

Section 6: Construction Management Policy

Overview

Construction of affordable housing, public facilities, and capital improvements are primary activities undertaken with the support of federal assistance from programs like HOME and CDBG. Therefore active, thorough construction management is vital to ensuring that Lake County operates successful programs that appropriately serve the County's communities and residents. This section describes the policies that must be followed when managing all types of federally-funded construction in the County. Topics discussed in this section include:

- Plans and specifications
- Construction budget cost certification and approval
- Procurement
- Contractor and subcontractor review
- Minority-Owned & Women-Owned Business Enterprises (M/WBE)
- Section 3
- Compliance monitoring and enforcement
- Davis Bacon

Note, a number of requirements discussed in this section were reviewed in Section 5, *Administrative and Compliance Requirements*. The previous section describes and summarizes these requirements, and directs the reader to additional resources for more information. Alternately, this section explains the specific steps that staff must take to ensure that the County and its subrecipient and developer partners comply with these requirements.

Plans and Specifications

All federally-assisted construction or rehabilitation of property must comply with written property standards. Property standards are the minimum standard of construction that is considered acceptable. Property standards serve as the basis for plans and specifications. Specifications (sometimes called specs) prescribe the methods and materials to be used in construction or rehabilitation of properties. They include details such as the grade of lumber to be used, the number of nails per square foot, the type of material that can or cannot be used for doors serving as fire exits, the distribution pattern and material of roofing tiles, etc. In addition to ensuring decent, safe

and sanitary housing and high quality construction or rehabilitation of buildings, property standards provide a common basis for contractor bids. This is particularly important because, by ensuring that all contractors are bidding work using identical methods and materials, the County and its subrecipients are able to make an accurate determination of the cost reasonableness of bids. Further, by holding all contractors to a single rehabilitation standard, the County can ensure consistent, high quality work. Note: The specific property standards that apply to housing construction are discussed in Section 3, *Housing*. County staff reviews proposed property development specifications, plans, and blueprints for compliance with applicable standards for acquisition, rehabilitation, or new construction. Additionally, it reviews plans and specifications for compliance with Lead Safe Housing Rule and Section 504 requirements. For more information and detail about Lead-Based Paint and Section 504 please refer to Section 5, *Compliance and Administrative Requirements*.

For public improvement projects, plans and specifications should be prepared by an architect or engineer hired by the subrecipient or developer. They should describe design features and construction requirements to be included in the contract. All projects must comply with state and local codes and ordinances. Water and sewer projects may require the approval of various state agencies. Lake County staff must complete the environmental review prior to bidding, and all property acquired for a CDBG/NSP- assisted public facility and capital improvement project is subject to the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970, as amended and discussed in Section 5, *Compliance and Administrative Requirements*.

Construction Budget Cost Certification and Approval

Prior to procuring contractors for projects being undertaken by subrecipients (community development projects) and developers (housing), County staff reviews and approves budgets for construction projects. The subrecipient or developer must provide a budget to the Planner responsible for overseeing the project. The Planner reviews the budget to determine cost eligibility and reasonableness.

Eligible costs include hard costs, soft costs, and relocation costs as described in Section 3, Housing Policy or Section 4, Community Development Policy. Any proposed costs that are not eligible under federal rules must be covered by another source.

Staff should compare its own independent cost estimate to the low competitive bid received to

determine reasonableness. While Lake County does not have a predetermined, specific limit on cost per square foot; however, staff closely scrutinize the per unit cost per square foot for reasonableness, and funding should be denied when costs are deemed unreasonable.

Housing projects carried out by developers are reviewed for eligible costs and cost reasonableness as part of the project selection process (when developers' applications for funding are reviewed) by County staff and again just before loan closing, after the project has been more carefully reviewed (see Section Housing Policy for more information).

Procurement

When contractors or other professional services are procured to complete a construction project, the subrecipient must invite multiple bids. The Invitation to Bid describes the scope of the project and identify where bidders can get a copy of applicable plans and specifications. The Invitation to Bid must include and describe the following federal requirements (which are discussed in greater detail in Section Compliance and Administrative Requirements):

- **Equal Employment Opportunity, Executive Order 11246.** The Invitation to Bid must clearly state that the County promotes and ensures equal opportunity in employment and contracting and prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin, in accordance with this Executive Order.
- **Minority Business Enterprise/Women Business Enterprise.** The Invitation to Bid must invite minority- and women-owned business enterprises (MBEs and WBEs) to respond.
- **Davis-Bacon Labor Standards.** The Invitation to Bid must make clear whether federal labor standards. If they apply, the Invitation to Bid should describe the applicable components, including prevailing wage standards, weekly payment, and overtime compensation for hours worked in excess of 40 hours a week.
- **Section 3.** The Invitation to Bid must specify whether Section 3 of the Housing and Community Development Act of 1968 applies to the project (generally, [for construction contracts and subcontracts over \\$100,000 when the total amount of Housing and Community Development Assistance \[i.e. CDBG,HOME\] exceeds \\$200,00](#)). This law requires that, to the greatest extent feasible, an effort must be made to award contracts

to local residents, particularly low-income residents or businesses.

- **Bid Guarantee.** The Invitation to Bid must ensure compliance 24 CFR Part 85 (and 84), which requires a bid guarantee from each bidder equal to five percent of the bid price. This guarantee serves as an assurance that the chosen contractor will execute the contract within the time specified.

In addition to describing all applicable federal requirements, the Invitation to Bid must also clearly describe the process by which bids will be received (including due dates) and reviewed. Lake County procurement requirements apply where they are stricter than federal requirements.

A minimum of three bids must be received in order for the bid process to be considered competitive. If fewer than three bids are received, the procurement process may be reviewed by the staff to determine whether it was unduly restrictive or tailored to a particular contractor or supplier. The burden of proof is on the subrecipient (or County if County issues bid) to demonstrate that it made reasonable efforts to assure maximum open and free competition and that its procurement procedures did not have the effect of restricting or eliminating competition.

County staff and the subrecipient must maintain records regarding all procurements. Such records must demonstrate the basis for selection or rejection of contractors, contractor qualifications, contract specifications, and scope of work. Records should also include copies of the RFP, legal advertisements, affidavits from newspapers verifying publication, and other procurement-related materials.

Contractor and Subcontractor Review

At the time specified in the applicable Invitation to Bid, bids are opened and tabulated by County staff or the subrecipient (depending on who issued the Invitation to Bid). If the subrecipient tabulates the bids, its findings must be reviewed by its County Planner to ensure compliance with program rules.

The County requires participants in lower-tier transactions (between a participant in a covered transactions and another person) covered by 24 CFR Part 24 to certify that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any entity from a federally funded transaction. Any participant that remains on a

debarred or suspended condition is prohibited from participation in any federally-funded County program.

Subrecipients or County staff are required to verify that the proposed contractor and any proposed subcontractors are not debarred. Subrecipient staff must review the federally-maintained Excluded Parties List and review eligibility for each contractor and subcontractor to determine if they are suspended or debarred by the federal government. The debarment list is found at the System for Award Management site; tab "Search Records," at <https://www.sam.gov/portal/public/SAM/>. Staff must check the name of the contracting firm as well as the names of the president and owner of the firm. Subrecipients or County staff should also review any state and local debarment lists. Printouts of search results must be placed in the file.

Documentation related to the procurement must be maintained in the procurement file, including documentation related to the review of bidders and the basis of the contract selection and/or purchase price.

Minority-Owned & Women-Owned Business Enterprises (M/WBE)

The MBE/WBE requirements are directed at expanding economic opportunities to certain groups, specifically through hiring and contracting/subcontracting activity that is generated with federal dollars. Lake County implements these requirements together.

HUD regulations coupled with Executive Orders 12432 and 11625 require Federal agencies to promote Minority and Women Business Enterprise (M/WBE) participation in their programs and prescribe additional arrangements for developing and coordinating a National Program for M/WBE. Pursuant to Executive Order 12432, the Department of Commerce requires an annual report on M/WBE achievements. HUD, in turn, requires its grantees to complete Form HUD-2516 as a report on M/WBE participation.

The Lake County Consortium shall attempt to maximize the participation of Minority-Owned and Women-Owned Business Enterprises (M/WBE) in projects funded through with CDBG/NSP/HOME funds. Requests for proposals from, and contracts awarded by, the County of Lake and/or recipients of CDBG/NSP/HOME Housing funds will also be subject to applicable federal, state and local procurement standards.

Definition of Minority-Owned and Women-Owned Business Enterprises

Any relevant business that is at least 51% owned, operated and controlled by one or more minority person(s) or women shall be considered a Minority-Owned or Women-owned Business Enterprise.

Lake County Community Development intends to implement the following procedures in an attempt to achieve maximum participation by M/WBE in its programs funded by the U.S. Department of Housing and Urban Development (HUD):

- Administration of the M/WBE Outreach Program will be the responsibility of the Equal Opportunity Officer as designated by the Community Development Administrator.
- To help contractors and partner agencies expand the use of Minority-Owned and Women-Owned Businesses Enterprises, the Illinois Capital Development Board maintains a directory of firms certified as M/WBE by the Illinois Department of Transportation or the Illinois Department of Central Management Services. This database is searchable by county and trade. All local Minority-Owned and Women-Owned Business Enterprises will be encouraged to apply for inclusion on this list. The database is available online at the following website:
www.cdb.state.il.us/CDBWEB_MBEFBE.nsf/websearch?OpenForm .
- Recipients of funds for construction or rehabilitation will be required to identify all M/WBE utilized on their project and document efforts in obtaining bids, price quotes or proposals from M/WBE's for their particular project. Lake County Community Development will tabulate the utilization of M/WBE's by all participants and submit the required reports to HUD (see reporting procedure).
- Lake County Community Development staff will work with Lake County Partners or other local partners to sponsor and/or participate in local business conferences and encourage the increased utilization of M/WBE. The Lake County Consortium will also take every opportunity to express its interest in the use of M/WBE for its own projects.
- Lake County Consortium staff will develop informational materials on contract/subcontract opportunities for Minority-Owned and Women-Owned Business Enterprises. These materials, when available, will be posted at the Community Development's website located at: www.lakecountyiil.gov/Planning/CommunityDevelopment/default.htm.

- Recipients of funds will be required to have procurement procedures that will award contracts to organizations with the most cost effective and responsive bid or quote; therefore, M/WBE's and all other bidders will have equal access to available contracts and business.

The Community Development Administrator shall designate an Equal Opportunity Officer which will be responsible for promoting, collecting data, and reporting on M/WBE participation.

The Equal Opportunity Officer shall complete Form HUD-2516 twice annually - once for the period of April 1 through September 30, and once for the period of October 1 through March 31. The form shall be completed per the instructions provided by HUD no later than 15 calendar days after the end of the reporting period.

Upon completion of the form by the Equal Opportunity Officer, it shall be sent to the appropriate contact person(s) at HUD along with the HUD CPD representative for Lake County. Questions about the appropriate contact person(s) should be directed to the HUD CPD representative.

A copy of the report shall be maintained electronically.

Current Assignment
Jodi Gingiss-Brenda O'Connell is the Equal Opportunity Officer

Section 3.

[Section 3 of the Housing and Urban Development Act of 1968 recognizes that employment, job training and contract opportunities are generated by U.S. Department of Housing and Urban Development \(HUD\) programs. Section 3 is a mandate to target these economic opportunities to lower income residents and businesses in jurisdictions where HUD is investing public resources. Through HUD regulations, participants in HUD's assistance programs \(Subrecipients, contactors, and subcontractors\) must demonstrate good faith efforts to meet regulatory requirements and to provide "to the greatest extent feasible" opportunities to Section 3 area residents and Section 3 business concerns.](#)

~~In accordance with Section 3 requirements, Lake County requires its subrecipients and The Lake County Community Development Section 3 Plan and Compliance Guide (LCCD Section 3 Plan) outlines the steps needed to maintain compliance. Section 3 compliance must be adhered to by all recipients (and subrecipients) of HUD program funding. developers/contractors, to the greatest extent possible, to provide job training, employment, and contract opportunities for low or very low income residents or locally-based businesses in connection with projects and activities in their neighborhoods.~~

Definition of Section 3 Business Worker

Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as document:

1. The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
2. The worker is employed by a Section 3 business concern.
3. The worker is a YouthBuild participant.

Definition of Section 3 Business Concern

Businesses that meet of the following criteria (documented in the last 6 months):

1. At least 51% owned and controlled by low-income or very low-income persons.
2. Over 75% of labor hours performed for the business over prior 3-month period are performed by Section 3 Workers (low or very low-income persons)
3. At least 51% owned and controlled by current residents of public housing or Section 8 assisted housing.

Definition of Targeted Section 3 Worker

Worker that meet one of the following criteria:

1. Employed by a Section 3 Business Concern
2. YouthBuild participant
3. Lives within one mile of the Section 3 project

The ~~County's Section 3 Safe Harbour Benchmarks hiring and contracting goals are:~~

1. 25% of total labor hours worked by Section 3 workers.

2. 5% of total labor hours worked by “Targeted Section 3 workers.”

- Subrecipients and Contractors are responsible to maintain Section 3 Compliance per 24 CFR 75. Subrecipients and contractors must notify contractors/subcontractors of their responsibilities under Section 3 including but not limited to incorporating the Section 3 Clause into contract/subcontract documents. At least 30% of the aggregate number of new hires must qualify as Section 3 residents (low and very low income);
- At least 10% of the total dollar amount of all section 3 covered contracts arising in connection with housing rehabilitation, housing construction, and other public construction
- At least 3% of the total dollar amount of all other (non-construction-related) section 3 covered contracts.

All subrecipients and developers that have been awarded County funds of a Section 3 Covered Project must submit a minority and local outreach plan for County approval; the plan will also be used to evaluate compliance with the MBE/WBE and Section 3 requirements. submit a project specific Section 3 Plan for County approval. Subrecipients can utilize the LCCD Section 3 Plan as their Section 3 Plan pending compliance with all the required Section 3 provisions included with the LCCD Section 3 Plan.

Documentation of the minority and local outreach Section 3 pPlan will be required to be submitted at the bidding stage of the construction project. The Department assesses the results of the subrecipient and developer's efforts to encourage the use of these businesses. Certified letters, emails, or documented phone calls announcing the bid to known local and MBE/WBE businesses are all acceptable forms of documentation.

Subrecipients and developers are also required to ensure their contractors take one of the following steps: document effort made to direct employment and other economic opportunities to Section 3 workers/businesses. Examples of efforts may include:

1. Targeted recruitment of Section 3 area workers for training and employment positions by taking such steps as:
 - Advertising in local media,
 - Prominently placing a notice of commitments under Section at the project site or other places where applications for training and employment are taken,

- Contacting local job training centers, employment service agencies and community organizations,
 - Developing on-the-job training opportunities or participating in job training programs,
 - Contacting assisted housing resident councils and resident management corporations.
2. Keeping a list of Section 3 area workers who apply on their own or by referral for available positions.
 3. Selection of Section 3 area workers for training and employment positions.

Subrecipients of covered funding are considered to be in compliance with Section 3 if they meet the Section 3 Safe Harbour Benchmarks above. Absent evidence to the contrary, LCCD requires Subrecipients/contractors/subcontractors provide evidence that it has made qualitative efforts to provide low and very low-income persons with employment and training opportunities. Subrecipients that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable LCCD to make a compliance determination. Subrecipients that submit Section 3 reports containing all zeros, without a sufficient explanation to justify their submission, are in noncompliance with the requirements of Section 3.

Additional reporting is required if Section 3 benchmarks are not met, HUD requires qualitative efforts to be explained to further describe outreach efforts made to comply with the Section 3 benchmarks.

Examples of qualitative efforts may include but are not limited to:

- Engaged in outreach efforts to generate job applicants who are Targeted Section 3 workers.
- Provided training or apprenticeship opportunities.
- Provided technical assistance to help Section 3 workers compete for jobs (e.g., resume assistance, coaching).

- Provided or connected Section 3 workers with assistance in seeking employment including: drafting resumes, preparing for interviews, and finding job opportunities connecting residents to job placement services.
- Held one or more job fairs.
- Provided or referred Section 3 workers to services supporting work readiness and retention (e.g., work readiness activities, interview clothing, test fees, transportation, childcare).
- Provided assistance to apply for/or attend community college, a four-year educational institution, or vocational/technical training.
- Assisted Section 3 workers to obtain financial literacy training and/or coaching.
- Engaged in outreach efforts to identify and secure bids from Section 3 business concerns.
- Provided technical assistance to help Section 3 business concerns understand and bid on contracts.
- Divided contracts into smaller jobs to facilitate participation by Section 3 business concerns.
- Provided bonding assistance, guaranties, or other efforts to support viable bids from Section 3 business concerns.
- Promoted use of business registries designed to create opportunities for disadvantaged and small businesses.
- Outreach, engagement, or referrals with the state one-stop system as defined in Section 121(e)(2) of the Workforce Innovation and Opportunity Act.

Subrecipients must maintain documentation, or ensure that a Subrecipient, contractor, or subcontractor that employs the worker maintains documentation, to ensure that workers meet the definition of a Section 3 worker or Targeted Section 3 Worker, at the time of hire or the first reporting period. Records are to be retained for 3-5 years.

- ~~Place qualified local residents or businesses and MBE/WBE businesses on their solicitation lists~~
- ~~Assure that local businesses and MBE/WBE businesses are solicited whenever they are potential sources~~
- ~~Divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by MBE/WBE and local businesses~~
- ~~Establish delivery schedules, where the requirements permit, which encourage~~

~~participation by MBE/WBE businesses and local businesses~~

- ~~• Use the services and assistance of the Small Business Administration or the Minority Business Development Agency of the Department of Commerce.~~

~~The subrecipient or developer must outline in its outreach plan its intended method of outreach will be and attach proof of action to its Form 4D. Each contractor should outline its intended method of outreach in its Section 3 Affirmative Action Plan and attach its proof of action to its Section 3 Final Report. See the PM Process Narrative as well as the Section 3 Guidance Document for more information.~~

Construction Compliance Monitoring and Enforcement

During the construction stage of a project the County takes a number of steps to monitor the construction process and compliance with all requirements to ensure that the construction results in a quality product that is developed in accordance with approved plans and specifications. During construction, Lake County's Construction Management staff monitors:

- Procurement
- Construction (inspections)
- Lead-based paint
- Davis-Bacon.

Procurement

As discussed above, Lake County's subrecipients are subject to the same procurement policies as the County itself. County staff must ensure that the procurement proposed by recipients of federal funds follow the County's policies as discussed above. Prior to issuing a proceed order, County staff review the subrecipient's procurement process to verify that the subrecipient followed the proper process and that it has appropriately documented the process, including compliance with MBE/WBE and Section 3 requirements. County staff must, in turn, document that it has monitored the procurement process of funding recipients.

Lead-Based Paint

During rehabilitation of properties construction before 1978, federal regulations require repairs to be made using trained workers and safe work practices. While not required, it is prudent for owners to document that trained workers using safe work practices have made repairs and clearance is

achieved. See 24 CFR Part 35 for additional guidance.

The owner must secure a signed Lead-Based Paint Disclosure Form initially and every time the lease is renewed. This form must document that the tenant was:

- Provided a copy of the lead hazard information pamphlet, "Protecting Your Family from Lead in Your Home," and
- Informed of any known lead-based paint and/or hazards in the unit.

Once the rehabilitation is completed, Lake County monitors federally-assisted housing and public facilities to ensure compliance with lead-based paint rules. County staff conducts a visual assessment of painted surfaces in its inspection of the property. If the inspector observes potential lead-based paint hazards, these must be addressed and noted in the monitoring report.

In addition to the visual assessment, staff should take the following actions to ensure that owners have taken appropriate actions to mitigate potential lead-based paint hazards.

The Lake County monitor reviews documentation that shows the owner is complying with ongoing maintenance and monitoring requirements related to lead-based paint. These include:

- Inspection reports showing that the owner (or owner's agent) inspected the property at least annually and at unit turnover. The inspection report should identify any deteriorated paint or failed lead hazard reduction measures;
- Records of repairs made as a result of the inspection and a clearance examination report showing that the unit passed clearance after any maintenance work that disturbed more than a de minimis amount of paint; and
- Copies of lead hazard evaluation and reduction notices were provided to tenants when those activities have occurred in their units or in common areas.

Preconstruction Meeting

A preconstruction meeting is organized by the County and held with the selected contractor prior to construction beginning. At this meeting, the Construction Manager reviews requirements of the contract, schedule, and scope of work; any relocation or protection of occupants and belongings; lead paint treatment and plan, if any; applicable prevailing wage or Section 3 requirements; payment schedule and County payment process; expectations for inspections; and any special considerations for the particular project.

Initial and Ongoing Inspections

Construction inspections occur regularly throughout federally-assisted construction of housing, public facilities, and capital improvements. For HOME-funded rehabilitation, an initial inspection is required to confirm the scope of work. Thereafter, and for other construction projects, an on-site inspection takes place following the first draw request. Thereafter, an inspection occurs with each subsequent draw request or at least monthly. The purpose of the inspections is to ensure that work is being done in accordance with approved plans and specifications and the construction contract.

Construction staff uses the Inspection Checklist to review all work performed and note any deficiencies. All deficiencies must be addressed before payment is allowed or final inspection sign off approval.

Final Inspection

In order to finalize the construction phase, the contractor submits the final payment authorization form and final lien waiver to the Planner. Construction staff schedules and conducts a final inspection. All deficiencies must be addressed before payment is allowed or final inspection sign off approval.

All lead clearance activities for pre-1978 housing units must be followed in accordance with the requirements of the Lead Safe Housing Rule (discussed in detail in Section 5, *Administrative and Compliance Requirements*). For any applicable housing, upon construction completion, a clearance test and notice of lead hazard reduction activities form or abatement activities form must be completed.

After the final inspection, the County signs off on final payment authorization form and 29A Form and 29A tracking form.

Change Orders

Once a construction contract has been executed, any additions or deletions to the contract constitute a Change Order (CO). A CO often results in a dollar change (up or down) to the contract amount and such changes must be within the scope of the contract and in accordance with the contract. There are many valid reasons that may call for a CO (e.g., an unexpected item is encountered during construction, an unforeseen item is necessary, or some items that were originally included are no longer deemed necessary).

If the CO results in an increase to the contract amount that is still within the awarded amount, it must be approved by the County. A site inspection may be in order to verify the needed changes. A CO form must be completed, submitted, reviewed and signed/approved by the contractor, subrecipient, and county. The Planner overseeing the project should be informed of the details of the request, and he/she needs to review and make a recommendation on the request. Change Order Requests should consist of the following:

- A completed change order request form
- Any additional information necessary to justify the request.

Any change order above the original grant amount must follow the procedure for additional funding requests.

While the subrecipient is responsible for the entire project cost, the subrecipient may request additional funding. A letter requesting additional funds should be submitted and contain the following:

- The reason for additional funding
- The amount requested
- Additional information to justify request.

The letter should explain why the current bid deviates from the project's original cost estimate. The County will not approve requests for additional funding if the cause is due to the subrecipient's inability to secure certified matching funds. If subrecipient does not fulfill its obligations for certified matching funds, the County will recapture the awarded funds, and the project will not commence.

Davis-Bacon

The County confirms compliance with Davis-Bacon during the construction phase by obtaining and reviewing weekly payrolls (including signed Statements of Compliance) from all subcontractors as they work on the project. The County is responsible for the full compliance of all subrecipients, contractor, and subcontractors on the project; HUD holds it accountable for any wage restitution that may be found. The County holds the subrecipients and developers accountable in its written agreement. This includes underpayments and potentially liquidated damages that may be assessed for overtime violations.

Certified payroll reports are submitted by the contractor to the subrecipient within seven to eleven working days of the end of the payroll period. The subrecipient must review the payroll reports upon

receipt so that any necessary corrective action can be initiated before the problem multiplies. The submitted payroll reports must include original signatures and language certifying that the information provided is true and correct. The subrecipient submits the weekly payrolls to the County for review; the County also verifies that there are no discrepancies or underpayments in accordance with HUD guidelines.

The examination of each payroll report forms includes the following:

- **Completeness.** Each payroll report must include all required items of information and be accompanied by the statement of compliance and the signature of the owner or an officer of the firm.
- **Employee Information.** Each worker's employee identification number must be reported on the first payroll report on which his name appears.
- **Job Classifications and Wage Rates.** Each job classification and corresponding hourly rate and fringe benefit listed on the Payroll Report must be compared with those on the applicable Wage Decision to determine whether the reported hourly rate and fringe benefit is at least equal to that required by the Wage Decision. If the hourly rate and fringe benefit is lower than required, the Contractor must be notified immediately in writing to pay the required rate and make proper restitution.
- **Computations.** Payroll computations must be substantially accurate. If the value of the hourly rate and the fringe is equal to or exceeds the wage decision the Contractor has met their Davis- Bacon obligation. If the hourly rate and the fringe is less than the wage decision the Contractor must be notified immediately in writing of the discrepancy and the balance must be paid to the employee immediately.
- **Overtime hours must be paid at no less than 1.5 times the hourly rate** plus the straight-time rate of any required fringe benefits for the time worked on the Davis-Bacon project. The Contractor is held responsible for paying the overtime hours not worked on the Davis-Bacon project and remaining in compliance with the Fair Labor Standards Act.
- **Deductions.** The Contractor must show the amounts of any deductions from the gross earnings and deductions must be reviewed to determine their permissibility. Permissible salary deductions include deductions made in compliance with federal or state law, court authorized deductions, and any deduction constituting a contribution on behalf of the person employed.
- **The employee must authorize any voluntary non-standard deduction in writing.** These

may include bond purchases, loan repayments, charitable contributions, uniforms, union fees, and health insurance premiums. The authorization must itemize each deduction by type, the associated amount and when the authorization expires.

The County must record any discrepancies and/or falsification indicators and report them to the HUD Office of Labor Relations along with a description of what steps the County will take to resolve the discrepancies. Where underpayments of wages have occurred, the County must make sure the correct wages are paid and that the employer pays wage restitution to the affected employees. Wage restitution must be paid promptly in the full amounts due, less permissible and authorized deductions.

The County must conduct interviews of workers using the representative sampling technique. The interviews include a sufficient sample of job classifications represented on the job to allow for a reasonable judgment as to compliance. The County interviews at least 10 percent of the on-site workers, and at least one worker in each job classification at the site.

The County conducts interviews during the times in which each contractor is on the job site to assure that all trades are covered. Additionally, unless the County has reason to suspect falsification or intimidation, the employee interview takes place at the job site during work hours. However, if need be, the interviews can be done by mail.

The County informs each interviewed worker that the information requested is confidential, and that the worker's identity is disclosed to the employer only with the employee's written permission. The worker is also informed that the purpose of the interview is to obtain information for use in determining whether the required wages are being paid.

Reporting

Department of Labor (DOL) Regulations 29 CFR 5.7(b) require Federal agencies administering programs subject to Davis-Bacon and Related Act (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA) labor standards to furnish a Semi-Annual Labor Standards Enforcement Report to the Administrator of the Wage and Hour Division. HUD must collect information from Lake County and other jurisdictions in order to capture enforcement activities for all HUD programs in its reports to DOL.

The Community Development Administrator shall designate a Labor Standards Compliance Officer who will be responsible for promoting, collecting data, and reporting on federal labor standards.

The Labor Standards Compliance Officer shall complete Form HUD-4710 twice annually - once for the period of April 1 through September 30, and once for the period of October 1 through March 31. The form shall be completed per the instructions provided by HUD on Form HUD-4710i no later than 15 calendar days after the end of the reporting period.

Upon completion of the form by the Labor Standards Compliance Officer, it shall be sent to the appropriate contact Labor Relations staff person(s) at HUD along with the assigned field representative for Lake County.

[A copy of the report shall be maintained electronically.](#)

[Current Assignment](#)

[Brenda O'Connell is the Labor Standards Compliance Officer](#)