required) interviews with construction employees** to confirm job classifications and pay rates. **Interviews should be conducted at least once a month with a representative of each classification of laborers involved in the construction and at least 10 percent of the workforce.**

- The form to be used for construction employee interviews, instructions for conducting the interviews, a completed sample interview form, and instructions for finding the appropriate wage rate based on the sample interview are provided as **Exhibit 6-K**);
- **comparing weekly payroll reports to the prevailing Davis-Bacon wage rate decision and documenting the completion of these payroll reviews.**
  - Weekly payroll reports must be submitted by the contractor within seven days following completion of the workweek and should be promptly reviewed weekly by the Project Manager or by the designated Labor Standards Officer.

#### **REVIEW OF WEEKLY PAYROLL REPORTS:**

- **Additional guidance to CDBG recipients on the payroll review and employee interview processes is provided in *Exhibit 6-K* of this chapter.**
- **The CDBG recipient's Project Manager should initial and date each payroll to document that the payroll review has been completed. CDBG staff will review documentation that each weekly payroll has been reviewed.** You must maintain adequate records such as these for MDOC review to demonstrate that all labor standards provisions have been complied with and workers' rights are protected.
- **CDBG has provided a form (Exhibit 6-P) for the Project Manager/Labor Compliance Officer to use to verify payroll review, to authorize payment to the contractor, and to certify that the contractor has complied with labor and civil rights requirements as outlined in the CDBG Project Administration Manual and agreed upon by contract. The Certification of Labor Compliance (Exhibit 6-P) must be submitted to CDBG, during periods of construction, with all drawdown requests to any funding source.**
- **During periods of construction, drawdown requests to CDBG must be accompanied by Exhibit 6-K, Record of Employee Interviews. (See Chapter 4, pages 4-6 and following.)**
- **CDBG also requires that copies of the reviewed weekly payrolls (initialed, annotated as necessary and dated) be submitted with drawdown requests.**

#### **Use of Volunteers**

**The Housing and Community Development Act exempts volunteers from Davis-Bacon Act requirements on Community Development Block Grant (CDBG) Program funded projects.**

Davis-Bacon wage rates shall not apply to any individual that:

- performs services for which the individual volunteered;

- does not receive compensation for such services; or is paid expenses, reasonable benefits, or a nominal fee for such services; and
- is not otherwise employed at any time in the construction work.”

The Project Manager should use and obtain a signed volunteer certification form (**Exhibit 6-M**) from each volunteer worker, other than the contractor's employees, performing work on CDBG-funded project activities.

## Step 8 - Investigate Labor Standards Violations

- Violations of labor standards requirements may surface as the result of either monitoring or through a specific complaint by a construction worker.
  - In either instance, **the CDBG recipient is responsible for thoroughly investigating and documenting the alleged violation.**
  - If a violation is confirmed, the Project Manager should first work with the contractor on an informal basis to resolve the problem and allow a reasonable time for correction.
  - .Where the contractor refuses to address the violation or continues to violate labor standards provisions, the CDBG program specialist should be promptly notified in writing of the violation.
  - The contractor should be informed that an unresolved finding of labor standards violation could result in disbarment and make the contractor ineligible for participation in CDBG-assisted construction projects in the future.

## Step 9 - Maintain Labor Standards Files

- **You must maintain adequate records for MDOC/CDB G review to demonstrate that all labor standards provisions have been complied with and workers’ rights are protected.**
- **For each construction contract, a Labor Standards file should be maintained which includes the following items:**
  - ❑ copies of all applicable Wage Rate Decisions;
  - ❑ evidence that labor standards provisions are included in bid packages and contracts;
  - ❑ the MDOC/CDBG notice of contractor eligibility (not on the federal or state debarred parties list);
  - ❑ a copy of the pre-construction conference minutes;
  - ❑ the Contract Reporting Form (**Exhibit 5-J**);
  - ❑ evidence that all required notices have been posted at the construction site (such as photographs taken on site);
  - ❑ the contractor's weekly payroll reports (numbered sequentially and the final one marked "Final");

- ❑ evidence (*signature/initials, review dates, notes*) that show that all weekly payroll reports have been reviewed and verified as correct (also see **Exhibit 6-P**);
- ❑ records of construction worker interviews conducted (using **Exhibit 6-K**);
- ❑ evidence of any violations with supporting documentation;
- ❑ evidence of the resolution of any violations;
- ❑ copies of lien releases; and
- ❑ completed volunteer certification forms, if applicable.

## CHAPTER 6

### EXHIBITS

- 6-A Federal Labor Standards Provisions: HUD-4010**
- 6-B Request for Wage Determination**
- 6-C Report of Additional Classification and Wage Rate: HUD-4230A**
- 6-D Request for Verification of Bidder Eligibility**
- 6-E Pre-construction Conference Planning Guide**
- 6-F Federal Wage Poster: WH-1321**
- 6-G Equal Employment Opportunity Poster**
- 6-H Job Safety and Health Protection Poster**
- 6-I Weekly Payroll Report Forms: WH-347 (Payroll) with Instructions for Completing Payroll Form WH-347**
- 6-J Contractor Payroll Information**
- 6-K Employee Interview Form**
- 6-L Labor Standards Definitions**
- 6-M Volunteer Certification Form**
- 6-N Contractor's Receipt of Required Program Materials**
- 6-O Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects**
- 6-P Certification of Labor and Civil Rights Compliance and Authorization for Payment**

**EXHIBIT 6-A**

**“FEDERAL LABOR STANDARDS PROVISIONS”: HUD 4010 FORM**

<http://www.hud.gov/offices/adm/hudclips/forms/files/4010.pdf>

**Form HUD-4010(06/2009) . Ref. Handbook 1344.1**

## EXHIBIT 6-B

### REQUEST FOR WAGE DETERMINATION

(Date)

Montana Department of Commerce  
Community Development Division  
CDBG Program  
301 S. Park  
P.O. Box 200523  
Helena, MT 59620-0523

The (... name of grantee: City, Town or County of \_\_\_\_\_) is preparing to go to bid for a contract involving FY 200\_\_ Montana Community Development Block Grant (CDBG) funds. The project involves:

- ***(brief description of activities)***;
- ***(estimated amount)***; and
- ***(projected date of bid opening)***.

Please send us a copy of the current wage determination that will apply to this project.

Fifteen days prior to the bid opening I will contact you to confirm that the wage rate determination you have sent in response to this request is still current.

Sincerely,

(signature)

Typed Name , Labor Standards Officer  
Mailing Address  
Telephone and FAX Number  
E-mail Address

**EXHIBIT 6-C: REQUEST TO CDBG FOR ADDITIONAL CLASSIFICATION AND WAGE RATE**

<http://www.hud.gov/offices/adm/hudclips/forms/files/4230a.doc>

<b>U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REPORT OF ADDITIONAL CLASSIFICATION AND RATE</b>		<b>HUD FORM 4230A</b> OMB Approval Number 2501-0011 (Exp. 01/31/2010)
1. FROM (name and address of requesting agency)	2. PROJECT NAME AND NUMBER	
	3. LOCATION OF PROJECT (City, County and State)	
4. BRIEF DESCRIPTION OF PROJECT	5. CHARACTER OF CONSTRUCTION <input type="checkbox"/> Building <input type="checkbox"/> Residential <input type="checkbox"/> Heavy <input type="checkbox"/> Other (specify) <input type="checkbox"/> Highway	
6. WAGE DECISION NO. (include modification number, if any)  <input type="checkbox"/> COPY ATTACHED		7. WAGE DECISION EFFECTIVE DATE
8. WORK CLASSIFICATION(S)	HOURLY WAGE RATES	
	BASIC WAGE	FRINGE BENEFIT(S) (if any)
9. PRIME CONTRACTOR (name, address)	10. SUBCONTRACTOR/EMPLOYER, IF APPLICABLE (name, address)	
<b>Check All That Apply:</b> <input type="checkbox"/> The work to be performed by the additional classification(s) is not performed by a classification in the applicable wage decision. <input type="checkbox"/> The proposed classification is utilized in the area by the construction industry. <input type="checkbox"/> The proposed wage rate(s), including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage decision. <input type="checkbox"/> The interested parties, including the employees or their authorized representatives, agree on the classification(s) and wage rate(s). <input type="checkbox"/> Supporting documentation attached, including applicable wage decision.		
<b>Check One:</b> <input type="checkbox"/> Approved, meets all criteria. DOL confirmation requested. <input type="checkbox"/> One or more classifications fail to meet all criteria as explained in agency referral. DOL decision requested.		
_____ <b>Agency Representative</b> (Typed name and signature)		<b>FOR HUD USE ONLY</b> <b>LR2000:</b>  <b>Log in:</b>  <b>Log out:</b>
_____ <i>Date</i>		
_____ <i>Phone Number</i>		

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Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. The information is considered non-sensitive and does not require special protection. This information is required to obtain benefits. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

Employers engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged on the construction work. On occasion, the applicable Davis-Bacon wage decision does not contain all of the work classifications and wage rates needed to complete the construction work. This information collection facilitates the addition of needed work classifications and wage rates for the construction work involved. This form is used by HUD and local agencies administering HUD programs to report employer request(s) for additional classification and wage rates so that an appropriate wage rate can be approved by the Department of Labor for the construction work. This information collection is required by Department of Labor regulations at 29 CFR 5.5. While no assurances of confidentiality are pledged to respondents, HUD generally discloses these data only in response to a Freedom of Information request.

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## Instructions

### General:

**Contractors/Employers:** Do not need to complete this form. Submit a written, signed request to the responsible contracting agency naming the work classifications and the wage rates, including any fringe benefits, that are proposed.

**Local Agency Staff:** Complete items 2 through 10. Submit one copy of this form to the responsible HUD Labor Relations Office with a copy of the applicable Davis-Bacon wage decision and the written request from the employer naming the work classifications and wage rates that are proposed. (The employer's request must be made in writing and must be signed.)

1. For HUD or State CDBG Office use. Enter the name and address of HUD Office (or State CDBG office) submitting the report and to which the DOL reply should be sent.
2. Enter the name and number of the project or contract involved.
3. Enter the location of the project involved: city, county and state.
4. Describe the construction involved, e.g., new construction or rehabilitation, number and type of buildings, number of stories, number of units (as applicable). For example, New construction: 3 – 4-story buildings; 120 units.
5. Enter the character of construction as defined by DOL for Davis-Bacon prevailing wage rate purposes.
6. Enter the number of the Davis-Bacon wage decision applicable to the construction work. Include the number of wage decision modifications (if any) applicable to the work.
7. Enter the effective date of the wage decision for the project. (See DOL regulations at 29 CFR 1.6.)
8. Enter the work classifications and corresponding hourly basic wage rates and fringe benefit rates (if any) requested.
9. Self-explanatory.
10. If the requesting employer is not the prime contractor, enter the name and address of the subcontractor/employer making the request.

Remainder of Form: HUD Labor Relations/State CDBG use.

HUD Labor Relations/State CDBG Staff: Evaluate the employer's request against the criteria for approval (see DOL Regulations, 29 CFR Part 5, and related contract labor standards provisions). The criteria are reflected in "checklist" form to ensure that each factor is considered and to ensure that supporting documentation, including a copy of the applicable wage decision, is attached. Check the box next to each criterion that is met; do not check the box next to any criterion that is not met.

If the request meets all criteria, check the appropriate box, enter the name and telephone number of the HUD/State CDBG agency representative, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision and the written request from the employer involved.

If the request fails to pass all criteria, check the appropriate box, enter agency contact information, and sign and date the form. Submit one copy of the completed form to the DOL with a copy of the applicable Davis-Bacon wage decision, the written request from the employer involved, *and* a cover letter explaining how the employer's request failed to meet one or more of the criteria.

### Submission of Report

Completed forms shall be sent to: Branch of Construction Wage Determinations, U.S. Department of Labor, 200 Constitution Avenue, NW, Room S-3014, Washington, DC 20210.

HUD-4230A (8-03) PREVIOUS EDITION IS OBSOLETE  
<http://www.hud.gov/offices/adm/hudclips/forms/files/4230a.doc>



## EXHIBIT 6-E

### PRECONSTRUCTION CONFERENCE PLANNING GUIDE

#### PRE-CONFERENCE PLANNING

1. **Identify and notify conference participants of the time and place of the preconstruction conference. Invite your project's CDBG liaison.**
2. **Prepare the materials that will be needed for the conference** (e.g., agenda, notes, forms, posters, expected participants roster, and current approved wage determination).
3. **Organize the materials into individual packets for each conference participant.**

#### PRECONSTRUCTION CONFERENCE MODEL AGENDA

1. **Identify the official representatives of participating organizations and how they can be contacted for official roster** (include with minutes).
2. **Identify the responsibilities of the architect or engineer, if applicable** (responsibilities may include construction supervision, initial review of contractor payrolls, and certification of partial payment request, etc.).
3. **Identify the responsibilities of the grantee (local government)** (responsibilities may include on-site employee interviews, posting of appropriate posters, and resolution of labor complaints, etc.).
4. **Identify the responsibilities of the contractor** (responsibilities include conformance to prevailing wage determination, and other labor standards, civil rights regulations, Section 3 requirements, MBE/WBE requirements, and timely submission of required reports, etc.).
5. **General discussion of contract terms** (e.g., timing of requests for partial payments, etc.).
6. **Outline and discuss schedule for construction completion** (contractor should provide timeframes for sequences of major construction activities from beginning of construction to final project completion).
7. **Describe responsibilities of subcontractors** (primarily the same responsibilities as contractor -- e.g., prevailing wage rates and labor standards, etc.).
8. **Project inspection** (responsibilities of grantee's Labor Standards Officer, and architect/engineer should be discussed).
9. **Compliance with federal labor standards** (refer to checklist supplement).
10. **Compliance with civil rights regulations** (refer to checklist supplement).
11. **Notices that are required to be posted** (refer to checklist supplement).
12. **Forms the contractor must submit** (refer to checklist supplement).
13. **Contractor's Receipt of Required Program Materials** (to be signed at the conference).

## PRECONSTRUCTION CONFERENCE FEDERAL REQUIREMENTS

### LABOR AND CIVIL RIGHTS REQUIREMENTS

The grantee should include the following information concerning federal labor standards and civil rights compliance during preconstruction conferences for construction projects involving CDBG funds.

#### A. WAGE DETERMINATION AND EMPLOYEE CLASSIFICATION

**Davis-Bacon Act is applicable to all construction contracts awarded by grantees in excess of \$2,000.** (The rehabilitation of less than eight residential units under one contract is exempt from this requirement. See Chapter 6, pages 6-5 and 6-6.)

1. Laborers, mechanics, apprentices, and trainees must receive no less than the prevailing wages, plus fringe benefits paid for similar work in the locality. Conference participants should be provided with a copy of the current wage determination that has been approved by the Montana Department of Commerce and included in the contract document.
  - a. Workers are covered by the Davis-Bacon Act while working at the site, transporting materials to and from the site and manufacturing or furnishing articles, supplies, or equipment on-site.
  - b. Apprentices or trainees may be paid less than journeyman wages if they are enrolled in an apprenticeship or training program approved by the U.S. Department of Labor (or State Apprentice Council recognized by the Department of Labor's Employment and Training Administration).
2. If the contractor needs laborers or mechanics whose classifications do not appear on the wage determination, the local CDBG administrator or designated Labor Standards Officer must make a request for an appropriate classification to the MDOC CDBG Project liaison Officer. (The CDBG staff will then propose a classification and submit it to the U.S. Department of Labor, which will advise the State as to the acceptability of the request within 30 working days. See **Exhibit 6-C** for a sample Report of Additional Classification and Wage Rate Form, #HUD-4230A, and instructions.)
3. Employees or supervisors working at other than their assigned classifications for 20 percent or more of their time must be paid and shown on the payrolls for each classification or, paid for all hours at the higher wage scale.
4. If the wage determination lists fringe benefits, the contractor must either provide them or pay the hourly equivalent in cash, in addition to the predetermined basic wage.
5. Claims and disputes should be reported in writing to the DOC CDBG Program Officer. Resolution of all claims and disputes must be reported to the U.S. Department of Housing and Urban Development (HUD), Labor Relations Office. HUD may be called upon by the State to investigate and settle claims and disputes, or may enter of their own volition if the need arises.
6. Laborers and mechanics must be paid no less than once per week.

## **B. WORK HOURS, OVERTIME, AND SAFETY STANDARDS**

**Contract Work Hours and Safety Standards Act, As Amended is applicable to all contracts awarded by local grantees in excess of \$2,000 for construction projects employing mechanics or laborers.**

1. Forty hours is the standard workweek.
2. One and one-half times the basic hourly rate of pay, exclusive of fringe benefit payments, must be paid for all hours over forty in a work week.
3. No worker shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health and safety.

## **C. DEDUCTIONS**

**Copeland "Anti-Kickback" Act is applicable to any federally assisted contract subject to Davis-Bacon standards.**

1. Full wages earned must be paid.
2. Permissible deductions include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life insurance, or accident insurance, vacation or holiday pay, and defraying costs of apprenticeship or similar programs.

## **D. CONTRACTOR REPORTING REQUIREMENTS**

**In conjunction with the previously described labor and civil rights requirements the contractor is required to periodically submit several forms to the grantee's designated Labor Standards Officer. The prime contractor is fully responsible for providing all reports required from subcontractors.**

1. Each contractor (prime and sub) must submit (through the prime contractor) Certified Payroll Forms (WH-347) for each week of work from the time the project begins through completion. If the contractor prefers to use a form other than WH-347, it must contain identical information. Weekly payrolls should be numbered sequentially, and be submitted to the grantee no later than seven days following the end of the pay period. **Exhibit 6-I** contains a blank Certified Payroll Form WH-347 and a completed example of WH-347.
2. A completed Statement of Compliance with Labor Standards and Prevailing Wage Requirements (**Exhibit 6-P**) must be submitted with each Certified Payroll Form. Certified payrolls must be submitted for each week that work is done on the project. Final payrolls shall be identified accordingly. If no work is performed on the project during a given period, on the next performance payroll, state: "No work performed from pay period ending (date) \_\_\_\_\_ through (date) \_\_\_\_\_." The Statement of Compliance appears on the back of form WH-347 or as form WH-348 if WH-347 is not used. **Exhibit 6-I** contains a sample Statement of Compliance (WH-348).

3. The first week after work on the project begins the grantee's designated Labor Standards Officer should be supplied with the names of anyone (other than owner or officer) who is authorized to sign payrolls for each contractor (prime and sub).
4. The prime contractor should supply the grantee's designated Labor Standards Officer with the names of all subcontractors working on the project prior to the preconstruction conference. Each subcontractor may then be informed of the conference. The names of any new subcontractors must be supplied immediately after they begin work on the project. (Contractors and subcontractors need to be reviewed and cleared by CDBG on the federal and state lists of debarred and excluded contractors. DUNS numbers for contractors are required. DUNS: See Chapter 6 of the CDBG Manual, page 6-14.)
5. In accordance with E.O. 11246 each contractor (prime and sub) engaged in work totaling \$10,000 or more is required to submit a Minority Contract Reporting Form, as well as any documentation regarding affirmative action efforts to the local grantee. **Exhibit 5-J** contains a sample Contract Reporting Form for use by the CDBG grantee).
6. **WORKING SUBCONTRACTORS.** Contractual relationships between contractors and alleged subcontractors (who perform mechanics' work) which are formed for the purpose of evading the application of prevailing wage requirements are expressly prohibited and may provide a basis for debarment. Where there is any doubt as to the bona-fide nature of a self-employed subcontractor who has no other employees, the following must be checked:
  - a. Does the subcontractor have a registered trade name and is there a telephone listing under that name?
  - b. Does the subcontractor have a license?
  - c. Does the subcontractor have liability insurance or a subcontractor's bond?
  - d. Does the subcontractor have a Federal Tax Identification Number?

Any of these criteria in conjunction with a signed contract containing HUD Federal Labor Standards Provisions from each such subcontractor should be sufficient to establish that he or she is a bona-fide subcontractor. Such a subcontractor will submit payrolls indicating only that he/she is the owner, the hours worked and the classification. The phrase "self-employed owner" shall be written under the name, address, and Social Security Number (See Column 1 on Form WH-347). Nonbonafide self-employed subcontractors must be carried as employees on the payroll of the contractor who engaged him/her, and must be paid the prevailing wage rate for the classification of work performed.

## **E. JOB SITE NOTICES**

**The prime contractor is required to post the following notices in a manner that is conspicuous to all workers engaged in the construction project:**

1. A copy of the Department of Labor's Notice to Employees Working on Federal or Federally Financed Construction Projects (Form WH-1321), and the appropriate wage determination; (**Exhibit 6-F** provides a sample Notice to Employees.)
2. A copy of the Montana Department of Commerce's Equal Employment Opportunity poster (**Exhibit 6-G**); and
3. A copy of the Department of Labor's Job Safety and Health Protection poster (**Exhibit 6-H**).

## **F. MONITORING AND SANCTIONS**

**The grantee's designated Labor Standards Officer is responsible for monitoring the construction project to assure compliance with all relevant labor and civil rights requirements.**

1. On-site inspections must be conducted by the grantee's Labor Standards Officer to ensure that required notices are posted.
2. Weekly payroll reports of the prime contractor and all subcontractors must be examined by the grantee's Labor Standards Officer to ensure compliance with labor standards. (See Chapter 6 of the CDBG Grant Manual, pages 6-16 through 6-18.)
3. At least once per month the grantee's Labor Standards Officer must conduct interviews with construction employees of the prime contractor and subcontractors. The interviews should be scheduled early into the first month of construction to assure initial compliance with labor standards, and on shorter projects, conducted midway towards completion. A representative of each classification of mechanic and laborer, and at least 10 percent of the work force should be interviewed. **Exhibit 6-K** contains a sample Record of Employee Interview, and instructions for conducting employee interviews.
4. Violations of the Davis-Bacon and related acts may result in restitution of wages to employees, suspension of the project payment, contract termination, and/or suspension or debarment of the contractor or subcontractor.
5. Violation of the Contract Work Hours and Safety Standards Act makes contractors liable for unpaid wages and for liquidated damages to the federal government in the sum of \$10.00 per worker per day for each violation. Intentional violations are a federal misdemeanor, punishable for each and every offense by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or both.
6. Violations of the Copeland Anti-Kickback Act could be the basis for contract termination and could result in criminal prosecution by the federal government.

## **G. CONTRACTOR AFFIRMATIVE ACTION**

**Executive Order 11246, as amended by Executive Order 11375, requires nondiscrimination in employment under federally assisted contracts and requires affirmative action to ensure equality of opportunity in all aspects of employment.**

The prime contractor and all subcontractors must ensure that employees and applicants for employment are not discriminated against because of race, color, religion, sex, or national origin.

**Disadvantaged Business Enterprises: Executive Order 12432 establishes the development of Disadvantaged Business Enterprises (DBEs) as a national priority.**

1. The grantee should supply a list of area DBEs that the prime contractor can use for contacting such businesses.

2. In cases where subcontracts are still available, the prime contractor must make and document a good faith effort to contact qualified DBEs.

**Section 3 of the Housing and Urban Development Act of 1968 provides that to the extent feasible, opportunities for training and employment must be given to lower-income residents of CDBG assisted project areas, and that contracts for work in connection with such projects be awarded to business concerns which are located in, or are owned in substantial part, by "project area" residents.**

The grantee should inform the contractor of this requirement. The "project area" is defined as the county in which the project takes place.

**HUD Administrative Requirements for Grants, 24 CFR part 85.36, establishes procurement standards to be followed in federal assistance programs.**

Whenever possible, small, minority and women-owned businesses should be solicited as potential sources of supplies, construction and services.

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## PRECONSTRUCTION CONFERENCE CHECKLIST

### PRE-CONFERENCE PLANNING

- \_\_\_\_\_ 1. **Identify, and notify conference participants of the time and place of the preconstruction conference. Invite the CDBG Project liaison.**
- \_\_\_\_\_ 2. **Prepare the materials that will be needed for the conference.**
- \_\_\_\_\_ 3. **Organize the materials into individual packets for each conference participant.**

### PRECONSTRUCTION MODEL AGENDA

- \_\_\_\_\_ 1. **Identify the official representatives of participating organizations, and how they can be contacted for official roster.**
- \_\_\_\_\_ 2. **Identify the responsibilities of the architect, or engineer if applicable .**
- \_\_\_\_\_ 3. **Identify the responsibilities of the grantee (local government).**
- \_\_\_\_\_ 4. **Identify the responsibilities of the contractor.**
- \_\_\_\_\_ 5. **General discussion of contract terms.**
- \_\_\_\_\_ 6. **Schedule for construction completion.**
- \_\_\_\_\_ 7. **Subcontractors.**
- \_\_\_\_\_ 8. **Project inspection (responsibilities of grantee (local government), and architect or engineer).**
- \_\_\_\_\_ 9. **Compliance with federal labor standards.**
  - \_\_\_\_\_ Contractor's Guide to Davis Bacon Requirements and Certified Payroll Forms
  - \_\_\_\_\_ Federal Davis-Bacon Act
  - \_\_\_\_\_ Contract Work Hours and Safety Standards Act
  - \_\_\_\_\_ Copeland Anti-Kickback Act
- \_\_\_\_\_ 10. **Compliance with civil rights regulations.**
  - \_\_\_\_\_ Executive Order 11246 as amended by Executive Order 11375
  - \_\_\_\_\_ Minority and Women-Owned Business Enterprises: Executive Order 12432
  - \_\_\_\_\_ Section 3 of the Housing and Urban Development Act of 1968

\_\_\_ 11. **Notices that are required to be posted.**

- \_\_\_ Department of Labor's Notice to Employees Working on Federal or Federally Financed Construction Projects (**Exhibit 6-F**)
- \_\_\_ Appropriate wage determination
- \_\_\_ Montana Department of Commerce's Equal Employment Opportunity poster (**Exhibit 6-G**)
- \_\_\_ Department of Labor's Job Safety and Health Protection poster (**Exhibit 6-H**)

\_\_\_ 12. **Forms the contractor must submit.**

- \_\_\_ Certified Payroll Forms (WH-347) (**Exhibit 6-I**), or equivalent
- \_\_\_ Statement of Compliance with Labor Standards and Prevailing Wage Requirements (WH-348) (**Exhibit 6-I**)
- \_\_\_ Copy of the approved plan or program, if fringe benefits will not be paid in cash
- \_\_\_ Apprenticeship or training program agreement, if any apprentices will be working on the project
- \_\_\_ Names of persons authorized to sign payrolls
- \_\_\_ Names of all subcontractors
- \_\_\_ Contract Reporting Form (**Exhibit 5-J**)

\_\_\_ 13. **Forms to be signed at preconstruction meeting.**

- \_\_\_ Contractor's Receipt of Required Program Materials (**Exhibit 6-N**)

**EXHIBIT 6-F**

**Federal Wage Poster: WH-1321**

**EMPLOYEE RIGHTS**

**UNDER THE DAVIS-BACON ACT**

**FOR LABORERS AND MECHANICSEMPLOYED ON FEDERAL OR FEDERALLY  
ASSISTED CONSTRUCTION PROJECTS**

**THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION**

<http://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf>  
**WH 1321(Revised April 2009)**

# EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

## FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

### PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

### OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

### ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

### APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

### PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

**1-866-4-USWAGE**  
(1-866-487-9243) TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**

# EEO

## Equal Employment Opportunity

The organization named herein receives Federal financial assistance from the U.S. Department of Housing and Urban Development.

Organization's name and address:

In its activities so assisted the organization is prohibited from discriminating against any employee or applicant because of race, color, sex, national origin, religion, or handicap in connection with:

- employment, upgrading, demotion or transfer
- recruitment or recruitment advertising
- layoff or termination
- rates of pay or other forms of compensation
- selection for training, including apprenticeship

Requests for information and complaints of discrimination may be addressed to:
<b>Human Rights Division</b>
<b>Department of Labor &amp; Industry</b>
P.O. Box 1728
Helena, MT 59620
(406) 444-2884

--Or--
<b>Montana CDBG Program</b>
<b>Community Dev. Block Grant Program</b>
<b>Department of Commerce</b>
P.O. Box 200523
Helena, MT 59620-0523
(406) 841-2791

This notice must be posted in conspicuous places available to employees and applicants for employment.

### MONTANA DEPARTMENT OF COMMERCE

## EXHIBIT 6-H

# JOB SAFETY & HEALTH PROTECTION

The Occupational Safety and Health Act of 1970 provides job safety and health protection for workers by promoting safe and healthful working conditions throughout the Nation. Provisions of the Act include the following:

### EMPLOYERS

All employers must furnish to employees employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious harm to employees. Employees must comply with occupational safety and health standards issued under the Act.

### EMPLOYEES

Employees must comply with all occupational safety and health standards, rules, regulations and orders issued under the Act that apply to their own actions and conduct on the job.

The Occupational Safety and Health Administration (OSHA) of the U.S. Department of Labor has the primary responsibility for administering the Act. OSHA issues occupational safety and health standards, and its Compliance Safety and Health Officers conduct jobsite inspections to help ensure compliance with the Act.

### INSPECTION

The Act requires that a representative of the employer and a representative authorized by the employees to be given an opportunity to accompany the OSHA inspector for the purpose of aiding the inspection.

Where there is no authorized employee representative, the OSHA Compliance Officer must consult with a reasonable number of employees concerning safety and health conditions in the workplace.

### COMPLAINT

Employees or their representatives have the right to file a complaint with the nearest OSHA office requesting an inspection if they believe unsafe or unhealthful conditions exist in their workplace. OSHA will withhold, on request, names of employees complaining.

The Act provides that employees may not be discharged or discriminated against in any way for filing safety and health complaints or for otherwise exercising their rights under the Act. Employees who believe they have been discriminated against may file a complaint with their nearest OSHA office within 30 days of the alleged discriminatory action.

### CITATION

If upon inspection OSHA believes an employer has violated the Act, a citation alleging such violations will be issued to the employer. Each citation will specify a time period within which the alleged violation must be corrected.

The OSHA citation must be prominently displayed at or near the place of alleged violation for three days, or until it is corrected, whichever is later, to warn employees of dangers that may exist there.

### PROPOSED PENALTY

The Act provides for mandatory civil penalties against employers of up to \$7,000 for each serious violation and for optional penalties of up to \$7,000 for each nonserious violation. Penalties of up to \$7,000 per day may be proposed for failure to correct violations within the proposed time period and for each day the violation continues beyond the prescribed abatement date. Also, any employer who willfully or repeatedly violates the Act may be assessed penalties of up to \$7,000 for each such violation. A minimum penalty of \$5,000 may be imposed for each willful violation. A violation of posting requirements can bring a penalty of up to \$7,000.

There are also provisions for criminal penalties. Any willful violation resulting in the death of any employee, upon conviction, is punishable by a fine of up to \$250,000 (or \$500,000 if the employer is a corporation), or by imprisonment for up to six months, or both. A second conviction of an employer doubles the possible term of imprisonment. Falsifying records, reports, or applications is punishable by a fine of \$10,000 or up to six months in jail or both.

### VOLUNTARY ACTIVITY

While providing penalties for violations, the Act also encourages efforts by labor and management, before an OSHA inspection, to reduce workplace hazards voluntarily and to develop and improve safety and health programs in all workplaces and industries. OSHA's Voluntary Protection Programs recognize outstanding efforts of this nature.

OSHA has published Safety and Health Program Management Guidelines to assist employers in establishing or perfecting programs to prevent or control employee exposure to workplace hazards. There are many public and private organizations that can provide information and assistance in this effort, if requested. Also, your local OSHA office can provide considerable help and advice on solving safety and health problems or can refer you to other sources for help such as training.

### CONSULTATION

Free assistance in identifying and correcting hazards and in improving safety and health management is available to employers, without citation or penalty, through OSHA-supported programs in each State. These programs are usually administered by the State Labor or Health department or a State university.

### POSTING INSTRUCTIONS

Employers in States operating OSHA approved State Plans should obtain and post the State's Equivalent poster.

Under provisions of Title 29, Code of Federal Regulations, Part 1903 2(a)(1) employers must post this notice (or facsimile) in a conspicuous place where notices to employees are customarily posted.

## EXHIBIT 6-I

### Weekly Payroll Report Forms

- **WH-347/Payroll and WH-348/Statement of Compliance**
    - **Instructions for Completing Payroll Form WH-347**
- 

**These forms are available on-line on the Internet  
at the following locations:**

**WH-347 and WH-348 together:  
<http://www.dol.gov/whd/forms/wh347.pdf>**

**Instructions for Completing Payroll Form WH-347:  
<http://www.dol.gov/whd/forms/wh347instr.htm>**

**PAYROLL**

**SAMPLE ONLY**

(For Contractor's Optional Use; See Instruction,  
Form WH-347 Inst.)

**SAMPLE ONLY**

(1) NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		ADDRESS																		
ACES CONSTRUCTION COMPANY, INC.		1776 America Street; Anytown, Montana 59604																		
PAYROLL NO		FOR WEEK ENDING				PROJECT AND LOCATION						PROJECT OR CONTRACT NO.								
#1 (Show # and FINAL at end)		July 4, 1983				Happy Valley Manor - Anytown, MT 59604						101-35075-PM-WAH-18								
(1) NAME, ADDRESS, AND SOCIAL SECURITY NUMBER OF EMPLOYEE	(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	
				S	M	T	W	TH	F	S				FICA	WITH-HOLDING TAX	STATE W/H	VAC FUND	* OTHER		TOTAL DEDUCTIONS
				28	29	30	1	2	3	4										
				HOURS WORKED EACH DAY																
(2) John Doe 521-44-7086 1974 Clark Ave. Downtown, MT 59624	1	Foreman Carpenter **	O		2	2	1			1		6	10.95	** A working foreman is one who, in addition to his supervisory duties - at least 20% - performs the work of a laborer or mechanic during a substantial part of his work week.						
			S		8	8	8	8	8	8		40	7.30	357.70	15.18	53.60	8.00	10.00	86.78	270.92
(3) Dick Brown 544-43-7806 Box 245 Anytown, MT 59601	2	3 cu. yd. Backhoe Operator	O																	
			S		8	8	8	8	8		8	40	6.00	240.00	10.00	45.00	5.00		Ins. 5.00	65.00
(4) John Doe 501-44-7086 Anywhere St. Downtown, MT 59624	0	10 cu. yd. Truck Driver	O	(WORKING ON MORE THAN ONE JOB; ONE JOB IS AN FHA PROJECT, STATE: "Circled hours this project")																
			S		4		6		8			18	6.45	116.10						
(5) Bill Thomas 515-38-1005 1050 Clearbridge St. Somewhere, MT 59011	1	Cement Mason	O	(FRINGE BENEFITS)																
			S		8	8	8		8			32	6.56	209.92	-- Fringe Benefits Paid in Cash					
(6) John Johnson 505-43-5478 515 Broadway Anytown, MT 59601	2	Cement Mason	O																	
			S		8	8	8		8			32	5.90	188.80	-- Fringe Benefits Paid Into an Approved Fund or Plan					
(6) Tom Tompson 505-43-5478 Box 1010 Hallelujah, MT 59903	2	Laborer	O	(DUAL CLASSIFICATION: Worker must be entered on payroll twice and sign by the lower rate of pay received.)																
			S		4	7		8				19	4.95	94.05						
(6) Tom Tompson 505-43-5478 Box 1010 Hallelujah, MT 59903		Cement Mason	O											123.90						
			S		4	1	8		8			21	5.90	217.95	10.80	15.90	5.80	10.00	42.50	175.45
(7) Harry Jamison 555-44-3372 Box 333 Friendly, MT 59526		(Owner) Tile Setter	O	(WORKING OWNER: Must show the daily and total hours worked on the site.)																
			S		8	8	8	8	8			40								
(8) Joe Smith 527-38-7537 730 - 3rd Street Anytown, MT 59601	0	Apprentice Carpenter 1st Step - 55%	O	(APPRENTICES: Apprenticeship Certificate Showing Dept of Labor Certification Must Be Submitted With the First Payroll The Apprentice Appears On.)																
			S		8	8		8	8			32	4.02	128.64	5.00	8.00	2.00		15.00	113.64

**\*\*ALL DEDUCTIONS UNDER "OTHER" SUCH AS PURCHASES, ADVANCES, BONDS, ETC. MUST BE IDENTIFIED AND SUPPORTED BY A SIGNED STATEMENT FROM THE EMPLOYEE AUTHORIZING SUCH DEDUCTIONS WITH THE TOTAL AMOUNT AND REPAYMENT AMOUNT.**

Date \_\_\_\_\_

I, Samantha Sammons, Bookkeeper do hereby state:  
(Name of signatory party) (Title)

(1) That I pay or supervise the payment of the persons employed by Ace Construction  
Company on the Happy Valley Manor  
(Contractor or Subcontractor) (Building of work)

101-35075; that during the payroll period commencing on the 28th day of  
June, 19 83 and ending the 4th day of July, 19 83, 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 Ace Construction  
Company from the full weekly wages earned by any person and that  
(Contractor or Subcontractor)

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 CFR 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. 276c), and described below:

FICA, Federal, and State

Other: Vacation and Insurance

BE SURE TO INCLUDE EXPLANATION AND SIGNED STATEMENT FOR ALL "OTHER"  
DEDUCTIONS.

(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:

John Johnson) (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 (Bill Thomas)

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
Exceptions must be approved.	Use this space for any special
Send copy of plan.	or unusual circumstances which
	affects wages or employees.

**Remarks**

Additional space which can be used for explanations.

NON-COVERED JOB CLASSIFICATIONS: Workers performing the following  
classifications are not subject to the prevailing wage requirements - Project  
Superintendent, Project Engineer, Supervisory Foreman, Watchman, Waterboy,  
Messenger, and Clerical workers such as timekeepers, payroll clerks, and  
bookkeepers.

NAME AND TITLE	SIGNATURE
Samantha Simmons Bookkeeper ***	
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.	

\*\*\* AN AUTHORIZATION FORM OR LETTER MUST BE SUBMITTED FOR ANYONE  
SIGNING PAYROLLS OTHER THAN AN OFFICER OF THE COMPANY.

# Instructions For Completing Payroll Form, WH-347

<http://www.dol.gov/whd/forms/wh347instr.htm>

**General:** The use of the WH-347 payroll form is not mandatory. This form has been made available for the convenience of contractors and subcontractors required by their Federal or Federally-aided construction-type contracts and subcontracts to submit weekly payrolls. Properly filled out, this form will satisfy the requirements of Regulations, Parts 3 and 5 (29 CFR, Subtitle A), as to payrolls submitted in connection with contracts subject to the Davis-Bacon and related Acts.

This form meets needs resulting from the amendment of Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay not less than fringe benefits as predetermined by the Department of Labor, in addition to payment of not less than the predetermined rates. The contractor's obligation to pay fringe benefits may be met either by payment of the fringes to the various plans, funds or programs or by making these payments to the employees as cash in lieu of fringes.

This payroll provides for the contractor's showing on the face of the payroll all monies to the employees, whether as basic rates or as cash in lieu of fringes and provides for the contractor's representation in the statement of compliance on the rear of the payroll that he is paying to other fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions concerning the preparation of the payroll follow:

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

**Address:** Fill in your firm's address.

**Column 1 - Name, Address, and Social Security number of Employee:** The employee's full name must be shown on each weekly payroll submitted. The employee's address must also be shown on the payroll covering the first week in which the employee works on the project. The address need not be shown on subsequent weekly payrolls unless his address changes. Although not required by Regulations, Parts 3 and 5, space is available in the name and address section so that Social Security numbers may be listed.

**Column 2 - 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 employees. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. Employee may be shown as having worked in more than one classification provided accurate breakdown or hours so worked is maintained and shown on submitted payroll by use of separate entries.

**Column 4 - Hours worked:** On all contracts subject to the Contract Work Hours Standard Act enter as overtime hours worked in excess of 8 hours per day and 40 hours a week.

**Column 5 - Total:** Self-explanatory

**Column 6 - Rate of Pay, including Fringe Benefits:** In straight time box, list actual hourly rate paid the employee for straight time worked plus in cash in lieu of fringes paid the employee. When recording the straight time hourly rate, any cash paid in lieu of fringes may be shown separately from the basic rate, thus \$3.25/.40. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. In overtime box shown overtime hourly rate paid, plus any cash in lieu of fringes paid the employee. 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. In addition to paying no less than the predetermined rate for the classification which the employee works, the contractor shall pay to approved plans, funds or programs or shall pay as cash in lieu of fringes amounts predetermined as fringe benefits in the wage decision made part of the contract. See "FRINGE BENEFITS" below.

**FRINGE BENEFITS - Contractors who pay all required fringe benefits:** A contractor who pays 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 shall continue to show on the face of the payroll the basic cash hourly rate and overtime rate paid to his employees just as he has always done. Such a contractor shall check paragraph 4(a) of the statement on the reverse of the payroll to indicate that he is also paying to approved plans, funds or programs not less than the amount predetermined as fringe benefits for each craft. Any exceptions shall be noted in section 4(c).

**Contractors who pay no fringe benefits:** A contractor who pays no fringe benefits shall pay to the employee, and insert in the straight time hourly rate 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 applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, 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 fringes at the straight time rate. In addition, the contractor shall check paragraph 4(b) of the statement on the reverse of the payroll to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted 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 employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes and the hourly amount paid to plans, funds, or programs as fringes. The contractor shall pay, and shall show that he is paying to each such employee for all hours (unless otherwise provided by applicable determination) worked on Federal or Federally assisted project an amount not less than the predetermined rate plus cash in lieu of fringes as shown in Section 4(c). The rate paid and amount of cash paid in lieu of fringe benefits per hour should be entered in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

**Column 7 - Gross Amount Earned:** Enter gross amount earned on this project. If part of the employees' 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 \$63.00/\$120.00.

**Column 8 - Deductions:** Five columns are provided for showing deductions made. If more than five deduction should be involved, use first 4 columns; show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 CFR, Part 3. If the employee worked on other jobs in addition to this project, show actual deductions from his weekly gross wage, but 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 this form need not be notarized, the statement on the back of the payroll is subject to the penalties provided by 18 USV 1001, namely, possible imprisonment of 5 years or \$10,000.00 fine or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.

Space has been provided between item (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 paragraph entitled "FRINGE BENEFITS" above for instructions concerning filling out paragraph 4 of the statement.

## INSTRUCTIONS TO CONTRACTORS FOR PREPARATION OF PAYROLL FORM WH-347

1. Make certain all items in the heading are completed, including payroll number and project number. Also review reverse side of form to make certain proper block is checked and signature is affixed.
2. Include each employee's full name, address, and social security number the first time such employee is listed on a payroll report. On subsequent reports, you may put the employee's name and social security number only. In the same box annotate one of the following codes for each employee:
  - MF (minority female)
  - WM (white male)
  - MM (minority male)
3. For equipment operators and truck drivers, include a brief but clear description of the equipment the employee is operating. (This is to be shown on each payroll report.)
4. Show the hours and wages actually worked on the project separate from the employee's total wages for the week. To illustrate: "John Doe" on this example worked on the project 18 hours and on other projects for the same contractor 22 hours. ( $18 \times 6.45 = \$116.10$  earned this project, \$239.30 gross amount earned all projects.)
5. If voluntary deductions are being taken from an employee's wages, there must be a description/letter signed for the deduction. The letter must include the period of time the deduction will be made.
6. When fringe benefits are sent to an approved program, they need not be included in the rate of pay. (See Example.) Cement Mason, John Johnson receives \$5.90 per hour, an additional \$0.66 is being sent to approved plan which is indicated by marking box (a) of paragraph (4) on the Statement of compliance. Cement Mason, Bill Thomas receives the required fringe benefits in cash. The total rate of pay shown must be equal to the wage rate for that classification plus fringe benefits. \$5.90 (wage rate) plus \$0.66 (fringe) = \$6.56 and is indicated by marking box (b) of paragraph (4).
7. When an individual performs work on the project in more than one classification within the same workweek, have that individual sign the payroll report or submit a copy of his time card with the payroll report, if a lower rate of pay per hour is applicable.
8. When a valid subcontractor works with his employees on the job, he will be listed with his employees on each payroll. However, he need only show his name as owner. (See Example: Harry Jamison (Owner).) If the subcontractor has no employees and performs alone on the project, he will submit weekly payrolls showing daily and total hours worked. When two or more working owners/operators (partners, co-owners, corporation officers, etc.) perform work on the project they must show daily and total hours worked. (Always show exact work classification.)
9. Submit an apprenticeship certification with the payroll report on which the apprentice is first reported. Indicate what step of apprenticeship and percentage of the journeyman wage he is receiving. (See Example.)

10. It is the General Contractor's responsibility to submit correct payrolls. The General Contractor should therefore compare the wage rate shown on each Subcontractor's payroll with the required rate shown on the wage determination for this project. If there are underpayments, restitution should be required and the payroll report corrected prior to submitting it to the Contracting Agency.
  
11. Payroll Form: Contractors are urged to use the Department of Labor (DOL) Form WH-347, Payroll. The text of the Weekly Statement with Respect to the Payment of Wages, which is required by regulations of the Secretary of Labor, appears on the reverse side of this optional payroll form. A contractor may use an appropriate payroll form of his own choice, but he must report all required items of information and he must attach a copy of the "weekly statement", using either DOL Form WH-348, Statement of Compliance, which contains the "weekly statement" and related instructions, or any form containing the "weekly statement" in the identical wording as contained in Forms WH-347 and WH-348.
  
12. In the event any contractor sees he will be employing a trade for which a wage is not listed on the wage determination, it should be brought immediately to the attention of the Contracting Agency so that a wage rate determination for that trade can be made at the earliest possible date. A HUD Form 4230A should be completed, so that a rate can be established. (See Example.)
  
13. Submission of Payrolls: Each contractor or subcontractor shall submit to the Contracting Agency a completed payroll for each workweek that work is done on the project. All payrolls are to be sequentially numbered, and final payrolls shall be identified accordingly. If no work is performed on the project during a given period, on the next performance payroll, state: "No work performed from pay period ending \_\_\_\_\_ through \_\_\_\_\_."  
 (date) (date)

# STATEMENT OF COMPLIANCE

Date \_\_\_\_\_

I, \_\_\_\_\_, \_\_\_\_\_ do hereby state:  
(Name of signatory party) (Title)

(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_ on  
(Contractor or subcontractor)  
the \_\_\_\_\_ ; that during the payroll period commencing on the \_\_\_\_\_ day of \_\_\_\_\_  
(Building or work)  
20 \_\_\_\_ and ending the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, 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 weekly wages earned by any person and that no deduction  
(Contractor or subcontractor) 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 CFR 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. 276c), and described below:

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(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 mechanics 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 exist 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 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
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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.

FORM WH 348

## INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of the fringes to the various plans, funds, or programs or by making these payments to the employees as cash in lieu of fringes.

The contractor should show on the face of his payroll all monies paid to the employees whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he is paying to others fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions follow:

### **Contractors who pay all required fringe benefits:**

A contractor who pays 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 shall continue to show on the face of his payroll the basic cash hourly rate and overtime rate paid to his employees, just as he has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate that he is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

### **Contractors who pay no fringe benefits:**

A contractor who pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of his payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall not be less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$3.25/.40. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted 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 employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employee as cash in lieu of fringes, and the hourly amount paid to plans, funds, or programs as fringes.

## EXHIBIT 6-J

### ADDITIONAL CONTRACTOR PAYROLL INFORMATION

#### PREPARATION OF PAYROLLS

Payrolls may be completed in dark lead #2 pencil, in pen or typed, but they must be legible. If typed, we suggest you make a “master” listing each employee’s name, address, city, state, zip code and social security number. Reproduce the “master” each week, ensuring you number each week of work sequentially. For those employees who did not work during a given week, draw a line through the entry by their names and write “no work.”

Of course, the column and block headings would already be completed except the “Week Ending” block and the “Date and Days” columns, and the “Payroll No.” block.

1. You must sign payrolls in ink. We will not accept payrolls signed in pencil or illegible payrolls that are difficult to read.
2. We need payroll authorization forms completed for anyone signing and certifying accuracy of payrolls who is not an owner or officer of the company. We will not accept payrolls signed by an unauthorized person.
3. You must show daily hours, total hours, basic rates, overtime rates and gross amounts earned on our jobs separately from work done on other jobs. We suggest you “circle” hours and amounts earned on our jobs. However, you must indicate work on our job by stating on the bottom of the first payroll that “Circled hours represent hours worked on HUD job.”

The gross and net amounts, in any case, must represent the check amount. In other words, if you are paying by separate check for work done on the HUD job, providing information about other work is not necessary. However, the check received by the employee must coincide with certified payrolls submitted to this office.

4. You must identify deductions. You must specify what each deduction is. You cannot lump sum deductions under the “other” column. We must ensure deductions are “authorized” such as Insurance, Vacation, Health Benefits, etc. For other deductions such as Union Dues, Credit Union, Monetary Advance, and deductions probated by the Courts, we require employee authorization statements. Each employee must provide a statement authorizing the deduction for a specific purpose and time period.
5. Overtime: Overtime (O/T) is earned at one and one-half (1½) times the basic hourly rate (BHR) for each hour in excess of forty (40) hours in each week, and must be paid accordingly.  $BHR \times 1.5 = O/T \text{ Rate}$  Do not include fringes in BHR. **Note: BHR = base hourly pay rate + zone hourly pay rate**
6. Fringe Benefits: Fringe benefits must be paid for each hour worked. If an employee works forty-four (44) hours, you must pay him the fringe benefits shown in the wage determination for 44 hours, in cash, to plan, or trust. Fringe benefits are not paid at one and one-half (1-½ times) for hours worked in excess of forty (40) hours.

7. Computerized Payroll Forms: These are acceptable, but must contain the same information currently required by the Form WH-347 and/or WH-348. You may attach the WH-348 (Statement of Compliance) when completed to the Computerized Payroll Form if desired.

### PERMISSIBLE PAYROLL DEDUCTIONS

You may make the following payroll deductions without requesting approval:

1. Any deductions paid in accordance with Federal, State or local law.

Examples: Federal withholding of income tax  
State withholding taxes  
Federal Social Security taxes

2. Any deductions of sums previously paid to the employee as a bona fide prepayment of wages when the prepayment is made without discount or interest.

Example: A “bona fide prepayment of wages” is considered to have been made only when cash or its equivalent has been advanced to the person employed in such manner as to give him complete freedom of disposition of advanced funds.

3. Any mandated deduction determined by a court process to be paid to another (child support payments or garnishments by order of the court), unless the deduction favors:

the contractor,  
the subcontractor,  
any affiliated person, or  
when collusion or collaboration exists.

Note: A copy of the court order should be kept on file.

4. Any deduction constituting a contribution on behalf of the person employed to funds established by the employer, or representatives of the employer, or both for providing (from principal, income, or both):

medical or hospital care,  
pensions or annuities on retirement,  
death benefits,  
compensation for injuries, illness, accidents, sickness, or disability,  
insurance for any of the foregoing,  
unemployment benefits,  
vacation pay,  
savings accounts, or  
similar payments for the benefits of employees, their families and dependents  
so long as law does not prohibit the deduction and it is:

- a. Voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done, AND

Such consent is not a condition either for the obtaining of or for the continuation of employment, OR

Provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees;

- b. No profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person as commission, dividend, or otherwise; and
  - c. The deductions shall serve the convenience and interest of the employees.
5. Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.
  6. Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.
  7. Any deduction voluntarily authorized by the employee for making contributions to governmental or quasi-governmental agencies, such as the American Red Cross.
  8. Any deduction voluntarily authorized by the employee for making contributions Community Chests, United Givers funds, and similar charitable organizations.
  9. Any deduction to pay regular union initiation fees and membership dues not including fines or special assessments, IF a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions and the law has not otherwise prohibited the deductions.
  10. Any deductions for not more than the "reasonable cost" of board, lodging or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938, as amended, and part 531 of this title. When such a deduction is made, the additional records required under §516.27(a) of this title will be kept.
  11. Any deduction for the cost of safety equipment of nominal value purchased by the employee as his own property for his personal protection in his work, such as safety shoes, safety glasses, safety gloves, and hard hats, if:
    - Law does not require such equipment to be furnished by the employer;
    - The deduction does not violate the Fair Labor Standards Act or is not prohibited by law;
    - The cost on which the deduction is based does not exceed the actual cost to the employer when:
      - a. the employee purchases the equipment from the employer, and
      - b. there is not any direct or indirect monetary return to the employer when the equipment is purchased from a third person, and the deduction is either:

- voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance, or
- provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees.

**EXHIBIT 6-K**

**RECORD OF EMPLOYEE INTERVIEWS**

**Form HUD-11 (updated 8/2004)**

**This form is available on-line at:**

<http://www.hud.gov/offices/adm/hudclips/forms/files/11.doc>

# 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)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. The information is collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring; the information will be used to test the veracity of certified payroll reports submitted by the employer. **Sensitive Information.** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with appropriate administrative, technical, and physical safeguards to ensure their security and confidentiality. In addition, these records should be protected against any anticipated threats or hazards to their security or integrity that could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom the information is maintained. **The information collected herein is voluntary, and any information provided shall be kept confidential.**

1a. Project Name			2a. Employee Name		
1b. Project Number			2b. Employee Phone Number (including area code)		
1c. Contractor or Subcontractor (Employer)			2c. Employee Home Address & Zip Code		
			2d. Verification of identification? Yes <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?	4c. Pay stub?
				Vacation 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"/>	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					
8. Are you an apprentice or trainee?		Y <input type="checkbox"/> N <input type="checkbox"/>	10. Are you paid at least time and 1/2 for all hours worked in excess of 40 in a week?		Y <input type="checkbox"/> N <input type="checkbox"/>
9. Are you paid for all hours worked?		Y <input type="checkbox"/> N <input type="checkbox"/>	11. Have you ever been threatened or coerced into giving up any part of your pay?		Y <input type="checkbox"/> N <input type="checkbox"/>
12a. Employee Signature			12b. Date		
13. Duties observed by the Interviewer (Please be specific.)					
14. Remarks					
15a. Interviewer name (please print)		15b. Signature of Interviewer		15c. Date of interview	

### Payroll Examination

16. Remarks	
17a. Signature of Payroll Examiner	17b. Date

## EXHIBIT 6-K

### INSTRUCTIONS FOR CONDUCTING EMPLOYEE INTERVIEWS

- A. The foreman or construction supervisor should be notified in advance of the time of the employee interviews as a courtesy and try to schedule interviews at a time that will not disrupt key work activities.
- B. The person performing interviews should be knowledgeable of labor standards procedures.
- C. Number of employees interviewed should be:
  - 1. Sufficient in number to establish the degree of accuracy of the records (*10% or greater*); and
  - 2. Representative of all classifications of employees on the project over the term of the project (at least one in each job classification).
- D. Place of Interview could be:
  - 1. On the job site, if it can be conducted properly and privately (this is a one-on-one process);
  - 2. At the employee's home;
  - 3. At the agency's office; or
  - 4. By mail
- E. The interviewer should observe duties of the workers on the job site before initiating any interviews.
- F. To initiate the interview, interviewers should:
  - 1. Properly identify themselves;
  - 2. Clearly state the purpose of interview; and
  - 3. Advise the worker that the information given is confidential, and that their identity will be disclosed to the employer only with the employee's written permission.
- G. Employee interviews are to be recorded on form HUD-11 or equivalent format. The interviewer should pay particular attention to:
  - 1. The employer's actual name and not just the name of a first line supervisor;
  - 2. The employee's full name;
  - 3. The employee's permanent mailing address;

4. The last date the individual worked on the project and number of hours worked that day (The interviewer should make it clear that these questions solely relate to work on this project and not other work.);
5. The hourly rate of pay;
  - a. Determine if the worker is being paid at least the minimum required by the proper wage decision;
  - b. Be sure the worker is not quoting the "net" hourly rate; and
  - c. If it appears the individual may be underpaid, closely question the worker, ask for any records, and arrange to re-interview the employer.
6. Enter the worker's statement of his classification, but not a nickname for the trade;
7. The duties and tools used. If the worker's statements and the observation made by the interviewer indicate that this individual is performing under the correct job classification, the word "trade" may be entered across both items.
8. Any comments that seem necessary or pertinent; and
9. The exact date the interview took place.
- H. **The designated payroll examiner then will check the information on the Employee Interview Form HUD-11, against the payroll submitted for the same date as the interview:**
  1. If no discrepancies appear "None" should be written in the "comments" space;
  2. If discrepancies do appear, appropriate action should be initiated; and
  3. When necessary action has been completed, the results are also noted on the same interview form.
- I. **The interviewer and payroll examiner will identify and correct any discrepancies between on-site interviews, payrolls and the wage decision.**

## Supplemental Instructions for Conducting Employee Interviews

These supplemental instructions are provided with the sample of a completed Record of Employee Interview, form HUD-11, and pages from an actual general wage decision to aid your understanding of the interview process, and to illustrate how to find the appropriate wage rate based on the sample interview.

The sample employee interview form presents an interview of a person working on landscape improvements in conjunction with a CDBG-assisted water system project in a hypothetical Montana community called Sunrise.

In using the form, the interviewer (the grantee's labor standards officer) completed the information on lines #1 through #12 on the day of the interview, which was August 8, 1997. When the weekly payroll report #4, which covered the day of the interview, was received from XYZ Landscaping Company, the interviewer compared the contractor's payroll information with the information given by the employee, John Doe. The payroll report showed this employee was paid \$14.29 per hour base rate (plus \$.65 per hour for Zone 2 pay, for a total of \$14.94 per hour base pay) and \$3.80 per hour fringe benefit as a landscaper. The interviewer, after finding the wage rate matched those provided in the construction contract, then showed this as verified in the remarks section (#13) and would sign and date the form (#14).

**To determine if this was the appropriate wage paid by the contractor to this employee,** the following steps were used to find the prevailing wage rate for a landscaper:

1. Determine the applicable job classification (e.g., landscaper as given by the employee and by observation of his duties as recorded on page 6-K.5, sample of completed interview form).
2. Locate the federal Davis-Bacon Wage Rate Decision applicable to this construction contract. (For purposes of illustration, only the title page and two other applicable page were used for this review, beginning on page 6-K.6. The full decision, MT960001, consisted of 13 pages, from page MT960001-1 through page MT960001-13).
3. Locate on this decision the "basic" job classification (e.g., Laborers as listed on page 6-K.8).
4. Determine which "group" of laborers is appropriate (e.g., Landscaper is listed under Group 2 on page 6-K.8).
5. Determine which "zone hourly rate" (if any) is appropriate for this worker. (Note: Sunrise, MT is located 20 miles on I-90 from one of the communities listed on page 6-K.7).
6. Locate the appropriate wage rate for this classification -- e.g., for Group 2/ Zone 2, \$14.29 for base hourly rate (plus an additional \$0.65 hourly for Zone 2 hourly pay for a total of \$14.94 hourly base rate) and \$3.80 for fringe benefit on page 6-K.8

## EXHIBIT 6-L

### LABOR STANDARDS DEFINITIONS

**Apprentice** - (1) a person employed and individually registered in a bona fide apprenticeship program registered with the United States Department of Labor, Employment and Training administration, Bureau of Apprenticeship and Training or with a State apprenticeship agency recognized by that Bureau; or (2) a person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in a program but who has been certified by the Bureau.

**Basic Rate** - For overtime pay purposes the basic rate is the greater of: (1) the contract minimum rate; (2) the minimum rate under the Fair Labor Standards Act; or (3) the rate actually being paid.

**Building or Work** - These terms generally include construction activity as distinguished from manufacturing, furnishing of materials or servicing and maintenance work. The terms include, without limitation, buildings, structures and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, powerlines, pumping stations, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, scaffolding, drilling, blasting, excavating, clearing and landscaping.

**CDBG** - Community Development Block Grant Program, as administered by the Montana Department of Commerce.

**Contract** - The term "contract" means any prime contract which is subject wholly or in part to the labor standards provision of any of the acts listed in section 5.1, 29 CFR, and any subcontract of any tier thereunder, let under the prime contract. A state or local government is not regarded as a contractor under statutes providing loans, grants or other federal assistance in situations where construction is performed by its own employees. However, under statutes requiring payment of prevailing wages to all laborers and mechanics employed on the assisted project, such as the U.S. Housing and Community Development Act of 1974, State and local recipients of federal-aid must pay these employees according to Davis-Bacon labor standards.

**Contractor** - Any person, corporation, partnership or unincorporated association that holds a federally assisted construction contract or subcontract regardless of tier.

**Copeland "Anti-Kickback" Act** - The Copeland "Anti-Kickback" Act makes it a criminal offense for any person to make unauthorized deductions or to exact rebates from the wages paid to any person employed by a contractor or subcontractor engaged in the construction, prosecution, completion or repair of any public work or work financed in full or in part by loans or grants from a federal agency. The Secretary of Labor is authorized to promulgate regulations with respect to this act. Except as is provided in the regulations issued by the Secretary of Labor, no deductions of any kind are authorized from the wages of employees.

**DOC** - Montana Department of Commerce.

**Davis-Bacon Act** - The Davis-Bacon Act provides, in general, that contracts in excess of \$2,000 to which the United States is a party, for the construction, alteration and/or repair, including painting and decorating, of public buildings or public works, which involve the employment of laborers and/or mechanics, shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions and termination of the contract for failure to pay the required wages. The Act contains provisions for debarment by the Comptroller general of the United States of contractors who are found to have disregarded their obligations to employees and subcontractors and provides for the direct payment to employees of wages due by the Comptroller General. If funds withheld from the contractor are insufficient for full reimbursement of the amounts due laborers or mechanics, the Act creates a right of action and/or intervention by laborers and mechanics against the contractor and his sureties, unless otherwise specified.

**Days** - Calendar days.

**Deduction** - A deduction is any sum of money which the contractor, or someone else in the chain of payment responsibility, withholds from the wages due an employee.

**Discrimination** - A distinction in treatment based on race, color, religion, handicap, marital status, age, sex or national origin.

**Equal Employment Opportunity** - The absence of partiality or distinction in employment treatment, so that the rights of all persons to work and advance on the basis of merit, ability and potential is maintained.

**Good Faith Effort** - Affirmative action measures designed to implement the established objectives of an Affirmative Action Plan.

**Immediate Labor Area** - The immediate labor area describes the geographic area from which employees and/or applicants could reasonably commute to the project site. The immediate labor area should also be defined so as to include a reasonable recruiting area.

**Laborer or Mechanic** - The term "laborer" or "mechanic" includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term "laborer" or "mechanic" includes apprentices, trainees, helpers and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive or clerical, rather than manual. Persons employed in a bona fide executive, administrative or professional capacity as defined in Part 541 of this title (CFR 29, Subtitle A) are not deemed to be laborers or mechanics. Working foremen who devote more than 20 percent of their time during a work week to mechanic or laborer duties, and who do not meet the criteria of Part 541, are laborers and mechanics for the time so spent.

**LSO** - Grantee's designated "Labor Standards Officer".

**Materials Supplier** - A vendor engaged in sales to the public from an established place of business or source of supply.

## **MDOC - Montana Department of Commerce**

**Nonhauling Equipment Owner-Operators** - Owner-operators of nonhauling equipment (in general, equipment other than trucks) are considered to be employees, not subcontractors, and are covered by wage rate decisions.

**Payrolls and Basic Records** - Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter of all laborers and mechanics working at the site of the work (or under the United States Housing act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB control numbers 1215-0140 and 1215-0017.)

**Standards Violation Notice** - A written notification to a contractor based on the determination of the Labor Standards Officer (or in appropriate cases by higher level authority) to be in noncompliance with the labor standards requirements. The notice informs the contractor of the specific basis for the determination and provides the opportunity, within 30 days from receipt, to present an explanation why sanctions should not be imposed.

**Site of Work** - (1) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and, as discussed in paragraph (2) of this definition, other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site". (2) Except as provided in paragraph (3) of this definition, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the work" provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them. (3) Not included in the "site of the work" are permanent home offices, branch plant establishments, fabrication plants and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular federal or federally assisted contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial supplier or materialman which are established by a supplier of materials for the project before opening of bids and not on the project site, are not included in the "site of the work." Such permanent, previously established facilities are not a part of the "site of the work," even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

**Subcontractor** - An individual or organization under contract with the prime contractor or another subcontractor to perform a portion of the work.

**Supplemental Payroll** - An additional payroll used to correct a deficiency or omission on a certified payroll.

**Suppliers** - Contracts or subcontracts for furnishing supplies and equipment, including installation where the installation requires only an incidental amount of work are not covered by wage rate decisions.

**Trainee** - (Programs of the United States Department of Labor) means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the United States Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, as meeting its standards for on-the-job training programs and which has been so certified by that Bureau.

**Truck Drivers Owner-Operators** - Truck owner-operators are not subject to the wage rates prescribed by the Department of Labor. Such owner-operators shall be listed on payrolls with the notation "owner-operator" after each name. Neither hours worked nor wages paid need be shown (Department of Labor All Agencies Memorandum #119, October 8, 1974).

**US DOL (or DOL)** - United States Department of Labor.

**US DHUD (or HUD)** - United States Department of Housing and Urban Development.

**Wage Determination** - The term "wage determination" includes the original decision and any subsequent decisions modifying, superseding, correcting, or otherwise changing the provisions of the original decision. The application of the wage determination shall be in accordance with the provisions of the Davis-Bacon Act.

**Wages** - The term "wages" means the basic hourly rate of pay, any contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan or program, and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan of program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Davis-Bacon act include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other federal, state or local law.

**Withholding** - The federal agency or the loan or grant recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or

advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee or subrecipient may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased.

**Zone rate pay or zone hourly rate** is an amount that is to be added to the base hourly rate when calculating pay, including both regular pay and overtime pay.

- The Denver office of the U.S. Department of Housing and Urban Development has confirmed that these zone rate requirements apply to the Montana State CDBG Program.
- The published hourly wage (that is, the **base hourly rate**) combined with the zone hourly pay amount (that is, the zone hourly rate that is listed in the federal wage rate determination that applies to the project) becomes an employee's base rate (on which both regular pay and overtime pay are based).
- Zone pay is not travel pay. It is additional hourly pay related to proximity to services.
- "Zone hourly rate" is the terminology used in the federal Davis-Bacon wage rate determination documents for Montana, which can be found at the following website: <http://origin.www.gpo.gov/davisbacon/mt.html>
- Zone rate pay is not like fringe pay, since zone rate pay is properly described as a "zone hourly rate" and, as stated above, it is an amount that is to be added to the base hourly rate when calculating pay, including when calculating both regular pay and overtime pay. See Chapter 6, page 6-11.



**EXHIBIT 6-N**

**CONTRACTOR'S RECEIPT OF REQUIRED PROGRAM MATERIALS**

Local Government: \_\_\_\_\_

Community Development Block Grant (CDBG) Project: \_\_\_\_\_

Pre-construction Meeting  
Date: \_\_\_\_\_

On \_\_\_\_\_ we, the undersigned, attended the pre-construction meeting for the (local government) \_\_\_\_\_, (CDBG project) \_\_\_\_\_. At the meeting, we acknowledge receiving the following information:

1. Federal Labor Standards (outlined in CDBG Exhibit 6-A)
  - Federal Davis-Bacon Wage Determination and Employee Classification
  - Work Hours, Overtime and Safety Standards
2. Contractor Reporting Requirements (outlined in CDBG Exhibit 6-E)
  - "Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects" (CDBG Exhibit 6-O)
  - Certified Payroll Forms (CDBG Exhibit 6-I)
  - Payroll Information (CDBG Exhibit 6-J)
  - Labor Standards Definitions (CDBG Exhibit 6-L)
3. Compliance with Civil Rights Regulations (Exhibit 6-G, Exhibit 9-B)
4. Job Site Notices
  - Notice to Employees (CDBG Exhibit 6-F)
  - Equal Employment Opportunity (CDBG Exhibit 6-G)
  - Job Safety and Health Protection (CDBG Exhibit 6-H)
  - Current federal Davis Bacon Wage Determination
    - Decision # \_\_\_\_\_, dated: \_\_\_\_\_.
5. Other

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Date

Exhibit 6-O

U.S. Department of Housing and Urban Development  
Office of Labor Relations  
January 2012

*Davis-Bacon Labor Standards:  
A Contractor's Guide to Prevailing Wage Requirements  
for Federally-Assisted Construction Projects*

The *Making Davis-Bacon Work* document in Exhibit 6-O is available as a PDF document at the following HUD Office of Labor Relations webpage:

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/guidebooks/4812LR](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/4812LR)

(as updated January 2012)

**EXHIBIT 6-P**

**CERTIFICATION OF LABOR COMPLIANCE**

Date: \_\_\_\_\_ Pay Estimate Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

Project: \_\_\_\_\_

MT-CDBG Contract # \_\_\_\_\_

For the time period of the pay estimate referenced above and the actions completed as listed below, I hereby certify that to the best of my knowledge the above named contractor and \_\_\_\_\_ (sub-contractors) have complied with the labor requirements as set forth in the Montana Department of Commerce (MDOC) Community Development Block Grant (CDBG)/Neighborhood Stabilization Program (NSP) Project Administration Manual including:

1. The Davis-Bacon wage rates were posted in a prominent and accessible site on the project or work area. \_\_\_\_\_ Yes \_\_\_\_\_ No.
2. Weekly payroll reports covering the pay estimate referenced above were received. \_\_\_\_\_ Yes \_\_\_\_\_ No.
3. Weekly payroll reports were compared to the prevailing federal Davis-Bacon wage rates. \_\_\_\_\_ Yes \_\_\_\_\_ No.
4. Documentation of weekly payroll reviews is included with the drawdown request submitted to CDBG and is also maintained in the local project records. \_\_\_\_\_ Yes \_\_\_\_\_ No.
5. Errors or discrepancies were noted. \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, explain error or discrepancy and how it was resolved.
6. Interviews of the contractor/sub-contractor's employees were conducted during the time period of the pay estimate. \_\_\_\_\_ Yes \_\_\_\_\_ No.  
If yes, number of interviews conducted \_\_\_\_\_
7. Information obtained through interviews with the contractor/subcontractor's employees was compared to the corresponding payroll, and follow-up action was taken if needed to assure proper wages and benefits were paid. \_\_\_\_\_ Yes \_\_\_\_\_ No.
8. Has the contractor or sub-contractor hired any new employees as described in Section 3 of the Housing and Urban Development Act of 1968? \_\_\_\_\_ Yes \_\_\_\_\_ No.
9. If the answer to Question 8 is 'yes', update and submit the Section 3 Summary Report (Exhibit 9-L) with this Certification. \_\_\_\_\_ Attached \_\_\_\_\_ Not Applicable.

\_\_\_\_\_  
Name of Person Responsible for Ensuring Compliance with Labor Requirements

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date