

## PRE-CONSTRUCTION MEETING DISCUSSION ITEMS FOR CDBG PROJECTS

*The current version of this Attachment is available on the [CDBG Implementation Handbook](#) website (under the "Chapter Attachments/Fillable Forms" section).*

Refer to contract insertions for Wisconsin State Community Development Block Grant (CDBG) Program.

- A. Davis-Bacon Acts (DBA): Federal labor standards and wage rate requirements and violation penalties.
- B. Contract Work Hours and Safety Standards Act (CWHSSA): Overtime hours and wage requirements and violation penalties.
- C. Copeland Anti-Kickback Act: Fringe benefits plan and payroll deduction specifications and violation penalties.
- D. Federal Wage Decision:
1. **Trade classifications**. Must use those on the wage decision.
  2. **Missing classifications and misclassifications**. Pre-approval required to use different classification.
  3. **Additional Classification Requests**.  
For classifications not listed or not covered under another classification within the applicable wage decision for contractor's work on project. Must follow required procedures and provide information and justification for approval consideration. The unit of general local government (UGLG)/CDBG Grantee must submit the request to the State CDBG Program, which submits the request to USDOL and/or HUD for review and approval. Additional classifications may not be requested until after the contractor is awarded a contract for the CDBG project.
- E. Sub-Contracts:
1. **DBRA Applicability**. When prime contractor is covered/subject to DBRA, each sub-contractor is covered/subject to DBRA, regardless of the amount of the sub-contract.
  2. **Contract in Writing with CDBG Insertions**. Each sub-contractor must have a contract in writing with the required CDBG contract language and insertions.
  3. **Owner-Operators**. (See Davis-Bacon and Related Acts (DBRA) contract insertion.)
  4. **Truck Drivers**. (See Davis-Bacon and Related Acts (DBRA) contract insertion.)
  5. **Suppliers and Installers – Sub-Contractor Status**. (See Davis-Bacon and Related Acts (DBRA) contract insertion)  
The USDOL 'New Rule' (effective 10/23/2023) confirms that suppliers are generally deemed contractors (or sub-contractors if their contract is with the prime contractor or another sub-contractor). Sub-contract requirements apply.
  6. **Debarment Checks**. Prior to entering into a contract with any other entity for the CDBG project, the contractor is responsible for ensuring the other entity is not debarred from contracting for federally funded projects. Debarment check records must be on file and provided upon request.
- F. Contractor FEIN and SAM UEI Number: All prime contractors and sub-contractors must provide a Federal Employer Identification Number (FEIN) – or the owner's social security number if they do not have a FEIN – to the UGLG/CDBG Grantee, which is reported to the State and HUD. Contractors must also provide their Unique Entity Identification (UEI) number if they have obtained one – issued through the federal System for Award Management (SAM) at <https://SAM.gov/content/home>.
- G. Construction Site Postings Required (Prime Contractor):
1. **CDBG project sign** – following the sign specifications in sign specs. contract insertion;
  2. **Wage Decision(s)** – The applicable federal wage decisions (and additional classification info. if applicable and approved); and
  3. **Equal Opportunity Poster(s)** – in English and Spanish if any native Spanish speakers are working on site).
- The wage decisions and posters must be protected from the weather and easily viewable by and accessible to all employees working on site, and the UGLG/CDBG Grantee or state or federal agency representatives who may monitor the site.

H. Weekly Pay and Certified Payroll Records Submission.

1. **Weekly Pay.** Employees must be *paid weekly* – no exceptions.
2. **Certified Payroll Records.** Certified payroll records, with a signed Statement of Compliance, and supporting documents must be submitted weekly to the prime contractor, who must submit them to the UGLG/CDBG Grantee or the designated Labor Standards Officer (LSO) within seven (7) working days of the end of the payroll period.
3. **Statement of Compliance.**
  - a. A signed Statement of Compliance page (e.g., WisDoT Compliance Statement (DT1816), or USDOL WH 347 OR WH 348, or DEHCR Statement of Compliance, or similar document with the same information and certification language) must be completed, signed and submitted with each certified payroll record.
  - b. The signature must be a handwritten signature – a scanned copy of the document may be submitted to the UGLG/CDBG Grantee or LSO, with the ‘original’ maintained in the contractor’s files.
  - c. Check the box(es) on the Statement of Compliance page for each weekly certified payroll record to indicate if fringe benefits are paid, and if so, whether they are paid into an approved fringe benefits plan or paid in cash.
  - d. List any exceptions pertaining to the checked boxes for fringe on the Statement of Compliance page.
4. **Owner-Operators.** (See Davis-Bacon and Related Acts (DBRA) contract insertion.)
5. **Truck Drivers.** (See Davis-Bacon and Related Acts (DBRA) contract insertion.)
6. **Suppliers and Installers.** (See Davis-Bacon and Related Acts (DBRA) contract insertion.)
7. **Helper.** The work classification of "Helper" is not acceptable unless it is listed on the wage decision.
8. **Piece Work.** Piece work must be stated as an hourly rate and a copy of the pay stub showing piece rate and number of units must be submitted with the certified payroll records.
9. **Apprentices.**
  - a. Apprenticeship program must be registered with the state, USDOL, or other federal agency.
  - b. Apprentice indenture papers must be provided with the certified payroll record for the first week in which the apprentice works on the project.
  - c. Apprenticeship indenture paperwork must include documents that verify the program is a registered program, show the applicable apprentice year/hours level and wage rate percentage (in comparison to a full journeyman rate), and applicable apprentice fringe benefits rate if different than the full journeyman fringe rate.
  - d. An apprentice is to be paid a wage rate that is equal to or greater than the full journeyman’s wage rate listed on the federal wage decision multiplied by the apprentice wage rate percentage specified in the apprenticeship indenture documents. An apprentice is to be paid a fringe rate that is equal to or greater than the full journeyman’s fringe rate on the federal wage decision multiplied by the apprenticeship fringe rate percentage. If no ‘discounted’ fringe benefits rate percentage or value is specified in the apprenticeship indenture paperwork (which may include the union contract if the apprenticeship is through a union), then the apprentice must be paid at least the fringe rate listed on the applicable federal wage decision.
  - e. An apprentice must be supervised by a journeyman (which may include a foreman in the same job classification) at all times. The contractor is to follow the journeyman-to-apprentice ratio specified in the apprenticeship program specifications.
  - f. An apprentice must be paid the full journeyman’s wage and fringe rates listed on the applicable federal wage decision if the apprenticeship program is not registered, the apprentice is not supervised by a journeyman, the journeyman-to-apprentice ratio in the apprenticeship program specifications is not met, or the apprenticeship paperwork is not provided or does not meet the federal labor standards requirements.
10. **Payroll Record Completion.**
  - a. Recommended Templates – WisDoT Payroll Record (DT1929) (customize for use; correction to formulas appearing within template may be required) or the USDOL Form WH-347. Alternate

forms are allowed but must be cleared with the UGLG/CDBG Grantee or designated Labor Standards Officer (LSO).

- b. The certified payroll form must contain:
- 1) Contractor's entity name (and the Statement of Compliance must contain the contractor's entity name and the authorized representative's signature);
  - 2) Payroll/work week number on the project. Payroll records must be numbered in sequential order and have the work week date included. No work payrolls or no work letters/emails are recommended for weeks in which no work occurs (may be required by UGLG/CDBG Grantee or the designated Labor Standards Officer (LSO)).
  - 3) Project name and location.
  - 4) Employee identification number. Each employee's individual identification number (i.e., the last four digits of the employee's Social Security number or other unique identification number assigned to the employee by the employer). Must appear on the payroll for the first week that they work (and subsequent payrolls if employees with the same name are working on the project).
  - 5) Not required – Withholding Exemptions. Completion of the withholding exemptions column on the certified payroll record is not required.
  - 6) Work classifications. The work classifications for all employees must conform to the trades listed on the wage decision or Additional Classification documentation, including the job classification name and group number (if applicable – consistent with the group number listed on the applicable wage decision).
    - Employees working split classifications – Hours and wage+fringe rate for each classification must be identified on the payroll unless the employee is paid one wage+fringe rate that is equal to or greater than the highest applicable rate on the wage decision for their multiple job roles. Averaging the pay rate of the two classes is NOT acceptable.
  - 7) Employee Hours. Straight-time (ST) and overtime (OT) hours worked each day must be reported..
  - 8) Rate of Pay. Hourly wage rate and fringe rate for ST and OT are to be recorded for each employee. (Also see the “Rate of Pay” item below for requirements pertaining to wage and fringe rates.)
  - 9) Gross Amount Earned. The gross amount earned for the CDBG project hours is to be recorded, and if the deduction and benefits values are based on both CDBG project hours and wages and other non-CDBG project hours and wages, then the total Gross wages/Total earnings for the week for all hours worked are also to be recorded.
  - 10) Net Wages. The total amount of the employee's net wages, which is the amount paid to the employee after deductions, is to be entered on the certified payroll record. See note above regarding the gross wages total for CDBG and non-CDBG project hours – the same applies for recording the net wages total.
- c. Employee Contact Information – separate records. All employees' addresses, phone numbers, and email addresses (per USDOL “New Rule” for DBRA, effective 10/23/2023) – on file as separate records (not on payroll record. Must be on file and provided to the UGLG/CDBG Grantee or designated LSO).
- d. Rates of Pay.
- 1) Straight-time (ST) rate cannot be less than the total of the hourly DBA federal wage rate, as listed for the job classification on the wage decision (at the apprentice rate percentage specified in the apprenticeship indenture paperwork for apprentices); plus the base fringe benefits rate listed on the applicable wage decision.
  - 2) Overtime (OT) rate is required for hours worked by an employee over 40 in a work week on the CDBG project (and other federally funded projects subject to federal labor standards during the work week). The OT wage rate required is 1 ½ times the base ST rate normally paid to the employee *or* 1 ½ times the wage rate listed on the applicable wage decision, whichever is greater, and the OT wage rate must all be paid ***in cash***

**wage** (i.e., it cannot be funds paid into a fringe plan). The OT fringe rate required is the regular fringe benefits rate listed on the wage decision or the regular fringe rate paid to the employee for ST hours, whichever is greater; and the fringe rate may be in cash or paid into a qualifying fringe benefits plan. Note: If the employer is paying an employee more than the minimum required fringe rate listed on the wage decision for ST and exceeds the total wage+fringe hourly rate required for ST hours, and all or part of the excess fringe rate is paid in *cash* rather than into a plan, the amount for fringe paid in *cash* that exceeds the minimum required to cover the total hourly wage+fringe rate required for ST hours may be 'counted' as part of the *cash* amount required to be paid in cash for the OT wage rate.

- Liquidated damages penalties at the current rate may be imposed for OT pay violations per the CWHSSA. Only hours worked on the CDBG project need to be reported on the certified payroll record. *[Penalty rate is subject to increase; current as of 2/5/2024 was \$31 per employee per day for which the violation occurred.]*

e. Deductions.

- 1) Deductions must be itemized, listed by deduction type and with the hourly rate value (if the amount is based on hours worked) and total deduction amount for each deduction for each employee for each week in which the employee works.
- 2) Standard deductions required by law (e.g., state and federal taxes, FICA, unemployment) must be recorded on the certified payroll record.
- 3) "Other" deductions (deductions excluding the standard deductions required by state and federal laws, e.g., employee-paid health insurance premiums and retirement contributions, union dues, uniform charges, court-ordered deductions such as wage garnishment and child support, etc.) must be recorded on the certified payroll record; or the total "other" deductions amount may be recorded on the certified payroll records and the detailed itemization may be provided in separate documentation.
- 4) The detailed itemized list must be included on or with the certified payroll record for the first week in which the employee works; and any subsequent payrolls if the deduction type or amount changes for the employee each week.
- 5) Employee signed authorizations or court orders for all "other" deductions must be maintained in the contractor's files and provided upon request.
- 6) All documentation related to employee payroll deductions must be maintained in the labor standards compliance file, and must be available and provided upon request to the UGLG/CDBG Grantee or designated LSO, the State/DEHCR, HUD USDOL, or other regulating entity.

f. Fringe Benefits.

- 1) The itemized list of fringe benefits must be included on the certified payroll record or accompanying Statement of Compliance page, or provided on a separate record signed by or emailed from the authorized employer representative. Must include with the certified payroll an itemized list of fringe benefits and the hourly rate cash value of each benefit, as calculated to establish the hourly fringe benefits rate, for each employee.
- 2) All documentation related to fringe benefits paid to employees and payments made by the employer into qualifying fringe benefits plans must be on file and made available and provided upon request to the UGLG/CDBG Grantee or LSO, DEHCR, HUD or USDOL.

- I. Payroll Monitoring Employee Interviews: The employer must inform each employee that they are subject to being interviewed on the job site by the UGLG/CDBG Grantee representative or LSO, the State/DEHCR, HUD, or the USDOL concerning wages, hours, and job duties. Employees are *not* required to respond to representatives from other entities that visit the job site seeking to gather employee or wage information, such as representatives from trade or professional organizations. Employees should ask which entity/organization an interviewer is representing.

- J. Other CDBG Program Requirements (Other contract language and specifications – see CDBG contract insertions):
1. **Debarment Checks and Records.**
    - a. Record of debarment check of an entity in System for Award Management (at <https://SAM.gov/content/home>) is required by prime contractors and UGLGs/CDBG Grantees *prior* to awarding a contract to an entity to ensure they are not debarred from contracting for a federally funded project.
    - b. The name(s) of the contractor entity/company and the name(s) of the owner(s) must be searched for debarment in SAM. Records of the debarment searches must be provided to the UGLG/CDBG Grantee or Labor Standards Officer (LSO) and be retained in the contractor's and UGLG's/CDBG Grantee's files. *[The requirement to search entity name and owner name is USDOL "New Rule" effective 10/21/2023.]*
  2. **Potential Conflicts of Interest.** Prime Contractors. (See Potential Conflicts of Interest Clause contract insertion) – Prime contractors must disclose potential conflicts of interest, if applicable.
  3. **Lobbying Certification and Disclosure of Lobbying Activities.**  
Signed Lobbying Certification form required from all contractors (prime contractors and sub-contractors – all tiers). Completed Disclosure form is only required if the contractor has any lobbying activities to disclose.
  4. **Equal Opportunity.** (See Equal Opportunity (EO) and Equal Opportunity/Affirmative Action (EO/AA) contract insertions)
  5. **Minority-owned Business Enterprise/Woman-owned Business Enterprise (MBE/WBE) and Section 3 Business Concerns.** (See Equal Opportunity/Affirmative Action, MBE/WBE Web Resources, and Section 3 contract insertions)  
Promoting contracting with Minority-owned Business Enterprise/Woman-owned Business Enterprise (MBE/WBE) and Section 3 Business firms in contracting/sub-contracting is required.
  6. **Additional Section 3 Contract Requirements.** (See Section 3 Requirements contract insertion)  
Requirements differ depending on whether the CDBG Grantee was awarded funds prior to 11/30/2020 OR on or after 11/30/2020) – See "Section 3 Requirements" contract insertion language. Current Employees, Contracting, Hiring, Tracking and Reporting. Section 3 Business Concerns, Section 3 Residents/Targeted Section 3 Residents, Section 3 Employee Income Certifications, Section 3 Reports.
  7. **Build America, Buy America (BABA) Act / Buy America Preference (BAP) Requirements.** (See BABA Requirements contract insertion)
    - a. The BABA "domestic procurement" requirements apply for HUD-funded CDBG infrastructure projects: iron and steel materials, construction materials, manufactured products.
    - b. Entity seeking a project-specific waiver must follow the guidance in the BABA contract insertion and use the Wisconsin State CDBG Program BABA Project-Specific Waiver Request Form to request a waiver. May require 6 weeks or more for DEHCR, HUD, and Made in America Office (MIAO) approvals that are required.
- K. Payment Terms: Terms and requirements for payment for contractor's work – Requires detailed invoices for work performed for the CDBG project; compliance with all CDBG requirements (e.g., submission of contractor information and documents, weekly payroll records and supporting documents, and reporting documents; BABA compliance; etc.) and maintaining eligibility status (cannot be debarred).
- L. Failure to Comply: Failure to comply with the federal labor standards of Davis-Bacon and Related Acts (DBRA) may result in additional fees, fines, incarceration, and/or delay or denial of payment due the contractor being deemed ineligible for payment. Failure to comply with any and all CDBG program requirements and regulations applicable to the project and contract may result in a delay or denial in payment to the contractor.