

Small Cities Program

Handbook

Labor Standards



Small Cities Program Handbook

Labor Standards

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(Revised 6/19)

**New Jersey Department of Community Affairs
Small Cities Community Development Block Grant Program**

SUBJECT: Labor Standards Introduction

This section includes guidelines to help you comply with the labor standards requirements associated with construction projects undertaken with Small Cities Community Development Block Grant funds. This information is intended to assist you in the successful implementation of your program.

We will assist you in any way possible. Please contact your assigned Program Manager if you have any questions.

Labor Standards

PURPOSE The purpose of labor standards monitoring is to determine whether the Grantee has complied with the following applicable statutes:

- A. Davis Bacon and NJ Prevailing Wage Act. All laborers and mechanics employed by construction contractors or sub-contractors under contract in excess of \$2,000 financed in whole or in part with grants or loans under the Small Cities CDBG Program shall be paid wages at rates not less than those prevailing on similar construction. The Davis-Bacon Act as amended (40 U.C.S. 276(a)- et seq) applies to the rehabilitation of residential property only if such property equals or exceeds eight units.

- B. Copeland Act. The Copeland Act, known as the "anti-kickback" prohibition, is applicable to work performed by laborers and mechanics. Implementing Department of Labor regulations provide that all laborers and mechanics shall be paid unconditionally and not less often than once a week and without subsequent deduction or rebate except "permissible" salary deductions. Contractors and sub-contractors are required to submit appropriate weekly compliance statements and payrolls to the Grantee.

- C. Contract Work Hours and Safety Standards Act. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) provides that laborers or mechanics shall receive compensation at a rate not less than one- and one-half times their basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in any work week. In the event of violations, the contractor or sub-contractor shall be liable to any affected employee for his unpaid wages as well as to the United Sites for liquidated damages.

MONITORING VISITS

During the monitoring visit the DCA Manager will:

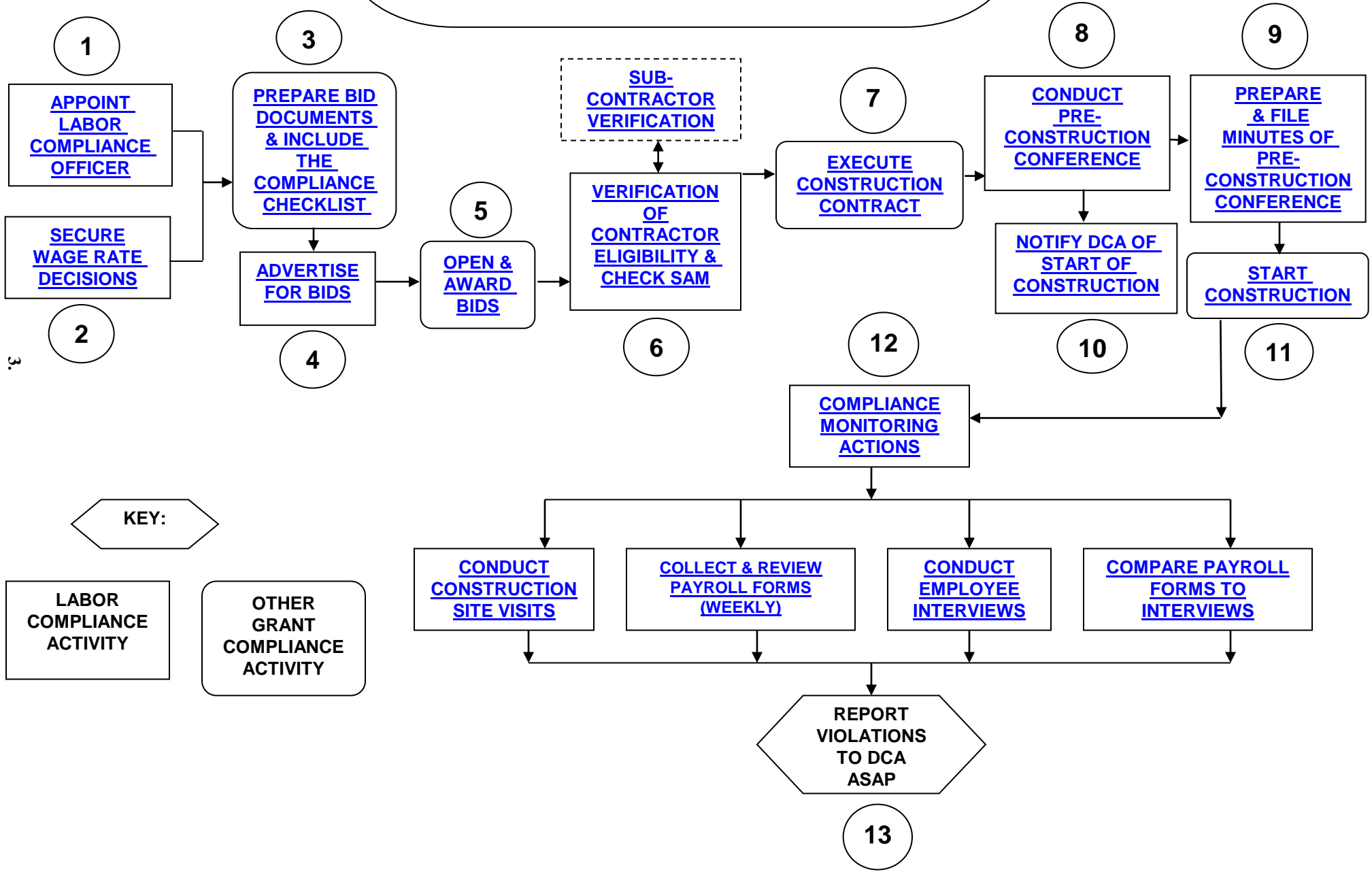
- A. Meet with the Grantee's Labor Standards Officer.

- B. Review the Grantee's Labor Standards Enforcement file and complete the Labor standards monitoring checklist.

GRANTEE RESPONSIBILITY

All Small Cities CDBG Program Grantees are required to administer and enforce the labor standards requirements set forth in Section 570.605 of the regulations of the Housing and Community Development Act of 1974. Grantees are to comply with the procedure as delineated on the following flow chart.

SMALL CITIES PROGRAM LABOR STANDARDS COMPLIANCE ACTIVITIES FLOW CHART



Labor Standards Compliance

(Note: Numbers correspond to the flow chart)

1. Appoint Labor Standards Compliance Officer

The Grantee will designate a Labor Standards Compliance Officer to ensure compliance with all applicable labor standard requirements. This person is to be appointed prior to the start of any construction activity and his/her name specified in the Grant Management Plan submitted to your Program Manager.

Grantee Labor Standards Enforcement File

The Grantee shall establish and maintain a "Labor Standards Enforcement" file for each construction project subject to labor standards provisions. All documentation must be available for DCA review. Such documentation shall include bid documents containing applicable wage decisions and federal labor standards provisions (form HUD-4010), verification of contractor eligibility, SAM registration, executed construction contracts containing applicable wage and labor standards provisions, effective federal and state wage determinations, pre-construction conference minutes, notification of start of construction, weekly payrolls, apprentice registration records, on-site employee interviews and copies of correspondence, memoranda and forms relating to the administration and enforcement of labor standards provisions.

2. Secure Wage Rate Determinations

Grantees awarding any construction contract in excess of \$2000 shall obtain federal and state prevailing wage rates. The higher of the two wage rates shall be the wage rate used. Nothing, however, shall prohibit the payment of more than the prevailing wage rate to any workman employed on the construction project.

Federal prevailing wage rates may be obtained from the internet at <https://wdol.gov/dba.aspx>.

State prevailing wage rates may be obtained from the NJ Department of Labor, Office of Wage and Hour Compliance at https://www.nj.gov/labor/wagehour/wagerate/wage_rates.html.

The federal and state prevailing wage determinations (WD) shall be in the bid documents. The effective federal wage determinations (General Decision, change periodically) shall be submitted with the contractor's bid. Applicable federal wage rates are those in effect 10 days prior to bid opening, provided the construction contract is awarded within 90 days of bid opening, or on the date of the award if made after 90 days of bid opening. Applicable state wage determinations are those in effect on the date of the award.

Contractors and sub-contractors shall post the prevailing wage rates for each craft and classification in a prominent and easily accessible place at the site of the work, or at such places as are used by them to pay workers.

3. **Prepare Bid Documents**

The Grantee will ensure that all bid specifications include all applicable federal and state wage rate determinations, the “Federal Labor Standards Provisions” HUD Form 4010, and the Small Cities Program’s Labor Standard Compliance Bid Checklist.

Contractors shall complete the labor standards compliance checklist and submit this checklist and the required items with the bid. Contractor shall read and acknowledge the labor standards requirements by placing their initials in the box for each item and instruction.

4. **Advertise Bids**

Your bid advertisement must contain the following wording in a prominent place.

“Financial assistance for this activity is made possible by a grant in the amount of \$_____ from the New Jersey Department of Community Affairs, Division of Housing and Community Resources, New Jersey Small Cities Community Development Block Grant Program, current name, Governor of the State of New Jersey, current name, Commissioner of the New Jersey Department of Community Affairs. Funding for the State’s CDBG Program was provided by the United States Department of Housing and Urban Development, State Community Development Block Grant Program.”

Any advertising of your NJ Small Cities CDBG assistance program must include the above acknowledgement of the State’s involvement in the program.

5. **Open and Award Bids**

The Grantee shall check the bids submitted for a completed compliance bid checklist, the effective federal wage determination to be inserted in the construction contract and that contractors being considered are registered in SAM or have submitted application for registration. The award cannot be made until SAM registration is completed and there are no exclusions. The effective state wage determination shall be obtained at https://www.nj.gov/labor/wagehour/wagerate/wage_rates.html and inserted in the construction contract.

6. **Verify Contractor Eligibility**

The Grantee shall request by e-mail or letter to the DCA Program Manager the current eligibility status of all contractors **and** sub-contractors to be used on any construction prior to award of contract. The Grantee shall provide the name and address of the construction company and each of its principal officers. All contractors must be registered in the federal government’s SAM at <https://www.sam.gov/SAM/> and show proof there are no exclusions.

7. **Execute Construction Contract**

The Grantee will ensure that construction contract documents include all applicable wage determinations and labor standards provisions. Applicable federal wage rates are those in effect 10 days prior to bid opening, provided the construction contract is awarded within 90 days of bid opening. All predetermined State rate increases listed at time of contract award must also be paid, beginning on the dates specified. The “Federal Labor Standards Provisions” (Form HUD-4010) **must** be made part of all construction contracts.

8-9. Conduct Preconstruction Conference

The Grantee shall hold a conference with the principal contractor and all available sub-contractors prior to the start of construction. At this conference responsibilities and obligations regarding the labor standards provisions contained in the contract documents will be discussed. A report shall be prepared and retained in the Grantee's files for each pre-construction conference. The report will contain:

- a. Project name, location and description
 - b. Name of Contractor(s).
 - c. Contract amount.
 - d. Date and place of conference.
 - e. Conference attendees.
 - f. Summary of items covered.
- (See Pre-Construction Checklist for Contractors.)

10. Notification to DCA of Start of Construction

The Grantee shall notify the Program Manager of start of construction for any covered project. Start of construction means the beginning of initial site clearance and preparation; provided those activities are pursued diligently and are followed without appreciable delay by other construction activities.

Use of Apprentices and Trainees

- a. Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with the US Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training, or are employed in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program. The most stringent of the federal and state labor standards requirements will apply.

Any employee listed on the payroll at an apprentice wage rate, who is not a trainee as defined in subdivision (b) of this subparagraph or is not registered or otherwise employed as stated above, shall be paid the wage rate determined for the classification of work s/he actually performed. The contractor or sub-contractor will be required to furnish to the contracting officer or a representative of the New Jersey Department of Community Affairs written evidence of the registration program and apprentices as well as the appropriate ratios and wage rates (expressed in percentages of the journeyman hourly rates), for the area of construction prior to using any apprentices on the contract work.

The wage rate paid apprentices shall not be less than the appropriate percentage of the journeyman's rate contained in the applicable wage determination. Written evidence of apprentice registration shall consist of a copy of an Apprenticeship Standards/Apprenticeship Agreement Joint Approval form.

- b. Trainees (Except as provided in 29 CFR 5.16) will not be permitted to work at less than the predetermined rate for the work performed; unless they are employed pursuant to and individually registered in a program which has received prior approval from the US Department of Labor, Manpower Administration, Bureau of Apprenticeship and Training. The ratio of trainees to journeyman shall not be greater than permitted under the plan approved by the Bureau of Apprenticeship and Training. Every trainee must be paid at not less than the rate specified in the approved program for his/her level of progress. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Bureau of Apprenticeship and Training shall be paid not less than the wage rate determined for the classification of work s/he actually performed.

The contractor or sub-contractor will be required to furnish the contracting officer, or a representative of the Department of Community Affairs written evidence of certification of his/her program, the registration of the trainees, and the ratios and wage rates prescribed in that program. In the event the Bureau of Apprenticeship and Training withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- c. Equal Employment Opportunity The utilization of apprentices, trainees and journeyman under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

12. Compliance Monitoring Actions

Construction Site Visits

Visits to the construction site by the Labor Standards Compliance Officer are an integral part of the compliance monitoring process. Careful observation of on-going construction work and asking questions of the workers involved may help to determine whether or not it is necessary to make a more detailed audit of payrolls and time-sheets. Progress reports, contractors' apprenticeship agreements and similar data, together with interviews of employees (recorded) and other questions here and there, may be sufficient to develop information as to whether there is compliance with the labor standards provisions. Failure to monitor compliance during the project may result in difficult adjustments by contractors and sub-contractors as well as the imposition of sanctions and penalties that could have been avoided.

Substantial amounts of time and money may be saved if violations are found and corrected in the early stages of construction.

The Labor Standards Officer should see that wage determination decisions and other required material pertaining to the required labor standards provisions are posted by the contractor at the worksite in a prominent and accessible place, see required federal wage rate poster. Enforcement will be enhanced if the poster is conspicuously displayed which informs employees of their rights. This would also serve to put the sub-contractors on notice of the labor standards provisions.

Weekly Payroll Review

It is the responsibility of each contractor and sub-contractor to submit weekly certified payrolls for project work. If no work is performed by a contractor or sub-contractor during a given work week, weekly payrolls need not be submitted. Initial and final payrolls must be so marked by each contractor and sub-contractor. **Payrolls shall be completed and submitted no later than seven work days following completion of the work week. The Grantee shall insist upon prompt submission of all payrolls.**

It is the responsibility of the Grantee's Labor Standards Officer to verify that proper wage and fringe benefit rates are being paid by all contractors and sub-contractors. The proper wage and fringe benefit rate for a particular job classification must be equal to or greater than the highest of the corresponding federal or state prevailing wage rate and fringe benefit rate. Fringe benefits paid to approved plans, funds or programs must be verified by the Grantee's Labor Standards Officer.

Sole proprietors, self-employed mechanics - HUD policy affords prevailing wage protection for all laborers and mechanics regardless of contractual relationship. There is no exception to this protection for self-employed sub-contractors. The most frequent occurrence of self-employed workers involves mechanic/trade classifications. These mechanics may be represented as sole proprietors, self employed mechanics, partners or corporate officers - all with no direct employees engaged in covered work. Certified payrolls reporting single or multiple owners (e.g., partners) certifying that they have paid to themselves the prevailing wage for their craft may not be accepted. These mechanics must be carried on the certified payroll of the contractor for whom they are working.

Owners of businesses working with their crew on the same job site may certify to the payment of their own prevailing wages in conjunction with the prevailing wages paid to their employees. This exception to reporting standards does not suggest that such owners are not likewise entitled to prevailing wages for their labor. Rather, it accepts the wage payment certification on weekly payroll reports by the owner for his/her own wages as that certification accompanies the certification offered for the payment of prevailing wages to his/her employees. Such owners need only list their name, work classification including "owner", and the daily and total hours worked. Such owners do not need to list a rate of pay or amounts earned.

Contractor weekly payrolls and other basic records should be reviewed during routine compliance enforcement activity on every construction project. Submitted payrolls shall be examined to assure compliance with labor standards. In examining payrolls, see that only classifications appearing on the wage determination are used and check for disproportionate employment of laborers, helpers, apprentices or trainees. Such payrolls and statements shall be produced at the request of the Department of Community Affairs at any time during the normal three-year term in which records must be maintained.

- a. Payroll Forms. Contractors shall be urged to use the optional Department of Labor Form WH-347, Payroll Form and instructions on completing Form WH-347. A contractor may use an appropriate payroll of his/her own choice as long as it includes all of the information contained on the WH-347 and includes a signed weekly statement of compliance.
- b. Fringe Benefits. The required weekly statement of compliance, Form WH-347, page 2, includes statements concerning the payment of the basic hourly wage rates.

Fringe benefits can be paid to a plan by checking the box on the appropriate box on the payroll form. The employer must send to the Labor Standards Officer for the project the name of the plan, address and the contact person. Employers may pay fringe benefits in the form of cash by filling in the amount on the form and checking to box. However, if partial payment is to a plan and to cash these amounts must be entered and explained on the form. Employers certify payment of fringe benefits when signing the payroll form.

Grantees and contractors are urged to obtain HUD publication "A Contractor's guide to Prevailing Wage Requirements for Federally Assisted Construction". The guide may be downloaded from the following HUD web site:

https://www.nj.gov/dca/divisions/dhcr/offices/docs/sccdbg/sc_contractor_guide_davis_bacon.pdf

- c. Payrolls Must Be Obtained and Examined Promptly - Payroll Retention. The Grantee's contract or labor standards compliance person shall require the submission of all payrolls each week. The payrolls shall be examined upon receipt so that all necessary corrective action may be initiated before the problem multiplies and may be accomplished while the workers are still available. Payrolls must be retained for three years by the Grantee following completion of the project and then may be destroyed unless an investigation, disputed compliance action, or appeal remains outstanding. Clearance shall be obtained from the Department of Community Affairs prior to such destruction. Contractors and sub-contractors must retain their basic payroll records (payroll register, individual earning cards, etc.) for the same three (3) year period.

- d. Addresses and Social Security Numbers. Each worker's address and part of the social security number (last four digits, or an employee's number is acceptable) must be reported on the first payroll on which his/her name appears. It is permissible for the contractor to omit the worker's address on subsequent payrolls if the contractor will report the worker's next address if and when an address change occurs.
- e. Incomplete Payrolls. Except where falsification is suspected, an incomplete payroll shall be returned to the prime contractor for completion. In most cases it will be better to require the prime contractor to supply the missing information by means of a new or supplemental payroll or a supplemental statement. If a payroll is false, it shall not be returned to the contractor. A report of such findings shall be referred to the DCA Program Manager.
- f. Classification and Wage Rates. Classification and wage rates reported on the payroll shall be compared with the corresponding items on the applicable wage determination decision to determine whether the rate reported is at least equal to the rate required by the decision. If a lesser wage rate is found, the Grantee must request in writing the contractor to begin paying the required wage rate immediately and to make restitution to workers for past underpayments.
- g. Computations. Payroll computations shall be spot-checked to determine whether the payrolls are accurate. Scattered minor errors may be ignored. If such errors are numerous, however, the contractor should be requested in writing to exercise more care in preparing the payrolls.
- h. Deductions. Deductions shall be reviewed for any non-permissible deductions. Permissible deductions include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, unemployment benefits, life pay, defraying costs of apprenticeship or similar programs. Questions regarding permissible fringe benefits must be referred to the Department of Labor for determination. All benefits not paid in cash must be documented with written verification from the contractor or sub-contractor.
- i. Internal Revenue Service (IRS) Employer Identification Number. The initial payroll submission from each contractor and sub-contractor shall contain the applicable IRS-Employer's Identification Number.
- j. Signature. The statement of compliance must be signed by the owner, officer, or designated employee of the contractor. Written authority must be furnished by the owner or officer of the contractor where a designated employee signs the payrolls.
- k. Requests by Outside Parties for Payrolls. In order to protect the personal privacy interests of employees, copies of weekly payrolls containing the individual's salary, work hours, claimed exemptions and tax status, address and social security number shall not be released to outside parties and may be withheld under Exemption 6 of the Freedom of Information Act unless any identifiers are first deleted.

Employee Interviews

Employee interviews shall be sufficient in number to establish the degree of accuracy of the records and the nature and extent of violations, if any. They shall also be representative of all classifications of employees on the project. Employees shall be encouraged to produce pay stubs or pay envelopes which document the wages received. The employee shall be informed that the information given is confidential, and that his/her identity will be disclosed to the employer only with the employee's written permission, and that s/he is being interviewed by an employee of the grantee.

- a. **Place of Interview.** Employees currently employed may be interviewed during working hours on the job, provided that the interview can be properly and privately conducted on the premises. In cases of falsification of records, fear of reprisals, or intimidation, it may be advisable to conduct the interview elsewhere, such as in the employee's home, at the Grantee's office, or other suitable place where it may be arranged.
- b. **Initiating the Interview.** The Grantee's labor compliance officer shall begin the interview by introducing himself or herself to the worker. S/he shall confirm his or her identity by showing the worker his or her credentials. S/he shall explain that the project is being constructed with the assistance of the federal government, that the payment of prevailing wages on federally-assisted construction projects is required by law, and that the purpose of the interview is to obtain information for use in determining whether the required wages are being paid. S/he shall inform the worker of the specific location at which the applicable wage determination decision is posted at the project site.
- c. **Mail Interviews.** Employees and former employees may be interviewed by mail.
- d. **Interview Time.** If the interview is conducted on the job site it shall be arranged to cause the least inconvenience to the employer and employee.
- e. **Oral Interview Statements.** An employee interview need not be recorded in a signed statement when it serves merely to confirm what the records reveal, and it is not otherwise indicative of a violation, assuming no violation has been alleged and the records are adequate.
- f. **Interview Form.** Employee interviews are to be recorded on **Form HUD-11**, Record of Employee Interview.

Comparison of Payrolls and Interviews

Grantees must ensure that:

1. Construction contractors designate the job classification of employees listed on the payroll.
2. The hourly rate includes the fringe amount as listed in the wage determination governing the project. Fringe benefits paid to approved plans, funds or programs must be verified in writing.

When any violation of labor standards requirements results in an underpayment of wages to employees, the Grantee must take corrective action. Where wage adjustments become necessary, the local labor standards enforcement officer must notify the prime contractor (the one responsible for the correction of all violations) in writing to make such adjustments. Should the violations not be corrected within thirty (30) calendar days of notification, the local labor standards enforcement officer upon written notice to the contractor may withhold amounts due the contractor as may be necessary to ensure payment of laborers and mechanics the rate of pay which should have been received by such laborers and mechanics and to cover liquidated damages under the Contract Work Hours and Safety Act (CWHSSA), if any and if applicable. Only an amount necessary to ensure payment of back wages and/or liquidated damages shall be withheld.

Failure to ensure that proper wages are paid during the course of the project will result in the Grantee bearing the burden of restitution whether or not sufficient funds remain in the grant budget.

NJDCA Small Cities CDBG Program Labor Standards Compliance Bid Checklist

CHECKLIST

THIS CHECKLIST MUST BE COMPLETED AND SUBMITTED WITH YOUR BID. PLEASE INITIAL BELOW, ACKNOWLEDGING THAT YOU RECEIVED AND REVIEWED THE ITEMIZED DOCUMENTS AND INSTRUCTIONS. A BID SUBMITTED WITHOUT THE CHECKLIST COMPLETED MAY BE REJECTED.

ITEM	ITEM	INITIALS
1.	Compliance Summary – Attention to Acknowledgement in Advertising	
2.	Form HUD-4010, Federal Labor Standards Provisions	
3	Contractor’s Guide to Davis Bacon	
4.	DBA Employee Rights Poster – English and Spanish	
5	Federal Prevailing Wage Determination, WD to be used – It is the bidder’s responsibility to go to https://wdol.gov/dba.aspx and down load the WD effective 10 days prior to the bid opening date and shall attach this to the bid submitted.	
6	State Prevailing Wages, WD to be used – It is the bidder’s responsibility, if an award is received, to go to https://www.nj.gov/labor/wagehour/wagerate/wage_rates.html and down load the NJ WD on the date of the award, which shall be the effective WD for this project.	
7	Bidder shall comply with the highest prevailing wage in the Federal and State WDs, and the most stringent requirements of the two prevailing wage regulations. (no form)	
8.	Department of Labor (DOL) Form WH-347, Payroll Form	
9	DOL Form WH-347, Payroll Form – Instructions	
10	Form HUD-11, Record of Employee Interview and Instructions	
11	Form HUD-11, Record of Employee Interview in Spanish and Instructions	
12	Preconstruction Checklist for Contractors: Meeting Labor Standards Contract Requirements	
13	Form HUD-2516, Minority Business Enterprise Report – This information shall be submitted to the project coordinator for entry into NJDCA’s SAGE online system.	
14	Form HUD-60002, Section 3 Summary Report – This information shall be submitted to the project coordinator for entry into NJDCA’s SAGE online system.	
15	SAMs Registration – Current, Contractors will submit copies of their current registrations, or application for registration with the bid. Contractors must submit the completed registration to the Grantee when obtained. SAM renewals must be submitted during the course of the project.	

THE UNDERSIGNED HEREBY ACKNOWLEDGES THE ABOVE LISTED REQUIREMENTS.

Person, Firm or Corporation Submitting Proposal: _____

Authorized Agent Name and Title: _____

Authorized Signature and Date: _____

Small Cities CDBG Program Labor Standards Monitoring Checklist

Grantee: «Grantee»
Agreement #: «Agreement»

Date: «Date»
Program Manager: «ProgramRep»

1. Contract Identification

Project Name _____

Name of Contractor _____

Description of Work _____

Bid Opening Date _____

Contract Award Date _____

Contract Amount _____

Start of Construction _____

Force Account Used _____

2. Contract Documents and Administration

Yes No N/A N/R

- A. Prevailing wage rates in bid specification? _____
- B. Notification of contractor eligibility in the file? _____
- C. Prevailing wage rates in contract? _____

Date of State wage decision _____ - Effective date is the date the award was made.
 Date of Federal wage decision _____ - Effective date is 10 days prior to bid opening, or the date of the award if the construction contract was not executed within 90 days of the bid award.

- D. Are minutes of pre-construction conference in the file? _____

3. Payroll Review

- A. Payrolls submitted weekly? _____
- B. Payrolls numbered consecutively? (initial, second, etc., final) _____
- C. Payrolls signed by employer or authorized representative? _____
- D. Statement of Compliance prepared for each payroll? _____

«Grantee»	«Agreement»	«Date»	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>N/R</u>
A.	Proper wages paid based upon a random sample of listed job classifications?		_____	_____	_____	_____
A.	Were proper fringe benefits paid?		_____	_____	_____	_____
A.	Were fringe benefits paid to approved plans or programs verified?		_____	_____	_____	_____
A.	Apprenticeship/Trainee registration certification from US Dept. of Labor?		_____	_____	_____	_____
	If not, are journeyman rates being paid?		_____	_____	_____	_____
A.	Record of additional classifications? (not covered in wage decisions)		_____	_____	_____	_____
A.	Is payroll review correspondence in file?		_____	_____	_____	_____
A.	<u>Employee Interviews</u>					
A.	Were employee interviews conducted by the grantee?		_____	_____	_____	_____
A.	Were a representative number of trades covered?		_____	_____	_____	_____
A.	<u>Assessment of Grantee Labor Standards Administration</u>					
A.	Does the Grantee have designated staff to ensure compliance with labor standards?		_____	_____	_____	_____

Name: _____

Labor Standards (Cont.)

«Grantee»

«Agreement»

«Date»

B. Does the Grantee maintain full documentation attesting to the administration and enforcement of labor standards as indicated below:

	<u>Yes</u>	<u>No</u>	<u>N/A</u>	<u>N/R</u>
a. Labor standards enforcement file for each construction project?	_____	_____	_____	_____
b. Is the labor standards enforcement file organized to enable review based on chronological events?	_____	_____	_____	_____
c. Is all labor standards enforcement documentation maintained at the same location?	_____	_____	_____	_____
C. Is there a need for technical assistance?	_____	_____	_____	_____

Comments and Findings

Preconstruction Checklist for Contractors: Meeting Labor Standards Contract Requirements

I. Introduction

The following checklist has been prepared to assist contractors and subcontractors in meeting contractual labor standards responsibilities. All major administrative and procedural activities have been covered in the sequence they will occur as the construction project proceeds. Careful attention to and use of the checklist should result in a minimum of labor standards problems

II. Explanatory Notes

The word “employer” as used below refers to the project contractor, each sub-contractor, or each lower-tier sub-contractor. Payrolls and other documentary evidence of compliance (marked with an asterisk) are required to be sent to the recipient for review (all to be submitted through the project contractor). The delivery procedures are as follows:

- A. Each lower-tier sub-contractor, after careful review, submits required documents to the respective sub-contractor.
- B. Each sub-contractor, after checking his/her own and those of each lower-tier sub-contractor he/she may have, submits required documentation to the contractor.
- C. The contractor, after reviewing all payrolls and other documentation, including his/her own, and correcting violations where necessary, submits all to the recipient.

All employers should check each of the following statements as being true. If any statement is not true, the contractor or his/her representative should contact the recipient for special guidance.

III. Before construction begins each employer has:

- A. Not been debarred or otherwise made ineligible to participate in any federal or federally-assisted project. All contractors shall be registered in the federal government’s SAM at <https://www.sam.gov/SAM/>.
- B. Received appropriate contract provisions covering labor standards requirements.
- C. Reviewed and understands all labor standards contract provisions.
- D. Received the wage decision as part of the contract.
- E. Requested through the recipient and received the minimum wage for each classification to be worked on the project not included on the wage decision by the additional classification process and before allowing any such trades(s) to work on the project.
- F. Requested and received certification of his/her apprenticeship program from the Federal Bureau of Apprenticeships and submitted a copy of an Apprenticeship Standards/Apprenticeship Joint Approval form to the recipient prior to employment.

IV. At the construction start the contractor has:

- A. Notified recipient of construction start date in writing.
- B. Has placed each of the following on a bulletin board prominently located on the project site which can be seen easily by the workers (and replaced if lost or unreadable any time during construction):

- Wage Determinations, Decisions (State and Federal)

Applicable federal wage rates are those in effect 10 days prior to bid opening, provided the construction contract is awarded within 90 days of bid opening, or on the date of the award if made after 90 days of bid opening. Applicable state wage determinations are those in effect on the date of the award.

- Notices to Employees DBA Poster (WH1321)
- Safety & Health Protection on the Job (DOL)
- C. Before assigning each project worker to work, has obtained worker's name, best mailing address, and Social Security Number.
- D. Has obtained a copy of each apprentice's certificate with the apprentice's registration number and his/her year of apprenticeship.
- E. Has informed each worker of:
 - his/her work classification (journeyman or job title) as it will appear on the payroll.
 - his/her duties of work.
 - the US Department of Labor's requirement on this project that he/she is either a journeyman, apprentice, or laborer
 - if journeyman, he/she is to be paid journeyman's minimum wage rate or more;
 - if apprentice, he/she is to be paid not less than the apprentice's rate for the trade based on his/her year of apprenticeship; or
 - if laborer, he/she is to do laborer's work only - not use any tool or tools of the trade – and not perform any part of a journeyman's work and is to be paid the laborer's minimum wage rate or more.

- F. Understands the requirements that each laborer or mechanic who performs work on the project in more than one classification and paid at the highest wage rate applicable to any of the work which he/she performs unless the following requirements are met:
- Accurate daily time records shall be maintained. These records must show the time worked in each classification and the rate of pay for each classification, and must be signed by the worker.
 - The payroll shall show the hours worked in each classification and the wage rate paid for each classification.
 - The payroll shall be signed by the workmen or a signed copy of the daily time record shall be attached thereto.
- G. Informed each worker of his/her hourly wages (not less than the minimum wage rate for his/her work as stated in the Wage Decision).
- Time and a half for all work over 8 hours in any day or over 40 Hours in any work week (See Contract Work Hours Safety Standards Act).
 - Fringe Benefits, if any (See Wage Decision for any required).
 - Deductions from pay.
- H. Has informed each worker that he/she is subject to being interviewed on the job by the recipient, NJ DCA, NJ Department of Labor, or US Government Inspector, to confirm that his/her employer is complying with all labor requirements.
- I. Has informed each journeyman and each apprentice that a journeyman must be on the job at all times when an apprentice is working. The responsible journeyman shall be notified of the allowable ratio of apprentice to journeyman for the craft classification under the registered program. The more stringent of the federal and state prevailing wage regulations shall apply.

V. During Construction

A. Each Employer:

- Has not selected, assigned, paid different pay rates to, transferred, upgraded, demoted, laid off, nor dismissed any project worker because of race, color, religion, sex, or national origin.
- Has employed all registered apprentices referred to him/her through normal channels up to the ratio of apprentice to journeyman in each trade used by the employer.
- Will maintain basic employment records accessible to inspection by the recipient, Department of Community Affairs, Department of Labor, or US Government Inspector.

- Is complying with all health and safety standards.
- Has paid all workers weekly.
- Has submitted weekly payrolls.

Prepared on recommended Form WH-347 or comparable form. A blank copy of Payroll Form WH-347 and instructions for completing this form are included with this checklist.

- Some employers place all project workers on Payroll Form WH-347. The recipient does not review those project workers listed on the payroll who perform work which is descriptive of any of the following job titles which are exempt from labor requirements:

- Project Superintendent
- Project Engineer
- Supervisory Foreman
(Less than 20% of time as a working foreman)
- Messenger
- Clerical Workers
- Timekeepers
- Payroll Clerks
- Bookkeepers

- Any alternate payroll form should be cleared with DCA before employer starts work on the project. A project printout by computer, for example, is acceptable provided all data shown and required on the front and back of Payroll Form WH-347 is on, or included with, payroll submitted to recipient.
- Apprentice. If the worker is an apprentice, his/her registration number and year of apprenticeship is included in this column the first time the apprentice's name appears on the payroll.
- Split Classification. If the worker has performed more than one class of work during the work week, such as carpenter and laborer, the division of work will be shown on separate lines of the payroll.
- Accurate daily time records show the exact hours of work performed daily in each class of work and are signed by the affected worker.
- Average Pay of Two Classes of Work Not Accepted. The employer shall not pay a "semi-journeyman" or semi-skilled laborer the average of journeyman's and laborer's rates. The actual hours each worker uses tools of trade (journeyman) and each hour he/she does not use tools of trade (laborer) must be recorded on the payroll.

- Helper. The work classification of “helper” is not accepted by the DCA, unless included in the Wage Decision issued by the Department of Labor for the project. Any employee listed as “helper” in absence of such classification in the Wage Decision must be paid the journeyman’s rate for hours he/she uses tools of the trade.
- Apprentices. If a copy of the apprentice’s registration certificate has not been Submitted to recipient by employer (through contractor), apprentice must be paid journeyman’s rate.
- Weekly Payroll Review. Each employer has promptly reviewed the weekly payroll for compliance with all labor requirements (using this check list) and made necessary corrections.
- Each Lower-Tier Sub-contractor has submitted his weekly payroll or “no work” letter to the respective sub-contractor for the sub-contractor to have received within 3 calendar days from the last date of the work week. Each sub-contractor has received a payroll or “no work” letter from each and his/her own payroll, required necessary corrections, and submitted all of such payrolls to the contractor within 5 calendar days from the last date of the workweek.
- Contractor has received a payroll or “no work” letter from each Sub-contractor, monitored each including his/her own payroll, required necessary corrections, and collectively submitted them to the recipient within 7 work days of the last date of the respective work week.

VI. After Project Completion

Each Employer will keep all weekly payrolls on the project for 3 years after the contractor’s project completion date.

Small Cities Program Handbook

Labor Standards

Exhibits I. to VII.

Exhibits

- I. Federal Labor Standards Provisions, form HUD-4010
- II. Davis -Bacon Act Employee Rights Post – English and Spanish
- III. U.S. Department of Labor (DOL) Payroll Form, form HUD WH-347 and Instructions
- IV. Record of Employee Interview and Instructions, form HUD-11
- V. Minority Business Enterprise Report, form HUD-2516
- VI. Section 3 Summary Report, from HUD-60002
- VII. System for Award Management (SAM) Registration