First Amendment to the
Subrecipient Agreement between
the North Carolina Office of Recovery and Resiliency and
Haywood County, NC

This amendment (the "Amendment") is made by the North Carolina Office of Recovery and Resiliency, (NCORR) and Haywood County, NC ("Subrecipient"), parties to Subrecipient Agreement between the North Carolina Office of Recovery and Resiliency and Haywood County, NC effective January 19, 2023 (the "Agreement"). This Amendment is effective as of the day it is executed by both parties.

I. The Agreement is amended, per Section 5.4, as follows:

A. Section 1.1 is deleted in its entirety and replaced with the following:

1.1_Pursuant to Public Law 117-43 (Disaster Relief Supplemental Appropriations Act), Public Law 117-180 (Continuing Appropriations and Ukraine Supplemental Appropriations Act, 2023) and the Federal Register notice dated May 24, 2022 (87 Fed. Reg. 31636), the Federal Register notice dated January 18, 2023 (88 Fed. Reg. 3198), and all other applicable Federal Register notices (together, the "Federal Register Notices"), the U.S. Department of Housing and Urban Development (HUD) has awarded $13,186,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) funds (the "Federal Award") to the North Carolina Office of Recovery and Resilience, a division of the North Carolina Department of Public Safety, an agency of the State of North Carolina ("Grantee" or "NCORR") for activities authorized under title 1 of the Housing and Community Development Act of 1974 (42 USC 5301 et seq.) and described in the State of North Carolina Tropical Storm Fred Action Plan, as amended (the "Action Plan"); and

B. In Section 1.2 and Section 1.3, $7,000,000 is deleted and replaced with $11,626,700.

C. Section 2.2 is deleted in its entirety and replaced with the following:

2.2 Award Identification Information. The following information applies to this Agreement.

Federal award identification number:	B-21-DF-37-0001 and B-22-DF-37-0001
CFDA number and name:	14.228
Federal award date:	December 22, 2022
Federal award project description:	To provide disaster recovery aid through the implementation of two programs – the Affordable Housing Development Fund and the Homeownership Assistance Program. The Affordable Housing Development Fund will provide gap funding for public and private projects financing the construction of affordable rental housing units which may include multifamily units or single-family homeownership development. The Homeownership Assistance Program will provide

	downpayment and closing cost assistance to participants purchasing homes in Haywood County to assist with housing security and homeownership opportunities while encouraging residents to remain in Haywood County.
Is this award for research and development?	No
Subrecipient's unique entity identifier:	UEI: DQHZEVAV95G5; TIN: 56-6001524
Subrecipient's period of performance	January 19, 2023 to September 22, 2029
Amount of federal funds obligated to Subrecipient by this Agreement:	$11,626,700

D. Section 2.3 is amended to add the following after Exhibit C:

Exhibit D	NCORR Davis Bacon and Related Acts (DBRA) Policies and Procedures
Exhibit E	NCORR Section 3 of the Housing and Urban Development Act of 1968 Policy Manual

E. Section 5.2 is amended to replace "December 31, 2027" with "September 22, 2029".

F. Section 6 of Addendum 1 is amended to add the following sentence at the end of the paragraph:

The NCORR Davis-Bacon and Related Acts (DBRA) Policies and Procedures, as amended, is attached as Exhibit D.

G. Section 7.1 of Addendum 1 is amended to revise the first sentence as follows:

Subrecipient shall follow the regulations of 24 CFR part 75 et seq. that implement Section 3 of the Housing and Urban Development Act of 1968 and the NCORR Section 3 of the Housing and Urban Development Act of 1968 Policy Manual, as amended, and attached as Exhibit E.

H. Exhibit A, Scope of Work attached hereto replaces the existing Exhibit A.

I. Exhibit C, NCORR Compliance and Monitoring Manual attached hereto replaces existing Exhibit C.

J. Exhibit D, NCORR Davis-Bacon and Related Acts (DBRA) Policies and Procedures, and Exhibit E, NCORR Section 3 of the Housing and Urban Development Act of 1968 Policy Manual, attached hereto are added as Exhibit D and Exhibit E to the Agreement.

(Signature page attached behind)

IN WITNESS WHEREOF, the undersigned, as authorized officials on behalf of the parties have executed this Agreement.

NORTH CAROLINA OFFICE OF RECOVERY AND RESILIENCY,
a division of the North Carolina Department of Public Safety

By: Laura Hogshead
Laura Hogshead, Director

Date: 10/24/2023 | 11:40:23 EDT

HAYWOOD COUNTY, NC,
a body politic and corporate

By: Bryant Morehead
Bryant Morehead, County Manager

Date: 10/24/2023 | 08:35:36 EDT

EXHIBIT A

Scope of Work
HAYWOOD COUNTY

This Scope of Work outlines the Affordable Housing Development Fund program (the "Program") and the Homeownership Assistance Program ("HAP") requirements for the Subrecipient. This Scope of Work may be amended from time to time by mutual consent of the Parties.

PART A - AFFORDABLE HOUSING DEVELOPMENT FUND

1. **Summary.** Part A of this Scope outlines the Affordable Housing Development Fund program (the "Program") requirements for the Subrecipient.

    1.1. Program Purpose. To provide gap funding for public and private projects financing the construction of affordable rental housing units which may include multifamily units or single-family homeownership development.

    1.2. National Objective. Activities under the Program meet the national objective of benefitting low- and moderate-income persons through housing (LMH). Each project will demonstrate meeting the national objective through Household Characteristic Reports and Occupancy Reports.

    1.3. Description. Subrecipient will administer the Program by facilitating and/or performing multiple activities to create rental and homeownership opportunities for low- and moderate-income persons, including, but not limited to tax credit projects; multifamily projects; acquisition, renovation and repair of residential properties.

2. **Program Activity.** Under the Program, Subrecipient will provide funds to develop housing opportunities through grants and loans. Each specific activity awarded funds will be a "Designated Project". The specific activities for each Designated Project will be undertaken by a public or private entity, referred to in this Scope as a "Developer", who will enter into an agreement with Subrecipient. Subrecipient then must submit Designated Project to NCORR, and each Designated Project must receive a project-specific award letter and appropriate clearance letter before making any choice limiting activities or proceeding with the Designated Project.

    2.1. Management. The activities under this program will be managed by Subrecipient. Technical assistance is available upon request by Subrecipient regarding monitoring, compliance, or any other questions that arise.

3. **Loan Documents**. Subrecipient must submit all documentation utilized for the distribution of funds to each Designated Project prior to the anticipated execution of these documents. Failure to submit draft documents may trigger an Event of Default per the terms of Section 5.5.2 of this Agreement. Final executed copies of documents between Subrecipient and Developer must be submitted to Grantee within 180 days of execution.

4. **Payments and Reimbursements**. The NCORR Billing Guide (Exhibit B), as well as this Agreement, explain the requirements and procedures for the disbursement of Grant Funds to Subrecipient.

   4.1. Comingling Funds. Subrecipient shall not commingle Grant Funds with any other funds and will assure that Grantee has access to monitor the bank account where Grant Funds and other funds applicable to this Agreement are held.

   4.2. Timing. After Subrecipient's receipt of Grant Funds for reimbursement payments intended for each Designated Project, Subrecipient shall have no more than five business days to disburse such funds to the appropriate party, as applicable, for conformance with construction and prompt payment regulations.

5. **Project Documentation.**

   5.1. Budget. A Program Budget within 30 days after evaluation and selection of Designated Projects.

   5.2. Material Changes. If material changes are made to scope, budget, schedule, or sources for the Designated Projects included in the Program Budget or if additional Designated Projects are added, Subrecipient must submit a revised Program Budget within 90 days after the change is made. No environmental work, and no choice limiting activities or work on the additional Designated Project, can be started until this information is received and a project-specific award letter and appropriate clearance letters have been delivered to Subrecipient.

   5.3. Cost Analysis. Any and all cost analyses performed by Subrecipient must also be submitted to Grantee and information from the cost analyses verified as requested by Grantee.

   5.4. Lease Up, Operations, and Close Out. Upon completion of construction, Subrecipient shall make available to Grantee all records and documentation related to lease-up and operations of each Designated Project in preparation of close out, which documentation includes, but is not limited to, the following information:

      5.4.1. Certificate of Completion and/or Cost Certification
      5.4.2. Household Characteristics Reports for all housing units
      5.4.3. Household Income Worksheets and Certification for all housing units
      5.4.4. Final Expenditure Report with documentation
      5.4.5. Section 3 Report form HUD-60002
      5.4.6. Progress photos from the project
      5.4.7. Fair Housing Report
      5.4.8. Status reports from Grantee monitoring, if any
      5.4.9. MBE/WBE Reports
      5.4.10. Flood Insurance coverage, if applicable
      5.4.11. Green Building Standard and proof of certifications
      5.4.12. Broadband Infrastructure documentation (plans and/or pictures confirming installation)
      5.4.13. Most recent single audit report

5.5. Additional Documentation. Subrecipient shall submit any documentation regarding the Designated Project to Grantee as requested. Any additional documentation needed based on specific project activities will be delineated in the appropriate project specific award letters.

6. **Affordability Period.** As appropriate, NCORR will use the same standards as the HUD HOME Investment Partnership Program to set the length of the affordability periods. The length of such affordability periods will depend on the amount of Grant Funds provided and the nature of the activity funded. The affordability restrictions, including the affordability period requirements, would not apply to housing units newly constructed or reconstructed for an owner-occupant to replace the owner-occupant's home that was damaged by the disaster.

6.1. Other Restrictions. Other affordable housing subsidies (e.g., Low-Income Housing Tax Credits) layered in the financing structure may require additional rental restrictions. In all cases where other federal, state, or local subsidies are a component of the sources used, the most restrictive requirements will be applied.

7. **Monitoring.** Per Section 4.2, Subrecipient will comply with Grantee's monitoring of Subrecipient and the Program. Subrecipient will monitor the performance of Developer against goals and performance standards stated in the terms and conditions in this Agreement.

8. **Work Performed by Subrecipient:**

8.1. Ensure Uniform Relocation Act compliance, if applicable.
8.2. Review and approve financial closing documents related to the project.
8.3. Ensure all required insurance coverage is established for project.
8.4. Maintain documentation of all activities and expenditures undertaken in a system of record.
8.5. Submit appropriate reimbursement requests for funds with documentation to Grantee on a monthly basis.
8.6. Pre-audit of monthly certifications for payment when and if requested by NCORR.
8.7. Disbursement of monthly certifications for payment.
8.8. Enforcement of provisions in any third party agreements for instances of non-performance or insufficient performance. Any such instances shall be reported to Grantee along with suggested corrective action.
8.9. Reporting and data management, including delivery of ad hoc reports when requested by Grantee or its designee(s).
8.10. Final certificate of completion or cost certification review, as needed.
8.11. Providing documentation for closeout as requested by NCORR.
8.12. Monitor and enforce affordability period.
8.13. Management of agreed upon program budget. Any variances or expected variance which would cause significant impacts on the program must be reported to Grantee along with recommended corrective action.
8.14. Maintain adequate staffing levels to support program activities funded in whole or in part by CDBG-DR.
8.15. Ensure sufficient human resource management for all staff dedicated in whole or in part to programs funded by CDBG-DR.

8.16. Translate program documents, if required to be publicly available by law and by request.
8.17. Provide Grantee with any required or requested documentation and information and other documents required pursuant to law.
8.18. Facilitate the process of tax-exempt bond financing and closing in accordance with the requirements of Section 42(h)(4) of the Internal Revenue Code of 1986, as amended, including serving as bond issuer and hiring underwriters for tax-exempt bonds for 4% LIHTC projects in the event that the local jurisdiction is unable to offer or issue the bonds, or the Designated Project is located across more than one jurisdiction. If no bond projects are selected by the Subrecipient for funding, this paragraph shall not apply.
8.19. Monitor contractor compliance with Davis-Bacon, including collection of weekly certified payroll and on-site payroll interviews for applicable projects.
8.20. Coordinate environmental reviews with Grantee and contractors, as needed.
8.21. Perform other duties as requested by Grantee.

9. **Project Timeline**. Subrecipient and Grantee recognize that adjustments to the timeline may be needed due to variance in project underwriting, unforeseen environmental review findings, financing changes or shifting market conditions, and potential acts of God with respect to construction disruptions. If Subrecipient cannot provide documentation that the project is progressing in a manner consistent with the expenditure and placed in service deadlines, Grantee reserves the right to enforce the applicable termination provisions in the Agreement.

PART B – HOMEOWNERSHIP ASSISTANCE PROGRAM

1. **Summary.** Part B of this Scope of Work outlines the Homeownership Assistance Program ("HAP") requirements for the Subrecipient.

1.1. <u>Program Purpose</u>. The Homeownership Assistance Program will provide downpayment and closing cost assistance to participants purchasing homes in Haywood County to assist with housing security and homeownership opportunities while encouraging residents to remain in Haywood County.

1.2. <u>National Objective</u>. In accordance with 24 CFR 570.208, all CDBG-DR funded activities must satisfy a national objective. The Homeownership Assistance Program will meet the Low to Moderate Income (LMI) and Urgent Need (UN) National Objectives. As outlined in 24 CFR 570.201(n), Grant Funds can be used for down payment assistance. Moreover, as described in FR 31636, the Homeownership Assistance Program may also utilize the waiver and alternative requirement for 42 U.S.C. 5305(a)(24), which allows HAP to provide up to 100 percent of any down payment required from homebuyers with incomes at or below 120 percent of area median income. As appropriate, given the ongoing need to alleviate potential emergency conditions for households still recovering from Tropical Storm Fred and the potential to reside in environmental hazardous conditions, the HAP may also use the urgent need national objective category for down payment assistance that helps potential homeowners secure housing away from conditions that may pose serious and immediate threat to their health or welfare.

1.3. Description. The Homeownership Assistance Program provides funding in the form of a financial subsidy to offset some of the costs of becoming a homeowner for first-time homebuyers or storm-displaced residents. The assistance will be available to low- and moderate-income (LMI) households to help with a home purchase. The Homeownership Assistance Program will leverage the waiver of 42 USC § 5305(a)(24) found in the Federal Register Notices applicable to the Tropical Fred CDBG-DR grant. The waivers are specifically planned to be utilized to serve populations between 80-120% AMI. Housing counseling service providers will assume a major role in assisting potential participants in the HAP. Beneficiaries of the assistance must successfully complete program-provided and required homebuyer education and any additional ancillary homeownership counseling, as defined by NCORR, prior to receiving homeownership assistance. Costs associated with this counseling and education are provided at no charge to the Applicants.

2. **Management.** The activities under the HAP will be managed by NCORR except as otherwise noted in this Scope of Work. Technical assistance is available upon request by Subrecipient regarding monitoring, compliance, or any other questions that arise.

3. **Payments and Reimbursements**. The NCORR Billing Guide, as well as this Agreement, explain the requirements and procedures for the disbursement of Grant Funds to Subrecipient.

3.1. Comingling Funds. Subrecipient shall not commingle Grant Funds with any other funds and will assure that Grantee has access to monitor the bank account where Grant Funds and other funds applicable to this agreement are held.

4. **Project Documentation.**

4.1. Budget. The funding granted to Haywood County for the HAP shall include $1,000,000 for downpayment and closing cost assistance. This shall be distributed to eligible applicants in compliance with NCORR's program guidelines. An additional $100,000 shall be allocated to Haywood County's administration of the HAP.

4.2. Material Changes. If material changes are made to scope, budget, or schedule these must be mutually agreed upon by both parties.

4.3. Cost Analysis. Any and all cost analyses performed by Subrecipient must also be submitted to Grantee and information from the cost analyses verified as requested by Grantee.

4.4. Additional Documentation. Subrecipient shall submit any documentation regarding the HAP to Grantee as requested.

5. **Affordability Period.** The affordability period for the Homeownership Assistance is 36 months. NCORR can recapture all or a portion of the Grant Funds provided to a homebuyer if the home does not continue to be the principal residence of the family for at least 36 months.

6. **Monitoring.** Per Section 4.2, Subrecipient will comply with Grantee's monitoring of Subrecipient and the HAP.

7. **Work Performed by Subrecipient:**

   7.1. Provide requisite wiring for home purchase closings for eligible applicants.
   7.2. Maintain adequate funds to support an appropriate volume of closings per month.
   7.3. Coordinate with NCORR staff to make sure closings can be completed timely and efficiently.
   7.4. Cooperate with any housing counseling agencies as necessary.
   7.5. Maintain documentation of all activities and expenditures undertaken in a system of record.
   7.6. Submit appropriate reimbursement requests for funds with documentation to Grantee on a monthly basis.
   7.7. Pre-audit of monthly certifications for payment when and if requested by NCORR.
   7.8. Disbursement of monthly certifications for payment.
   7.9. Enforcement of provisions in any third-party agreements for instances of non-performance or insufficient performance. Any such instances shall be reported to Grantee along with suggested corrective action.
   7.10. Reporting and data management, including delivery of ad hoc reports when requested by Grantee or its designee(s).
   7.11. Providing documentation for closeout as requested by NCORR.
   7.12. Monitor and enforce affordability period.
   7.13. Management of agreed upon program budget. Any variances or expected variance which would cause significant impacts on the HAP must be reported to Grantee along with recommended corrective action.
   7.14. Maintain adequate staffing levels to support program activities funded in whole or in part by CDBG-DR.
   7.15. Ensure sufficient human resource management for all staff dedicated in whole or in part to programs funded by CDBG-DR.
   7.16. Translate program documents, if required to be publicly available by law and by request.
   7.17. Provide Grantee with any required or requested documentation and information and other documents required pursuant to law.
   7.18. Perform other duties as requested by Grantee.

8. **Project Timeline**. Subrecipient and Grantee recognize that adjustments to the timeline may be needed due to variance in project underwriting, unforeseen environmental review findings, financing changes or shifting market conditions, and potential acts of God with respect to housing market. If Subrecipient cannot provide documentation that the project is progressing in a manner consistent with the expenditure and placed in service deadlines, Grantee reserves the right to enforce the applicable termination provisions in the Agreement.

Compliance and Monitoring Manual

Version 11
September 2023

Document Version History

Version #	Date	Description
1	11/2019	Initial Version
2	12/19/2019	Added CDBG-MIT Language, Management Decisions, Remedies for Non- Compliance and NCORR Risk Assessment Process Flow
3	7/16/2020	Added: Revisions from Version 4 to Version 5 of the HRP Manual Dated 04.03.2020; Updated for HOPE
4	9/10/2021	Updated to include SAPA 6 and SAPA 7 changes; added recommendations received during HUD Monitoring April 2021 regarding risk assessments and monitoring tools; Updated for HOPE
5	4/14/2022	Added: Requirements per FR-6384 for Tropical Storm Fred funding
6	7/11/2022	Added: Monthly Report instructions for DRGR
7	12/21/2022	Added: Single Audit A-133 Certification Form
8	3/3/2023	Added: Project Closeout procedures
9	4/25/2023	Added: ERA2 Addendum
10	5/17/2023	Amended language concerning Subrecipient concern and finding response time and expectations.
11	9/5/2023	Amended language from “subrecipient” to implementing partner and “subrecipient agreement” to written agreement. Removed ERA2 Addendum due to redundancy in process.

Table of Contents

Section 1: Overview

Purpose

The purpose of this manual is to outline the North Carolina Office of Recovery and Resiliency (NCORR) procedures for monitoring and maintaining compliance with state and federal funding from various sources. This manual is applicable to funding received from the United States Department of Housing and Urban Development (HUD), the United States Department of Treasury and any State Funds received via the North Carolina State Legislature and Memorandums of Agreement/Understandings.

NCORR enters into written agreements with various state and local partners to successfully implement and administer programs funded by the above agencies. These partners are considered "implementing partners" and are often synonymous with the term Subrecipient (as defined by 2 CFR 200.331). NCORR also enters into agreements with contractors and vendors as outlined in the NCORR Procurement Manual.

With the first agreement and any subsequent amendments, each implementing partner will receive a funding specific guidebook from the Compliance Department outlining the applicable regulations governing the funding source and monitoring tools used by the Compliance Department. Each partner is also assigned a Compliance Specialist to act as a resource for the entirety of the written agreement.

Background

The funds received by NCORR are required to undergo extensive monitoring and compliance to ensure the funds are utilized in accordance with all applicable state and federal regulations.

Successful implementation, administering and monitoring of NCORR's state and federally funded programs requires coordination between NCORR and the implementing partners. The following are the three levels of monitoring performed and the entity responsible for each type of monitoring.

First Level Monitoring (Awarding Agency)

The awarding agency is the state or federal awarding agency. In accordance with 2 CFR 200.329(c)(1), the awarding agency is required to monitor Grantees at least once annually. HUD and, any other awarding agency have the authority to monitor the Grantee and implementing partners.

Second Level Monitoring (NCORR)

NCORR as the Grantee (direct recipient) of funds, is responsible for monitoring implementing partners and/or beneficiaries to determine compliance with applicable federal and State laws and requirements.

This level also determines the implementing partner's ability to implement the program in a timely manner consistent with written agreement and grant conditions. Additionally, for CDBG-DR specifically, these monitoring visits assist NCORR staff in filing Disaster Recovery Grant Reporting (DRGR) quarterly reports.

NCORR, as the administrator of the State-centric programs managed without the use of partners, monitors internal programs to ensure the Office remain in compliance with all applicable federal mandates, as well as approved plans.

Third Level Monitoring (Implementing Partners)

Implementing partners are permitted to subgrant awards to sub-partners. The prime partner is responsible for monitoring the sub partners and/or beneficiaries to determine if the grant is being implemented in compliance with applicable federal and State laws and requirements. The monitoring consists of a review of project files, records and documentation as well as a visit to the project site, if applicable.

Compliance Department

The purpose and responsibility of the NCORR Compliance Department is to effectively:

- Ensure that all implementing partners administering state and federal funds comply with all applicable federal, state and local rules and regulations;
- Assist in preventing and minimizing fraud, waste, and abuse;
- Fulfill the goals set forth in NCORR's Action Plan and amendments in a timely manner;
- Detect potential inefficiencies early; and
- Communicate best practices to implementing partners.

In an effort to ensure these responsibilities are carried out, the Compliance Department will conduct reoccurring monitoring reviews throughout the life cycle of each written agreement. The frequency of the monitoring reviews is based on the level of risk associated with the annual risk assessment required by 2 CFR 200.331(b).

- High Risk = Immediate monitoring (within 30-90 days of completing the risk assessment)
- Medium Risk = Intermediate need (within 90-120 days of completing the risk assessment)
- Low Risk = Add partner to semi-annual on-site monitoring schedule
- Very Low Risk = Add partner to semi-annual desk monitoring schedule

The purpose of this manual and operating procedures is to provide the Compliance Department with guidance and clearly defined quality assurance and quality control (QA/QC) expectations. NCORR's Compliance Department is made up of a Compliance Director, Compliance Manager and Compliance Specialists. Below are the roles and responsibilities of the department members.

Compliance Director

The Compliance Director's role is to monitor the use of funds in accordance with federal, state, and local and program policies. The Compliance Director is responsible for leading NCORR's Compliance Department and reports directly to the NCORR Finance Chief. The Compliance Director also serves as the Fraud, Waste and Abuse (FWA) facilitator for the Compliance Triage Team.

Compliance Manager

The Compliance Manager's role is to ensure assignments are appropriately distributed to the Compliance Specialists monitoring written agreements. The Manager oversees all monitoring functions within the Compliance Department. The Manager is also responsible for direct supervision of the Compliance Specialists and, reports directly to the Compliance Director.

Compliance Specialists

The Compliance Specialist(s) role is to perform monitoring and technical assistance on all NCORR program areas and program files. The Compliance Specialist(s) are responsible for tracking, monitoring and reporting on compliance and performance of all state and federal funded programs. Compliance Specialist(s) will evaluate risk assessments, monitoring plans, monitoring reports, and make recommendations for corrective actions. Compliance Specialist(s) report to the NCORR Compliance Manager.

Internal Auditor (Federal Funds)

The Internal Audit function shall remain independent of NCORR while designing and conducting audits in accordance with the Institute of Internal Auditors standards. Internal Auditor(s) can provide objective, professional advice to all facets of NCORR programs with the focus to detect and prevent fraud, waste, and abuse, and assist NCORR in continuously improving the efficiency and effectiveness of all program operations. This includes, but is not limited to, administrative, financial, and operational reviews to ensure funds are spent in compliance with applicable laws and guidelines. Additionally, the Internal Auditors investigate reports of fraud, waste, and abuse and, if applicable, monitor the process until resolved.

Specific to the CDBG-DR and CDBG-MIT programs, the internal auditor is procured by the Department of Public Safety (DPS) Office of Internal Audit (IA).

Specific to CRF, CDBG-CV and ERA funding from NCPRO and the US Treasury, NCORR will utilize the State Term contract to procure an internal auditing firm. The firm chosen is responsible for internal audit reviews as well as investigations of fraud, waste and abuse.

Section 2: Risk Assessments

The risk assessment is a tool used to identify risks and specific areas that may be at a high risk for potential non-compliance. In addition, the risk assessment tool aids in prioritizing monitoring efforts for higher risk programs and determining the amount of technical assistance necessary.

Subrecipient Pre-Award Risk Assessment

NCORR Program Managers may request a pre-award risk assessment to be completed by the Compliance Department prior to entering into a written agreement with a Subrecipient (as defined by 2 CFR 200.331). This assessment may be completed prior to NCORR entering into a subrecipient agreement. The Compliance Department will utilize the NCORR Subrecipient Pre-award Assessment Tool criteria to determine the subrecipient's potential risk and overall ability to manage the project upon which they are requesting program funds.

Upon completion of the pre-award risk assessment, the Compliance Department will provide the requesting program manager with the completed Subrecipient Pre-award Assessment and recommendations. The recommendations will include the following information.

- Eligibility Status – Determines whether or not the potential subrecipient is eligible to receive funds;
- Capacity – Determines whether or not the potential subrecipient has the knowledge, tools and/or capacity to carry out the activity for which they are requesting funding.
- Risk Level – Determines whether or not the potential subrecipient would be a high, medium or low risk based on the results of the pre-award risk assessment.

The decision to approve an agreement with the potential subrecipient is at the discretion of NCORR's program management as the Compliance Department will only provide recommendations

Annual Subrecipient Risk Assessments

Once NCORR enters into an agreement with a subrecipient, pursuant to 2 CFR 200.331(b), the Compliance Department performs an initial risk assessment during the year a subrecipient commits the funds to a specific project. The Compliance Department may elect to assess each subrecipient's risk level annually. The frequency of monitoring a subrecipient will be based on the level of risk determined as follows:

- High Risk = Immediate monitoring (within 30-90 days of completing the risk assessment)
- Medium Risk = Intermediate need (within 90-120 days of completing the risk assessment)
- Low Risk = Add subrecipient to semi-annual on-site monitoring schedule
- Very Low Risk = Add Subrecipient to semi-annual desk monitoring schedule

Section 3: Monitoring Implementing Partners

The Compliance Department utilizes monitoring checklists as the primary tools to determine the compliance of an implementing partner. Each checklist covers a different regulatory compliance area (examples – labor standards, fair housing, and financial management).

Monitoring Plan and Timeline

The Compliance Department is responsible for developing a timeline for monitoring based on agreements executed and risk assessments completed. The plan will also include a proposed schedule for technical assistance sessions.

For CDBG-DR and MIT funds specifically, the Compliance Department will provide DRGR with a monitoring plan outlining the monitoring timeline and objectives for the current fiscal year. The Compliance Department will also provide the DRGR team with the monitoring efforts completed each quarter for inclusion in the Quarterly Performance Report (QPR). DRGR team will compile the efforts performed under the CDBG-DR/MIT grant, producing a year-end Compliance plan.

For all other funding sources outside of DRGR, the Compliance Department will keep a monitoring calendar showing the dates a risk assessments or monitoring will occur/have occurred.

Desk Monitoring

The Compliance Department performs various types of desk monitoring reviews to ensure compliance with federal, state and local regulations, and program requirements, and a timely expenditure of funds. Each type of monitoring review outlined below includes a review of all applicable federal, state, and local regulations, and program requirements, in addition to the other resources used and outlined below.

Implementing Partner Desk Monitoring

Desk monitoring reviews are the primary method of tracking compliance with the governing regulations and program requirements. These types of reviews will be completed based on the progress of the program/project and will be conducted annually (at minimum).

The results of the desk monitoring will include the following determinations:

- Compliance Status/Risk - Whether or not the grant recipient is compliant and if there are any potential risk of non-compliance
- Technical Assistance - The need for technical assistance;
- Review Frequency/Type - The frequency of on-site visits needed.

Internal Program Desk Monitoring

The Compliance Department performs internal program desk monitoring reviews on the programs NCORR administers in house. These programs are part of the state-centric model and are overseen by NCORR staff members. The frequency of the monitoring is dependent on program progress, policy manual changes and amount of spending. The Program Manager may request the Compliance Department to perform an internal program desk monitoring review at any time.

Each program is monitored utilizing the manual governing the respective program area to be monitored. The Compliance Department does not utilize a monitoring checklist for internal programs monitoring, instead a management memo is sent from the Compliance Director to the Chief Recovery Officer and a carbon copy sent to the program manager outlining the results of the desk monitoring.

Procured Contracts Desk Monitoring

The Compliance Department performs desk monitoring reviews on contractors procured directly by NCORR. General oversight of the contracts is the responsibility of NCORR's Contract Administrator. At any time, the contract administrator may request the Compliance Department perform a desk monitoring review on any contract.

It is NCORR's responsibility to ensure contractors are making every effort to comply with the regulatory requirements of Section 3. Hence, the Compliance Department will review appropriate documentation to verify contractors made every effort to comply with Section 3 regulatory requirements to the greatest extent feasible.

Each contract is monitored using the Request for Proposal (RFP) solicited by NCORR, the contractor's response and the executed contract with any amendments. The frequency of monitoring will be based on risks identified by the Contract Administrator. The Compliance Department does not utilize a monitoring checklist for contract monitoring, instead a management memo is sent from the Compliance Director to the Director of NCORR outlining the results of the desk monitoring.

Internal Process and Policy Desk Monitoring

Periodically, the Compliance Department will conduct desk monitoring reviews of their internal program's policies and procedures. NCORR's upper management may request the Compliance Department perform a desk monitoring of their internal policy or procedure to ensure compliance with all federal regulations, as well as its overall effectiveness. The frequency of this type of monitoring review is dependent on the requests received from NCORR's management and/or if a substantial change is made to policies or processes governing the program.

One member of the Compliance Department is a standing non-voting member of the Exceptional Case Panel and attends meetings which is where compliance with policy changes are discussed.

On-Site Implementing Partner Monitoring

Remote On-Site

The Compliance Department performs on-site monitoring reviews of all implementing partners throughout the lifecycle of the program/project. On-site monitoring reviews are determined based on the annual risk assessment score as follows:

- High Risk = Immediate monitoring (within 30-90 days of completing the risk assessment)
- Medium Risk = Intermediate need (within 90-120 days of completing the risk assessment)
- Low Risk = Add partner to semi-annual on-site monitoring schedule

Scope of the On-Site Monitoring

The scope of the monitoring review will be based on several factors: the assessed risk level of the Partner, the complexity of the project, the budget expenditure percentage, and specific areas of concerns identified by program management.

Components of the On-Site Monitoring

The on-site monitoring consists of the following actions in the order they will occur:

- Notification/Engagement Letter
- Entrance Conference
- Interviews with staff
- Monitoring review using checklists
- Follow up interviews with staff, as applicable
- Exit Conference
- Additional off-site review by Compliance Department, as applicable
- Outcome letter

Engagement Letter

The Engagement Letter is sent no less than two weeks prior to the on-site monitoring review visit. The letter includes the monitoring schedule, scope of the review, and the names and titles of the staff conducting the monitoring. The letter may also request documentation to be submitted by the partner prior to the monitoring occurring.

Entrance Conference

The Purpose of the entrance conference is to:

- Review the scope of work and areas of focus
- Identify the partner staff that will assist during the monitoring;
- Set-up interview times and, if applicable, schedule physical inspections;
- Verify the method for accessing files and work areas.
- Schedule daily Teams meeting to address any pending questions/concerns during the monitoring review.

Interviews and Checklists

On-site Monitoring reviews includes conducting interviews and the completion of checklists to verify and document compliance and performance (this can also include physical inspections if monitoring is conducted on-site). Interviews with partner staff can clarify and determine the accuracy of the file information reviewed and assess their level of satisfaction with the program.

Specific responses to the Monitoring Checklist questions are required. The responses to each question provide important documentation for the partner's record. The Compliance Department expects the main objective of monitoring to be assisting program participants and partners in carrying out their program responsibilities.

The responses to the questions in the Monitoring Checklist form the basis for monitoring conclusions and are supplemented by the partner's program and project records reviewed during the monitoring. All Checklist questions will be clearly answered (both the "Yes/No/N/A" box and the "Findings/Comments" text box).

Exit Conference

At the end of the monitoring review, the Compliance Department staff will conduct an exit conference with the appropriate partner officials or designated staff to discuss preliminary conclusions. In part, this conference will afford both parties an opportunity to confirm the accuracy and completeness of the information used to formulate the basis for the monitoring conclusions.

The Compliance Department staff will be responsible for using the checklist not only to prepare for the exit conference by clearly and concisely summarizing the conclusions, but also to document any issues found. To the extent that a program participant or partner signifies disagreement, the basis for any objections should be noted. These summarizations are used to develop the monitoring conclusion letter.

Outcome Letter

NCORR is required by 2 CFR 200.331(d)(3), 2 CFR 200.521(a) and (c) to issue a management decision for all findings in a monitoring report that involve federal grants awarded by NCORR. Upon completion of the monitoring review, the Compliance Department will prepare an Outcome Letter describing the results in sufficient detail to clearly describe the areas that were covered and the basis for the conclusions. The letter will be generated and sent to the partner within forty- five (45) days of completion of the monitoring.

Each Outcome Letter will include:

- The program, project, and entity monitored
- The dates of the monitoring
- The name(s) and title(s) of the staff who performed the monitoring review
- Partner staff present during the monitoring.
- A listing of the areas reviewed
- If applicable, clearly labeled findings and concerns
    - Every finding must be followed with the federal citation that applies
    - Recommended corrective actions
- An opportunity to provide a corrective action plan
- Response timeframes (if applicable)
- An offer of technical assistance (as needed)

In the rare event a monitoring results in any suspicion of fraud or misconduct, the monitoring report will be referred to the NCORR Compliance Triage Team for subsequent referral to third party investigators.

Corrective Actions

The Compliance Department provides partners with an opportunity to cure any monitoring deficiencies (findings or concerns) identified through corrective actions or corrective action plans.

Findings: Where an identified deficiency results in a finding, the finding must include the condition, criteria, cause, effect, and recommended corrective action.

- The condition describes the issue.
- The criteria cite the regulatory or statutory requirements that were not met or violated.
- The cause explains why the condition occurred.
- The effect describes what happened due to the condition.
- The recommended corrective action identifies the action(s) needed to resolve the finding.
- Findings require a response from the partner within 45 days of the date of the letter. If the

Partners does not submit a response, the findings default to the status of "non-compliant" and will remain open until corrective action has been taken and the finding has been closed.

Concerns. Monitoring concerns brought to the partner's attention should include the condition, cause, and effect. The monitoring staff will suggest or recommend corrective actions that the program participant can take to address a concern, based on sound management principles or other guidelines. Corrective actions are not *required* for concerns.

Partners are given the opportunity to respond to concerns within 45 days from the date of the outcome letter to provide NCORR with the corrective actions taken or corrective action plan to be carried out by the Partner. It is the responsibility of the Partner to track and respond within 45 days of receipt of the outcome letter. If the Partner chooses not to respond within the 45-day period, NCORR will close the monitoring. In the event a Partner does not take corrective actions or provide a corrective action plan to the Compliance Department, NCORR has the ability to begin seeking recapture of misused grant funds.

Closing Findings

NCORR's Compliance Department will consider the monitoring process to be completed only after all deficiencies identified have been addressed and remedied through corrective action(s).

Partners are required to provide NCORR with a status of the corrective actions that have been implemented within 45 days from the date of the outcome letter. The Compliance Department will review the submitted information within 30 days of receipt. Upon completion of the review, they will issue a letter to the Partner indicating the status of each finding after the 30-day review period has passed.

Reoccurring Non-Compliance

In the case of reoccurring noncompliance of federal and/or state statutes, regulations or terms or conditions of the federal grant, by a Partner, NCORR will take actions as may be appropriate to prevent a continuance of any deficiencies, mitigation of any adverse effects or consequences and to prevent reoccurrences. The Compliance Department will coordinate with Legal Counsel to determine the appropriate actions to remedy reoccurring non-compliance.

Section 4: Technical Assistance

NCORR is responsible for providing technical assistance to NCORR's implementing partners. When deficiencies are identified as a result of a monitoring review, technical assistance may be required to assist in the resolution of the deficiency. Hence, conducting desk and on-site monitoring reviews helps the Compliance Department determine the type of technical assistance partners may need.

The objective of technical assistance is to aid the partner in the day-to-day management of the program in compliance with program and regulatory requirements. The nature and extent of technical assistance should be determined at the discretion of the respective program manager. Examples of technical assistance may include:

- Verbal or written advice;
- Formal training; and/or
- Programmatic Information Resources.

Annual Fraud, Waste, Abuse (FWA) Training

To assist in the proper management of funds, NCORR and its implementing partners will attend fraud related training provided by NCORR and the HUD OIG.

Section 5: CDBG-DR/MIT Monitoring and Compliance Monthly Reports

Compliance is required to provide a summary of information outlining the monitoring and technical assistance carried out upon completion of an event type. Once a monitoring or technical assistance has been completed, the report shall be submitted to DRGR team for quarterly reporting purposes. If a finding or concern has been issued, the Compliance team will provide justifications for the lack of progress and outline plans, steps, and strategies to address the issue.

All Compliance technical assistance trainings and monitoring reports will be submitted by the 10th of each month upon completion of an event type.

Section 6: Single Audit

As detailed in 2 CFR 200, Audits of States, Local Governments and Non-Profit Organizations, all non-federal entities expending $750,000 or more in federal funds during their fiscal year must have an annual audit conducted. Implementing Partners that fall within this category must submit a copy of their single or program specific audit report to NCORR.

NCORR's Compliance Specialists will provide implementing partners with the A-133 Certification form at the end of their fiscal year for completion. Partners must complete single audit certification form for the most recently concluded fiscal ear and return to Compliance specialist with that year's audit.

Implementing Partners who do not expend $750,000 or more in federal funds during their fiscal year must complete the A-133 Certification form indicating such and return to the Compliance Specialist.

Section 7: Project Closeout

Project closeout is the process by which NCORR determines all requirements of the written agreement between NCORR and the implementing partner have been completed in accordance with the terms and conditions of the agreement.

In project closeout, partners prepare closeout documents and resolve all monitoring/audit findings. Compliance Department staff will complete Section C: Monitoring and Compliance section of Project Closeout Checklist form and Compliance Director or Manager will sign off for Monitoring and Compliance section.

NCORR

NORTH CAROLINA OFFICE OF RECOVERY AND RESILIENCY

NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

OFFICE OF RECOVERY AND RESILIENCY



Version 1.0 | May 1, 2023

Davis-Bacon and Related Acts (DBRA) Policies and Procedures

NCORR is a division of the NC Department of Public Safety.

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Revision History

Version Number	Date Updated	Summary of Changes
1.0	May 1, 2023	First Version

Table of Contents

1. Overview of Davis-Bacon and Related Acts Requirements (DBRA)

A. What is DBRA?

The federal Davis-Bacon Act of 1931 and Related Acts (DBRA) include roughly sixty (60) statutes that contain prevailing wage provisions requiring contractors and subcontractors working on federally funded jobs to pay their laborers wages and benefits no less than what others pay their workers for similar projects, locally. Minimum Davis-Bacon wages are "based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on project of a character similar to the contract work" in that local area (40 U.S.C. 3142). In other words, the U.S. Department of Labor (DOL) sets Davis-Bacon wages and maintains them over time. The wage determinations are published online at sam.gov. Each wage determination lists a base rate and a fringe rate to be paid for each worker classification.

The Office of Davis-Bacon and Labor Standards (DBLS) is responsible for HUD's overall compliance with the federal prevailing wage requirements applicable to HUD-funded programs. Title I of the Housing and Community Development Act of 1974 requires the payment of local prevailing wage rates (which are determined by the U.S. Department of Labor (DOL)) to all workers on HUD-funded construction projects, which may include CDBG-DR and CDBG-MIT, (referred to as HUD-funded or funds in this document) in excess of $2,000 for the following types of projects:

- Construction, alteration, or repair (including painting and decorating) of public buildings or public works

- Residential construction which consists of projects involving the construction, alteration, or repair (including painting and decorating) of eight (8) or more separate, contiguous single-family houses operated by a single entity as a single project, or eight (8) or more units in a single structure.

(42 USC §5310; 40 USC §3142(d)).

These requirements apply regardless of whether the contract was acquired through the sealed bid, small purchase, or non-competitive proposals (sole source) procurement process. Even if HUD funds finance only a portion of a construction contract, Davis-Bacon requirements still apply to the entire construction contract. For exemptions to Davis-Bacon requirements, see Section 6, Exemptions.

Activities financed by a HUD program that are not "construction work" do not trigger Davis-Bacon requirements. Examples include but are not limited to:

- Real property acquisition;
- Architectural and engineering services;
- Other professional services (legal, accounting, testing[1]); and

Other non-construction items (furniture, business licenses, real estate taxes)

[1] Drilling a test well can be considered either a component of construction or a professional service. To determine if Davis-Bacon applies to a test well, please refer to the Department of Labor's (DOL) Field Operations Handbook, 15d05, for additional guidance.

Detailed information about each requirement can be found on HUD's website at the following link: https://www.hud.gov/program_offices/administration/hudclips/handbooks/sech/13441

Further information for agencies and contractors can be found in HUD's guide at the following link: Davis-Bacon and Labor Standards: Agency/Contractor Guide (hudexchange.info)

B. Purpose of This Document

This policy outlines NCORR's expectations regarding partner agencies, subrecipients, contractors, and subcontractors compliance with DBRA requirements as a part of participating in NCORR's HUD funded programs ensuring that workers receive DOL published prevailing wages for construction contracts.

NCORR may amend its DBRA Policies and Procedures document as necessary to ensure continued compliance with DOL and HUD's requirements and/or to reflect updated DBRA guidance and outreach strategies. Furthermore, though this document covers most standard scenarios and types of projects likely encountered by the disaster recovery efforts of NCORR, additional applicable guidance may also be found in HUD's Labor Standards Handbook, which may contain information on less common scenarios: https://www.hud.gov/program_offices/administration/hudclips/handbooks/sech/13441. It is NCORR's intent to adhere to this handbook for any scenarios or policy issues that are not explicitly covered in this document.

C. Applicability

The Davis-Bacon and Related Acts (DBRA) apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of $2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings, public works or residential construction of eight (8) or more separate, contiguous single-family houses operated by a single entity as a single project, or eight (8) or more units in a single structure.

NCORR, partner agencies, and subrecipients of HUD funds shall assist HUD and DOL ensuring contractor compliance with federal statutes.

2. NCORR Labor Standards Coordinator

NCORR's Labor Standards Coordinator serves as the central point of contact for Davis-Bacon and Related Acts (DBRA) reporting and compliance for NCORR and its subrecipients, contractors, and subcontractors supporting the program. Subrecipients, contractors, subcontractors and others are encouraged to reach out to NCORR's Labor Standards Coordinator with question regarding DDBA compliance.

NCORR Labors Standards Coordinator

E-Mail at: DBRA@rebuild.nc.gov

3. Sub-recipient and Partner Agency Labor Standards Compliance

A construction project covered by federal labor standards, including infrastructure and housing, requires a series of ten (10) specific actions by labor standards, compliance, and procurement personnel. Three

(3) of these actions occur prior to bidding, two (2) actions occur before the bid is awarded, two (2) actions occur at the time of award, and three (3) actions occur after the start of construction.

Pre-Bid Tasks:

1. Designate a Labor Standards Officer
2. Obtain Applicable Wage Determination(s) for the Project
3. Include the Wage Determination(s) in the Bid Documents

Pre-Award Tasks:

4. Ensure the Wage Determination(s) are Current Before Bid Opening
5. Confirm the Recommended Construction Contractor's Eligibility Status

At award tasks:

6. Award the Construction Contract
7. Submit the Labor Standards Record

Post-Start of Construction Tasks:

8. Review Project Payrolls During Construction
9. Submit a Payroll Review Certification
10. Submit Construction Completion Reports — Use of Occupancy Permit (UOP) & NCORR Final Wage Compliance Report (FWCR)

The ten (10) mandatory actions listed above are described in greater detail below:

1. Designate a Labor Standards Officer (LSO) for the Project (Pre-Construction)

All Subrecipients with construction activities are required, as a condition of the subrecipient agreement, to appoint and maintain a Labor Standards Officer (LSO), including those with Force Account approval (construction carried out by employees of the grantee). Subrecipients shall notify NCORR of the designation including name, contact email address and contact phone number. The LSO may be, but is not required to be, an employee of a jurisdictional city or county, or a private consulting firm. The primary qualification of an LSO is a good understanding of HUD's overall compliance requirements with the federal prevailing wage obligations applicable to HUD-funded CDBG programs.

The LSO is responsible for the regulatory administration and enforcement of the federal labor standards provisions on all Subrecipient contracts covered by Davis-Bacon requirements. Tasks include:

- Providing pre-construction labor standards advice and support to the contractor and other project principals (for example, the owner, sponsor, or architect), including ensuring that no prime or sub-contract is awarded to a construction contractor that is ineligible (e.g., debarred) for federally assisted work;
- Providing the proper Davis-Bacon Prevailing Wage Rate and ensuring that wage rates and applicable provisions (contained in HUD-4010) are incorporated into all construction contracts and subcontracts;
- Monitoring labor standards compliance by conducting interviews with construction workers at the job site, reviewing weekly payroll reports for compliance with the applicable Davis-Bacon wage rates, and ensuring the Department of Labor's "Notice to All

Employees" federal posters and copies of the applicable wage determination(s) are displayed at the job site; and

- Overseeing any enforcement actions that may be required.

2. Obtain Applicable Wage Determination(s) for the Project (Pre-Construction)

Wage determinations:

- Are established by the U.S. Department of Labor (DOL);
- List construction work classifications (such as: Carpenter, Electrician, Plumber, Laborer, etc.), the minimum wage rates and fringe benefits, and the geographic location of the prevailing wage rate;
- Are categorized into four construction types (Heavy, Highway, Building, and Residential Construction);
- Apply to specific geographic areas, usually a county or group of counties; and
- Are modified frequently as collective bargaining agreements are re-negotiated and/or new wage rate surveys are conducted.

The LSO must obtain the applicable wage determination(s) for each specific HUD funded programs, including CDBG-DR and CDBG-MIT construction contracts, where Davis-Bacon and Related Acts (DBRA) regulations apply. Wage determinations can be found at SAM.gov and are required to be incorporated as exhibits to the contract and posted at the job site.

The Davis-Bacon "prevailing wage" is the combination of the basic hourly rate and any fringe benefits listed in a Davis-Bacon wage determination. The contractor's obligation to pay at least the prevailing wage listed in the contract wage determination can be met by paying each laborer and/or mechanic the applicable prevailing wage entirely as a base rate or by a combination of base rate and employer-provided bona fide fringe benefits. Prevailing wages, including fringe benefits, must be paid for all hours worked on the site of the work. Overtime rates also apply for all hours worked in excess of forty (40) hours per week.

At time of this policy implementation, no state or local wage determinations exists in the State of North Carolina.

Wage Rate Classifications:

Federal wage determinations are issued for four (4) construction categories: Building, Residential, Heavy, and Highway, by location and include special characteristics. In determining which rate category to choose, it is important to understand the differences between categories so that the correct category is applied. It is possible that more than one wage determination may apply within the same project. Use of an inapplicable category may leave the grantee or subrecipient responsible for restitution and penalties. The construction categories are described in the following table. Within each category are all of the different job classifications that fall within that category, along with the base and fringe rate for each. If there is no listing for a particular job classification under any category, a new classification and rate may be requested from the Department of Labor.

Category	Description
Highway Construction	Highway projects include the construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, sidewalks, paths, parking areas, and other similar projects not incidental to residential, building, or heavy construction.
Building Construction	Building construction is generally the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. It includes structures, residential structures, the installation of utilities, and the installation of equipment, both above and below grade level, as well as incidental grading, utilities, and paving. Additionally, such structures need not be “habitable” to be building construction. The utilization of heavy machinery and/or equipment does not generally change the project’s character as a building.
Residential Construction	Residential projects include the construction, alteration, or repair of single-family houses or apartment buildings of no more than four stories in height. This includes all incidental items such as site work, parking areas, utilities, streets, and sidewalks.[2]
Heavy Construction	Heavy projects are those projects that are not properly classified as either building, highway or residential. Unlike these classifications, heavy construction is not a consistent classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished on the basis of their particular project characteristics, and separate schedules issued. For example, separate schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.

3. Include the appropriate Wage determination(s) in the Bid Documents (Pre-Construction)

If the construction work will be procured, the wage determination (and any subsequent modifications) must be included in the bid package as applicable. Review the various Wage determinations for each county in which the construction activity will occur and choose the one construction type that is most appropriate for the work to be performed. The type of work and the locations where these decisions are applicable are listed in the first paragraph of the wage determination.

4. Ensure the Wage Rate is Current Before Bid Opening (Pre-Construction)

Wage determinations are modified whenever any of the job classification wage rates contained in a particular wage determination are updated, which may be due to a new wage rate survey being conducted or a collective bargaining agreement being re-negotiated. The most current wage determination modification must be incorporated into the bid solicitation documents and updated whenever a new modification is issued prior to the bid opening, even if the modification does not involve any of the job classifications that will apply to that particular project. The LSO, in collaboration with NCORR Program Managers, must confirm the wage

[2] HUD has determined that new construction and rehabilitation of single-family residences or properties are exempt from Davis-Bacon labor standards if the property contains less than eight (8) contiguous units if the project is CDBG-funded or less than twelve (12) units if the project is HOME funded. A property is defined as one or more buildings on an undivided lot or on contiguous lots or parcels which are commonly owned and operated as one rental or project.

determination, in the bid specifications, for construction contracts is still current at the bid opening date or the Notice to Proceed for Housing Projects.

The date the wage rates were confirmed by the Labor Standards Officer must be recorded.

- For Housing: Following execution of the contract documents and completion of the pre-construction conference, it is typical practice to issue a Notice to Proceed (NTP). The Notice to Proceed marks the start date of contract performance. There is a ten (10) day window built into the NTP for construction commencement. If construction cannot commence during that period, the LSO must obtain a new General Wage determination (GWD) once a new date to commence has been established. At this point, the project may not commence until the new wage determination has been obtained;
- For Competitive Sealed Bid: the "Bid Open Date" is the date sealed bids are opened.
- For Micro purchase, Small Purchase, Other Non-Sealed Bids: the "Bid Open Date" is the due date for Quotes. At a minimum, wage determinations must be checked for modifications prior to the due date of when quotes were received, specifically no less than two (2) days prior.

Wage Determinations may be updated as late as the day prior to bid opening. It is incumbent upon bidders to reference the bid site on NCORR's website, and as the subrecipient's website, to access the most recent wage determination for their projects of interest: Requests for Proposals | ReBuild NC.

- For Housing: Wage determination "locks-in" at construction contract award or start of construction, whichever occurs first;
- For Infrastructure: Wage determination "locks-in" at bid opening provided construction contract is awarded within ninety (90) days. The LSO must reconfirm the wage determination if the construction contract award is made beyond ninety (90) days and update wage decisions as of the date of award unless an extension is obtained. HUD may request an extension to the effective date of the prior wage decision from DOL. Such requests shall be prepared by HUD Greensboro Office Field Labor Relations Director / Specialist and submitted through the Regional Labor Relations Officer to the Headquarters Office of Labor Relations.

A copy of the current wage determination must be retained in the project files maintained by the subrecipient, along with other labor standards documentation, and must be provided to NCORR representatives upon request.

5. Confirm the Recommended Construction Contractor's Eligibility Status (Pre-Construction)

Prior to the award or execution of any construction contract funded using HUD funds, the LSO must verify that neither the prime contractor(s) nor any of their subcontractors are listed as "debarred" in the System for Award Management (SAM) at SAM.gov and the North Carolina Debarred Vendors list at NC DOA. All contractors must be verified through the SAM.gov and NC DOA websites prior to any formal action authorizing the award of the construction contract to the contractor.

The LSO must maintain records verifying that a contractor is not debarred in the subrecipient project files and must be provided to NCORR representatives upon request.

The date the contractor is shown to be eligible to work on a federally funded project (the date the SAM and DOA checks were conducted) must be recorded.

6. Award the Construction Contract (Pre-Construction)

Each construction contract subject to Davis-Bacon labor standards requirements must include provisions containing labor standards compliance clauses (HUD Form 4010) and a Davis-Bacon wage determination.

The labor standards compliance clauses:

- Describe the responsibilities of the construction contractor concerning Davis-Bacon wages;
- Obligate the construction contractor to comply with the labor requirements;
- Provide for remedies in the event of violations, including withholding payments due to the construction contractor to ensure the payment of wages or liquidated damages;
- Enable the LSO to enforce the labor standards applicable to the project; and
- Sub-recipients will incorporate HUD Labor Standards Form 4010 in the construction contract.

If the contract is awarded more than ninety (90) days after bid opening, a general wage decision must be updated as of the date of award unless an extension is obtained.

Additional Classification and Wage Rate

The LSO may request additional classifications and wage rates in writing through NCORR using the SF 1444 Request for Authorization of Additional Wage Classification. Note that the initial request must be submitted by the prime contractor and follow the instructions in Section 3-17 of HUD Handbook 1344.1, Rev. 3. As appropriate, change orders may also be utilized as an acceptable method for modifying contracts post-award to incorporate valid wage determinations and additional classifications.

The LSO may not submit the Final Wage Compliance Report or Project Completion Report if any Requests for Authorization of Additional Classification are pending with DOL. This is because NCORR would be unable to approved certified payrolls that include the job classification(s) for which there is no DOL-approved rate. In the event DOL should disapprove the proposed wage rate and construction had been completed, the prime contractor would owe restitution to the affected worker(s). However, work may continue while a Request is pending as long as wages are reconciled before construction is complete

7. Submit the Labor Standards Record (Pre-Construction)

The LSO should inform the NCORR Program Manager of the prime and sub-contractors performing work per project. This information is relevant for each construction contract over $2,000 and must be submitted prior to (not with) the first Request for Payment for work performed.

This information should be submitted for each prime construction contractor and must reflect all subcontractors who have contracted with the prime contractor. If subcontractors change during the construction period, the information should be updated to reflect the change in subcontractors.

8. Review Project Payrolls During Construction (Post Start of Construction)

LSOs or other designated inspectors must conduct on-site visits at project sites where Davis Bacon has been triggered. These visits must include interviews regarding wages and employment conditions of a percentage of workers randomly chosen. The same workers should not be chosen on repeat visits. Additionally, the LSO must review weekly payrolls and related submissions to ensure the labor standards requirements have been met. The LSO will notify the subrecipient of any discrepancies or errors discovered during the review or site visit and will provide instructions regarding steps that must be taken to correct discrepancies.

On-site Interviews and inspections

Every employer (contractor, subcontractor, etc.) must make their workers available for interview at the job site upon request by the LSO, and/or representatives from NCORR, HUD or DOL.

Employee Interviews should be representative of all classifications of workers on the project. The number and quality of interviews documented should reflect the LSO's diligence ensuring that workers are paid, at least, the minimum prevailing wage rates established, the interviews are confidential, and the worker will be asked the type of work they perform and their rate of pay. Employee participation in the interviews is voluntary. If an employee declines to participate, the interviewer should document the file accordingly.

Every effort will be made to ensure that these interviews cause as little disruption as possible to the on-going work. Interview information must be recorded on the Record of Employee Interview form. If workers are not available for interview during the LSO's on-site visit, the LSO must document the date of the on-site visit, the reason workers were not available, and the attempt to obtain the required information through other means, such as sending mailed questionnaires.

In addition to any required temporary or permanent signage indicated in the construction contract, the prime contractor must post a copy of the wage determination and both English and Spanish copies of the DOL Davis-Bacon poster entitled "Employee Rights under the Davis-Bacon Act" (https://www.dol.gov/agencies/whd/posters/dbrafor English and https://www.hudexchange.info/resource/2662/wh-1321-davis-bacon-poster-en-espanol/ for Spanish) at the job site in a place that is easily accessible to all construction workers employed on the project. If the contractor requests additional classification(s) as described above, the contractor must also post a notice of the request and the associated wage determination on the job site.

Project Payroll Reviews

A weekly certified payroll report must be completed by each prime and subcontractor, and submitted to the subrecipient, beginning with the first week in which construction begins on the project and for every week thereafter until project completion. The LSO must review the payroll submissions in a timely manner to ensure that:

- Workers are properly listed on the payroll for the days, work classification, and rate of pay (compare to on-site interview forms);
- The payrolls are complete and signed by an authorized signatory (this person must be an officer of the company unless they have designated another individual, in writing, to sign on their behalf);
- Workers are paid no less than stated on the wage determination associated with the listed work classification and fringe benefits are paid into an approved plan, if applicable;
- Apprentice and trainee certifications, program standards, pay scales and journeyman-to-apprentice ratios are submitted;
- Employee payroll deduction authorizations for other deductions are submitted, if applicable; and
- Calculated weekly amount is correct according to the listed hours and wage rate.

The LSO must maintain a record of payroll reviews by completing and signing the DOL Payroll Certification, and signing the employee interview forms, as the payroll examiner. Employers will use the DOL's Wage and Hour Division Payroll Form WH-347 to record and submit payroll.

Payroll Certification

The prime contractor and all subcontractors will certify payrolls by signing the Statement of Compliance that accompanies form WH-347 and then submit the document signed in original ink as certified to the LSO. The prime contractor is responsible for ensuring that all subcontractors comply with federal labor standards.

Subcontractors working independently, without a crew, should submit their payroll to the prime contractor for certification.

All relative payroll records and supporting documents must be retained by both parties for a period, not less than, three (3) years after project has been completed.

9. Submit a Payroll Review Certification (Post Start of Construction)

Subrecipients and Prime Contractors must submit certified payrolls weekly by Monday for the preceding week to the subrecipient or their NCORR representative.

Certified payrolls should be submitted to NCORR by the first Wednesday of each month regardless of whether a reimbursement request has been submitted. Additionally, LSOs submitting certified payrolls alongside a reimbursement request must submit any certified payroll for the time period covered by the request that has not yet submitted for review by NCORR. Failure to submit certified payrolls in a timely manner may result in a corrective response from NCORR. This certification is completed by the LSO stating that all payrolls for the prime and subcontractors have been reviewed for the time period covered in the request weekly, and weekly certified payroll report for all prime and subcontractors are kept in the local Subrecipient Agreement files.

If there are no hours worked subject to DBRA compliance, then Form WH-347 should be submitted with a vertical line struck through it.

10. Submit Construction Completion Reports—Upon completion of the construction contract, after all the work has been completed including punch list items, a final inspection must be conducted, and all parties must agree the work is acceptable.

A final inspection is required for each prime construction contract and the Use of Occupancy Permit (UOP), sometimes called the Certificate of Occupancy (CO), issued by the jurisdictional regulator authority. The UOP or UOC will serve as official notification that the project is complete.

NCORR recommends all LSOs sign the Final Wage Compliance Report (FWCR) at the time of project completion. This report will be reviewed prior to NCORR closing out the project. If the form is not present at close out, it will be requested from the Subrecipient. Projects completed prior to the publication of Version 1.0 of this document are not subject to this requirement.

Additional Step – If there is a Pre-Construction Conference the LSO will explain Labor Standards

A pre-construction conference should be held with the subrecipient, property developer or owner, engineer, architect, prime contractor, subcontractor(s), inspector(s), LSO, and all applicable utility companies prior to the start of construction. As a best practice, the subrecipient and LSO should document and retain pre-construction conference minutes, including a list of attendees and an outline of the required federal/state labor requirements utilizing the NCORR Pre-construction Conference Report.

The pre-construction conference should include:

- Discussion regarding the responsibilities and obligations of prime and subcontractors awarded the project;
- Discussion of applicable federal, state, local, and program guidelines;
- Discussion of all construction details, time frame of project, payment request requirements, labor standards requirements, and penalties for failure to comply with requirements;
- Delivery of required, contractor and subcontractor, bonds and certificates of insurance to the subrecipient;
- Delivery of all necessary General Wage determinations, labor posters, and any additional classifications to the contractor along with information that will assist the prime contractor with DBRA compliance;
- Delivery of Davis Bacon and Labor related Project Signage (https://www.dol.gov/agencies/whd/posters/dbra) and
- Discussion of applicable special conditions identified in the Subrecipient Agreement and construction contract.

4. Restitution for Underpayment of Wages

Where underpayments of wages have occurred, the prime contractor must pay wage restitution to the affected workers or direct their subcontractor to do so. Wage restitution must be paid promptly in the full amounts due, less any permissible and authorized deductions in accordance with HUD Handbook 1344.1 Chapter 5.

Notification to the prime contractor

The LSO must notify the prime contractor, in writing, of any underpayments found during their review of the prime contractor or subcontractor payroll as well as any other reviews.

The notice must describe the underpayments related to Davis Bacon Wage Decisions and provide instructions for computing and documenting the restitution to be paid. The prime contractor and/or its subcontractors are allowed two (2) pay periods to pay restitution to all workers affected, during which time all workers must be paid the correct base, fringe, and overtime rates to avoid further restitution payments. The prime contractor will provide corrected certified payroll forms for the period cited and proof that restitution has been made to all affected workers to the designated LSO. For underpayments related to overtime, see "overtime and underpayment" below.

In the event that proof of restitution has not been provided, NCORR reserves the right to withhold payment in the amount sufficient to satisfy the restitution and may require additional documentation before the full reimbursement requests can be processed.

Computing wage restitution

Wage restitution may be computed as follows:

1. Total hours worked times (x) adjustment rate (Davis Bacon rate minus (-) rate paid) = wage restitution due; or
2. Total wages earned minus (-) total wages paid = wage restitution due.

Overtime and underpayment

Overtime hours are defined as all hours worked on the work site in excess of forty (40) hours in any work week. Overtime hours must be paid at no less than one and one-half times the regular rate of basic pay plus the straight-time rate of any required fringe benefits. The premium pay (1/2 time pay) is not applied to fringe benefits. If workers do not receive at least one and one-half times the regular rate of basic pay for any overtime hours worked on the project, the following will occur:

- If the project is greater than $100,000 and is therefore subject to Contract Work Hours and Safety Standards Act (CWHSSA) overtime requirements, the employer will be asked to pay wage restitution for all overtime hours worked on the project;
- The employer or its subcontractors will also be liable to the Department of Labor for liquidated damages (overtime violation dollar penalty) computed at $31 per day per person per 29 CFR 5.8(a), in accordance with and subject to change as updates are published by DOL. See Chapter 5 of the HUD Handbook (5-13) for further details.
- In every case where overtime violations are disclosed, the LSO shall notify the employer in writing of the dollar amount of liquidated damages computed, the bases for the computations, and NCORR's intent to assess. A copy of the notice shall be sent to the prime

contractor when the employer involved is a subcontractor. The notice shall inform the employer that it has sixty (60) days to file a written request for a reduction or waiver of liquidated damages and that absent a timely reduction or waiver request, the determination is final. See Chapter 5 of the HUD Handbook (5-13(B)) for further details.

- NCORR shall refer the case to the HUD Labor Standards Specialist, who shall take appropriate action to implement a final order affirming, reducing, or waiving the dollar amount of liquidated damages assessed, or an assessment that has become final absent a request for reduction or waiver. All liquidated damages assessed must be paid over to HUD.

Restitution waivers, reductions, and appeals

As previously noted, the employer may request a reduction or waiver of liquidated damages. The only grounds for approving a reduction or waiver are where the computation of liquidated damages is incorrect or that the violation(s) occurred inadvertently notwithstanding the exercise of due care on the part of the employer. The employer's request shall be made in writing within sixty (60) days after the date of the notice and shall explain the reason(s) why a reduction or waiver is warranted. NCORR shall send the waiver written request for reduction or waiver to HUD for determination. The following are the possible determinations of the employer's reduction or waiver request:

- If the computed dollar amount of liquidated damages is $100 or less, HUD's Labor Standards Specialist (LSS) may issue a final order affirming, reducing or waiving liquidated damages.
- If the computed dollar amount of liquidated damages is greater than $100 but no more than $500, HUD's Deputy Director may issue a final order affirming, reducing or waiving liquidated damages.
- If the computed dollar amount of liquidated damages is greater than $500, the matter must be forwarded to DOL through the Deputy Director and HUD's Headquarters Labor Standards (HQLS) for disposition. The Deputy Director shall forward to HQLS a copy of the notice, the employer's request and any other pertinent documentation or information, together with a recommendation whether to affirm, reduce or waive the dollar amount of liquidated damages. After review, HQLS will either issue a final order affirming the assessment of liquidated damages or transmit a recommendation for reduction or waiver to DOL for final decision.
- Final orders that affirm or reduce the dollar amount of liquidated damages shall state that the employer may appeal the order to the U.S. Claims Court, Washington, D.C., within sixty (60) days of the date of the order.

If the employer fails to request a waiver for the assessed liquidated damages or the final order results in some level of liquidated damages, NCORR may:

- Withhold payments due the contractor: If violations are not corrected within 30 days after notification to the prime contractor, NCORR may cause a withholding from payments due to the contractor of an amount necessary to ensure the full payment of restitution and, if applicable, to cover liquidated damages computed for CWHSSA overtime violations. Only the amounts necessary to meet the potential back wage and CWHSSA liquidated damages liabilities shall be withheld.
- Stipulation to future compliance: Where the nature and/or scope of the violations are deemed substantial or serious, where the violating employer has been uncooperative, or where

continued compliance is in question, NCORR may request that the employer provide a stipulation to future compliance. This is particularly important where a recurrence of labor standards violations is probable. NCORR may consult with HUD as to whether a stipulation is appropriate. The refusal of an employer to provide a stipulation when requested by NCORR is deemed serious and may be cause for the matter to be referred to DOL for further consideration. Such referrals will be made through HUD.

- Pay over liquidated damages assessed to HUD: All liquidated damages assessed must be paid over to HUD in the following manner:
    - If funds have been withheld or placed in a deposit or labor standards escrow account and the amount in reserve is greater than the amount of the assessment, any excess funds shall be released to the depositor or to the entity to which the withheld/escrowed funds belong. (A full refund is likely appropriate when liquidated damages have been waived.)
    - If the amount in reserve (e.g., withholding, deposit, labor standards escrow), if any, is less than the amount required, the additional amount needed is collected from the employer. If the employer is unable or unwilling to furnish additional funds, a demand shall be made on the prime contractor.
    - NCORR will provide, as appropriate, specific instructions from HUD to contractors and subrecipients for payment of liquidated damages by wire transfer to the HUD U.S. Treasury account. Prior to any transfer of funds, NCORR will work with HUD to execute a deposit agreement.
    - In accordance with Miscellaneous Receipts Act, The Office of Davis-Bacon and Labor Standards (DBLS) shall transfer semiannually to the U.S. Treasury liquidated damages assessed to contractors during the previous six-month period.

Liquidated damages arising from a DOL enforcement action

Where a DOL investigation or other enforcement action discloses CWHSSA overtime violations, DOL will transmit a report of the action and its computation of associated liquidated damages to the relevant federal agency for its disposition. As appropriate, NCORR will follow the instructions of the disposition and final order regarding the assessment and implementation of the liquidated damages.

Corrected payrolls

Contractors and subcontractors will use and submit the certified payroll form (WH-347) to report corrections and restitutions. The correction payroll will reflect the period of time for which restitution is due (for example, in the Payroll field indicate the payroll number the corrections coincide by following the payroll number with a dash and then “Corrected”).

For their records, the Contractor and/or Subcontractor will attach the “Corrected” payroll to the previously submitted payroll it coincides with and retain in their records for no less than three (3) years from project end date.

The LSO will attach the “Corrected” certified payroll form to the previously submitted certified payroll form it coincides with and retain in the Subrecipients records no less than three (3) years from project end date.

Review of corrected payroll

The LSO will review the corrected payroll to ensure that full restitution was paid. The prime contractor shall be notified in writing of any additional discrepancies and/or required payments.

If the prime contractor is notified of additional discrepancies and/or required payments, they will follow the procedure for submitting "Corrected" payrolls and submit within ten (10) days of notification.

Inability to locate worker

Sometimes wage restitution cannot be paid to an affected worker because, for example, the worker has moved and cannot be located. In these cases, at the end of the project the prime contractor will be required to place in a deposit or escrow account an amount equal to the total amount of restitution that could not be paid because the worker(s) could not be located. The LSO will continue to attempt to locate workers entitled to restitution for three (3) years after the completion of the project. After three (3) years, any amount remaining in the account for workers restitution will be credited or forwarded by the LSO to NCORR, who will then wire the funds to HUD to be placed in an Unfound Worker Account.

5. Labor Disputes

Administrative Review on Labor Standards Disputes

NOTE: The prime contractor is responsible and will be held liable for any wage restitution that is due to any worker employed in the construction of the project, including workers employed by subcontractors.

The labor standards clauses in the CDBG-DR or CDBG-MIT Subrecipient Agreement and DOL regulations provide for administrative review of issues by NCORR where there is a difference of views between the LSO and any employer. The most common situations include:

- Findings of underpayment: Compliance reviews and other investigations may result in findings of underpayment. The employer will have an opportunity to provide additional information to the LSO that may explain apparent inconsistencies and/or resolve the discrepancies.
- Withholding: The LSO may cause withholding of payments due to the prime contractor to ensure the payment of wages which are believed to be due and unpaid, for example, if wage underpayments or other violations are not corrected within thirty (30) days after notification to the prime contractor.

Deposits and Escrows

It is the goal of NCORR to complete compliance actions and resolve any disputes before project completion and final payments are made. However, if corrective actions or disputes continue after the project is completed, provisions have been made to ensure that funds are available to pay any substantiated wage restitution. In these cases, NCORR may allow the project to proceed to final closing and payments provided the prime contractor deposits an amount equal to the potential liability for wage restitution and liquidated damages, if necessary, in a designated account. The deposit or escrow account is controlled by the NCORR's Finance Department. Upon final decision, the NCORR's Finance

Department makes disbursements from the account in accordance with the decision. Deposit/escrow accounts are established for one or more of the following reasons:

- Where the parties have agreed to the amount of wage restitution and/or any liquidated damages due, but the employer has not yet furnished evidence that all of the underpaid workers have received their back wages. The deposit should be equal to the amount of restitution due to workers not supported by adequate documentation of payment. As proper documentation is received, amounts corresponding to the documentation are returned to the prime contractor. Amounts for any workers who cannot be located are held in the escrow account for three (3) years and disbursed as described above (See Restitution on Underpayment of Wages);

- Where underpayments are suspected or alleged, and an investigation has not yet been completed. The deposit should be equal to the estimated amount of wage restitution and/or any liquidated damages due.

  If the final amount of wage restitution and/or liquidated damages determined is less than the estimated wage restitution and/or liquidated damage If the final amount of wage restitution and/or liquidated damages determined is less than the estimated wage restitution and/or liquidated damages. The remaining funds, after restitution has been disbursed to the worker(s) and liquidated damages disbursed, will be returned to the contractor and/or subcontractor.

  The remaining funds, after restitution has been disbursed to the worker(s) and liquidated damages disbursed, will be returned to the contractor and/or subcontractor.

  Restitution funds for workers that could not be located will be retained as described above. If the parties do not agree and an administrative hearing is requested, the escrow will be maintained as explained earlier.

- Where the parties are waiting for the outcome of an administrative hearing that has been or will be filed contesting a final determination of wages due, the deposit shall be equal to the amount of wage restitution and liquidated damages calculated by the LSO and/or NCORR. Once a final decision is rendered, disbursements from the escrow account are made in accordance with the decision, as described above.

Debarment

Contractors and/or subcontractors that are found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of the Davis-Bacon and Labor Standards (DBLS) will be ineligible (debarred) to participate in any DBLS contracts for up to three (3) years. Debarment includes the contractor and/ or subcontractor and any firm, corporation, partnership, or association in which the contractor and/or subcontractor has a substantial interest. Debarment proceedings can be recommended by the LSO or can be initiated by the Department of labor (DOL) on its motion. Debarment proceedings are described in 29 CFR §5.12.

6. Exemptions

With the exception of the situations listed in this section, all workers employed by contractors and/or subcontractors in the performance of construction work financed in whole or in part with assistance received under the HUD funded programs, including CDBG-DR and CDBG-MIT, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

The following contracts and activities are exempt from Davis-Bacon labor standards requirements except where indicated:

- Prime Construction contracts of $2,000 or less;
- Single Family, Owner-Occupied Residences;
- Rehabilitation of residential properties containing fewer than eight (8) units;
- Apprentice labor may be compensated at rates less than those prescribed by the wage decision for their craft provided the apprentices are individually registered in an approved apprenticeship program in which the contractor participates, and which is approved by the DOL. Apprentices must also satisfy other conditions as specified in the Labor Standards Contract Provisions and the HUD Handbook, Chapter 4 (4-6). Apprentices must be adequately documented as such and must comply with DOL requirements for apprentices to qualify for exemption from Davis Bacon requirements. Apprentice labor must be reported in certified payrolls.[3]
- Trainee labor, similar to apprentice labor, may be compensated at rates less than those prescribed by the wage decision for their craft provided they are in a DOL-approved training program and they satisfy other conditions as specified in the Labor Standards Contract Provisions and the HUD Handbook, Chapter 4 (4-6).
- Volunteer labor, provided the volunteers meet the criteria found in 24 CFR Part 70. Additionally, nominal benefits cannot be tied to productivity, hours worked, or in any way be construed as wages. Please contact NCORR for further guidance if volunteers are going to be utilized.
- Convict labor is subject to DBRA, there are no exemptions for convict/prison inmate labor on DBRA-covered contracts unless another exemption applies;
- Employees of the Local Subrecipient (Force Account labor). In such cases, the governmental entity does not have to pay the Davis-Bacon wage rates but can, instead, pay the rates normally paid to employees on staff. The amounts paid to workers on force account projects are allowable costs under HUD funded programs, including CDBG-DR and CDBG-MIT. If the project otherwise meets the requirement to adhere to federal labor standards, those portions of the project not completed "in house" must meet all fair labor standards requirements, including Davis-Bacon. For questions, please see Chapter 15 of the Department of Labor Field Operations Handbook.
- Only private or local funds used for rehab or construction unrelated to HUD funded programs, including CDBG-DR or CDBG-MIT projects;
- Holding/maintaining properties (land bank);
- Some Demolition Activities may be exempt. However, demolition, clearance, and debris removal are covered by DBRA when planned as part of the same construction contract or subsequent construction is contemplated as part of a future construction project under another DBRA eligible

[3] Apprentices or trainees who have been employed on projects in excess of the allowable ratio or unregistered apprentices or trainees may be owed restitution per HUD Handbook 1344.1 5-11(B)

activity;

- Professional service activities such as acquisition, engineering, architectural, and administrative services are exempt;
- Labor/installation charges on equipment or materials purchases, if that portion of the contract is less than 13 percent of the total cost of the item(s) purchased;
- Construction work performed by a public utility extending its own utility system.[4]

7. Recordkeeping Requirements

In order to demonstrate Davis-Bacon compliance, subrecipients must maintain a file with the following documentation for each construction contract (see Appendix A: Laws, Regulations, and Links of this document for links to online forms as well as Appendix C: Forms for NCORR forms) for a minimum of three (3) years after the completion date of applicable project:

Document	Submission Timeline
Labor Standards Officer Designation Form	Submit to NCORR prior to bidding
Wage Determination Form(s)	Submit to NCORR prior to bid award
Wage Rate Decision(s)	Attach to Wage Determination Form
Request(s) for Additional Wage Classification and Rate*	Submit to NCORR as needed
Pre-construction conference report minutes and sign-in sheet(s)*	Optional Meeting - Submit to NCORR prior to start of construction if held
Labor Standards Record	Submit to NCORR prior to start of construction
Eligibility Verification printouts from SAM (for each prime and/or subcontractor	Attach to Labor Standards Record
Supplemental LSR, if any*	Submit to NCORR if needed
Payrolls, with evidence of compliance review (including LSO Payroll Certification)	Submit to NCORR with Request for Payment
Employee interviews	Submit to NCORR with latest Request for Payment
Interim inspection reports	Submit to NCORR when available
Wage violations (amount of restitution, number of hours and days)*	Submit to NCORR as needed
Liquidated damages fees and documentation (if any)*	Submit to NCORR as needed
Certificate(s) of Construction Completion	Submit to NCORR upon construction completion

[4] The subrecipient must notify its NCORR Grant Manager in writing if pursuing this method prior to construction. NCORR may request documentation prior to authorizing payment that the price charged by the public utility is less than the price that would be anticipated if the construction had been procured by sealed bids.

Final Wage Compliance Report(s)*	Submit to NCORR upon construction completion

*Optional or as applicable documentation

Labor standards compliance documents contain highly sensitive and confidential information; therefore, it is critical to carefully guard this sensitive information so that the person(s) for whom the information has been collected is not unduly exposed to financial or personal risk. NCORR and subrecipient staff must take necessary precautions to safeguard sensitive information that may be collected or generated for labor standards purposes. Such sensitive information and associated documents include, but are not limited to SSNs, employee addresses, certified payroll reports, complainant statements, on-site interview records (form HUD-11), schedules of wages due, interview statements, compliance review notes, and enforcement reports.

NCORR preserves and retains standard compliance documents for a period of five (5) years following the completion of work. NCORR follows the guidelines outlined in Labor Relations Letter 2006-02, to minimize risk of improper and/or unnecessary disclosure. Guidelines include:

- Keep sensitive materials private at all times (in locked file cabinet, not left in areas accessible to the public);
- Do not include Social Security Numbers on documents and records unless it is absolutely necessary;
- Do not disclose the identity of any informant unless it is necessary and only if authorized by the informant;
- Dispose of documents and records containing sensitive information responsibly.

8. Reporting

Local authorities and subrecipients must report to HUD on all DBRA regulated contracts awarded and on all enforcement actions taken each six (6) months. Semi-annual labor reports are due to HUD in April (for the period October 1 through March 31) and October (for the period April 1 through September 30). NCORR monitors its subrecipients for completion of the reports. The Semi-Annual Labor Standards Enforcement Report form (HUD-4710) and Instructions (HUD-4710i) are available on HUD's website and Appendix C.

Local authorities and subrecipients must retain a copy of the Semi-Annual Enforcement Report in their files. NCORR will collect the reports from its subrecipients and compile a comprehensive report covering all the Davis-Bacon construction activity.

9. Multifamily Construction

(including new construction and reconstruction of Public Housing Authority multifamily housing units)

HUD funded housing construction projects consisting of properties with eight (8) or more residential units are subject to Davis-Bacon regulations. Subsequently, all subrecipients of HUD funded housing-related projects which meet DBRA criteria, including CDBG-DR and CDBG-MIT projects, are subject to

Labor Standards requirements contained within this chapter. Certain components of the process for multifamily housing construction and rehab may be funded in partnership with the North Carolina Housing Finance Agency. Due to rigorous requirements from NCHFA and the IRS tax code, those projects may follow different timelines. All multifamily projects funded through NCORR are subject to the following, as applicable:

- NCORR requires that the LSO must obtain the construction Notice to Proceed (NTP) from the appropriate NCORR staff or agency designee prior to any project construction activity. The NTP authorizes project construction to start and locks in the general wage determination issued for the project. Wages must be re-verified if construction does not begin within ten (10) days of the NTP.
- Public housing construction contracts must contain the following clauses:
    - For contracts over $250,000: HUD-5370 General Conditions for Construction Contracts - Public Housing
    - For contracts between $2,000 and $250,000: HUD-5370-EZ General Contract Conditions for Small Construction/Development Contracts

The subrecipient must also adhere to all provisions of the Subrecipient Agreement and comply with all local, state, and federal laws, rules, and regulations and agencies as referenced in any applicable Land Use Restriction Agreement (LURA).

Appendix A: Laws, Regulations, and Links

Title	URL
Davis-Bacon and Labor Standards Agency / Contractor Guide and Contractor Guide Addendum (recommended for inclusion in ITB (Issue to Bid) packages)	Davis-Bacon and Labor Standards: Agency/Contractor Guide (hudexchange.info) Davis-Bacon and Labor Standards: Contractor Guide Addendum (hudexchange.info)
Davis-Bacon Act	40 USC Chapter 31, Subchapter IV
Copeland (Anti-Kickback) Act	18 USC §874 40 USC §3145
Fair Labor Standards Act	29 USC Chapter 8
Title I of the Housing and Community Development Act of 1974	42 USC Chapter 69
Labor Standards; Rate of Wages; Exceptions; Enforcement Powers	42 USC §5310
Rate of Wages for Laborers and Mechanics	40 USC §3142
Rules and Instructions Concerning Davis-Bacon and Other Labor Laws	29 CFR Part 1 29 CFR Part 3 29 CFR Part 5 29 CFR Part 6 29 CFR Part 7
Use of Volunteers on Projects Subject to Davis-Bacon and Hud-Determined Wage Rates	24 CFR Part 70
Federal Labor Standards Requirements in Housing and Urban Development Programs	HUD Handbook
HUD Labor Standards and Related Forms	HUD Forms
DOL Field Operations Handbook - Davis-Bacon and Related Acts and Contract Work Hours and Safety Standards Act	Field Operations Handbook, Chapter 15
System for Award Management	SAM.gov
Davis Bacon and Labor-Related Project Signage	Davis-Bacon Poster (Government Construction)
DOL's Wage and Hour Division Payroll Form	DOL Form WH-347
Federal Labor Standards Provisions	Form HUD-4010
Public Housing: Conditions for contracts over $250,000	HUD-5370
Public Housing: Conditions for contracts between $2,000 and $250,000	HUD-5370-EZ

Appendix B: Labor Standards Contract Provisions (Form HUD-4010)

All contracts and subcontracts subject to Davis Bacon and Related Acts (DBRA) requirements shall contain the following provisions, taken from Federal Labor Standards Provisions, Form HUD-4010. Additionally, be included as a required document in all Issue to Bid (ITB) packages related to construction and/or procurement documents related to HUD funded construction projects, including CDBG-DR and CDBG-MIT, in excess of $2,000.

HUD-4010 **U.S. Department of Housing and**
Urban Development Federal Labor Standards Provisions **Office of Davis-Bacon**
and Labor Standards

A. APPLICABILITY

The Project or Program to which the construction work covered by this Contract pertains is being assisted by the United States of America, and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

(1) MINIMUM WAGES

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment, computed at rates not less than those contained in the wage determination of the Secretary of Labor (which is attached hereto and made a part hereof), regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH1321)) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place, where it can be easily seen by the workers.

(ii) Additional Classifications.

(A) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
(2) The classification is utilized in the area by the construction industry; and
(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor, the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division ("Administrator"), Employment Standards Administration, U.S. Department of

Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget ("OMB") under OMB control number 1235-0023.)

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, or HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1235-0023.)

(D) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (1)(ii)(B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1235-0023.)

(2) Withholding. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the U.S. Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The U.S. Department of Labor shall make such disbursements in the case of direct Davis-Bacon Act contracts.

(3) Payrolls and basic records.

(i) Maintaining Payroll Records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification(s), hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid.

Whenever the Secretary of Labor has found, under 29 CFR 5.5(a)(1)(iv), that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1235-0023 and 1215-0018)

(ii) Certified Payroll Reports.

(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at **https://www.dol.gov/agencies/whd/forms** or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the U.S. Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1235-0008.)

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract; and

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (a)(3)(ii)(b).

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(ii) The contractor or subcontractor shall make the records required under subparagraph (a)(3)(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the U.S. Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency (where appropriate), to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program.

If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed, unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees, and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.

(6) Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs (1) through (11) in this paragraph (a) and such other clauses as HUD or its designee may, by appropriate instructions, require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

(7) Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this

Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the U.S. Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of Eligibility.

(i) By entering into this Contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) Anyone who knowingly makes, presents, or submits a false, fictitious, or fraudulent statement, representation or certification is subject to criminal, civil and/or administrative sanctions, including fines, penalties, and imprisonment (e.g., 18 U.S.C. §§ 287, 1001, 1010, 1012; 31 U.S.C. §§ 3729, 3802.

(11) Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic, to whom the wage, salary, or other labor standards provisions of this Contract are applicable, shall be discharged or in any other manner discriminated against by the contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The provisions of this paragraph (b) are applicable where the amount of the prime contract exceeds **$100,000**. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work, which may require or involve the employment of laborers or mechanics, shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek, unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph B(1) of this paragraph, the contractor, and any subcontractor responsible therefor, shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph B(1) of this paragraph, **in the sum set by the U.S. Department of Labor at 29 CFR 5.5(b)(2)** for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph B(1) of this paragraph. In accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. § 2461 Note), the DOL adjusts this civil monetary penalty for inflation no later than January 15 each year.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall, upon its own action or upon written request of an authorized representative of the U.S. Department of Labor, withhold or cause to be withheld from any moneys payable on account of work performed by the contractor or subcontractor under any such contract, or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages, as provided in the clause set forth in subparagraph B(2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph B(1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs B(1) through (4) of this paragraph.

C. HEALTH AND SAFETY

The provisions of this paragraph (c) are applicable where the amount of the prime contract exceeds **$100,000**.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his or her health and safety, as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The contractor shall comply with all regulations issued by the Secretary of Labor pursuant to 29 CFR Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96), 40 U.S.C. § 3701 et seq.

The contractor shall include the provisions of this paragraph in every subcontract, so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

Appendix C: Forms

See the following pages for sample forms.

NCORR North Carolina Office of Recovery and Resiliency

Wage Determination Form

Ten (10) days or **less** before the bid opening date, confirm that the initial wage determination inserted in the bid package is still current. The LSO shall confirm the applicable wage determination 10 **calendar days** before the bid opening date. Wage rates are not "locked-in" and may be modified until bids are opened. If wage rates are modified after the Ten-Day Confirmation but before bid opening, and the LSO is unable to contact all bidders, contact the NCORR Labor Standards Specialist.

Subrecipient: ______ Contract Number: ______

Ten-Day Confirmation Information:

Confirmed Wage determination: ______ Published Date: ______

Bid Activity: ______

Labor Standards Officer Confirming: ______

Date of Ten-Day Confirmation ______ Bid Opening Date* ______

(*If the Small Purchase method of procurement is used the above entry will be the bid tabulation date.)

If Wage determination was modified, describe action taken by Labor Standards Officer to distribute the updated Wage determination to all interested parties:

Ten-Day Call Action Taken: ☐ None ☐ Faxed ☐ Emailed ☐ Mailed

Ten (10) days or **less** before the bid opening date, confirm that the initial wage determination inserted in the bid package is still current. Count the 10 days to include the weekends - 10 **calendar days** before the bid opening date. Wage rates are not "locked-in" and may be modified until bids are opened. If wage rates are modified after the Ten-Day Confirmation but before bid opening, and the LSO is unable to contact all bidders, contact the NCORR Labor Standards Specialist.

Subrecipient: ______ Contract Number: ______

Ten-Day Confirmation Information:

Confirmed Wage determination: ______ Published Date: ______

Bid Activity: ______

Labor Standards Officer Confirming: ______

Date of Ten-Day Confirmation ______ Bid Opening Date* ______

(*If the Small Purchase method of procurement is used the above entry will be the bid tabulation date.)

If Wage determination was modified, describe action taken by Labor Standards Officer to distribute the updated Wage determination to all interested parties:

Ten-Day Call Action Taken: ☐ None ☐ Faxed ☐ Emailed ☐ Mailed

Signature of Labor Standards Officer:	
Date:	
Comments:	

****Attach Wage determination to this form and submit NCORR prior to start of construction****

Disclaimer: *The North Carolina Office of Recovery and Resiliency has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the North Carolina Office of Recovery and Resiliency assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the North Carolina Office of Recovery and Resiliency's standard review and update schedule.*

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX
☐ SERVICE CONTRACT
☐ CONSTRUCTION CONTRACT

OMB Control Number: 9000-0066
Expiration Date: 5/31/2025

Paperwork Reduction Act Statement - This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0066. We estimate that it will take .5 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER.

1. **TO:** ADMINISTRATOR, WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, DC 20210	2. **FROM:** *(REPORTING OFFICE)*

3. CONTRACTOR	4. DATE OF REQUEST

5. CONTRACT NUMBER	6. DATE BID OPENED *(SEALED BIDDING)*	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (If *APPLICABLE) (SERVICE CONTRACT ONLY)*

10. SUBCONTRACTOR *(IF ANY)*

11. PROJECT AND DESCRIPTION OF WORK *(ATTACH ADDITIONAL SHEET IF NEEDED)*

12. LOCATION (*CITY, COUNTY, AND STATE)*

IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION

NUMBER: ______________________ DATED: ______________________

a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS *(Service contracts only)*	b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS
(Use reverse or attach additional sheets, if necessary)		

14. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE *(IF ANY)*	15. SIGNATURE AND TITLE OF PRIME CONTRACTOR REPRESENTATIVE

16. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE	TITLE	CHECK APPROPRIATE BOX-REFERENCING BLOCK 13. ☐ **AGREE** ☐ **DISAGREE**

TO BE COMPLETED BY CONTRACTING OFFICER *(CHECK AS APPROPRIATE - SEE FAR 22.1019 (SERVICE CONTRACT LABOR STANDARDS) OR FAR 22.406-3 (CONSTRUCTION WAGE RATE REQUIREMENTS))*

☐ THE INTERESTED PARTIES AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

☐ THE INTERESTED PARTIES CANNOT AGREE ON THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS THEREFORE REQUESTED. AVAILABLE INFORMATION AND RECOMMENDATIONS ARE ATTACHED.

(Send 3 copies to the Department of Labor)

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE	TITLE AND COMMERCIAL TELEPHONE NUMBER	DATE SUBMITTED

North Carolina Office of Recovery and Resiliency

Pre-Construction Conference Report (Optional)

This Form should be completed by the Subrecipient's Designated Labor Standards Officer.

Subrecipient: ____________ Contract Number: ____________

Date: ____________ Time: ____________

A **Pre-Construction Conference** was held at the above date, time, and place; a copy of the sign-in sheet for attendees is attached.

The following subjects were discussed:

This project is subject to the Davis-Bacon Act (DBA), Copeland Act, Contract Work Hours Safety Standards Act (CWHSSA), and the Fair Labor Standards Act (FLSA). DBA specifies the minimum wages to be paid the various classes of laborers and mechanics employed on the project. The Copeland Act prohibits kickbacks being paid by the employee to the employer and sets the requirement for submission of payrolls on a weekly basis. CWHSSA sets a uniform standard of a 40-hour work week with time and a half the basic rate of pay for all work in excess of 40 hours. FLSA sets out the requirement for payment of minimum wages, maximum hours, overtime pay, and child-labor standards and prohibits wage discrimination on the basis of sex. The requirements for compliance with these legislative acts include:

☐	The suggested payroll form is the WH-347. Payrolls must contain an original signature by the owner, partner, officer or individual authorized in writing by one of the above.
☐	Payrolls must be original and must be submitted weekly within seven days following the end of the work week to the labor standards officer. A pay period is seven consecutive days.
☐	Payrolls should be numbered consecutively, with the first one being marked "initial" and the last being marked "final".
☐	All persons working on the job site must be shown on the payroll. The address and identification number (ex. last four of social security number) of the worker must be shown on the first payroll on which that individual appears.
☐	Payment of overtime at 1.5 times the regular rate of pay must be made for all hours in excess of 40 hours in a seven-day work week.
☐	The rate of pay must be at least equal to that in the wage determination that is contained in the contract documents. The decision that is applicable to this project is ________________________.
☐	Only deductions that are required by law, or voluntarily authorized by the workers in accordance with Copeland Act, may be made from paychecks of the workers. Authorization by the employee for all deductions not required by law must be submitted.
☐	Apprentices may be employed on the project, however, they must be certified by the Bureau of Apprenticeship & Training and the ratio of apprentices to journeymen must not be exceeded. A certificate for each apprentice must be included in the local files.
☐	Employees must be classified in accordance with the applicable wage determination. Unless a "helper" classification is found in the decision, "helpers" may not be used on the project. Employees must be classified and paid based on the work they perform. Generally speaking, only journeymen may use the tools of a trade.
☐	Any classification that does not appear on the wage determination must be requested through the NCORR Labor Standards Specialist and approved by the U.S. Department of Labor prior to the use of that classification on the project.
☐	The wage determination, posters, and any additional classifications provided must be posted in a prominent place on the job site for the duration of the construction project.
☐	Liquidated Damages may be assessed for failure to pay the proper overtime rate. The liquidated damages liability equals $31 per day per worker per violation. Additionally, wage restitution must be made to any worker who is underpaid.
☐	Failure to comply with the labor standards requirements can result in the withholding of sufficient payments to insure the proper payment of all workers and any liquidated damages.
☐	The general contractor will be required to certify that all laborers and mechanics employed on the project have been paid hourly rates as prescribed by the applicable laws.

☐	If the owner of a company performs work on the project, the owner must list him/herself on the payroll and must show the hours worked each day and total hours for the week.
☐	Any person who is employed on a piece-work basis must be shown on the payroll. The hours worked each day and total hours for the week must be shown. The hourly rate of the piece worker must equal or exceed the prescribed hourly rate for the particular work classification.
☐	Subcontractors must be cleared prior to the execution of the subcontract, and any subcontracts must include the labor standards provisions (HUD 4010) and the applicable wage rate.
☐	For Subrecipients that 1) have a new construction, rehab or demolition of housing, infrastructure or public facilities project; and 2) where the estimated cost of that approved project exceeds $200,000; and 3) where the Subrecipient has a specific award letter dated ***on or after*** November 30, 2020, to the greatest extent feasible and consistent with existing Federal, state and local laws and regulations, the Subrecipient shall ensure that 25% of the total number of hours worked is performed by Section 3 workers and 5% by targeted Section 3 workers (as defined in 24 C.F.R. §75.21).
☐	For Subrecipients that 1) have a new construction, rehab or demolition of housing, infrastructure or public facilities project; and 2) where the executed contract exceeds $100,000; and 3) where the Subrecipient has a specific award letter dated ***before*** November 30, 2020, the Subrecipient shall adhere to the Section 3 goals and reporting requirements found in 24 C.F.R. Part 135 and shall, to the greatest extent feasible and consistent with existing Federal, state and local laws and regulations, ensure that 30% of new employees are Section 3 residents and that 10% of all construction contracts are awarded to Section 3 firms and 3% of non-construction contracts are awarded to Section 3 firms.
☐	For Subrecipients with a project-specific award letter dated before November 30, 2020, all subcontracts that exceed $100,000 must also report all new employment, contracting, or training opportunities directly related to the NCORR-funded project to the prime contractor to be included in the prime's report to the grantee.
☐	Prime and subcontractors are encouraged to hire Section 3 worker when feasible.

The person who will monitor this project for compliance with the labor requirements is:

Additional items addressed at the Pre-Construction Conference:

Prepared by: ____________ Date: ____________

LSO Name

Signature of Labor Standards Officer

LSO Phone: ____________ LSO Email: ____________

****Submit to NCORR prior to start of construction****

Disclaimer: *The North Carolina Office of Recovery and Resiliency has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the North Carolina Office of Recovery and Resiliency assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the North Carolina Office of Recovery and Resiliency's standard review and update schedule.*

North Carolina Office of Recovery and Resiliency

Labor Standards Record

Subrecipient: ______ Contract Number: ______

Date Submitted: ______

DRGR Activity Number (provided by NCORR Program Manager)	Project Name	Description

Wage determination Issue Date: ______

Wage determination Number: **NC** ______ **Additional Wage determination Number:** **NC** ______

Published Date: ______ **Additional Published Date:** ______

Type of Work: ☐ Heavy ☐ Highway ☐ Building ☐ Residential

(more than one may be checked if fully justified in this record, record additional wage determination number and date as indicated above)

Contractor Eligibility Verification - Contractor Clearance (sam.gov)

Prime Contractor: ______ Date Cleared: ______

Principal and Title: ______

List Subcontractors:

Name of Subcontractor	Date Cleared	Name of Subcontractor	Date Cleared

Construction Contract Amount: ______ Bid Opening Date: ______

Contract Execution Date ______ Construction Start Date: ______

Verified by: ______ Date Verified: ______

Signature of Labor Standards Officer (LSO)

LSO Email: ______ LSO Phone: ______

****Attach verification of SAM clearance to this form and submit to NCORR prior to start of construction****

Disclaimer: *The North Carolina Office of Recovery and Resiliency has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the North Carolina Office of Recovery and Resiliency assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the North Carolina Office of Recovery and Resiliency's standard review and update schedule.*

Record of Employee Interview

(Form HUD-11)

Record of Employee Interview Instructions	U.S. Department of Housing and Urban Development Office of Davis-Bacon and Labor Standards	OMB Approval No. 2501-0009 (exp. 12/31/2024)

Instructions

General:

This form is to be used by HUD and local agency staff for recording information gathered during on-site interviews with laborers and mechanics employed on projects subject to Federal prevailing wage requirements. Typically, the staff that will conduct on-site interviews and use this form are HUD staff and fee construction inspectors, HUD Labor Standards staff, and local agency labor standards contract monitors.

Information recorded on the form HUD-11 is evaluated for general compliance and compared to certified payroll reports submitted by the respective employer. The comparison tests the veracity of the payroll reports and may be critical to the successful conclusion of enforcement actions in the event of labor standards violations. The thoroughness and accuracy of the information gathered during interviews is crucial.

Note that the interview itself and the information collected on the form HUD-11 are considered confidential. Interviews should be conducted individually and privately. All laborers and mechanics employed on the job site must be made available for interview at the interviewer's request. The employee's participation, however, is voluntary. Interviews shall be conducted in a manner and place that are conducive to the purposes of the interview and that cause the least inconvenience to the employer(s) and the employee(s).

Completing the form HUD-11:

Items 1a - 1c: Self-explanatory

Items 2a – 2d: Enter the employee's full name, a telephone number where the employee can be reached, and the employee's home address. Many construction workers use a temporary address in the locality of the project and have a more permanent address elsewhere from which mail may be forwarded to them. Obtain a more permanent address, if available. Ask the employee for a form of identification (e.g., driver's license) to verify their name.

Items 3a – 4c: Enter the employee's responses. Ask the employee whether they have a pay stub with them; if so, determine whether the pay stub is consistent with the information provided by the employee.

Items 5 – 7: Be certain that the employee's responses are specific. For example, job classification (#5) must identify the trade involved (e.g., Carpenter, Electrician, Plumber) – responses such as "journeyman" or "mechanic" are not helpful for our purposes.

Items 8 – 12b: Self-explanatory

Items 13 – 15c: These items represent some of the most important information that can be gathered while conducting on-site interviews. Please be specific about the duties you observed the employee performing. It may be easiest to make these observations before initiating the interview. Please record any comments or remarks that may be helpful. For example, if the employee interviewed was working with a crew, how many workers were in the crew? Was the employee evasive?

The level of specificity that is warranted is directly related to the extent to which interview(s) or other observations indicate that there may be violations present. If interviews indicate that there may be underpayments involving a particular trade(s), the interviewer is encouraged to interview as many workers in that trade(s) that are available.

Items 16 – 17b: The information on the form HUD-11 may be reviewed for general compliance, initially. For example, are the job classification and wage rate stated by the employee compatible with the classifications and wage rates on the applicable wage decision? Are the duties observed by the interviewer consistent with the job classification?

Item 18: Please place here any additional information you may want to document or continuing information from other lines that do not fit in their block space.

Once the corresponding certified payroll reports are received, the information on the HUD-11 shall be compared to the payroll reports. Any discrepancies noted between the HUD-11 information and that on the payroll report shall be noted in Item 16, Remarks. If discrepancies are noted, follow-up actions to resolve the discrepancies must be taken.

Record of Employee Interview

U.S. Department of Housing and Urban Development
Office of Davis-Bacon and Labor Standards

OMB Approval No. 2501-0009
(exp. 12/31/2024)

Pursuant to 5 U.S.C. § 552a(e)(3), this Privacy Act Statement serves to inform you of the following concerning the collection of the information on this form.

A. **AUTHORITY:** Collection of the information solicited on this form is authorized by the Davis-Bacon Act as promulgated through Department of Labor Regulations under 29 CFR Part 5.

B. **PURPOSE:** The primary purpose for soliciting this information is to determine if the wages paid by an employer on a project covered by the Davis-Bacon Act are in compliance with federal labor standards.

C. **ROUTINE USES:** The information collected ensures compliance with the Federal labor standards through recording interviews with construction workers on topics related to wages paid on the project. The information is reviewed by HUD authorized personnel to ensure compliance with Federal labor standards under the Davis-Bacon Act on covered projects. If violations are found, the information collected is used to conduct enforcement actions to ensure restitution is paid to workers of covered projects are paid proper wages under the Davis-Bacon Act.

D. **CONSEQUENCES OF FAILURE TO PROVIDE INFORMATION:** The information collection is voluntary. Refusing to give information will not impact your status with your employer or the government. Failure to provide the information will limit the ability of HUD to determine if you were paid proper wages under the Davis-Bacon Act, and will limit the ability for HUD to seek restitution for you in the event a violation is found.

1a. Project Name	2a. Employee Name
1b. Project Number	2b. Employee Phone Number (including area code)
1c. Contractor or Subcontractor (Employer)	2c. Employee Home Address & Zip Code
	2d. Verification of identification? Yes No

3a. How long on this job?	3b. Last date on this job before today?	3c. No. of hours last day on this job?	4a. Hourly rate of pay?	4b. Fringe Benefits?	4c. Pay stub?
				Vacation Yes No Medical Yes No Pension Yes No	Yes No

5. Your job classification(s) (list all) --- continue in block 18 if necessary

6. Your duties --- continue in block 18 if necessary

7. Tools or equipment used --- continue in block 18 if necessary

8. Are you an apprentice or trainee? Yes No	10. Are you paid at least time and ½ for all hours worked in excess of 40 in a week? Yes No
9. Are you paid for all hours worked? Yes No	11. Have you ever been threatened or coerced into giving up any part of your pay? Yes No
12a. Employee Signature	12b. Date

13. Duties observed by the Interviewer (Please be specific.)

14. Remarks --- continue in block 18 if necessary

15a. Interviewer Name (Please Print)	15b. Signature of Interviewer	15c. Date of Interview

Payroll Examination

16. Remarks --- continue in block 18 if necessary

17a. Signature of Payroll Examiner	17b. Date

Record of Employee Interview

U.S. Department of Housing and Urban Development
Office of Davis-Bacon and Labor Standards

OMB Approval No. 2501-0009
(exp. 12/31/2024)

18. Additional Remarks

U.S. Department of Labor
Wage and Hour Division

PAYROLL

(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)

Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

U.S. Wage and Hour Division
Rev. Dec. 2008

OMB No.:1235-0008
Expires: 07/31/2024

NAME OF CONTRACTOR ☐ OR SUBCONTRACTOR ☐

ADDRESS

PAYROLL NO.

FOR WEEK ENDING

PROJECT AND LOCATION

PROJECT OR CONTRACT NO.

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS	(3) WORK CLASSIFICATION	OT. OR ST.	(4) DAY AND DATE / HOURS WORKED EACH DAY							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS: FICA	WITH-HOLDING TAX			OTHER	TOTAL DEDUCTIONS	(9) NET WAGES PAID FOR WEEK
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While completion of Form WH-347 is optional, it is mandatory for covered contractors and subcontractors performing work on Federally financed or assisted construction contracts to respond to the information collection contained in 29 C.F.R. §§ 3.3, 5.5(a). The Copeland Act (40 U.S.C. § 3145) contractors and subcontractors performing work on Federally financed or assisted construction contracts to "furnish weekly a statement with respect to the wages paid each employee during the preceding week." U.S. Department of Labor (DOL) regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors to submit weekly a copy of all payrolls to the Federal agency contracting for or financing the construction project, accompanied by a signed "Statement of Compliance" indicating that the payrolls are correct and complete and that each laborer or mechanic has been paid not less than the proper Davis-Bacon prevailing wage rate for the work performed. DOL and federal contracting agencies receiving this information review the information to determine that employees have received legally required wages and fringe benefits.

Date ______

I, ______________________ ______________________
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by

______________________ on the
(Contractor or Subcontractor)

______________________ ; that during the payroll period commencing on the
(Building or Work)

____ day of ________, ____, and ending the ____ day of ________, ____,

all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said

______________________ from the full
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

____

____

____

____

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:

(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ – in addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ – Each laborer or mechanic listed in the above referenced payroll has been paid, as indicated on the payroll, an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE.

North Carolina Office of Recovery and Resiliency

Certificate of Construction Completion

Subrecipient: ____________ Contract No.: ________ Date: ________

This is to certify that a final inspection of the project described below was conducted on ____________

Contract was entered into on ____________ (Date) Between ____________ (Subrecipient) and

____________ (Contractor) for the construction of ____________

This is to certify that:

1. The work has been completed in accordance with the plans and specifications and all addenda, change orders, and supplemental agreements thereto, with the following exceptions:

2. The sum of ________ , deducted from the final payment to the Contractor is a fair and equitable settlement for the foregoing excepted work.

3. The Contractor has presented on behalf of itself and its sureties, satisfactory evidence that he or she will repair, replace or make good any faulty workmanship and/or materials discovered in the work within a period of ________ from this date, as provided in the Contract.

4. Amount of Original Contract: ____________

Cumulative Change Orders: ____________

Final Amount of Contract: ____________

Less Previous Payments: ____________

Less Deductions (from #2 above): ____________

FINAL PAYMENT (Balance): ____________

5. The Final Payment in the amount above is now due and payable.

6. Final Quantities:

DRGR Activity Number (provided by NCORR Program Manager)	Project Name	Description

DRGR Activity Number (provided by NCORR Program Manager)	Project Name	Activity Description

Certified by:

Engineer's Signature	Contractor's Signature	Subrecipient's Signature
Engineer's Name and Title (Printed)	Contractor's Name and Title (Printed)	Subrecipient Name and Title (Printed)
Firm	Firm	Subrecipient

****Submit to NCORR upon construction completion****

Disclaimer: *The North Carolina Office of Recovery and Resiliency has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the North Carolina Office of Recovery and Resiliency assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the North Carolina Office of Recovery and Resiliency's standard review and update schedule.*

North Carolina Office of Recovery and Resiliency

Final Wage Compliance Report

SUBMIT ONE FOR EACH CONSTRUCTION CONTRACT OVER $2,000

Subrecipient:		Contract Number:	
Construction		Contract Amount:	
Prime Contractor:			
Sub-Contractor(s):			

PART I - Wage Restitution

Were any workers paid less than the Davis-Bacon rates that applied to this project?	Yes	No
Were any workers paid less than the correct overtime payments?	Yes	No

If YES, liquidated damages at the rate of $31 for each calendar day for each worker must be calculated and the contractor notified of his liability. Provide information concerning the nature of the overtime violations. This should include:

Company Name	Names of Affected Employees	Amount of Davis- Bacon Restitution Paid	Amount of CWHSSA (overtime) Restitution Paid	Davis- Bacon Wage Violation? (Yes or No)	CWHSSA (overtime) Violation? (Yes or No)

PART II - Liquidated Damages

Attach copies of all correspondence relative to any Liquidated Damages (i.e. letter from subrecipient to company assessing liquidated damages, copies of payrolls showing discrepancies, copies of evidence of back wages paid like canceled checks or other acceptable evidence, and copy of waiver request letter).

Did the Contractor seek a reduction or waiver of the liquidated damages?	Yes	No
If YES, was the request approved?	Yes, reduction	Yes, Waiver
Total amount of Liquidated Damages paid:		
Number of workers owed restitution but unfound:		
Total restitution owed to unfound workers:		

Submitted by:

Labor Standards Officer Printed Name:	
Labor Standards Officer Signature:	
Date:	

****Submit to NCORR upon construction completion****

Disclaimer: *The North Carolina Office of Recovery and Resiliency has made every effort to ensure the information contained on this form is accurate and in compliance with the most up-to-date CDBG-DR and/or CDBG-MIT federal rules and regulations, as applicable. It should be noted that the North Carolina Office of Recovery and Resiliency assumes no liability or responsibility for any error or omission on this form that may result from the interim period between the publication of amended and/or revised federal rules and regulations and the North Carolina Office of Recovery and Resiliency's standard review and update schedule.*

Semi-Annual Labor Standards Enforcement Report

(Form HUD-4710)

Semi-Annual Labor Standards Enforcement Report - Local Contracting Agencies (HUD Programs)	U.S. Department of Housing and Urban Development Office of Davis-Bacon and Labor Standards	HUD FORM 4710 OMB Approval Number 2501-0019 (Exp. 09/30/2024)

Agency Name:	Agency Type: [e.g., CDBG, PHA, TDHE/IHA]	State:	LR2000 Agency ID #: (HUD Use Only)
Period Covered: Check One and Enter Year(s)			
☐ **Period 1**: October 1, ____ to March 31, ____	☐ **Period 2**: April 1, to September 30,		
Agency Contact Person:	Agency Contact Phone/E-mail:		

PART I – NEW CONTRACTING ACTIVITY*

Pertains ONLY to contracts awarded during the reporting period.

1. Number of prime contracts subject to the Davis-Bacon and Related Acts (DBRA) and/or the Contract Work Hours and Safety Standards Act (CWHSSA) awarded this period
   Note: Do not include contracts included in previous semi-annual reports

2. Total dollar amount of prime contracts reported in item 1 above **$**

3. List for each contract awarded this period:

Contract Name/Number	Contract Amount	Wage Decision Number	Wage Decision Lock-In Date
EXAMPLE: "Boy's Club Renovation # CD64006-86"	"$0,000,000.00"	"FL040001/Mod 3, 6/25/04, Building"	"07/02/04 bid open date" ◄Lock

*Use additional pages if necessary

WHAT IS THE LOCK-IN DATE? For contracts entered into pursuant to competitive bidding procedures, the bid opening date "locks-in" the wage decision **provided** that the contract is awarded within 90 days. If the contract is awarded more than 90 days after bid opening, the contract award date 'locks-in' the wage decision. For contracts, purchase orders or other agreements for which there is no bid opening or award date, use the construction start date as the lock-in date. However, for contracts receiving assistance under Section 8 of the U.S. Housing Act of 1937 or contracts involving a *contract* wage determination, the lock-in rules may vary from above. See Department of Labor Regulations, 29 CFR, Part 1, Section 1.6 and/or HUD Handbook 1344.1, or consult the HUD Davis-Bacon and Labor Standards (DBLS) staff.

WHAT IT ISN'T: Do not use the wage decision publication date, unless that happens to correspond to one of the trigger events described above.

If you are not sure about any of this, please feel free to contact the DBLS staff in your state or region.

Semi-Annual Labor Standards Enforcement Report - Local Contracting Agencies (HUD Programs)	U.S. Department of Housing and Urban Development Office of Davis-Bacon and Labor Standards	HUD FORM 4710 OMB Approval Number 2501-0019 (Exp. 09/30/2024)

PART II - ENFORCEMENT ACTIVITY*

Identify all enforcement activity that occurred within this reporting period. Enforcement activity applies to newly awarded contracts listed in Part I and any existing contracts subject to DBRA and/or CWHSSA not previously reported.

1. Number of employers against whom **complaints** were received (list employers and contracts involved below):

Employer	Contract(s)

2. (a) Number of cases (employers) referred to HUD DBLS staff for investigation or §5.11 hearing (list referrals below):

   (b) Number of cases (employers) referred to the Department of Labor (DOL) for investigation or §5.11 hearing (list referrals below):

Employer	Contract	HUD or DOL	Invest. Or Hearing

3. (a) **Number of workers for whom wage restitution was collected/disbursed:**
   Report only once; if you previously reported workers for whom restitution was collected, do not report the same workers when funds are disbursed. Include workers to whom restitution was paid directly by the employer.

   (b) **Total amount of straight time wage restitution collected/disbursed during this period:**
   Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.
   $

   (c) **Total amount of CWHHSA overtime wage restitution collected/disbursed during this period:** *Report only once; if you report funds collected, do not report the disbursement. Include restitution amounts paid directly by the employer as reported on correction certified payrolls.*
   $

   (d) **Total amount of liquidated damages collected:**
   $

* Use additional pages if necessary

ReBUILD NC

Version 1.2 | 1 January 9, 2023

Section 3 of the Housing and Urban Development Act of 1968 Policy Manual

State of North Carolina

For U.S. Department of Housing and Urban Development Funds

NCORR
NORTH CAROLINA OFFICE OF RECOVERY AND RESILIENCY

Version Number	Date Updated	Summary of Changes
1.0	10 March 2022	Policy Published
1.1	1 April 2022	Updated Project Implementation Plan Form 6 to include forecasting as well as reporting labor hours.
1.2	9 January 2023	Clarified sections related to designated staff, procurement processes, and required reporting documentation. Updated forms and processes.

Table of Contents

1. Overview of Section 3 Requirements

A. WHAT IS SECTION 3?

Section 3 is a provision of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) regulated by 24 CFR 75. Section 3 regulations ensure that employment and other economic opportunities generated by certain Housing and Urban Development (HUD) financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons.

B. PURPOSE OF THIS DOCUMENT

This policy outlines how NCORR and its subrecipients, contractors and subcontractors will comply with HUD's Section 3 requirements during implementing NCORR's HUD funded programs.

NCORR may amend this Section 3 policy as necessary to ensure continued compliance with HUD's requirements and/or to reflect updated Section 3 guidance.

C. APPLICABILITY

Section 3 applies in different ways dependent upon the context of the financial assistance. Applicability of Section 3 is determined at the project level. For public housing financial assistance, all funding is covered regardless of the amount of expenditure or size of a contract. This policy applies to development assistance, operating funds, capital funds, and all mixed- finance development.

For housing and community development financial assistance, this policy applies to housing rehabilitation, housing construction, housing reconstruction and other public construction projects that exceed $200,000 or more of housing and community development financial assistance from one or more HUD programs.

Section 3 requirements do not apply to:

1) Material Supply Contracts – 24 CFR § 75.3(b)
2) Indian and Tribal Preferences – 24 CFR § 75.3(c), and
3) Other HUD assistance and other Federal assistance not subject to Section 3 24 CFR §75.3 (d).[1]

However, for financial assistance that is not subject to Section 3, recipients are encouraged to consider ways to support the purpose of Section 3.

[1] 24 CFR Part 75 – Economic Opportunities for low- and very low-income persons, available at: https://www.ecfr.gov/current/title-24/subtitle-A/part-75.

2. Designated Section 3 Staff

NCORR's Compliance Department employs designated Section 3 staff that serve as the central point of contact for Section 3 compliance. Subrecipients, contractors, subcontractors and other organizations are encouraged to contact NCORR's Designated Section 3 Staff with questions regarding Section 3 compliance:

NCORR Designated Section 3 Staff

E-mail section3@rebuild.nc.gov

3. Employment, Training, and Contracting Goals

A. SAFE HARBOR COMPLIANCE

Grantees (NCORR) can meet the Safe Harbor determination by certifying they have followed the required prioritization of effort and have met or exceeded the applicable Section 3 benchmarks. NCORR will comply with the Section 3 benchmark requirements to attain Safe Harbor Compliance.

At the time of contract execution, NCORR's vendors (also known as contractors and/or subcontractors) and Subrecipients are required to certify that they will follow the prioritization of effort requirements for Section 3 workers, Targeted Section 3 workers, and Section 3 business concerns. Successful execution of the contract or Subrecipient Agreement indicates the vendor and Subrecipient's acceptance of the Section 3 regulations at 24 CFR Part 75.

If NCORR's subrecipients, contractors or subcontractors do not meet the safe harbor requirements, they must provide evidence demonstrating they have made qualitative efforts to assist low and very low-income persons with employment and training opportunities. The NCORR Compliance Department will monitor all qualitative efforts reported by contractors and Subrecipients.

SAFE HARBOR BENCHMARKS

NCORR has adopted HUD's employment and training benchmarks. These benchmarks are applicable to all subrecipients, contractors, and subcontractors. The safe harbor benchmark goals are as follows:

Public housing financial assistance (24 CFR Part 75.9)[2]

The benchmarks for Section 3 projects (housing rehabilitation, housing construction, and other public construction projects, such as demolitions, assisted under HUD programs that provide public housing financial assistance where the amount of assistance to the project exceeds a threshold of $200,000) are:

1) Twenty-five percent (25%) or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the Public Housing Authority's (PHA) fiscal year are Section 3 workers. This percentage is calculated as follows:

[2] 24 CFR § 75.9 Requirements, available at: https://www.ecfr.gov/current/title-24/subtitle-A/part-75/subpart-B/section-75.9.

Section 3 Labor Hours/Total Labor Hours = 25%

and

2) Five percent (5%) or more of the total number of labor hours worked by all workers employed with public housing financial assistance in the PHA's fiscal year are Targeted Section 3 workers, as defined at 24 CFR Part 75.11.[3] This percentage is calculated as follows:

Targeted Section 3 Labor Hours/Total Labor Hours = 5%

Housing and Community Development financial assistance –

The benchmarks for Section 3 projects (housing rehabilitation, housing construction, and other public construction projects, such as demolitions, assisted under HUD programs that provide housing and community development financial assistance where the amount of assistance to the project exceeds a threshold of $200,000) are:

1) Twenty-five percent (25%) or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers. This percentage is calculated as follows:

Section 3 Labor Hours/Total Labor Hours = 25%

and

2) Five percent (5%) or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers, as defined at 24 CFR Part 75.21.[4] This percentage is calculated as follows:

Targeted Section 3 Labor Hours/Total Labor Hours = 5%

B. CERTIFICATION OF PRIORITIZATION OF EFFORT FOR EMPLOYMENT, TRAINING, AND CONTRACTING

EMPLOYMENT AND TRAINING

To meet the benchmarks outlined above, subrecipients, contractors and subcontractors are required to make best efforts to provide employment and training opportunities to Section 3 workers in the priority order listed below:

1. Persons residing in public or assisted housing;
2. Persons in the area where HUD financial assistance is expended;
3. Participants in HUD Youthbuild programs; or
4. Homeless persons.

[3] 24 CFR § 75.11 - Targeted Section 3 worker for public housing financial assistance, available at https://www.law.cornell.edu/cfr/text/24/75.11.

[4] 24 CFR § 75.21 - Targeted Section 3 worker for housing and community development financial assistance. https://www.law.cornell.edu/cfr/text/24/75.21.

CONTRACTING

In an effort to meet the benchmarks outlined above, subrecipients, contractors and subcontractors must make their best efforts to award contracts and subcontracts to business meeting the definition of a Section 3 business concern.

A business:

- That is at least fifty-one (51%) percent or more owned by Section 3 residents,
- Whose permanent, full-time employees include persons, at least thirty (30%) percent of whom are currently Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents, or
- That provides evidence of a commitment to subcontract in excess of twenty-five (25%) percent of the dollar award of all subcontracts to be awarded to a Section 3 business concern.

4. Section 3 Eligibility and Certifications

Individuals and businesses that meet Section 3 criteria may seek Section 3 certification from NCORR for training, employment, or contracting opportunities generated by public housing financial assistance or housing and community development financial assistance. To qualify as a Section 3 worker, Targeted Section 3 worker, or a Section 3 business concern, each must certify that they meet the applicable criteria.

A. SECTION 3 WORKER AND TARGETED SECTION 3 WORKER CERTIFICATION

An individual seeking certification from NCORR to be designated a Section 3 worker or Targeted Section 3 worker shall submit the Section 3 Worker Self-Certification form (linked here: Section 3 Worker Self-Certification) to NCORR. The Compliance Department will review all submissions and determine if the information provided qualifies the individual as a Section 3 worker or Targeted Section 3 Worker. NCORR will not review submissions for individuals with a hire date greater than five (5) years ago, at the time of certification submission.

The NCORR Compliance Department may reach out to the employer listed on the self-certification to confirm an individual's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of the work site.

The NCORR Compliance Department may also contact the individual to obtain the following documentation if needed:

- Proof of occupancy
- Proof of Income
    - Most recent W-2
    - Recent paystubs (within the most recent 30 days of certification))
    - Proof of public assistance
    - Completed Zero Income Statement
- Proof of public assistance
- Proof of participation in a federally assisted program such as YouthBuild.
- Proof of participation in a state or local assistance program, or other program that assists low-or very-low-income persons

If the NCORR Compliance Department certifies an individual as a Section 3 worker or Targeted worker, the Designated Section 3 Staff will contact the individual and confirm certification. A letter may be sent for the individual's records, if requested.

All individuals submitting their information into the self-certification form understand their basic information (name, email and phone number) will be shared with subrecipients, contractors and other entities seeking to hire Section 3 certified individuals.

One certified, NCORR also provides Section 3 and Targeted Section 3 Workers with a list of NCORR approved contractors to contact regarding possible employment.

PROJECTS INVOLVING MULTIPLE SOURCES OF FUNDING

In cases where Section 3 covered projects include multiple sources of funds, including public housing financial assistance, and housing and community development assistance, the PHA is required to follow the definition of Targeted Section 3 worker and priorities as outlined in subpart B of 24 CFR Part 75. For housing and community development financial assistance.

B. SECTION 3 BUSINESS CONCERN CERTIFICATION

NCORR will encourage contractors and subcontractors to make best efforts to award contracts and subcontracts to Section 3 business concerns. Businesses that believe they meet the Section 3 Business requirements may self-register in the HUD Business registry: https://portalapps.hud.gov/Sec3BusReg/BRegistry/What.

Businesses may also seek a Section 3 Business Concern certification by completing the NCORR Section 3 Business Concern Certification (linked here: Section 3 Business Concern Certification)

A Section 3 business concern meets one or more of the following criteria:

- At least fifty-one percent (51%) of the business is owned and controlled by low- or very low-income persons; or
- At least fifty-one percent (51%) of the business is owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing; or
- Over seventy-five percent (75%) of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers.

In an effort for NCORR to obtain greater participation from HUD registered Section 3 Businesses, the Compliance Department may perform independent outreach to HUD registered businesses and seek their completion of the NCORR Section 3 certification.

5. Assisting Contractors with Achieving Section 3 Goals

To assist contractors with meeting or exceeding the Section 3 goals, NCORR will do the following:

1) Provide all subrecipients, contractors and subcontractors with Section 3 Technical Assistance Training.
2) Review Section 3 benchmarks and prioritization of effort requirements with contractors and subcontractors to ensure that the goals are understood.
3) Maintain a local Section 3 worker/Targeted Section 3 worker database and provide the contractor with a list of interested and qualified Section 3 and Targeted Section 3 workers and businesses, including contact information
4) Inform contractors about the HUD Section 3 Opportunity Portal https://hudapps.hud.gov/OpportunityPortal/

Section 3 regulations are not intended to influence termination of existing employees to satisfy Section 3 benchmark requirements. NCORR encourages contractors and/or subcontractors to make every effort to meet Section 3 benchmarks by utilizing existing qualified employees and by giving hiring priority to qualified eligible Section 3 workers and Targeted Section 3 workers.

6. Section 3 Outreach

A. OUTREACH EFFORTS FOR EMPLOYMENT AND TRAINING

In order to educate and inform subrecipients, contractors and subcontractors, NCORR's Compliance Department will provide training and technical assistance on a regular basis.

Contractors and subcontractors should employ several active outreach strategies to notify Section 3 workers and Targeted Section 3 workers of Section 3 job opportunities, including:

1) Clearly indicating Section 3 eligibility on all job postings
2) Including the Section 3 Worker and Targeted Section 3 Worker Self-Certification Form in all job postings (linked here: Section 3 Worker Self-Certification)
3) Working with the Designated Section 3 Staff to connect Section 3 worker and Targeted Section 3 workers listed in NCORR's database with opportunities and/or utilize the Section 3 Opportunity Portal to find qualified candidates
4) Establish and maintain a current list of Section 3 eligible applicants
5) Contact and provide local community organizations with job postings for Section 3 eligible applicants; and
6) Coordinate a programmatic ad campaign, which results in widespread job posting across diverse ad networks including, but not limited to:
    a. Advertising job opportunities via social media, such as LinkedIn and Facebook;
    b. Advertising job opportunities via flyer distributions, mass mailings and posting ad in common areas of public housing developments and area public housing management offices;
    c. Contacting resident councils, resident management corporations, and neighborhood community organizations to request their assistance in notifying residents of available training and employment opportunities

B. OUTREACH EFFORTS FOR CONTRACTING

When contracting opportunities arise in connection with the use of HUD provided funds, such as CDBG-DR or CDBG-MIT, NCORR will notify Section 3 Business Concerns of Section 3 contracting opportunities by Including Section 3 language to all RFPs, procurement documents, bid offerings and contracts. Moreover, NCORR also sends all contracting opportunities to the NC DPS Historically Underutilized Businesses (HUB) Liaison who sends the procurement opportunities out to registered HUB businesses, which often overlap with contractors and subcontractors that meet Section 3 Business requirements.

7. Section 3 Language Requirement for all Contract, Subrecipient, and/or other agreements

NCORR will include Section 3 language in all its agreements and contracts to ensure compliance with regulations in 24 CFR Part 75. Furthermore, NCORR has elected to require at least one contractor or subcontractor on every applicable contract be a Section 3 business. Failure to include a Section 3 business may render the bid non-responsive. On a periodic basis the Designated Section 3 Staff will audit NCORR contractors for compliance with the minimum Section 3 requirements outlined in the Section 3 Plan.

8. Reporting Requirements

For Section 3 covered contracts (construction exceeding $200,000), subrecipients and contractors must submit the Section 3 Report to NCORR's Designated Section 3 Staff monthly, using the following link: NCORR Section 3 - Contractor Reporting.

A. MONTHLY REPORTING

All contractors and Subrecipients are required to submit monthly activity reports to NCORR's Designated Section 3 Staff by the 10th day of each month for the previous month using the following link: NCORR Section 3 - Contractor Reporting.

B. ANNUAL REPORTING

1) Once a project is completed, contractors must submit a final Section 3 cumulative report for the program year using the following link: NCORR Section 3 - Contractor Reporting
2) Upon the completion of any project valued at more than $200,000, NCORR's Designated Section 3 staff will conduct a final review of the project's overall performance and compliance.
3) NCORR's Designated Section 3 Staff will submit the Section 3 data quarterly to NCORR Finance Department's HUD Disaster Recovery Grant Reporting System (DRGR) team to make quarterly submissions to HUD using DRGR.

9. NCORR Section 3 Complaint Procedure

NCORR, in compliance with HUD regulations, has established the following process for resolution of complaints regarding Section 3 non-compliance. Complaints should be submitted to NCORR's Designated Section 3 Staff as follows:

1) Designated Section 3 Staff Complaints of non-compliance should be filed in writing to Section3@rebuild.nc.gov and must contain the name of the complainant and brief description of the alleged violation
2) Complaints must be filed within ninety (90) calendar days after the complainant becomes aware of the alleged violation.
3) A review will be conducted of all complaints.
4) NCORR will provide written documentation detailing the findings of the review. The findings will be made available no later than ninety (90) days after the filing of complaint.

10. Federal Section 3 Complaint Procedure

Complainants, also, have an external option for complaint resolution. A complaint may be filed with the area HUD program office responsible for public housing financial assistance and Section 3 regulated projects or with the other Federal entities listed below.

HUD

NORTH CAROLINA REGIONAL FIELD OFFICE FHEO
Intake Branch Officer or Designee
U.S. Department of Housing and Urban Development, Region IV Asheville Federal Building
1500 Pinecroft Road, Suite 401
Greensboro, NC 27407-3838

A written complaint to HUD must contain:

- Name and address of the person filing the complaint
- Name and address of the subject of complaint (HUD Recipient or Contractor)
- Description of acts or omissions in alleged violation of Section 3
- Statement of corrective actions sought

The U.S. Equal Employment Opportunity Commission (EEOC)

Complainants may be eligible to bring complaints under other federal laws. The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information (medical history or predisposition to disease). For more information about complainant rights, please contact EEOC at: www.EEOC.gov.

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP)

The Department of Labor Office of Federal Contract Compliance Programs (OFCCP) enforces, for the benefit of job seekers and wage earners, the contractual promise of affirmative action and equal employment opportunity required of those who do business with the Federal government. More information about the services they provide can be obtained at: http://www.dol.gov/ofccp/.

11. Appendices

APPENDIX A: DEFINITIONS

The terms HUD, Public housing, and Public Housing Agency (PHA) are defined in 24 CFR part 5.

The following definitions also apply to 24 CFR Part 75 HUD's Economic Opportunities for Low-and Very Low-Income Persons:

1937 Act means the United States Housing Act of 1937, 42 U.S.C. 1437 et seq. activities related to Public Housing

Best Efforts means the contractor provides their best effort and greatest extent feasible to meet Section 3 plan goals. Reported results will be compared to the outcome metrics defined in the benchmark notice. NCORR program staff will evaluate the level of effort expended by contractors that fail to meet the benchmark safe harbor, and thus will ensure that the statutory terms are being properly enforced. NCORR has decided not to distinguish between the two terms, but rather focus on the outcomes produced toward meeting the Section 3 benchmarks and goals.

Contractor means any entity entering into a contract with:

(1) A recipient to perform work in connection with the expenditure of public housing financial assistance or for work in connection with a Section 3 project; or

(2) A subrecipient for work in connection with a Section 3 project.

Labor hours means the number of paid hours worked by persons on a Section 3 project or by persons employed with funds that include public housing financial assistance (24 CFR 75.5).

Low-income person means a person as defined in Section 3(b)(2) of the 1937 Act, at or below 80% AMI. Note that Section 3 worker eligibility uses individual income rather than family/household income.

Material supply contracts means contracts for the purchase of products and materials, including, but not limited to, lumber, drywall, wiring, concrete, pipes, toilets, sinks, carpets, and office supplies.

Professional services mean non-construction services that require an advanced degree or professional licensing, including, but not limited to, contracts for legal services, financial consulting, accounting services, environmental assessment, architectural services, and civil engineering services.

Public housing financial assistance means assistance as defined in 24 CFR Part 75.3(a)(1).

Public housing project is defined in 24 CFR 905.108.

Recipient means any entity that receives directly from HUD public housing financial assistance or housing and community development assistance that funds Section 3 projects, including, but not limited to, any State, local government, instrumentality, PHA, or other public agency, public or private nonprofit organization.

Section 3 means Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 business concern means:

1) A business concern meeting at least one of the following criteria, documented within the last six-month period:
    a. It is at least 51 percent owned and controlled by low- or very low-income persons;
    b. Over 75 percent of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
    c. It is a business at least 51 percent owned and controlled by current public housing residents or residents who currently live in Section 8-assisted housing.
2) The status of a Section 3 business concern shall not be negatively affected by a prior arrest or conviction of its owner(s) or employees.
3) Nothing in this part shall be construed to require the contracting or subcontracting of a Section 3 business concern. Section 3 business concerns are not exempt from meeting the specifications of the contract.

Designated Section 3 Staff is person tasked with overseeing all Section 3 responsibilities for the PHA/CD office.

Section 3 project means a project defined in 24 CFR Part 75.3(a)(2) including housing rehabilitation, housing construction, and other public construction projects assisted under HUD programs that provide housing and community development financial assistance when the total amount of assistance to the project exceeds a threshold of $200,000. The project is the site or sites together with any building(s) and improvements located on the site(s) that are under common ownership, management, and financing. The requirements of Part 75 apply to an entire Section 3 project, regardless of whether the project is fully or partially assisted under HUD programs that provide housing and community development financial assistance.

Section 3 Utilization Plan means a comprehensive document that identifies the goals, objectives, and actions that will be implemented by Awardees and/or Contractors to ensure compliance with the requirements of Section 3. The plan identifies a list of strategies to be adopted for compliance with the stated employment, training, and contracting goals.

Section 3 worker means:

1) Any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:
    a. The worker's income for the previous or annualized calendar year is below the income limit established by HUD.
    b. The worker is employed by a Section 3 business concern.
    c. The worker is a YouthBuild participant.
2) The status of a Section 3 worker shall not be negatively affected by a prior arrest or conviction.
3) Nothing in this part shall be construed to require the employment of someone who meets this definition of a Section 3 worker. Section 3 workers are not exempt from meeting the qualifications of the position to be filled.

Section 8-assisted housing refers to housing receiving project-based rental assistance or tenant-based assistance under Section 8 of the 1937 Act.

Service area or the neighborhood of the project means an area within one mile of the Section 3 project or, if fewer than 5,000 people live within one mile of a Section 3 project, within a circle centered on the Section 3 project that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census.

Small PHA means a public housing authority that manages or operates fewer than 250 public housing units.

Subcontractor means any entity that has a contract with a contractor to undertake a portion of the contractor's obligation to perform work in connection with the expenditure of public housing financial assistance or for a Section 3 project.

Subrecipient has the meaning provided in the applicable program regulations or in 2 CFR 200.93.

Targeted Section 3 worker has the meanings provided in 24 CFR Part 75.11, 75.21, or 75.29, and does not exclude an individual that has a prior arrest or conviction.

Very low-income person means the definition for this term set forth in section 3(b)(2) of the 1937 Act (at or below 50% AMI).

YouthBuild programs refers to YouthBuild programs receiving assistance under the Workforce Innovation and Opportunity Act (29 U.S.C. 3226).