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SECTION 3 & DAVIS BACON



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Presenters

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Agenda

Section 3 Final Rule

- Overview and Transition
- Key Definitions and Thresholds
- Safe Harbor
- Recordkeeping
- Q & A

Davis Bacon Compliance

- The Wage Decision
- Certified Payroll Reports
- Compliance Reviews
- Common Errors and Corrections
- Restitution for Underpayment of Wages
- Q & A





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SECTION 3 FINAL RULE



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OVERVIEW AND TRANSITION



Section 3 of the Housing and Urban Development Act of 1968

“To ensure that *employment and other economic opportunities generated by Federal financial assistance for housing and community development programs are, to the greatest extent feasible*, directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.”

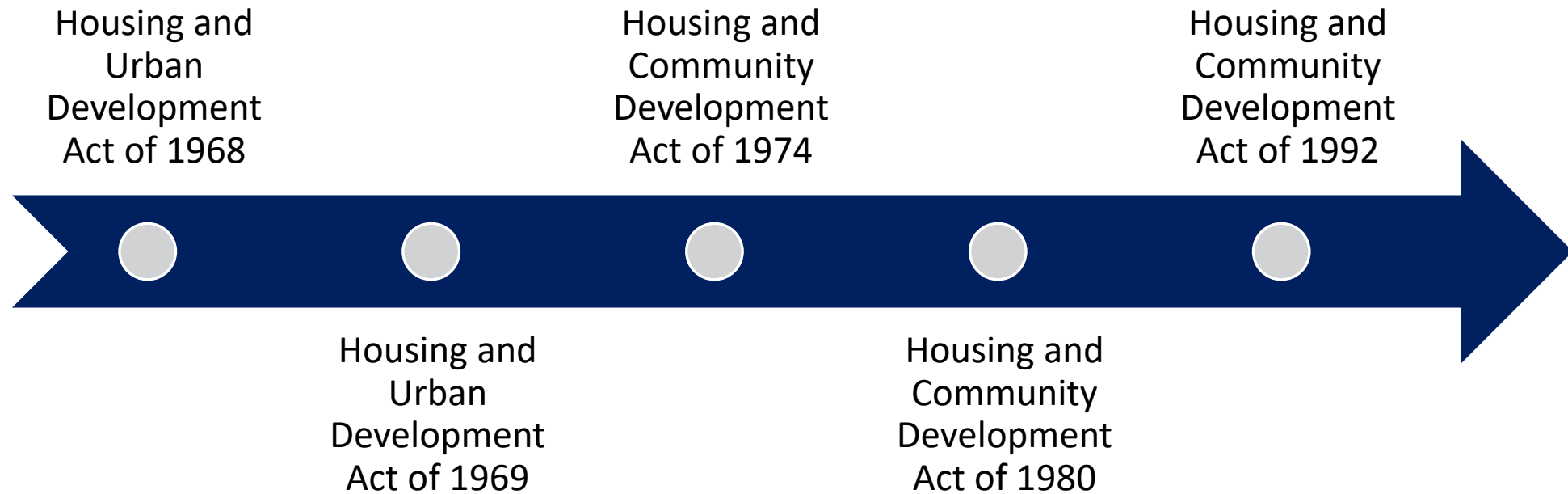


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Evolution of Section 3



Timeline of Final Rule

April 3, 2019
Published proposed rule

June 3, 2019
Comment period closed

September 2019
Completed review of comments and finalize rule

December 2019
Internal clearance

March-August 2020
OMB review

September 29, 2020
Published final rule

November 30, 2020
Effective Date

July 1, 2021
Compliance on new regulation began

Final Rule Timeline

Legacy Projects

Legacy Projects:

- Contracts executed or projects for which assistance or funds were committed prior to November 30, 2020

Requirement:

- Adhere to the old rule (24 CFR Part 135)
- Expected to maintain records but will no longer be required to report Section 3 compliance to HUD in SPEARS.

Final Rule Timeline

Transition Period

Transition Period:

- Projects for which assistance or funds are committed between November 30, 2020 and July 1, 2021

Requirement:

- Adhere to requirements of the new Final Rule (Part 75)
- Expected to maintain records but will not be required to report to HUD on the 24 CFR Part 75 requirements

Additional Clarification (CPD Notice 21-09):

- OBGA-Funded Projects: Report in IDIS or DRGR for open activities starting July 1, 2021.

Section 3 Covered Programs

Public Housing	Community Development Block Grant (CDBG), including –DR, -MIT, -RHP	HOME Investment Partnership	Housing Trust Fund (HTF)
Neighborhood Stabilization Program Grants	Economic Development Initiative (EDI)/Brownfield Economic Development Initiative (BEDI) Grants	Housing Opportunities for Persons with AIDS (HOPWA)	Homeless Assistance Grants (Emergency Solutions Grants)
University Partnership Grants	Economic Stimulus Funds (including CDBG-R and CFP Supplemental)	202/811 Grants	Rental Assistance Demonstration (RAD)





KEY DEFINITIONS AND THRESHOLDS



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Defining a Section 3 Project

Section 3 Project:

- Site or sites together with any building(s) and improvements located on the site(s) that are **under common ownership, management, and financing**.

Section 3 applies 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.



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Thresholds

Housing and Community Development Financial Assistance

- Applicability: Housing Rehab, Housing Construction, Other Public Construction
- Threshold: Total HCD assistance for the project exceeds **\$200,000**

Lead Hazard Control and Healthy Homes

- Threshold: Office of Lead Hazard Control and Healthy Homes assistance for the project exceeds **\$100,000**



Universe of Workers



Defining a Section 3 Worker

A Section 3 Worker is any worker who **currently fits**, or **when hired within the past five years*** fit, at least one of the following categories, as documented:



- A low or very low-income worker

OR



- Employed by a Section 3 business concern

OR



- A Youthbuild participant

*The past five years or after the Final Rule's effective date of November 30, 2020, whichever is later



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Defining a Targeted Section 3 Worker

HCD Assistance – Subpart C

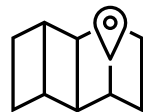


A Targeted Section 3 Worker for Housing and Community Development Projects is:



- Employed by a Section 3 business concern

OR



- Currently fits or when hired within the past five years* fit at least one of the following categories as documented:
 - Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5
 - A YouthBuild participant

*The past five years or after the Final Rule's effective date of November 30, 2020, whichever is later



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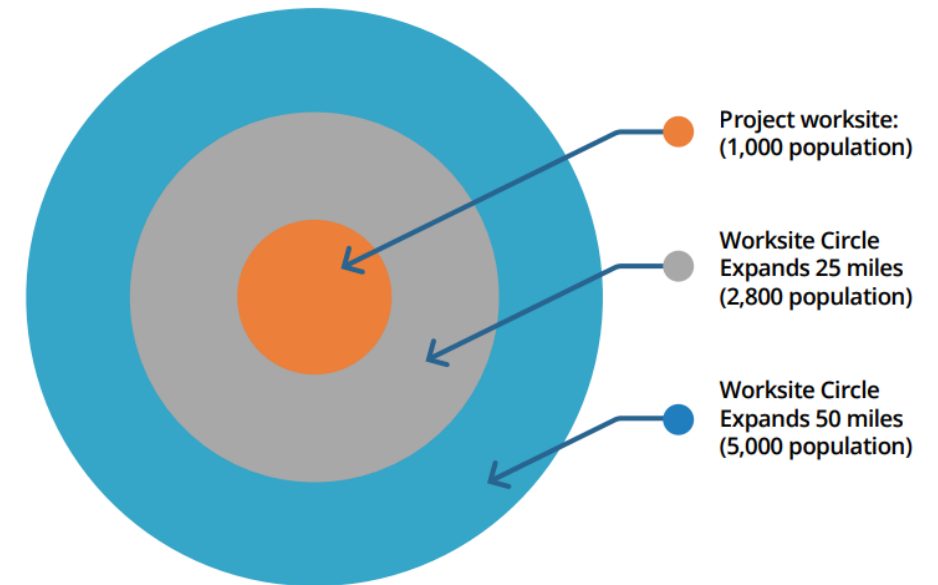
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Service Area or Neighborhood of the Project as Defined in 24 CFR 75.5

Service Area or Neighborhood of the Project is:

- An area within one mile of the Section 3 project
- OR
- If < 5,000 people live within one mile of Section 3 project, it is an area within a circle centered around the Section 3 project site that encompasses 5,000 people*



*According to the most recent U.S. Census



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Redefining Section 3 Business Concerns

A Section 3 Business Concern is:



- 51% or more owned and controlled by low or very low-income persons

OR



- Over 75% of the labor hours performed for the business over the prior three-month period were performed by Section 3 workers

OR



- 51% or more owned and controlled by current residents of public housing or Section 8-assisted housing



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Labor Hours

Paid hours worked by all workers
employed on a Section 3 Project



Low-Income and Very Low-Income Limits

- Defined at Section 3(b)(2) of the Housing Act of 1937
- Determined annually by HUD
- Section 8 income limits are used to determine eligibility
- Limits are typically established at 80 percent and 50 percent of the area median *individual* income



Checkpoint Question #1



Which of the following circumstances, by themselves, qualify a worker as a Targeted Section 3 Worker? (select all that apply)

- A. Employed by a Section 3 business concern
- B. Member of a very low-income household
- C. Section 3 Worker who currently or when hired (within the past five years*) lives/lived within the service area or the neighborhood of the project
- D. Employed by a minority-owned business
- E. Currently or when hired (within the past five years*) is/was a YouthBuild Participant

*The past five years or after the Final Rule's effective date of November 30, 2020, whichever is later



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SAFE HARBOR



Safe Harbor

A safe harbor is a provision of a statute or a regulation that specifies that certain conduct will be deemed not to violate a given rule.



Safe Harbor Compliance Check

A recipient will have complied with safe harbor if it:

- Met or exceeded the Section 3 benchmarks **AND**
- Followed the required prioritization of effort

Absent evidence to the contrary



What if a recipient can't meet the quantitative benchmarks + prioritization of effort?



Provide evidence that they have made **qualitative** efforts to assist low and very low-income persons with employment and training opportunities.



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Benchmarks

HCD Assistance – Subpart C

At least 25% of all labor hours on Section 3 Project worked by Section 3 Workers

At least 5% of all labor hours on Section 3 Project worked by Targeted Section 3 Workers

$$\frac{\text{Section 3 labor hours}}{\text{Total labor hours}} = 25\% \quad \text{AND} \quad \frac{\text{Targeted Section 3 labor hours}}{\text{Total labor hours}} = 5\%$$



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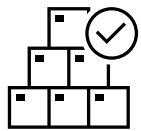
Updates to Safe Harbor Provisions & Benchmarks

- HUD will update the benchmarks through a document published in the FEDERAL REGISTER
- Benchmarks will be subject to public comment
- HUD will update not less than once every 3 years



Professional Service Labor Hour

Non-construction services that require an advanced degree or professional licensing may be excluded from labor hour calculations under the Section 3 Final Rule.



Bonus Opportunity:

- Recipient may count any work performed by a professional services Section 3 worker or Targeted Section 3 worker as Section 3 labor hours and as Targeted Section 3 labor hours by adding to the numerator.
- Do not count the professional services as part of the total labor hours (i.e., in the denominator of the calculation).



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Certification of Prioritization of Effort

Employment & Training
"to the greatest extent feasible"

HCD Assistance – Subpart C



Section 3 workers residing within the service area or neighborhood of the project

Participants in YouthBuild programs

Consistent with existing Federal, state, and local laws and regulations



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Certification of Prioritization of Effort

Contracting

“to the greatest extent feasible”

HCD Assistance – Subpart C



Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project

Participants in YouthBuild programs

Consistent with existing Federal, state, and local laws and regulations



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Qualitative Efforts

If a recipient can't meet the quantitative benchmarks and prioritization of effort, HUD requires additional reporting on the qualitative efforts to comply with the Section 3 Final Rule.

Examples include:

- Provide training or apprenticeship opportunities for Section 3 Workers
- Hold one or more job fairs
- Engage in outreach to identify and secure bids from Section 3 Business Concerns
- Promote use of business registries designed to create opportunities for disadvantaged and small businesses

A non-exhaustive list of qualitative efforts is provided in the Final Rule at 75.25(b)



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RECORDKEEPING



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Certification: Section 3 Worker

One of the following certifications must be maintained:

1. A worker's self-certification stating that their income is below the income limit from the prior calendar year;
2. A worker's self-certification of participation in a means-tested program such as public housing or Section 8-assisted housing;
3. Certification from a PHA, or the owner or property manager of Project-Based Section 8-assisted housing, or the administrator of Tenant-Based Section 8-assisted housing that the worker is a participant in one of their programs;
4. An employer's certification that the worker's income from that employer is below the income limit when based on an employer's calculation of what the worker's wage rate would translate to if annualized on a full-time basis; **OR**
5. An employer's certification that the worker is employed by a Section 3 business concern.



Certification: Targeted Section 3 Worker

HCD Assistance – Subpart C

One of the following certifications must be maintained:

1. An employer's confirmation that a worker's residence is within one mile of the work site or, if fewer than 5,000 people live within one mile of a work site, within a circle centered on the work site that is sufficient to encompass a population of 5,000 people according to the most recent U.S. Census;

OR

2. An employer's certification that the worker is employed by a Section 3 business concern;

OR

3. A worker's self-certification that the worker is a YouthBuild participant.



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Certification: Section 3 Business Concern

- Business concerns may self-certify to claim eligibility
- Business concerns bidding on a Section 3 project should submit certification during the bidding or contracting process
- Section 3 status should be verified before awarding contracts or subcontracts to businesses that self-certified
- A Section 3 Business Concern will retain status for as long as it continues to meet the definition
- Eligible Section 3 Business Concerns are responsible for maintaining records that verify eligibility



Contract Provisions

HCD Assistance – Subpart C

- Must include language applying Section 3 requirements in any subrecipient agreement or contract for a Section 3 project.
- Must also require subrecipients, contractors, and subcontractors to meet the prioritization requirements of § 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts

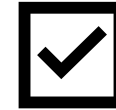


Recordkeeping Requirements

- Provide HUD and Department of Commerce staff access to all records
- Maintain documentation
- Follow record retention requirements
- Observe 5-year retention period
 - Records on CDBG-assisted projects must be kept in accordance with CDBG record retention requirements



Checkpoint Question #2



Clemson Industrial Park has been converted and it's time to close out the project in IDIS. Our final labor hour numbers are:

- 2,491 Total Labor Hours
- 714 Section 3 Labor Hours
- 152 Targeted Section 3 Labor Hours

Was the Clemson Industrial Park project in compliance with the Section 3 safe harbor benchmarks?

- a. Yes
- b. No

Section 3 Labor Hours		714
Total Labor Hours	=	2491
Section 3 Labor Hour Benchmark		28.66%

Section 3 Targeted Labor Hours		152
Total Labor Hours	=	2491
Section 3 Targeted Labor Hour Benchmark		6.10%





RESOURCES



Resources

<https://www.hud.gov/section3>

<https://www.hudexchange.info/programs/section-3/>

Section 3 Points of Contact

<https://www.hud.gov/sites/dfiles/FPM/documents/Sec3PointsContact.pdf>

Searchable FAQs <https://www.hudexchange.info/section-3/faqs/>

eGuidebook (*forthcoming*)

Toolkit (*forthcoming*)

Recorded Training Series (*forthcoming*)



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QUESTIONS?



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DAVIS BACON COMPLIANCE



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Davis Bacon and Related Acts

- Applies to contracts/subcontracts for construction, alteration or repair on federally funded or assisted contracts in excess of \$2,000
 - Exception: Residential projects involving residential rehab of fewer than 8 units that are under common ownership
- Contractors and subcontractors must pay laborers and mechanics employed under the contract no less than the Prevailing Wage, which is the combination of the basic hourly wage rate and any fringe benefits listed for a specific classification of workers in the applicable Davis-Bacon wage determination
- The Davis-Bacon Act directs the Department of Labor (DOL) to determine such locally prevailing wage rates



Davis Bacon Tools

- The **Contract Administrator** is responsible for the proper administration and enforcement of the Federal labor standards provisions on contracts covered by Davis-Bacon requirements.
- The **Wage Decision**, the WH-347 Form (**Certified Payroll Form**) and the **Davis-Bacon Interview Forms** are important tools needed to carry out Davis Bacon requirements

Modification Number 0 1	Publication Date 01/01/2021 09/10/2021	
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* IRON0848-001 07/01/2021

Rates
Fringes

IRONWORKER, STRUCTURAL.....

 SUSC2011-048 11/02/2011

 CARPENTER, Includes Form Work

 LABORER: Common or General

 LABORER: Pipelayer.....

 OPERATOR:
 Backhoe/Excavator/Trackhoe.

 OPERATOR: Grader/Blade....

 OPERATOR: Loader.....

 TRUCK DRIVER.....

 WELDERS - Receive rate per
 operation to which welding :
 =====



THE WAGE DECISION



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The Wage Decision

Modification Number	Publication Date
0	01/01/2021
1	09/10/2021

* IRON0848-001 07/01/2021

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 26.60	16.30

SUSC2011-048 11/02/2011

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 14.85	0.00
LABORER: Common or General.....	\$ 9.00	1.92
LABORER: Pipelayer.....	\$ 13.50	2.41
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 18.00	0.00
OPERATOR: Grader/Blade.....	\$ 20.11	1.39
OPERATOR: Loader.....	\$ 10.50	1.98
TRUCK DRIVER.....	\$ 14.15	2.32

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

=====

- A **Davis-Bacon Wage Decision** lists work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications
- Wage decisions can be found at [SAM.gov](https://sam.gov) | [Wage Determinations](#)



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Wage Determination – Construction Types

Modification Number Publication Date
0 01/01/2021
1 09/10/2021

* IRON0848-001 07/01/2021

Rates

IRONWORKER, STRUCTURAL.....\$ 26.60

SUSC2011-048 11/02/2011

Rates

CARPENTER, Includes Form Work....\$ 14.85

LABORER: Common or General.....\$ 9.00

LABORER: Pipelayer.....\$ 13.50

OPERATOR:
Backhoe/Excavator/Trackhoe.....\$ 18.00

OPERATOR: Grader/Blade.....\$ 20.11

OPERATOR: Loader.....\$ 10.50

TRUCK DRIVER.....\$ 14.15

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

"General Decision Number: SC20210050 09/10/2021

Superseded General Decision Number: SC20200050

State: South Carolina

Construction Type: Heavy

Counties: Calhoun, Lexington, Richland and Saluda Counties in
South Carolina.

HEAVY CONSTRUCTION PROJECTS

Fringes

0.00

1.92

2.41

0.00

1.39

1.98

2.32

- Wage determinations are categorized by State and County, and by construction type:
 - **Building** - Sheltered enclosures with walk-in access
 - **Residential** - Single-family houses, townhouses, and apartment buildings of no more than four stories in height
 - **Highway** - Roads, streets, highways, runways, parking areas and most other paving work not incidental to building, residential, or heavy construction
 - **Heavy** - Projects not classified as Building, Residential, or Highway



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The Wage Decision

- **Project Wage Determinations**
 - Are issued by request of a contracting agency and is only needed when no General Wage Determination applies
 - Are applicable to the named project only
 - Typically expire 180 calendar days from the date of issuance
- Contact HUD Labor Relations field staff for any questions finding or reading a Wage Determination



Checkpoint Question #3



For a project that includes repaving 7 residential streets, under which Construction Type would this project fall?

- A. Building
- B. Residential
- C. Highway
- D. Heavy



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CERTIFIED PAYROLL REPORTS



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Certified Payroll Reports

- Weekly Certified Payroll Reports (CPR) must be submitted beginning with the first week that work begins on a project and for every week afterward until work is completed
- It's a best practice to number the payroll reports beginning with #1 and to clearly mark your last payroll for the project "Final"
- "No work" payrolls may be submitted whenever there is a temporary break in work on the project
- DOL's website has Payroll Instructions and the Payroll form WH-347 in a "fillable" PDF format at this address:
www.dol.gov/whd/forms/wh347.pdf

U.S. Department of Labor Wage and Hour Division			(For Contractors)
NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>			Persons are not
Lady Gamecocks Construction			
PAYROLL NO. 1	FOR WEEK ENDING		
(1)	(2)	(3)	
NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	NO. OF WITHHOLDING EXEMPTIONS	WORK CLASSIFICATION	
Olivia Thompson - 1234		Carpenter	
Zia Cooke - 2345		Laborer: General	
Eniya Russell - 7894		Laborer: Pipework	
Destanni Henderson - 5648		Backhoe Operator	



Reviewing Payroll Reports

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.

NAME OF CONTRACTOR ☒ **OR SUBCONTRACTOR** ☐ **ADDRESS** 123 UofSC Way
Lady Gamecocks Construction Columbia, South Carolina 29201

PAYROLL NO. 1 **FOR WEEK ENDING** 01/15/2022 **PROJECT AND LOCATION** 456 William Bryce Road
Columbia, South Carolina 29201 **PROJECT OR CONTRACT NO.** 789-UGA-123

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

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF HOURS EXEMPTION	(3) WORK CLASSIFICATION	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY	(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS					(9) NET WAGES PAID FOR WEEK
			S	M	T	W	T	F	S				FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS		
Olivia Thompson - 1234	0	Carpenter	9	10	11	12	13	14	15	40.00	14.85	\$594.00	\$32.00	\$2.05		\$34.05	\$559.95	
Zia Cooke - 2345	2	Laborer: General	9	10	11	12	13	14	15	40.00	9.00	\$436.80	\$23.00	\$1.23		\$24.23	\$675.77	
Eniya Russell - 7894	1	Laborer: Pipeworker	9	10	11	12	13	14	15	30.00	13.50	\$477.30	\$24.54	\$1.45		\$25.99	\$451.31	
Destanni Henderson - 5648	2	Backhoe Operator	9	10	11	12	13	14	15	24.00	18.00	\$432.00	\$25.13	\$1.78		\$26.91	\$405.09	
Aliyah Boston - 2869	3	Excavator Operator	9	10	11	12	13	14	15	40.00	20.00	\$1,100.00	\$15.00	\$0.75		\$15.75	\$1,084.25	
Victoria Saxton - 0295	1	Grader	9	10	11	12	13	14	15	30.00	19.00	\$645.00	\$10.00	\$0.59		\$10.59	\$789.41	
Kamilla Cardoso - 6452	2	Loader	9	10	11	12	13	14	15	40.00	12.48	\$499.20	\$10.00	\$1.00		\$11.00	\$488.20	
Destiny Littleton - 5478	0	Truck Driver	9	10	11	12	13	14	15	40.00	16.47	\$658.80					\$658.00	

- Contractor/Contract Information includes basic information about contractor/subcontractor and the contract.
- Each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) should be listed in Column 1 on each weekly payroll submitted.



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Payroll Reports – No. of Withholdings/Exemptions (Column 2)

(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF WITHHOLDING EXEMPTIONS
Olivia Thompson - 1234	0
Zia Cooke - 2345	2
Eniya Russell - 7894	1
Destanni Henderson - 5648	2
Aliyah Boston - 2869	3
Victaria Saxton - 0295	1
Kamilla Cardoso - 6452	2
Destiny Littleton - 5478	0

- Column 2 identifies the number of withholdings/exemptions that the employee files.
- This column is inserted for employers' convenience only, and is not a requirement of the DBA regulations



Payroll Reports – Work Classification (Column 3)

U.S. Department of Labor Wage and Hour Division		PAYROLL REPORT (For Contractor's Optional Use; See Instructions)		
NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>		ADD		
Lady Gamecocks Construction				
PAYROLL NO. 1	FOR WEEK ENDING 01/15/2022	PRG 458 Co		
(1) NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	(2) NO. OF HOURS EXEMPTIONS	(3) WORK CLASSIFICATION	(4) DAY AND DATE S M T W T F S 9 10 11 12 13 14 15 HOURS WORKED EACH DAY	(5) TOT. HOURS
Olivia Thompson - 1234	0	Carpenter	o s 8.00 8.00 8.00 8.00 8.00	40.00
Zia Cooke - 2345	2	Laborer: General	o s 4.00 8.00 9.00 9.00 10.00	40.00
Eniya Russell - 7894	1	Laborer: Pipeworker	o s 5.00 5.00 5.00 5.00 5.00	30.00
Destanni Henderson - 5648	2	Backhoe Operator	o s 4.00 4.00 4.00 4.00 4.00	24.00 18.00 0.00
Aliyah Boston - 2869	3	Excavator Operator	o s 2.00 2.00 2.00 2.00 2.00	10.00 30.00
Victoria Saxton - 0295	1	Grader	o s 6.00 6.00 6.00 6.00 6.00	30.00 19.00 2.50
Kamilla Cardoso - 6452	2	Loader	o s 8.00 8.00 8.00 8.00 8.00	40.00 12.48 0.00
Destiny Littleton - 5478	0	Truck Driver	o s 8.00 8.00 8.00 8.00 8.00	40.00 16.47 0.00

CARPENTER, Includes Form Work...
 LABORER: Common or General.....
 LABORER: Pipelayer.....
 OPERATOR:
 Backhoe/Excavator/Trackhoe.....
 OPERATOR: Grader/Blade.....
 OPERATOR: Loader.....
 TRUCK DRIVER.....
 WELDERS - Receive rate prescribe
 operation to which welding is in
 =====

- Classification listed should be descriptive of work performed during reporting week
- Work classifications must be reflected on the wage determination form being used for the project
- A worker may be shown as having worked in more than one classification



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Payroll Reports – Day and Date (Column 4)

- Days should reflect Sunday through Saturday and dates should correspond
- In this example, the payroll reflects Sunday January 9th through Saturday January 15th, 2022
- Straight time and overtime hours worked should be reported in the applicable boxes.
- Hours worked in excess of 40 hours a week should be reported as "overtime"
- Total Hours auto-calculate as hours worked each day is completed
- Total overtime hours are also auto-calculated as hours worked are completed

FOR WEEK ENDING		01/15/2022																	
Wage and Hour Division																			
PAYROLL																			
(For Contractor's Optional Use; See Instructions at www.dol.gov/whd)																			
Persons are not required to respond to the collection of information unless it displays a current																			
NAME OF CONTRACTOR <input checked="" type="checkbox"/> OR SUBCONTRACTOR <input type="checkbox"/>												ADDRESS							
Lady Gamecocks Construction												123 UofSC Way Columbia, South Carolina							
PAYROLL NO. 1												FOR WEEK ENDING 01/15/2022				PROJECT AND LOCATION			
												456 William Bryce Road Columbia, South Carolina 2920							
(1)	(2)	(3)	(4) DAY AND DATE							(5)	(6)	(7)							
NAME AND INDIVIDUAL IDENTIFYING NUMBER (e.g., LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER) OF WORKER	NO. OF WITHHOLDING EXEMPTIONS	WORK CLASSIFICATION	OT	ST	S	M	T	W	T	F	S	TOTAL HOURS	RATE OF PAY	GROSS AMOUNT EARNED					
					9	10	11	12	13	14	15								
HOURS WORKED EACH DAY																			
Olivia Thompson - 1234	0	Carpenter	o												\$594.00				
			s	8.00	8.00	8.00	8.00	8.00	8.00	8.00		40.00	14.85	0.00	\$594.00				
Zia Cooke - 2345	2	Laborer: General	o												\$436.80				
			s	4.00	8.00	9.00	9.00	10.00				40.00	9.00	1.92	\$700.00				
Eniya Russell - 7894	1	Laborer: Pipeworker	o												\$477.30				
			s	5.00	5.00	5.00	5.00	5.00	5.00	5.00		30.00	13.50	2.41	\$477.30				
Destanni Henderson - 5648	2	Backhoe Operator	o												\$432.00				
			s	4.00	4.00	4.00	4.00	4.00	4.00	4.00		24.00	18.00	0.00	\$432.00				
Aliyah Boston - 2869	3	Excavator Operator	o	2.00	2.00	2.00	2.00	2.00	2.00			10.00	\$30.00		\$1,100.00				
			s	8.00	8.00	8.00	8.00	8.00	8.00			40.00	20.00	0.00	\$1,100.00				
Victoria Saxton - 0295	1	Grader	o												\$645.00				
			s	6.00	6.00	6.00	6.00	6.00	6.00			30.00	19.00	2.50	\$800.00				
Kamilla Cardoso - 6452	2	Loader	o												\$499.20				
			s	8.00	8.00	8.00	8.00	8.00	8.00			40.00	12.48	0.00	\$499.20				
Destiny Littleton - 5478	0	Truck Driver	o												\$658.80				
			s	8.00	8.00	8.00	8.00	8.00	8.00			40.00	16.47	0.00	\$658.80				



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Payroll Reports – Rate of Pay (Column 6)

(3) WORK CLASSIFICATION	OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY		(7) GROSS AMOUNT EARNED
		S	M	T	W	T	F	S				
		9	10	11	12	13	14	15				
		HOURS WORKED EACH DAY										
Carpenter	O											\$594.00
	S		8.00	8.00	8.00	8.00	8.00		40.00	14.85	0.00	\$594.00
Laborer: General	O											\$436.80
	S		4.00	8.00	9.00	9.00	10.00		40.00	9.00	1.92	\$700.00
Laborer: Pipeworker	O											\$477.30
	S	5.00	5.00	5.00	5.00	5.00	5.00		30.00	13.50	2.41	\$477.30
Backhoe Operator	O											\$432.00
	S	4.00	4.00	4.00	4.00	4.00	4.00		24.00	18.00	0.00	\$432.00
Excavator Operator	O		2.00	2.00	2.00	2.00	2.00		10.00	\$30.00		\$1,100.00
	S		8.00	8.00	8.00	8.00	8.00		40.00	20.00	0.00	\$1,100.00
Grader	O											\$645.00
	S		6.00	6.00	6.00	6.00	6.00		30.00	19.00	2.50	\$800.00
Loader	O											\$499.20
	S		8.00	8.00	8.00	8.00	8.00		40.00	12.48	0.00	\$499.20
Truck Driver	O											\$658.80
	S		8.00	8.00	8.00	8.00	8.00		40.00	16.47	0.00	\$658.00

- Workers Hourly Wage Rate (plus cash paid in lieu of fringe benefits)
- In this example, the general laborer is paid \$9 base hourly rate plus \$1.92 for fringe benefits (cash paid in lieu of fringe being paid to approved plans)



Payroll Reports – Rate of Pay (Column 6) cont'd

	Grader	O										\$645.00
		S		6.00	6.00	6.00	6.00	6.00		30.00	19.00	2.50
CAR	Loader	O										\$499.20
LAB		S		8.00	8.00	8.00	8.00	8.00		40.00	12.48	0.00
LAB	Truck Driver	O										\$658.80
OPE		S		8.00	8.00	8.00	8.00	8.00		40.00	16.47	0.00

OPERATOR: Loader.....\$ 10.50

TRUCK DRIVER.....\$ 14.15

1.98

2.32

Fringe

- The total of wage plus fringe paid must be equal to or greater than the total of the wage plus fringe indicated on the wage determination used for the project
- For example, the wage decision for a truck driver requires \$14.15/hour basic rate plus \$2.32/ hour fringe benefits. That total (\$16.47/hour) is the basic rate or basic rate plus fringe
- This obligation can be met a few different ways:
 - Pay the base wage and fringe benefits as stated in the wage decision
 - Pay \$16.47 in base wage with no fringe benefits
 - Pay \$14.15 basic plus \$2.32 fringe benefits
 - Pay more in fringe benefits, as long as the total amount paid equals at least the total pay + fringe from the wage decision

Payroll Reports – Fringe Benefits

Date 1/17/2022

I, D. Staley Principal
(Name of Signatory Party) (Title)

do hereby state:

(1) That I pay or supervise the payment of the persons employed by Lady Gamecocks Construction on the Williams Bryce Stadium (Contractor or Subcontractor); that during the payroll period commencing on the 9 day of January, 2022, and ending the 15 day of January, 2022, 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 Lady Gamecocks Construction from the full 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.

- If fringe is paid to an approved plan/fund/program rather than paid as cash, then check the basic cash hourly rate and overtime rate (if applicable) on the payroll and ensure that box 4(a) is checked on the WH-347 form.
- If fringe is paid as cash, that amount should be reflected in column 6 and box 4(b) should be checked
- A wet signature is required on the back of the Certified Payroll Form



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Payroll Reports – Gross Amount Earned (Column 7)

OT OR ST.	(4) DAY AND DATE							(5) TOTAL HOURS	(6) RATE OF PAY		(7) GROSS AMOUNT EARNED	(8) DEDUCTIONS						(9) NET WAGES PAID FOR WEEK
	S	M	T	W	T	F	S					FICA	WITH-HOLDING TAX			OTHER	TOTAL DEDUCTIONS	
	9	10	11	12	13	14	15											
HOURS WORKED EACH DAY																		
O										\$594.00								
S		8.00	8.00	8.00	8.00	8.00		40.00	14.85	0.00	\$594.00	\$32.00	\$2.05			\$34.05	\$559.95	
O										\$436.80								
S		4.00	8.00	9.00	9.00	10.00		40.00	9.00	1.92	\$700.00	\$23.00	\$1.23			\$24.23	\$675.77	
O										\$477.30								
S	5.00	5.00	5.00	5.00	5.00	5.00		30.00	13.50	2.41	\$477.30	\$24.54	\$1.45			\$25.99	\$451.31	
O										\$432.00								
S	4.00	4.00	4.00	4.00	4.00	4.00		24.00	18.00	0.00	\$432.00	\$25.13	\$1.78			\$26.91	\$405.09	
O		2.00	2.00	2.00	2.00	2.00		10.00	\$30.00	\$1,100.00								
S		8.00	8.00	8.00	8.00	8.00		40.00	20.00	0.00	\$1,100.00	\$15.00	\$0.75			\$15.75	\$1,084.25	
O										\$645.00								
S		6.00	6.00	6.00	6.00	6.00		30.00	19.00	2.50	\$800.00	\$10.00	\$0.59			\$10.59	\$789.41	
O										\$499.20								
S		8.00	8.00	8.00	8.00	8.00		40.00	12.48	0.00	\$499.20	\$10.00	\$1.00			\$11.00	\$488.20	
O										\$658.80								
S		8.00	8.00	8.00	8.00	8.00		40.00	16.47	0.00	\$658.00						\$658.00	

- The amount above the diagonal line auto-calculates and represents the amount of pay (wage plus fringe paid in cash) earned this reporting week on this project
- The amount below the diagonal line does not auto-calculate, and represents total pay for the worker on all projects worked for this reporting week



Payroll Reports – Deductions (Column 8)

(7)	(8) DEDUCTIONS					(9)
GROSS AMOUNT EARNED	FICA	WITH- HOLDING TAX		OTHER	TOTAL DEDUCTIONS	NET WAGES PAID FOR WEEK
\$594.00						
\$594.00	\$32.00	\$2.05			\$34.05	\$559.95
\$436.80						
\$700.00	\$23.00	\$1.23			\$24.23	\$675.77
\$477.30						
\$477.30	\$24.54	\$1.45			\$25.99	\$451.31
\$432.00						
\$432.00	\$25.13	\$1.78			\$26.91	\$405.09
\$1,100.00						
\$1,100.00	\$15.00	\$0.75			\$15.75	\$1,084.25
\$645.00						
\$800.00	\$10.00	\$0.59			\$10.59	\$789.41
\$499.20						
\$499.20	\$10.00	\$1.00			\$11.00	\$488.20
\$658.80						
\$658.00						\$658.00

- Standard employment deductions should be input into the deductions fields
- These deductions will automatically be subtracted from the “Net Wages Paid for Week” (Column 9)
- Other Deductions may include employee obligations for income taxes, SS payments, insurance premiums, retirement, savings accounts, and any other legally permissible deduction authorized by the employee
- Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee.





COMPLIANCE REVIEWS



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Compliance Reviews

U.S. Department of Labor
Wage and Hour Division

PAYROLL
(For Contractor's Optional Use; See Instructions at www.dhs.gov/whd/forms/wh347new.htm)
Please do not expect to report to the collection of information unless it displays a currently valid OMB control number.

OMB No. 1218-0008
Expires: 01-01-2015

Record of Employee Interview
U.S. Department of Housing and Urban Development
Office of Labor Relations
OMB Approval No. 2501-0009
(exp. 09/31/2007)

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and reviewing the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to respond to this form, unless it displays a currently valid OMB control number. The information collected to ensure compliance with the Federal labor standards by recording interviews with construction workers. The information collected will assist HUD in the conduct of compliance monitoring. The information will be used to test the validity of payroll records submitted by the employer. **Confidential Information:** The information collected on this form is considered sensitive and is protected by the Privacy Act. The Privacy Act requires that these records be maintained with maximum discretion, and that no information be released to the public without the express written consent of the Department of Housing and Urban Development. This information is maintained. The information collected herein is voluntary, and any information provided shall be kept confidential.

1a. Project Name
1b. Project Number
1c. Contractor or Subcontractor (Employer)
2a. Employee Name
2b. Employee Phone Number (including area code)
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?
Vacation Yes ☐ No ☐
Medical Yes ☐ No ☐
Pension Yes ☐ No ☐
4c. Pay stub?
Yes ☐ No ☐
5. Your job classification(s) (list all) — continue on a separate sheet if necessary
6. Your duties
7. Tools or equipment used
8. Are you an apprentice or trainee? Y ☐ N ☐
9. Are you paid for all hours worked? Y ☐ N ☐
10. Are you paid at least time and 1/5 for all hours worked in excess of 40 in a week? Y ☐ N ☐
11. Have you ever been threatened or coerced into giving up any part of your pay? Y ☐ N ☐
12a. Employee Signature
12b. Date
13. Duties observed by the interviewer (Please be specific.)
14. Remarks
15a. Interviewer name (please print)
15b. Signature of interviewer
15c. Date of interview
Payroll Examination
16. Remarks
17a. Signature of Payroll Examiner
17b. Date
Previous editions are obsolete
Page 1 of 2
Form HUD-11 (08/2004)

- The contract administrator regularly interview workers on site
- Employee interviews should be:
 - Sufficient in number to establish the degree of accuracy of records.
 - Representative of all classifications of employees on the project.
- The DOL may also independently conduct its own reviews
- The contract administrator will review payrolls/DB certified payroll forms and compare them to the interview information
- Interviews are confidential



Project Payroll Reviews

- The contract administrator should compare the information on the interview forms to the corresponding payrolls and Certified Payroll Forms to ensure that:
 - Workers are properly listed on the payrolls for the days and hours worked on the job site
 - Work classification is correct and all work classifications on the project are reflected in the documentation
 - Rate of pay is correct and employees are paid no less than the wage rate/fringe listed on the Wage Determination used for the project
 - Payrolls are complete and signed
 - Proper signage is posted at the job site

The image shows a sample of a U.S. Department of Labor Wage and Hour Division 'PAYROLL' form. The form is titled 'PAYROLL' and includes instructions for contractors. It features a grid for recording worker information, including name, address, classification, and hours worked. The form is dated 10/1/00 and includes a reference to the Davis-Bacon Act.



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COMMON ERRORS AND CORRECTIONS



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Common Errors and Corrections

Davis Bacon Reporting Errors	Corresponding Corrections
Inadequate Payroll Information	If employer payroll is missing necessary information they will need to submit on the WH-347 form
Information Missing from WH-347	Employer must submit corrected form
Wage Rates	If wage rates/fringe are less than identified on the Wage Decision per work classification, the employer must pay wage restitution to all affected employees
Overtime	If employees were not paid at least time and one-half for any overtime hours worked the employers must pay restitution, may be liable for a \$10 per day per violation penalty and may be referred to the DOL for review
Deductions	If there are deduction violations HUD may refer the issue to the IRS



Common Errors and Corrections cont'd

Davis Bacon Reporting Errors	Corresponding Corrections
Fringe Benefits	If the wage decision contains fringe benefits but the payroll form does not indicate how fringe was paid (by either checking box 4a or 4b), the employer must submit a correction payroll and will be required to pay restitution if underpayments occurred.
Onsite Interview Comparisons	If there are discrepancies between the payroll reports and the interviews, employer must submit a corrected certified payroll report

***Any changes to data on a submitted payroll report MUST BE submitted on a NEW certified correction payroll. In no case will a payroll report be returned to the contractor/employer for revision.



Checkpoint Question #4



The Wage Determination sheet for a forklift driver states that they should be paid \$17.00 with \$2.50 of fringe per hour. Would it be sufficient to pay the forklift driver \$19.50 in lieu of traditional fringe?

- A. Yes
- B. No





RESTITUTION FOR UNDERPAYMENT OF WAGES



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Restitution for Underpayment of Wages

- Prime contractor is responsible for the full compliance of all subcontractors and is accountable for:
 - Any wage restitution due to any laborer or mechanic who is underpaid and
 - For any liquidated damages that may be assessed for overtime violations
- Wage restitution must be:
 - Paid promptly
 - Paid in-full
 - Reported on a certified payroll report
- Contract Administrator should:
 - Notify the prime contractor/employer in writing of underpayments found during compliance review
 - Describe underpayments and provide instructions for computing and documenting restitution due
- The prime contractor/employer is allowed 30 days to correct the underpayments and is responsible for furnishing documentation of restitution



Computing Wage Restitution

- Wage restitution is the difference between the wage/fringe paid and the wage/fringe required on the wage decision for all hours worked during the affected reporting period(s)
- The difference in the rates are called the “adjustment rate”
- The adjustment rate times the number of hours involved equals the gross amount of restitution due



Correction Certified Payroll

- Restitution is required to be reported on a correction certified payroll
- The correction certified payroll will:
 - Reflect time period for which restitution is due
 - List name and classification for each employee to whom restitution is due
 - List total work hours involved
 - Specify each adjustment wage rate
 - Specify gross amount of restitution due
 - Detail any deductions and the net amount of restitution actually paid
 - Include a properly signed Statement of Compliance
- If any further restitution or corrections are needed, the prime contractor must make additional corrections/restitutions within 30 days of notification of the additional discrepancy



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RESOURCES



Resources

- A Contractor's Guide to Prevailing Wage Requirements for Federally –Assisted Construction Projects
 - [HUD Exchange - Making-Davis-Bacon-Work-Guide-States-Indian-Tribes-Local-Agencies.pdf - All Documents \(sharepoint.com\)](#)
- Making Davis Bacon Work – A Practical Guide for States, Tribes and Local Agencies
 - HUD Exchange - Making-Davis-Bacon-Work-Guide-States-Indian-Tribes-Local-Agencies.pdf
- Department of Labor – Davis-Bacon and Related Acts
 - [Davis-Bacon and Related Acts | U.S. Department of Labor \(dol.gov\)](#)
- Davis-Bacon and Labor Standards and Related Forms
 - [Labor Standards and Related Forms | HUD.gov / U.S. Department of Housing and Urban Development \(HUD\)](#)
- State of South Carolina CDBG Implementation Manual
 - [2019-CDBG-Manual.pdf \(cdbgsc.com\)](#)



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QUESTIONS?



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