



VA WEATHERIZATION ASSISTANCE PROGRAM Information Notice 01A-2011

TO: ALL WEATHERIZATION SUBGRANTEES
FROM: NANCY PALMER, HOUSING PROGRAMS MANAGER
DATE: 2/10/2011
SUBJECT: DAVIS BACON COMPLIANCE POLICY

In order to fully comply with federal Davis-Bacon Act (DBA) regulations, the Department of Housing and Community Development (DHCD) has developed the following policies and procedures for the submission of certified payrolls by the state weatherization network. All weatherization jobs performed by state sub-grantees and their subcontractors using American Recovery and Reinvestment Act (ARRA) funds are required to comply with prevailing wage determinations issued by the Department of Labor.

DHCD responsibilities

- DHCD is required to investigate, monitor, and enforce Davis-Bacon Act requirements.
- DHCD will provide each sub-grantee with a copy of any newly issued wage determination within seven (7) days of publication.
- DHCD will provide each sub-grantee with a copy of the DHCD review sheet for its use for reviewing certified payrolls.
- DHCD will log and track each certified payroll, and verify the appropriate review has been conducted by each sub-grantee.
- DHCD will provide technical assistance to sub-grantees upon request.
- DHCD will conduct Davis-Bacon Act compliance audits on a regular basis, but also as a result of any complaints or violations received regarding a sub-grantee or its subcontractors.
- DHCD will conduct employee interviews of sub-grantee direct hire workers for Davis-Bacon Act covered work, either in person, by phone, or through direct mail.
- **DHCD will provide each sub-grantee with employee interview forms for subcontractor employee interviews. See Attachment A for the DHCD Davis-Bacon Act Employee Interview Record.**
- **DHCD Weatherization technical monitoring staff will conduct periodic interviews with sub-grantee work crews to ensure compliance with DBA wages and regulations.**
- DHCD will conduct unannounced periodic confirmation of sub-grantee conducted interviews.
- DHCD is required to keep all certified payrolls on file for review by the Department of Energy and the Department of Labor for a minimum of three (3) years.

Sub-grantee responsibilities

- All sub-grantees and their subcontractors are required to pay all employees subject to Davis-Bacon Act provisions on a **weekly** basis.
- The sub-grantee will notify all subcontractors, through contract clauses, of the Davis-Bacon Act requirements and its application to the ARRA-funded weatherization program.
- **All sub-grantees must submit SF-1413, Statement and Acknowledgment, to DHCD when any new subcontractor has been hired to work on a DBA-covered job. All subcontractors who have performed work for the agency prior to February 9, 2011 and are still working on DBA-covered jobs must have SF-1413 on file with DHCD by March 1, 2011. Sub-grantees will provide copies of lower-tier contracts to DHCD upon request.**
- All sub-grantees and their subcontractors must post the WH-1321 “Employee Rights Under the Davis-Bacon Act” at the site of the work in a prominent and accessible place where it may be easily seen by employees.
- The sub-grantee will post the current prevailing wage determinations in a similar fashion.
- The sub-grantee will review, using a DHCD-provided review sheet or its equivalent, all certified payrolls to ensure each payroll contains the required information and that prevailing wage determinations are followed.
- The sub-grantee will complete and submit an original certified payroll, Form WH-347 or its equivalent, to DHCD no later than 14 days from the conclusion of the work week.
- **Sub-grantees will conduct employee interviews with subcontractors using the DHCD interview form (Attachment A) each quarter and submit the results to DHCD within seven (7) days of the end of each quarter. Each interview form will be signed and certified by sub-grantee staff.**
- **Each quarter, sub-grantees will be responsible for a minimum number of DBA interviews based on the sub-grantee’s size and volume of work. DHCD will pick specific employees from specific subcontractors to be interviewed.**

DHCD Review procedures

- Upon receipt of sub-grantee and their subcontractor’s certified payrolls, DHCD will verify the information is complete and correct using the DHCD Davis-Bacon Compliance review sheet.
- If the payroll contains no errors or omissions, it will be logged into the sub-grantee Davis-Bacon compliance spreadsheet and filed in the file room.

- Minor errors such as incorrect payroll numbers, missing project/contract nos., etc., will be handled on a case-by-case basis, with DHCD staff working with sub-grantee staff to correct these minor issues.
- If the payroll contains errors that require return to the sub-grantee, DHCD will return the payroll to the agency for correction and re-submission within three (3) business days of DHCD's receipt.
- The returned payroll will be accompanied by a dated letter stating that the sub-grantee has ten (10) business days from the date of the letter to correct the payroll and return to DHCD for review.

Penalties for non-compliance

- If certified payrolls returned to the sub-grantee for correction are not returned to DHCD within 10 business days following the date of the letter, DHCD staff will notify the sub-grantee of the delinquent payroll by e-mail or telephone.
- If the sub-grantee fails to return the payroll in question by five (5) additional business days, DHCD will notify the sub-grantee through a formal letter that until the completed and corrected payroll is returned for review, all invoices submitted to DHCD for payment will be held for payment. Once the payroll has been received by DHCD, if it continues to lack required information or contains errors, payment of invoices will not resume until the subject payroll(s) is approved.
- If restitution is required in the case of a sub-grantee or subcontractor failing to pay the prevailing wage, DHCD will notify the sub-grantee by telephone or e-mail, as well as by returning the certified payroll in question within three (3) business days.
The sub-grantee or its subcontractor will then have 14 days to pay the required restitution and provide DHCD with the supporting documentation (e.g. spreadsheet with calculation) and 30 additional days to provide DHCD with a copy of the bank-cancelled check.
- Multiple instances of non-compliance by the same sub-grantee or subcontractor may result in additional penalties, including, but not limited to, suspension of future payments, revocation of federal awards, or repayment of un-allowed costs.