

Office of Labor Relations
LABOR RELATIONS LETTERS

Date: November 15, 2006

Subject: Incorporation of Federal labor standards provisions and prevailing wage decisions into bid specifications and contracts

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I. Purpose

The purpose of this Letter is to explain HUD policy and to provide guidance for HUD staff and program Participants regarding acceptable methods for incorporating Federal labor standards clauses and prevailing wage decisions into bid specifications and contracts for construction work subject to Davis-Bacon wage rates and maintenance work subject to HUD-determined prevailing wage rates.

Many HUD programs require the payment of Federal prevailing wage rates. Covered construction work is subject to prevailing wage rates determined by the Department of Labor (DOL) pursuant to the Davis-Bacon Act. Covered maintenance work (e.g., public and Indian housing operations) is subject to prevailing wage rates determined or adopted by HUD.

When covered construction or maintenance work will be performed by contract, the agency or other entity contracting for the work must incorporate certain mandatory Federal labor standards provisions and the applicable Federal wage decision in bid specifications and contracts. This Letter will discuss the acceptable means by which these provisions and wage decisions may be incorporated into these documents.

Note: For the Indian Housing Block Grant program, Federal labor standards provisions and Federal wage decisions are not applicable to contracts that are covered by tribally-determined prevailing wage rates.

II. Federal labor standards provisions (HUD Forms)

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 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.

These HUD forms are:

1. HUD-2554, Supplementary Conditions to the Contract for Construction
[Housing programs – Davis-Bacon wage rates]
2. HUD-4010, Federal Labor Standards Provisions

[Community Planning and Development programs – Davis-Bacon wage rates]

3. HUD-5370, General Conditions of the Contract for Construction
[Public Housing programs (must be used where the contract value is greater than \$100,000) – Davis-Bacon wage rates]
4. HUD-5370-EZ, General Conditions for Small Construction/Development Contracts
[Public Housing programs (may be used in lieu of the HUD-5370 where the contract value is greater than \$2,000 but no more than \$100,000) – Davis-Bacon wage rates]
5. HUD-5370-C, General Conditions for Non-Construction Contracts, Section II
[Public Housing programs – HUD wage rates]

Note: The Offices of Labor Relations and Native American Programs are working on HUD forms that will contain Federal labor standards provisions specific to Indian housing programs. Once approved and issued, these forms will also be available at HUDClips.

III. Federal prevailing wage decisions

This Letter discusses two types of Federal prevailing wage decisions: Davis-Bacon wage decisions that are applicable to construction work; and HUD wage decisions that are applicable to public and Indian housing maintenance work.

Davis-Bacon wage decisions are available on-line at www.wdol.gov or may be obtained through HUD's Labor Relations staff.

HUD wage decisions are not yet available on-line through HUD. These may be obtained in hard-copy from HUD's Labor Relations staff.

IV. Methods of incorporation

The labor standards clauses and wage decisions may be incorporated into bid specifications and contracts by one or more of the following methods:

1. 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).
2. 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.
3. 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 wage decisions are not available at HUD's web site;

however, a public or Indian housing agency may post any applicable HUD 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.

Any questions regarding this Letter should be directed to the Regional or Field HUD Labor Relations staff responsible for the jurisdiction involved. A list of Labor Relations staff and contact information is available at the Office of Labor Relations web site: www.hud.gov/offices/olr