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Upcoming Events

- **Agency Training**— The OLR Web site now includes all training scheduled for agencies and other clients. In Region VIII, we do send out invitations, mass Emails and faxes to notify potential participants, but please check the site frequently, as there may be training available in a nearby state. The URL is: <http://www.hud.gov/offices/olr/olrtrainingsem.cfm>
- **Special Training**—If your agency has any urgent need for labor standards training, please contact your HUD Labor Specialist.

Proverbs

Proofread carefully to see if you any words out.

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Region VIII Labor Relations News



I Heard it Thru the Grapevine

Let's talk about employee interviews for just a minute. Does your agency interview employees on projects subject to federal prevailing wage requirements?

We recently learned of a misconception evidently held by a number of agencies throughout Region VIII. Some agencies are under the impression that employee interviews (the "HUD-11" procedure) are unnecessary, so those agencies conduct no interviews. Zero, nada, zip. One agency suggested we contact retired OLR staff to validate their understanding of HUD policy!

To paraphrase (badly) Mark Twain, the rumors of the demise of the employee interview of been grossly exaggerated.

We apologize to our client agencies that may have received bad advice on this subject. The plain truth is there have been no handbook changes, no policy directives, no Labor Relations Letters, nothing, that condones or supports the abandonment of conducting employee interviews.

Indeed the performance of on-site interviews remains a cornerstone of any effective prevailing wage enforcement system. HUD has promulgated streamlining procedures over the past six or seven years that should enable agencies to spend more time on finding and correcting violations, and spending less time on process and paperwork for its own sake. Employee interviews were and are at the heart of these streamlining procedures.

The on-site visit and interview are the eyes and ears of the labor standards reviewer. The interviews help validate the accuracy of the payroll data and provide useful insight to potential problems that develop. The interview process is crucial in the development of complaints or the completion of

investigations concerning wage underpayments, kickbacks, failure to pay overtime, and more. Through this process, the agency can "see" what work employees are performing and determine if the payrolls truly reflect that work. The agency can also "see" who is on the work site and determine if the payrolls represent all of the trades and contractors on site.

Streamlining measures provide greater flexibility for agencies in determining how many interviews/observations to make, when, and of whom. The guidance published in HUD Handbook 1344.1 states that a "representative sample" of workers and trades should be interviewed. For many cases this will work fine. However, HUD encourages agencies to also employ "targeting" techniques to identify problem contractors and suspected issues (such as underreported employees) by interviewing more workers of one trade and not worrying so much about known high performing contractors. In other words, use some common sense and go after the "interesting stories" that may be present on your job sites.

While OLR guidance suggests that targeting may mean that no interviews are conducted on certain contracts so that more interviews may be conducted where problems are indicated, targeting does not mean that interviews are dropped altogether as a matter of routine. The absence of interviews should be due to exceptional circumstances and the reasons clearly documented.

We will be conducting training throughout the region this year: Denver on June 12, Salt Lake City on May 15, and Helena on July 24. **Sign up, come and participate.** If you cannot, contact your Specialist and discuss what actions you should take to insure your agency is in compliance with this requirement.

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What We Told You Before....Well, It's Different Now—How to Include FLS Provisions in Contracts

Not so long ago (as late as November 14, 2006, actually), HUD OLR staff would tell you about some very specific and restrictive requirements concerning the incorporation of federal labor standards into construction contracts. For example, in no way could you “incorporate by reference” the labor clauses into a contract. Try it and get a Finding during the next monitoring review.

Hold on to your hats, ‘cause that’s yesterday’s thinking!

While the basic requirement for incorporation remains, the definition of ‘incorporation’ has changed somewhat to provide for a broader application and an easier way to comply.

See **Labor Relations Letter 2006-03**, published Nov 2006. This document identifies several means by which you may incorporate labor clauses into contract documents:

- Incorporation by “hard-copy”. The applicable HUD form and wage decision may be physically bound/attached to the contract (and bid specifications, if applicable) as issued by HUD (HUD forms and HUD wage decisions) or DOL (Davis-Bacon wage decisions).
- Incorporation into other documents. The clauses/text of the applicable HUD form and wage decision may be

incorporated into other documents (e.g., into the program participant’s own forms) that are bound/attached to the contract (and bid specifications, if applicable) or incorporated by reference (see paragraph 3, below). The HUD program participant (e.g., State, local, or tribal agency; owner/developer) is responsible for the accuracy of the content. In all cases, the requirements imposed by the applicable HUD form and wage decision remain in force.

- Incorporation by reference. The applicable HUD form and wage decision, or other documents containing the HUD form clauses/wage decision, may be incorporated into the contract and any bid specifications by reference. The reference must be specific as to the exact form or clauses that are incorporated, and where the form or clauses may be accessed or obtained (e.g., HUDClips, agency web site). Davis-Bacon wage decisions may be incorporated by reference to www.wdol.gov and to the specific number, modification number, and date of the applicable wage decision. HUD-determined wage decisions are not available at HUD’s web site; however, a public

or Indian housing agency may post any applicable HUD-determined wage decision to its own web site and reference that site. Program participants must provide hard-copies of any referenced forms, clauses, and/or wage decisions on request.

HUD has developed forms which contain the contract labor standards provisions required for construction work covered by Davis-Bacon wage rates, and for maintenance work covered by HUD-determined wage rates. These forms are available on-line at HUDClips

(www.hudclips.org/cgi/index.cgi), or in hard copy from HUD’s Customer Service Center at (800) 767-7468.

Who says the government doesn’t change? It just takes a while.



Changes to Rules for PHA “Maintenance” Contracts

Believe it or not, HUD is a bureaucracy. No big surprise there! And those of us who work for HUD....well, we have been a little stuck in certain ways of thought about things. (tell you something you don't already know, right?).

For many years, for public housing maintenance wage rates and other HUD-determined prevailing wages, we followed the “Davis-Bacon model” for establishing the procedures and paperwork required to document compliance.

Upon review (finally), we concluded that “Davis-Bacon standards” are in some cases more stringent than they need to be concerning “HUD-determined” wage requirements. Therefore, HUD has established policies and procedures for HUD-determined wage rates different from and less burdensome than the DOL Davis-Bacon standards for PHAs, TDHEs, tribes and their contractors.

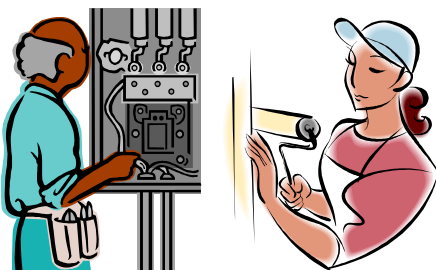
Thus, after thorough review by OLR policy staff, Public Housing staff & other parties, HUD has amended its guidance and HUD Form 5370 to eliminate the requirement for the submission of certified weekly payrolls by contractors performing routine and non-routine maintenance work. The new policy is outlined in Labor Relations Letter 2004-01 (2004; OK, it's not that new is it?).

No—HUD did not eliminate all documentation requirements. We eliminated only the requirements to certify and submit payroll reports.

And this action does not relieve contractors and/or subcontractors of their obligations to create and maintain records demonstrating their compliance with HUD-determined prevailing wage requirements. These records must at a minimum contain for each laborer and mechanic employed:

- His or her name, address & social security number;
- Correct work classification or classifications;
- Hourly rate or rates of monetary wages paid;
- Rate or rates of any fringe benefits provided;
- Number of daily & weekly hours worked;
- Gross wages earned;
- Any deductions taken; and
- Actual wages paid

A key provision of the policy outlined in LR2004-01 requires that agencies perform compliance monitoring of vendors/contractors performing maintenance work under contract. Monitoring includes conducting employee interviews and performing periodic checks of the documentation identified in the list above. See the Letter for details.



HUD Mission

Increase Homeownership, support community development, and increase access to affordable housing free from discrimination.

HUD Goals

- 🏠 Increase Homeownership Opportunities
- 🏠 Promote Decent Affordable Housing
- 🏠 Strengthen Communities
- 🏠 Ensure Equal Opportunity in Housing
- 🏠 Embrace High Standards of Ethics, Management, and Accountability
- 🏠 Promote Participation of Faith-Based and Community Organizations

Did You Know...

HUD canceled several contractor & subcontractor forms? The eliminated forms include the HUD-1421; HUD-1422; FHA-2482; and the FHA-2482A. Visit <http://www.hud.gov/offices/olr/olrmk9.cfm> to find out more!

HUD has fill-able forms and instructions online? Check it out:

<http://www.hud.gov/offices/olr/olrnew.cfm>



Would You Like to Take a Survey?? (Please Say Yes)

FYI

Wage Decision Source— The official Web site for obtaining Davis-Bacon wage decisions is <http://www.wdol.gov>.

Agency “LRO”— Please be sure to designate a staff person or persons to be responsible for the enforcement of prevailing wage requirements (including, for housing authorities, HUD-determined prevailing wage requirements). This is what we call the agency’s “Labor Relations Officer.”

This primary contact is the person you should identify on Semi-Annual Enforcement Reports under “Agency Contact Person.” Generally, the contact person should bear primary responsibility for the management and enforcement of federal labor standards for the agency.

In order to evaluate and improve customer service in the delivery of HUD’s programs, the Denver Regional Office and your HUD Field Office invites you to take a brief survey. **There are only seven (7) questions, and the survey will take less than five (5) minutes to complete. Really.**

Your responses are strictly confidential unless you provide your contact information. To take the survey, go to the following Web site:

<http://www.surveymonkey.com/s.asp?u=950163037505>

Surveymonkey? I laughed, too. Really, it’s no joke. I checked it out.

The survey asks your opinion of services provided by the U.S. Department of Housing and Urban Development in

Region VIII. We want to improve our customer service to you, and information from this survey will help us do that. You don’t have to participate, but it would really, really be great if you did (and your co-workers too). **The deadline for participation is Friday March 16th.**

After the deadline, HUD will receive an Excel spreadsheet containing all responses for analysis...of the seven questions.

Most of the questions are simple multiple choice items with ‘drop-down’ lists. There’s one essay question (#7, sort of). Here are the questions:

1. Which office do you usually work with?
2. Which HUD programs are you primarily involved with?

3. Which best describes you as a customer/client of HUD?
4. When you have a question about a HUD program, where do you go first for answers?
5. When you have a question about a HUD program, what is your preferred method of communication?
6. Indicate your level of satisfaction with your primary HUD contact. This includes a **table** with six sub-questions (does that make it more than seven questions?)
7. Additional comments to help HUD improve customer service.



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Attention/Forward to:

Agency staff responsible for Davis-Bacon & HUD determined prevailing wage enforcement