

Labor Standards, Construction & Lead Safe Housing

CDBG/HOME Guidebook



Section I

Overview

This section will cover Labor Standards, Construction/Rehabilitation requirements and Lead Safe Housing requirements for projects funded with CDBG or HOME. Hiring professional services and contractors is covered in Section E Procurement.

Davis-Bacon and Other Labor Laws

The **Davis-Bacon Act** requires the payment of prevailing wage rates (which are determined by the U.S. Dept. of Labor) to all laborers and mechanics on Federal government construction (including rehab.) projects in excess of \$2,000, with some exceptions for housing projects:

- HOME funded projects with less than 12 “HOME assisted” units
- CDBG funded residential projects with less than 8 units

Other laws applicable to projects involving construction work include:

The Contract Work Hours and Safety Standards Act which requires time and one-half pay for overtime hours (over 40 in any workweek) worked on the covered project.

The Copeland Act makes it a Federal crime for anyone to require any laborer or mechanic employed on a Federally-assisted project to kickback (i.e. give up or pay back) any part of their wages.

The Fair Labor Standards Act contains minimum wage rates, overtime and child labor requirements.

1. Construction Contract Provisions

Each contract subject to Davis-Bacon labor standards requirements must contain **Federal Labor Standards Provisions** (HUD form 4010) and a **Davis-Bacon wage decision**. These documents are normally bound into the contract specifications and can be obtained from Block Grant staff. It is important that any bid solicitations are based on the correct Federal prevailing wage rates. These rates may be different from the State prevailing wage rate or local wage rate for a trade or job classification.

2. Contract Award

Once you have selected a contractor you must check the General or Prime Contractor for Debarment. Go to www.sam.gov and do a search or contact the Block Grant office and we will perform the search. You cannot contract with any debarred firm or individual. You should also provide the Block Grant office with a ***Davis Bacon Construction Contract Award*** form. This form contains basic information about the Prime Contractor.

3. Preconstruction Conference

Once a contractor has been selected for the project a preconstruction conference will be scheduled and includes the agency/project developer, principal contractor selected and staff from the Block Grant office. The principal contractor (also referred to as the prime or general

contractor) is responsible for the full compliance of all employers (the contractor, subcontractor and any lower tier subcontractors) with the labor standards provisions applicable to the project.

4. Project Wage Rates & Additional Work Classifications

Wage decisions are multi-paged, cover several counties and are difficult to read. To make it easier to read and understand on larger projects Block Grant Staff can provide a Project Wage Rate Sheet (HUD form 4720). This is a one-page listing of only the wage rates applicable to the specific project and should be posted on the job site. The general contractor will need to provide the information on which job classifications will be working on the project.

For classifications not listed in the Davis Bacon Wage Determination a request must be sent to the Dept. of Labor. This should be completed as early in the project as possible as it can take a month or more to receive a decision. The Prime Contractor must initiate the request for additional job classifications not in the Wage Decision. On Company letterhead the Contractor should list the classification requested, state the base rate and fringe rate for each classification and spell out the tasks for the requested classification. Block Grant will then send the information to HUD's Labor Relations Office.

5. On-site Project Inspections and Wage Interviews

Block Grant staff will make periodic visits to the construction site to:

- Ensure the correct wage determination & any additional classifications and Poster (both English and Spanish) are posted by the contractor at the site.
- Conduct wage interviews, observe the work being performed and obtain information on the hours worked, type of work performed and wages received. Information gathered during the interviews is recorded and compared against the Certified Payrolls submitted on the project.

6. Certified Payroll Reports

The Prime contractor (and any subcontractors) will need to submit weekly certified payroll reports, beginning with the first week they work on the project and for every week after, to the Block Grant project manager for review. Forms and instructions for completing the payrolls will be provided at the Pre-Construction Conference.

Block Grant staff will work directly with the prime/general contractor's payroll administrator to resolve any payroll errors or issues. Where underpayments of wages have occurred, the employer will be required to pay wage restitution to the affected employees. Block Grant staff will notify the prime/general contractor of any underpayments that are found and will describe the underpayments and provide instructions for computing and documenting the restitution to be paid. The contractor is allowed 30 days to correct the underpayments.

7. Non-Compliance

A dispute about labor standards and compliance can arise for a number of reasons. The labor standards clauses in the contract and DOL regulations provide for administrative review of issues where there is a difference of views. The most common circumstances include:

- Denial of request for additional classification and wage rate by DOL.
- Findings of underpayment

It is important to be aware of unresolved issues related to Davis Bacon before authorizing payment to the Prime Contractor. If wage underpayment or other violations are not corrected within 30 days after written notification to the prime contractor, the Block Grant office or Dept. of Labor may direct the withholding of contract payments to ensure the payment of wages which are believed to be due and unpaid.

Contractors and/or subcontractors that violate the labor standards provisions may face administrative sanctions imposed by HUD and/or Dept. of Labor.

Lead Based Paint

All HOME/CDBG funded housing constructed before 1978 must comply with lead-based paint regulations at 24 CFR Part 35. The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead. If your project includes the acquisition, rehabilitation or leasing of housing, Block Grant staff will provide you with a checklist to determine if your project is Exempt and if not what steps will be necessary to document compliance with the requirements under the regulation.

If your project is subject to Lead Safe Housing requirements, you are required to provide notification to occupants/owners/purchasers of the housing. You may also be required to:

- **Perform a Lead Hazard Evaluation:** The evaluation required depends on the nature of the activity funded and the amount of federal funding. Evaluation methods include visual assessments, paint testing, and risk assessments.
- **Lead Hazard Reduction:** The reduction activity required depends on the nature of the activity funded and the amount of Federal funding. Reduction methods described include paint stabilization, interim controls, standard treatments, and abatement.
- **Ongoing Maintenance:** Ongoing maintenance is required if your project will continue to be monitored by the Block Grant Office during a period of affordability. This includes periodic visual assessments to determine if lead-based paint hazards have reappeared.

Your Block Grant project manager will work with you to document that your project has provided proper notifications and followed correct procedures.

Construction Codes and Property Standards

1. **HOME funded New Construction Property Standards** (24 CFR Part 92.251)

Housing that is newly constructed with HOME funds must meet all applicable State and local building codes and have obtained a Certificate of Occupancy. Housing must also meet accessibility and fair housing requirements, and be inspected by the Block Grant Program.

2. **HOME Rehabilitation Standards**

All rehabilitation that is performed using HOME funds must meet *Kitsap County – City of Bremerton HOME Rehabilitation Standards*. The standards address health and safety; the remaining useful life of major systems (e.g. roofing, exterior cladding, windows, etc.); accessibility requirements; local codes, ordinances, and zoning; and Uniform Physical Condition Standards which establish the minimum deficiencies that must be corrected.

3. **HOME funded Acquisition**

Existing housing that is acquired with HOME funds, including homebuyer down-payment assistance, must meet applicable property standards and will be inspected by Block Grant staff to ensure compliance with the appropriate standard. If the housing does not meet these standards, the housing must be rehabilitated to meet the standards or it cannot be acquired with HOME funds.

4. **Section 504 and Fair Housing**

Section 504 and Fair Housing rules impact the design of your project by setting standards for the appropriate number and characteristics of accessible units in your project. The applicability of these standards depends on the size and type of project. For additional information on Section 504 and Fair Housing see Appendix 3.