



TDHCA MULTIFAMILY PRECONSTRUCTION GUIDE

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DBRA and Section 3 Summary Meeting Overview

Davis Bacon and Related Acts	<ol style="list-style-type: none"> 1. DBRA AND Applicable Federal Labor Laws 2. Section 3 3. TDHCA Web Links 4. Fraud, Waste, Or Abuse (as applicable)
Project Award - Construction Contract Obligations	<ol style="list-style-type: none"> 1. SAM.GOV Clearance and Registration 2. HUD Federal Labor Standards Provisions (HUD 4010) 3. DOL General Wage Determination
Project Construction - Payroll and Documentation Requirements	<ol style="list-style-type: none"> 1. DOL WH-347 payroll 2. Weekly pay mandates 3. Worker classifications 4. Overtime pay mandates 5. DBRA noncompliance impact 6. First Payroll Documents
Project Completion	<ol style="list-style-type: none"> 1. Release Of Retainage
Participant Roles	<ol style="list-style-type: none"> 1. Labor Standards Specialist 2. Owner 3. Prime 4. Labor Standards Officer (LSO)
Section 3	<ol style="list-style-type: none"> 1. Applicability 2. Clauses in contracts or agreements 3. Section 3 Business Concern 4. Benchmarks 5. Reporting 6. DBRA/Section 3 Coordination 7. HUD Guidance for Section 3
Labor Standards Recordkeeping Responsibilities	<ol style="list-style-type: none"> 1. Owner file 2. Contractor file
Exhibits	<ol style="list-style-type: none"> 1. Exhibit A – Additional Classification Request Instructions 2. Exhibit B – Contract Worker Hour and Safety Standards Act (CWHSSA) violation instructions

LABOR LAWS AND WEB LINKS

I. DAVIS BACON AND RELATED ACTS (DBRA)

- “Related Acts” are HUD federal fund source laws passed by Congress that involve construction activity.
 - HUD Office of Davis Bacon Labor Standards:
https://www.hud.gov/program_offices/davis_bacon_and_labor_standards
 - HUD DBRA Forms: https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform
-

II. DAVIS BACON ACT (DBA)

- Federal applicability is \$2,000 or more in a construction contract¹, which is triggered by Prime contract.
 - DBA compliance trickles down to all project executed construction contracts regardless of amount.
 - Requires all laborers and mechanics employed at the work site are paid, at a minimum, Department of Labor – Wage and Hour Division (DOL-WHD) approved prevailing wages including fringe benefits payments for specific workers
 - DOL-WHD project prevailing wages are published by county at:
<https://sam.gov/content/wage-determinations>
 - TDHCA locks-in project prevailing wage mandates prior to construction start
 - Laborer or mechanic needed on site but not listed on the project applicable GWD requires DOL-WHD approval.
 - All workers must be paid weekly – no exceptions
-

III. CONTRACT WORK HOURS SAFETY STANDARDS ACT (CWHSSA)

- Enforces overtime payment at the rate of 1.5/hours to all workers who exceed 40 hours in a workweek (seven days).
 - Enforces liquidated damages (penalties) for overtime pay violations
 - Establishes safety standards compliance
 - U.S. DOL-WHD CWSHA: <https://www.dol.gov/agencies/whd/government-contracts/cwhssa>
 - Civil Money Penalty Inflation Adjustments: <https://www.dol.gov/agencies/whd/resources/penalties>
-

IV. COPELAND ACT

- Prohibits the payment of “kickbacks”
 - Enforces the submission of certified weekly payrolls – no exceptions
 - Sets forth rules for worker allowed and disallowed deductions from weekly pay
 - Establishes basis for construction contract termination
-

V. FAIR LABOR STANDARDS ACT (FLSA)

- Establishes minimum wages paid to all employed workers, not just construction workers, including laws that protect the hiring of minors
 - Prohibits wage discrimination on the basis of gender
-

¹ Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA): <https://www.dol.gov/agencies/whd/fact-sheets/66-dbra>

- Governed and enforced by the Department of Labor

VI. SECTION 3

- Section 3 requires that businesses and employers working on the HUD-funded project must demonstrate “good efforts” to the greatest extent feasible to train and employ low- and very low-income individuals as well as contract with Section 3 eligible businesses
- Threshold for contract applicability is \$200,000 or more
- HUD Section 3 Guidance: <https://www.hudexchange.info/programs/section-3/>
- HUD Section 3 Forms <https://www.hudexchange.info/programs/section-3/resources-and-tools/#section-3-tools>

VII. TDHCA WEBSITE LINKS

- TDHCA Davis Bacon and Related Acts (DBRA): <https://www.tdhca.texas.gov/davis-bacon-and-related-acts>
- TDHCA Multifamily Direct Loan Program Section 3 Guidance: <https://www.tdhca.texas.gov/multifamily-direct-loan-program>

VIII. FRAUD, WASTE, OR ABUSE

- Report fraud, waste, or abuse if there is a belief or suspicion that money or assistance TDHCA uses for its operations, or money or assistance that TDHCA has provided to an organization, person, or affordable housing property may have been lost, stolen, or misused.
- For more information, visit TDHCA’s Report Fraud, Waste and Abuse (<https://www.tdhca.texas.gov/fraud-waste-abuse>) page or call toll free 1-800-TX-AUDIT (1-800-892-8348)

CONSTRUCTION CONTRACT OBLIGATIONS

1. **SAM.Gov Clearance.** Prior to awarding and executing the construction contract, all prime contractors, including the principal owner(s) and their subcontractors, must be checked in the System for Award Management (SAM) [SAM.gov](https://sam.gov).
 - a. To verify contractor eligibility status for clearance (not debarred, suspended, or otherwise excluded), click on the following link to search for active exclusions:
<https://sam.gov/content/exclusions>.
 - b. TDHCA requires verification of at least the Prime to be sent to its Labor Standards Specialist (LSS) by the Labor Standards Officer (LSO) prior to contract execution. The LSO must check Owner's records of SAM verifications for the Prime and subcontractors.
2. **SAM.Gov Registration or Unique Entity Identification Number (UEIN).** New guidance from SAM.gov effective April 4, 2022 requires an "entity" (contractor) to be registered with SAM.gov **or** to obtain a Unique Entity Identification Number (UEIN).
 - a. If Prime contractor does not have a Unique Entity Identification Number (UEIN) **or** is not registered on SAM.gov, click on the following link to register or obtain the UEIN:
<https://sam.gov/content/home>
 - b. TDHCA is requiring the LSO to send verification that the hired Prime has met one of the new sam.gov conditions below:
 - i. UEIN **or**
 - ii. a registration with SAM.gov
3. **HUD Federal Labor Standards Provisions.** All executed construction contracts (prime or sub) must include the HUD Federal Labor Standards Provisions (HUD 4010). HUD 4010 is located at [Labor Standards and Related Forms | HUD.gov](#).
4. **DOL General Wage Determination.** All executed construction contracts (prime or sub) must also include the rate of pay to workers which must equal, at a minimum, the published wage in the DOL General Wage Determination (GWD) applicable to the county where the project will be located. Wage determinations can be found at: <https://www.dol.gov/agencies/whd/resources/penalties>.
 - a. **If multiple wage determinations apply to the project, the contract must clearly identify which construction activity is subject to each wage decision.**

PAYROLL REPORTING AND DOCUMENTATION REQUIREMENTS

1. **DOL WH-347 Payroll.** Prime and all other (subcontractors and lower tiers) contractors must use the [DOL Form WH-347](#) payroll, accompanied by a signed "Statement of Compliance" that certifies payroll is correct, complete and employees are paid, at a minimum, required DBRA prevailing wage. The use of a substitute payroll (ex., in-house payroll or automated payrolls) requires approval by TDHCA LSS. The substitute payroll used must contain the same information required by the DOL 347 and be accompanied by a Statement of Compliance.
 - a. Payrolls must contain an original signature by the owner or individual authorized, in writing, to sign on behalf of company owner. Instructions on completing the DOL Form WH-347 and Statement of Compliance can be found at [TDHCA's Davis-Bacon and Related Acts Webpage](#).
2. **Weekly Pay Mandates.** Weekly payrolls must be submitted within seven (7) days following the end of the workweek to the LSO who will ensure they comply with DOL WH-347.
 - a. Payrolls should be numbered consecutively, with the first one marked "initial" and the last marked "final". Payrolls where work is not performed during the week can be numbered sequentially showing "no work" or contractor can attach a written statement stating the number of weeks the contractor did not work when they return to work on the project.
 - b. Employers must deduct from worker paychecks only approved deductions required by law, or voluntarily authorized by the workers in accordance with the Copeland Act. Employee authorization is required for all deductions not listed under the Copeland Act. A contractor may use the TDHCA's Employee Payroll Deduction Authorization Form (MFDB02) to document an employee deduction approval. Examples of deductions not listed under the Copeland Act include Health insurance or 401K/pension contributions. MFDB02 is located at [TDHCA's Davis-Bacon and Related Acts Webpage](#).
 - c. Owner/Prime must maintain records with hired workers name, addresses and full social security number (SSN) and telephone numbers through the construction period and no less than three years after construction completion. These records must be made available to the Prime, HUD, and authorized individuals upon request.
3. **Worker classifications.** The Owner/Prime must establish adequate controls to ensure that all covered workers are paid required hourly wage and fringe benefit, if applicable, published in the project GWD.
 - a. Employees must be classified and paid based on the work they perform. Generally, only journeymen may use the tools of a trade and are paid trade wage listed on the applicable wage determination. If a trade worker asks a "laborer" to help complete a job and the laborer uses the tools of the trade worker, the "laborer" must be documented on the payroll as the "trade" classification and paid the trade hourly wage rate for all hours the laborer assisted the "trade" worker complete the job.
 - b. The wage decision(s) and any additional classifications provided must be posted in a

prominent place on the job site that is accessible to all workers for the duration of the construction project.

- c. Any classification that does not appear on the wage decision must be requested through the TDHCA LSS and approved by the DOL-WHD, in compliance with the [DOL-WHD Memorandum No 213](#). Classification approval requests should be submitted prior to the use of that classification on the project. To request approval, written submission must identify the type of worker classification needed and a proposed hourly wage including fringe benefits, if applicable. Instructions for classification approval requests can be found in [Exhibit A](#) of this document.
 - d. Worker classification that require special attention:
 - i. Apprentices may be employed on the project. However, the employee's certification or employer's apprenticeship program must be approved and certified by the Department of Labor, Employment & Training Administration, Office of Apprenticeship (DOL-ETA), and the ratio of apprentices to journeymen must not be exceeded. A DOL-ETA certificate for each employee or employer approved apprenticeship program must be attached to payroll where the "apprentice" classification appears.
 - ii. Unless a "helper" classification is listed on wage determination or DOL-approved union agreement, "helper" classifications may not be used on the project.
 - iii. If the owner of a company performs work on the project, the owner must list him/herself on the payroll and must only show the hours worked each day and total hours for the week. Hourly wage is not required to be documented. An owner who works solo cannot self-certify his/her hours on the Statement of Compliance. The Prime must certify owner's hours worked on Prime's payroll.
 - iv. Any person who is employed on a piece-work basis must be shown on the payroll. Piece workers are defined as roofers, insulation installers, flooring installers (carpet and tile) and painters. The piece worker classification must be listed on the applicable wage determination and worker must be paid, at a minimum, the general wage determination published hourly rate listed. If the piece worker works in excess of 40 hours in a workweek (seven days), the piece worker must be paid overtime at the rate of 1.5 times the hourly base pay.
 - v. Supervisor or Foremen who work on-site in excess of 20% of work hours performing the trade or laborer work and exceed 40/hours must be paid overtime at the rate of 1.5 times the hourly base pay.
4. **Overtime Pay Mandates.** All workers who perform work on the project must be paid overtime at 1.5 times the base hourly wage rate listed on the applicable general wage determination (GWD) for all hours worked in excess of 40 hours in a workweek (seven days).
- a. Contract Work Hours Safety Standards Act (CWHSSA) liquidated damages (penalties) may be

assessed for failure to pay the proper overtime rate. Civil Money Penalty Inflation Adjustments are assessed annually. The rate of liquidated damages are assessed per day per worker per event and current rates can be found at <https://www.dol.gov/agencies/whd/resources/penalties>. In addition to assessed liquidated damages, contractor must pay worker overtime pay restitution. Instructions for submission of liquidated damages are listed in [Exhibit B](#) of this document.

- b. Fringe Benefit pay mandate listed on GWD is not subject to 1.5 pay calculation. If worker exceeds 40 hours in a workweek (seven days), owed FB hourly rate is paid at straight rate in the form of cash or actual benefit.
5. **DBRA Noncompliance Impact.** Failure to comply with the labor standards requirements can result in the withholding of payments.
 6. **First Payroll Documents.** The first weekly payroll for any employee must include the following documents, as applicable. These documents can be located on [TDHCA's website](#).
 - a. **MF-DB02: Employee Payroll Deduction Authorization** – All deductions must comply with the provisions of the Copeland Act Regulations, 29 CFR Part 3. Attach this Employee Authorization when required. Deductions include health insurance, 401K, etc. No exceptions.
 - b. **MF-DB03 Owner Authorization of Payroll Signatory** – If an owner authorizes an individual to sign the payroll “Statement of Compliance” on his/her behalf, the first payroll shall include the MFDB03 signed by owner and appointed signatory. No exceptions.
 - c. **Department of Labor Employment & Training Office Apprenticeship Certification** – All hired apprentice employees or contractor apprenticeship programs (e.g., plumbers, electricians, etc.) must be approved by the DOL-ETA. Attach a copy of the DOL-ETA approved employee certification or apprenticeship program certification. Texas state licensing apprentice programs require DOL-ETA approval. No exceptions.
 - d. **Union Workers** – Attach copy of DOL-ETA’s approval of union agreement that identifies classification and required wage rate pay. Agreement may also include apprentices and trainees.
 - e. **Section 3** – Any documentation fulfilling requirements of Section 3, such as Employee or Business Certification associated with Section 3 hours worked.

RELEASE OF RETAINAGE

The Owner will submit the TDHCA **MF-DB06 Final Wage Compliance Report** to the LSS when construction is complete for labor standards compliance review and approval. Receipt of the **MF-DB06** is required to approve last project draw (Retainage). Attach a list of all contractors (Prime, Subs and lower-tiers) hired during construction including name, address, contract amount and telephone. This information is repeated under the Owner Preconstruction Role for emphasis and clarity.

PRECONSTRUCTION ROLES OF PARTICIPANTS

A. Labor Standards Specialist (LSS)

1. Confirms appointment of project Labor Standards Officer (LSO) prior to approval of initial disbursement of HOME-ARP federal funds
2. Issues Notice to Proceed (NTP) that **incorporates** the DOL-WHD GWD prevailing wage mandates applicable to the project and **authorizes** start of construction activity. Construction must begin within ten **calendar** days upon release of NTP. The NTP locked-in wages are good throughout the project's construction phase. Note: If construction does not begin within approved 10-days, the Department will send an updated NTP extending construction start date. Project wage rates will not change.
 - a. NTP is released upon receipt of Building Permit from local jurisdiction authorizing construction start including verification of fee payment (s), if applicable
3. Reviews and approves TDHCA **MF-DB06 Final Wage Compliance Report**, which is tied to approval of final project disbursement (retainage). Please refer to "Owner" section for additional instructions.

B. Owner

1. Identify LSO who will oversee project DBRA administration and enforcement, by submitting the **MF-DB01 Appointment of Labor Standards Officer** form. The designated LSO may change during contract or construction phase. If this occurs, the Owner must appoint a new LSO using the TDHCA form and notify the TDHCA LSS within 30-days after the appointment of replacement LSO. The DB01 is located at [TDHCA's Davis-Bacon and Related Acts Webpage](#).

Important: LSO MUST NOT be an employee of construction company or construction affiliate.

2. Ensure established labor standards procedures demonstrate compliance with federal and state labor standards requirements before making any payment under such contracts.
3. Ensure the executed Prime construction contract incorporates the HUD Federal Labor Standards Provisions (HUD 4010) and the project applicable GWD.
4. Submit the project locality Building Permit or other written authorization by City/County including verification of fee payment(s), if applicable, to TDHCA LSS prior to start of construction.
5. Provide copy of TDHCA's NTP to Prime prior to start of construction.
 - a. DOL prevailing wages do not change throughout the construction phase unless owner hires a new Prime and enters into a new construction contract to complete the job.

6. Submit the TDHCA **MF-DB06 Final Wage Compliance Report** to the LSS when construction is complete for labor standards compliance review and approval. Receipt of the MF-DB06 is required to approve last project draw (Retainage). Attach a list of all contractors (Prime, Subs and lower-tiers) hired during construction including name, address, contract amount and telephone.
7. Submit the TDHCA Certificate of Construction Completion completed by Prime Contractor available at <https://www.tdhca.texas.gov/sites/default/files/multifamily/docs/home-docs/MF-DB07-CertConstCompletion.pdf>.

C. **Prime**

1. Ensure contractors including the principal owner(s), are not listed as “debarred” in SAM prior to award and execution of construction contract.
 - [SAM.gov Exclusion Types](#)
2. Ensure the HUD Federal Labor Standards Provisions ([4010](#)) is incorporated in **ALL** project executed contractor contracts (including lower-tier contracts) including a copy of applicable DOL General Wage Determination (GWD).
3. Ensure project DOL applicable GWD including DOL approved classifications are posted in an area accessible to **ALL** workers.
4. Display the DOL Employee Rights under the Davis-Bacon Act poster in an area accessible to all workers. Posters can be found on the following website: [Department of Labor | Workplace Posters](#).
5. Ensure hired contractor (Sub and Lower-tier) pay workers **weekly** (every seven days).
 - a. Review payrolls for compliance with DBRA and Section 3 labor law mandates.
 - b. Make payrolls available to assigned LSO for compliance review.
 - c. Ensure payroll records are made available for review to all authorized individuals for up to three years after construction completion.
 - d. Ensure employer (contractor) provide full disclosure of social security number for all hired workers and make available to authorized individuals in compliance with [29 CFR Part 5.5\(a\)\(3\)\(i\)](#).
6. Document and process owed overtime pay violations and enforce liquidated damage payments in accordance with CWHSSA requirement and TDHCA labor standards requirements. See Exhibit B for instructions.
7. Correct all labor standards violations promptly.
8. The Prime is responsible and held accountable for ensuring that all laborers and mechanics

employed on the project (including those employed by subcontractors) are paid required prevailing hourly wage rates and fringe benefit, if applicable. If a contractor fails to pay workers required wages, the Prime is responsible for paying workers owed wages or restitution.

Note: TDHCA considers the Master Subcontractor or Prime Subcontractor listed on the Construction Contract as the Prime.

D. Labor Standards Officer (LSO)

1. Ensure the Prime, including the owner(s), are not listed as “debarred” in SAM prior to award and execution of construction contract.
 - [SAM.gov Exclusion Types](#)
2. Ensure the DOL Employee Rights under the Davis-Bacon Act poster is in an area accessible to all workers. [Department of Labor | Workplace Posters.](#)
3. Review weekly DOL-WH 347 Payrolls received for accuracy and compliance with DBRA mandates.
4. Follow-up in writing on all documented worker misclassifications and/or worker wage underpayment (including owed overtime) discrepancies and deductions noncompliant with the **Copeland Act**. Note: contractors have up to 30 days to respond to written notice.
 - a. Require contractors pay worker(s) owed wage underpayment restitution and overtime, when applicable, and provide proof of payment.
 - b. Document and process owed overtime pay violations and enforce liquidated damage payments in accordance with CWHSSA mandates and TDHCA standards requirements.
5. Conduct on-site employee (worker) interviews that represent multiple classifications working throughout the project construction phase. **Employee interview sampling should be used as a tool to target interviews to projects or groups of workers where violations are suspected or alleged instead of interviewing workers based on classification sampling basis.** HUD considers targeting a far more efficient and effective means of utilizing on-site interview resources.
 - a. Document interview results using the [Record of Interview – HUD 11 Form](#). Compare employee interview results with the applicable weekly payroll (date) for accuracy of worker classification, wage and hours worked.
 - b. Record employee interview resolutions on Section 16 Remarks of the HUD 11 Form.
6. Gather required labor standards data needed by owner to complete the **TDHCA MF-DB06 Final Wage Compliance Report**, tied to release of last draw (Retainage). Refer to “Owner” section, number 7 for submission instructions.
7. Correct all labor standards violations promptly.

SECTION 3 OBLIGATIONS

Development Owners, Primes, and Subcontractors are responsible for meeting the requirements for Section 3, found in 24 CFR 75. **Section 3 pertains to all housing construction, demolition, or rehabilitation projects funded with over \$200,000 of housing and community development financial assistance.**

Section 3 requirements state that **“to the greatest extent feasible”** projects shall ensure contracts, employment, and training are provided to workers and businesses that are Section 3 eligible ([§75.19](#)). Subrecipients and contractors must also include Section 3 language in any agreement or contract to ensure requirements are met ([§75.27](#)), and are required to use the clauses provided by TDHCA on its [Multifamily Direct Loan Page](#).

See the federal definitions of Section 3 workers [here](#), and Section 3 Businesses [here](#). Reporting and benchmarks for this compliance are considered according to benchmarks established by HUD ([§75.23](#)), and measured by percentage of total work hours performed by Section 3 workers ([§75.25](#)). HUD established benchmarks include:

- 25% of the total labor hours for grant-assisted projects each year as performed by eligible Section 3 workers; and
- 5% of targeted eligible Section 3 total labor hours worked
 - Employed by Section 3 Business Concern (see below)
 - Low- or very low-income workers who reside within the neighborhood or project service area
 - Youth Build participants

Inability to meet Section 3 benchmark goals for hiring or subcontracting requires sub recipients or contractors to document the “qualitative nature of its activities and those its contractors and subcontractors pursued” ([§75.25\(b\)](#)).

Section 3 Reporting

Before a project is awarded, Owners are encouraged to review HUD’s guidance and TDHCA’s supplemental materials for Section 3. During the construction phase of a project, **the Prime and LSO** must coordinate to document Section 3 status for eligible workers including Targeted Section 3 workers.

To document Section 3 requirements, TDHCA encourages projects to use the HUD-provided Section 3 Resources and Tools: <https://www.hudexchange.info/programs/section-3/resources-and-tools/#section-3-tools>.

HUD provides the following forms:

- Documenting low-income employee and business eligibility
 - Section 3 and Targeted Section 3 Worker: Employer Certification (HUD-4736A)
 - Section 3 and Targeted Section 3 Worker: Self Certification (HUD-4736C)
 - Section 3 Business Certification ([Form S303](#))

- [Search for a HUD Section 3 Business](#) (hud.gov)
- Document Section 3 Worker Hours using the Tracking Section 3 Labor Hours form (HUD-4737A)
- Document Section 3 Business Hours using the Tracking Section 3 Business Labor Hours form (HUD-4737)

Upon completion of project, **the Prime and LSO** will coordinate to ensure completion of Section 3 responsibilities. TDHCA encourages completing and submitting the TDHCA Section 3 Cumulative Report ([Form S302](#)) to describe outreach efforts, ratios of Section 3 labor hours to total labor hours, and worker training, pursuant to creating economic opportunities for low- and very low-income persons.

The LSS or other TDHCA staff will review Section 3 performance in combination with DBRA documentation, as applicable. TDHCA will not release retainage until a project sufficiently meets all federal cross-cutting regulation reporting requirements, including Section 3.

Projects subject to Davis-Bacon and Related Acts

If DBRA applies to a project, the required certified weekly payrolls may serve as verification of Section 3 labor worked hours, replacing the use of HUD-4737A, only if payroll is supported with Section 3 low-income employee and/or business certifications.

For more guidance regarding Section 3 requirements, visit <https://www.tdhca.texas.gov/multifamily-direct-loan-program>.

View resources available on HUD Exchange:

- Section 3 Tools: <https://www.hudexchange.info/programs/section-3/resources-and-tools/#section-3-tools>
- Section 3 Guidebook: <https://www.hudexchange.info/programs/section-3/section-3-guidebook/welcome/>
- Section 3 Final Rule Summary: <https://www.hudexchange.info/resource/6566/key-changes-of-section-3-final-rule-summary-chart/>
- Section 3 Job Aid Presentation for Contractors: <https://www.hudexchange.info/resource/7017/section-3-job-aid-for-contractors-and-subcontractors-hcd-financial-assistance/>
- Section 3 Sample Plan: <https://www.hudexchange.info/resource/6560/section-3-sample-plan/>
- Section 3 HUD Compliance Review Checklist: <https://www.hudexchange.info/resource/6559/section-3-hud-compliance-review-checklist/>

LABOR STANDARD RECORDKEEPING RESPONSIBILITIES

A. Owner Main Labor File

1. MF-DB01 Appointment of LSO
2. Copy of project applicable GWD and any additional approved classifications
3. TDHCA NTP (receipt date prior to project start of construction)
4. Preconstruction conference participation evidence (Record and Sign-In)
5. MF-DB06 Final Wage Compliance Report
6. MF-DB07 Certification of Construction Completion
7. List of all hired contractor names, address, amount of contract award, and telephone

B. Construction Contractor File

1. Contractor clearance verification printout from SAM.gov for each prime/contractor hired on project.
2. Executed construction contract that incorporates HUD Federal Labor Standards Provisions (HUD 4010) and project DOL Wage Determination.
3. DOL WH-347 Payroll (or TDHCA approved payroll), including original weekly payrolls with evidence of required documentation (including Section 3 worker or business eligibility) and compliance review.
4. [Standard Form \(SF\) 1444](#) — Request for Authorization of Additional Classification and Wage Rate request(s) approved conditionally by TDHCA LSS and DOL-WHD **final** approval.
5. Worker wage violations and corrective actions (evidence of restitution payment), if applicable.
6. MF-DB02 Employee Payroll Deduction Authorization
7. MF-DB03 Owner Authorization of Payroll Signatory
8. Department of Labor Employment & Training Office Apprentice Certification, if applicable.
9. Employee Interviews (HUD 11 Form) including support documentation, if applicable.
10. CWHSSA overtime violations assessed to contractors using Department approved corrective actions and required support documentation, if applicable.
11. All contractor written communications.

EXHIBIT A: Submission of Additional Classifications Not Listed On Project Applicable General Wage Determination (GWD)

Submission for all requests seeking additional classifications not listed on the applicable GWD must adhere to the guidelines provided in the DOL Memorandum 213 located at: [Agency Memoranda | U.S. Department of Labor \(dol.gov\)](#).

Group published GWD worker classifications into four categories: (1) laborers, (2) trades, (3) power equipment operators, and (4) truck drivers.

1. Find the median wage listed for published workers' wages under the category (or categories) that apply to the proposed classification/wage.
2. Attach a letter from hiring contractor confirming:
 - a. Worker classification is used in construction industry and
 - b. Proposed wage and fringe benefit, if applicable, is reasonable and comparable to GWD and local pay rates
3. Attach copy of project applicable GWD
4. Complete the **Standard Form (SF) 1444 — Request for Authorization of Additional Classification and Wage Rate** located at: [Davis-Bacon and Related Acts | U.S. Department of Labor \(dol.gov\)](#)
5. LSO is responsible for accuracy of documents prior to sending completed documents to TDHCA LSS.
6. TDHCA LSS may send to LSO a *conditional approval*, and will to send request to DOL-WHD for final approval/denial determination
7. Post all DOL-WHD written approved classification(s) and wage(s) in an area on-site visible to all workers
8. If DOL has not responded before the completion of the TDHCA contract, the TDHCA Final Wage Completion Report may still be submitted. The LSO will be informed of how to certify the labor standards compliance if this occurs

EXHIBIT B: Contract Work and Safety Standards (CWHSSA) Violations

- Prime must inform and assess liquidated damages (penalties) to contractors who fail to pay workers the required overtime rate of 1.5 multiplied by base hourly wage for all hours worked in excess of 40 hours in a workweek (seven days)
- Prime/LSO must ensure contractor pays worker(s) owed overtime wage underpayment (difference between hourly wage amount paid and amount due) restitution or Prime is responsible for payment
- Subrecipient/LSO must send formal letter, a notice that liquidated damages are being assessed to contractor within 30 days notifying of overtime underpayment restitution owed to each worker(s) and amount of assessed liquidated damages. Also refer to [HUD Handbook 1344.1 REV 3](#) (5-12 C-D).
- **CWHSSA Liquidated Damages** per day per worker per each day overtime is accrued is updated annually and can be found at <https://www.dol.gov/agencies/whd/resources/penalties> (recorded on weekly payroll).

Note: Due to inflation, penalties (liquidated damages) pay mandates are subject to change no later than January 15 of each year in accordance with the Federal Civil Penalties Adjustment Act Improvements of 2015. A table of DOL's current liquidated damages (and monetary penalties) are located at [DOL Penalties](#).

- Prime responsibility:
 1. Contractor has thirty days (30 days) to appeal.
 2. Complete and submit **TDHCA MF-DB04 Liquidated Remittance** form.
 3. Complete and submit **TDHCA MF-DB05 Liquidated Summary** form.
 4. Attach contractor check payable to **Texas Department of Housing and Community Affairs** for the owed amount of liquidated damages. In some cases, TDHCA may request verification of payment to worker(s).
 5. Place restitution owed to *unfound* workers in escrow for three years after construction completion. Annual outreach to locate unfound workers is mandatory for a period of three years after project construction completion

Department/LSS remits liquidated damages collected payments to HUD, who in turn sends to the U.S. Treasury.

EXHIBIT C: Common Acronyms and Abbreviations

- CWHSSA: Contract Work Hours Safety Standards Act
- DBRA: Davis-Bacon and Related Acts
- DBA: Davis-Bacon Act
- DOL: Department of Labor
- DOL-WHD: Department of Labor Wage and Hour Division
- DOL-ETA: Department of Labor, Employment & Training Administration, Office of Apprenticeship
- GWD: General Wage Determination
- LSO: Labor Standards Officer
 - Identified by Owner to oversee project DBRA administration and enforcement.
- LSS: Labor Standards Specialist
 - TDHCA employee who provides technical assistance and oversees DBRA and labor standards
- NTP: Notice to Proceed
 - LSS issues the NTP to authorize rehab or construction work to begin
- Owner: Owner or developer of the project
- Prime: Prime Contractor/General Contractor
- SAM: System for Award Management
- TDHCA: Texas Department of Housing and Community Affairs
- UEIN: Unique Entity Identification Number

RECORD OF PRE-CONSTRUCTION CONFERENCE

Texas Department of Housing and Community Affairs	
Davis-Bacon Labor Laws & HUD Section 3	
Owner/Developer:	Source(s) and Contract(s) #:
Property Name, Address:	Project County:
Conference Location:	Conference Date:
Owner/Developer Contact Person:	
Address:	
Telephone:	Fax:
Email:	
General Contractor (Prime):	
Address:	
Telephone:	Fax:
Email:	
Master Subcontractor/Prime Subcontractor:	
Address:	
Telephone:	Fax:
Email:	
Texas Department of Housing and Community Affairs (TDHCA)	
P. O. Box 13941 / 221 E. 11th Street / Austin, TX 78711-3941	
Telephone: 512-475-3800 / Fax: 512-475-0220	
A preconstruction conference was held at the above date and place signed by attendees named.	

PRE-CONSTRUCTION and SECTION 3 CONFERENCE SIGN-IN

I hereby certify that all regulations and obligations discussed in the Pre-Construction Conference and Section 3 Conference. I understand that nothing presented in this document or discussed in the Pre-Construction Conference represents a modification to any existing contract or agreement or to any state, federal, or local requirement.

Meeting Attendee	Date of Conference
Development Owner Name (Print & Signature)	Date
Labor Standards Officer Name (Print & Signature)	Date
Consultant Name (Print & Signature)	Date
General Contractor Name (Print & Signature)	Date
Master Subcontractor/Prime Subcontractor Name (Print & Signature)	Date
TDHCA Labor Standards Specialist Name (Print & Signature)	Date
Other (Print & Signature)	Date
Other (Print & Signature)	Date
Other (Print & Signature)	Date
Other (Print & Signature)	Date