

SAMPLE NOTICE OF DETERMINATION TO ASSESS CWHSSA LIQUIDATED DAMAGES

Date: [Prime or LSO letterhead]

Construction Company Address

Re: **Notice of Determination to Assess CWHSSA Liquidated Damages TDHCA**
Contract No. _____

Dear _____:

A review of payrolls submitted for the above **TDHCA** Program contract stipulates your firm has violated the Contract Work Hours and Safety Standards Act (CWHSSA) and is being assessed liquidated damages.

An employee working in a federally assisted project subject to CWHSSA requires that he/she be compensated at the rate of one and one-half times the Department of Labor (DOL) established and published General Wage Determination rate for all hour(s) required or allowed to work in excess of 40 hours in a work week (seven days). Failure to comply with CWHSSA compels the assessment of liquidated damages at the rate of \$29.00 per day per worker for each overtime violation.

During construction for this **TDHCA** contract, your company failed to compensate **##** employees for hours worked in excess of 40 hours per workweek on **##** occasions. These violations make your company liable, to the United States Treasury, for liquidated damages in the amount of **\$\$\$\$**. A check made out to **the Texas Department of Housing and Community Affairs** for this amount may be mailed to our agency for processing.

However, under Subpart 22.3 of CWHSSA (40 U.S.C. 3703(b)(c)), 29 C.F.R. 5.8, and the U.S. Department of Housing and Urban Development (HUD) Handbook 1344.1, REV-2, CHG-2 Sec. 5- 12(B), a request for waiver or reduction for the determined amount of liquidated damages can be submitted. It must be made within thirty (30) days of the date of this letter or the determination will be **final**. The only grounds for requesting a waiver or reduction are the following:

- (1) The computation of liquidated damages is incorrect; or
- (2) The violation occurred inadvertently notwithstanding the exercise of due care

If such a request is filed based on one or both of the abovementioned grounds, a written statement explaining why a waiver or reduction is justified **must** be included in the request. HUD or DOL will make the **final** determination concerning your request for waiver or reduction.

If you do not intend to contest the liquidated damages determination, please complete the attached "Liquidated Damages Remittance Form" and "Liquidated Damages Summary" and return within ten (10) days of receipt of this letter. Please ensure to attach a check made payable to the **Texas Department of Housing and Community Affairs** to the "Liquidated Damages Remittance Form". **All** correspondence related to liquidated damages must be attached and include the **TDHCA contract number** in the amount owed.

If you have any questions or need to request additional information concerning this matter, please contact, **(name of designated LSO)**, Labor Standards Officer for this project, at (555) 555-5555.

Sincerely,
(Name of Subrecipient, Prime or LSO)

cc: **(name of Designated)** Labor Standards Officer, if applicable
Carmen A. Roldan, Labor Standards Specialist