

## Pre-Bid Meeting Outline

1. SPECIAL PROVISION- INCLUDED IN THE BID SOLICITATION DOCUMENTS:
  - DAVIS BACON WAGE RATES – Workers are classed based upon the work they’re expected to perform and paid in accordance with the applicable wage decision.
  - SPECIAL PROVISIONS – **ALL tiered subcontractors must receive a copy.**
  
2. **GENERAL CONTRACTOR IS RESPONSIBLE FOR determining the appropriate staffing necessary to perform the contract work. Contractors are also responsible for complying with the minimum wage and benefits requirements for each classification performing work on the contract to include ALL TIERED SUBCONTRACTORS. If a classification considered necessary by the contractor for performance of the work is not listed on the applicable wage determination, the contractor must initiate a request for approval of an additional classification along with the proposed wage and benefit rates for that classification.**  
**For more information please click the following link:**  
<https://beta.sam.gov/content/wage-determinations/resources/dba-conformances>
  - Withholding **AGENCY** payment for payroll issues – final payment.
  - General Contractor to provide to the Agency and Orange County Program Administrator a **copy of all executed contracts with any sub-contractors, and tiered subcontractors all of which shall include Orange County Special Provisions** requiring the respective sub-contractor or tiered-sub to comply with the requirements of the Uniform Administrative Requirements and 2 CFR Part 200 Appendix II.
  
3. Davis Bacon Employee Confidential Interviews:
  - Periodic interviews will be conducted with workers to verify that they are working in the proper classification and are paid applicable wage rate.
  - Interviews are confidential.
  
4. IN KIND DONATION – There can be no in-kind labor donation. Anyone working on the project must be paid in accordance with the applicable wage decision.
  
5. SIGNAGE REQUIREMENTS:
  - Federal labor poster/Equal Employment signs/Wage Decision will be provided and must be posted on property for the duration of project.
  - Applicable wage decision must be posted on site.
  
6. SECTION 3 Compliance – HUD Act of 1968: Ensure employment and other economic opportunities generated by certain HUD assistance goes “to the greatest extent feasible” to Low and Very-low income persons and businesses.
  
7. TIMELINE – CONTRACTOR PRESENCE

### **What is Davis Bacon?**

- The Davis-Bacon Act requires the payment of prevailing wage rates as determined by Department of Labor (DOL) to all employees working on federally funded construction projects over \$2,000.

### **What is a General Wage Decision (aka prevailing wages)?**

- The general wage decision issued by DOL lists various construction classifications, (i.e. Carpenter, Electrician, Plumber, Laborer etc.), along with the minimum wage rate and fringe benefit required for each classification.

### **Contractor Responsibilities:**

- Contractor Non-Debarment verification/ SAM.gov registration ([SAM.gov](https://sam.gov))
- Requires posting of the Wage Decision, DOL Notice to All Employees and Employee Rights in areas accessible to all workers
- Ensures that all workers, including employees of subcontractors, are accurately classified to a construction classification listed on the General Wage Decision and paid no less than the applicable prevailing wage rate. Classification is based upon duties being performed. If there is not a classification listed on the wage decision that closely mirrors duties, a request for an additional classification must be submitted
- All Employees (W2/1099) must be paid the applicable wages and fringe benefits for all hours worked and time and a half for any hours over 40 hours in a week
- Requires weekly submission of original certified payroll by a principle in the company (owner, president, treasurer, payroll administrator)
- Allow Orange County staff to conduct on-site confidential and random employee interviews. The information obtained will be compared with weekly payroll submission to ensure compliance with Davis Bacon and Related Acts. Make certain workers know (what they are hired to do, job classification, and pay rate)
- Submission of an original Section 3 Self-Certification form for each newly hired employee and Section 3 New Hire Monthly Compliance form from selected General Contractor and any tiered sub.

## **AUTHORITY LADDER**

The **Prime Contractor is responsible for reviewing all payrolls before submitting them to HUD/ORANGE COUNTY.** Feel free to use this document as a guide for reviewing payrolls submitted by Subcontractors and Lower-tier Subcontractors. Please try to submit as correct as possible payrolls by requesting corrections from Subcontractors before submitting to HUD/ORANGE COUNTY. This process may delay submittal to HUD/ORANGE COUNTY; however, late, corrected payrolls are better than timely-submitted incorrect ones that will have to be returned for correction. If it becomes apparent to HUD/Orange County that the Prime Contractor is not reviewing payrolls, they may be returned to the Prime Contractor for review and resubmittal to HUD/Agency prior to further HUD/Agency scrutiny.

**Agency's contract is with the Prime Contractor. Therefore, all Subcontractors should address Orange County through the Prime Contractor** and all Lower-tier Subcontractors should go through the respective Subcontractor with whom they have a contractual agreement.

**U.S. DEPT. OF HUD -Office of Labor Relations/Housing Authority/Grantee/Orange County:**

- Monitor all labor standards
- Review payrolls as required
- Provide training & assistance
- General enforcement

## **PRIME CONTRACTOR**

- Distribute all forms
- Submit all contractual agreements (Subcontractors and any Lower-tier sub) to Orange County.
- Submit all payrolls to HUD/Orange County (via LCPtracker)
- **Review all payrolls**
- Request additional classifications
- Post wage decision on job site (Special Provisions-Non-Technical Specification)
- Post all required posters
- General compliance of employees

## **SUBCONTRACTORS**

- Submit weekly payrolls to Prime (via LCPtracker)
- **Review all lower-tier subs' payrolls**
- Request additional classifications through Prime
- General compliance of employees

## **LOWER-TIER SUBCONTRACTORS**

- Submit weekly payrolls to sub (via LCPtracker)
- Request additional classifications
- through subcontractor
- General compliance of employees

## What is Section 3?

- **Contractors and subcontractors that perform any work under contract for any federal project when the total amount of assistance to the project exceeds a threshold of \$200,000 are required to comply with the Section 3 regulations.** Section 3 applies to an entire project, regardless of whether the project is fully or partially assisted under HUD program that provide housing and community development financial assistance.
- Section 3 is a provision of Housing & Urban Development Act of 1968 and its purpose is to ensure the employment & economic opportunity generated by certain HUD funding **is to the “greatest extent feasible”** directed to low income persons.
- Section 3 eligibility is determined by geographic location (resident of Orange County) and by HUD’s published annual median income limits which is typically 80% of the median income for the area
- Section 3-certification form should be completed by all new hires working on the project. The certification form documents the new hires Section 3 status and demonstrates the contractors efforts to comply with HUD’s requirement of directing “*to the greatest extent feasible*” employment opportunity to low income individuals whenever economic opportunity result from government assisted construction projects.
- More information on Federal Labor Standards, Davis Bacon and Section 3 can be found on <http://portal.hud.gov/hudportal/HUD>

### **Section 3 Worker Definition:**

- A low or very low-income resident (the worker’s income for the previous or annualized calendar year is below the income limit established by HUD); or
- Employed by a Section 3 business concern; or
- A YouthBuild participant.

### **Targeted Section 3 Worker Definition (for housing and community development)**

- Employed by a Section 3 business concern or
- Currently meets or when hired met at least one of the following categories as documented within the past five (5) years:
  - Living within the service area or the neighborhood of the project, as defined in 24 CFR 75.5
  - A YouthBuild participant.

### **Pitfalls:**

- Make certain to accurately classify and pay workers. Employees must be classified based upon the work they are to perform.
- Submit payroll timely (when submitted on time if there is a mistake I can catch it early and help you to make the necessary corrections before it snowballs into restitution payments and/or fines.)