



PRE-CONSTRUCTION CONFERENCE GUIDE

For HUD Program Participants

Grant Services Division
One North Capitol, Suite 600
Indianapolis, Indiana 46204

800-824-2476

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Grantee: _____

Grant #: _____

Project Title: _____

Location: _____

Prime Contractor: _____

Date of Preconstruction Conference: _____

This Preconstruction Conference is required because this project is wholly or partially funded with Community Development Block Grant dollars and is therefore subject to the following requirements.

OCRA requires that every Grantee engage a Certified Grant Administrator to oversee compliance with the federal requirements on the project on behalf of the Grantee and all parties are asked to cooperate fully with those requirements.

This Preconstruction Conference Guide is to clarify the applicable requirements for all parties who will perform work or services on the project. It does not alleviate any contracting party from other federal, state, or local requirements not addressed herein.

The principal contractor (prime or general contractor) is responsible for the full compliance of all employers (the contractor, subcontractors, and any lower-tier subcontractors) with labor standards provisions applicable to the project. Additional information is available to construction contractors in a booklet titled *Making Davis- Bacon Work, A Contractor's Guide to Prevailing Wage Requirements for Federally Assisted Construction Projects*. This information is available on the [U. S. Department of Housing and Urban Development website](#) or from the Grant Administrator for this project upon request.

Pursuant to Chapter 5, 5-5 of the [Labor Standards Administration and Basic Enforcement Handbook 1344.1 Rev 3](#); "No contract may be awarded to any contractor that is debarred, suspended or otherwise ineligible to participate in Federal or Federally assisted contracts or programs. Any contract awarded to a prime contractor or subcontractor that is found to be ineligible for award must be terminated immediately." Prior to contract award prime contractors must be actively registered or seeking registration with SAM.gov to determine eligibility/debarment status.

Federal Construction Contract Provisions were included in the bid specifications for this project and must be included in all construction contracts, by attachment or by reference. Form HUD 4010, Federal Labor Standards Provisions, is a part of the Federal Construction Contract Provisions but may NOT be included in the contract by reference. That document must be physically attached to all construction contracts. By signing the contract, all prime contractors and subcontractors, including lower-tier subcontractors, acknowledge their understanding of the Federal Labor Standards Provisions and agreement to abide by the provisions of the document.

A federal Prevailing Wage Determination has been assigned to this project based upon the type of construction to be completed and location of the job site. The Grant Administrator and the Engineer or Architect is responsible for providing the applicable wage decision to the prime contractor and it must be attached to the contract. It is the responsibility of the prime contractor to provide a copy of that document to any subcontractors and attach it to all subcontracts, and it becomes the responsibility of any subcontractor to provide a copy of the wage decision and attach a copy of the document to any second or third tier subcontracts.

Each contractor should review the wage decision carefully before commencing work on the project to determine if the classification of workers required to complete the contract are listed for the county in which the work will take place. If a classification is omitted from the wage decision, the contractor must notify the Grant Administrator immediately in order that a conformance rate may be requested. The conformance rate will be submitted to HUD DOL by Grant Services and relayed to the Grant Administrator with the approval of HUD.

After reviewing the wage decision, each contractor and subcontractor must complete a "Wage/Fringe Benefit Certification", signed by an owner or officer of the company. This form will be provided by the Grant Administrator and must be submitted to Grant Services prior to any grant funds being expended.

The prime contractor is responsible for posting the applicable wage decision at the job site, in a place that is accessible to employees and enforcement officers. In addition, three posters are required to be posted in a visible area of the job site. Those posters include "Notice to All Employees," "IOSHA Safety and Health Protection on the Job" and "Employee Polygraph Protection Act" and will be provided by the Grant Administrator.

When work on the project begins, the Davis-Bacon and Related Acts require that workers receive **no less** than the prevailing wage rate plus fringe benefits, assigned by the U. S. Department of Labor and listed in the applicable wage decision assigned to this project, for the category of work which the employee performs. Payment in full must be paid at least once a week for all hours worked on the project during the pay period. Only deductions required by federal or state law or approved by the employee (such as health insurance) or court ordered (child support or garnishment) may be withheld from an employee's gross pay.

If fringe benefits are paid to an approved bona-fide fringe benefit plan, verification of those payments as well as a list of those employees covered must be provided to the Grant Administrator. The contractor must also provide a detailed calculation of how the fringe benefit hourly credit was determined.

If no fringe benefit package is provided by the contractor, the fringe benefit stated on the wage decision for that classification of work must be included in the hourly rate.

Overtime must be paid for any hours worked after 40 per week. If the overtime hours are worked on this federally assisted project, the wage rate shall be paid at 1.5 times the amount listed plus the hourly fringe benefit paid at straight time for every hour worked.

Certified Payroll Reports must be submitted to the Grant Administrator, on behalf of the Grantee,

no less often than weekly. Contractors may use the WH-347 provided by the U. S. Department of Labor and included in the Federal Construction Contract Provisions or may use a computer-generated payroll as long as it includes all of the required information. Regardless of what type of Certified Payroll Report is submitted, it must include the Statement of Compliance (same as the reverse side of the WH-347) signed by an owner or officer of the company.

The Prime Contractor is responsible for obtaining and reviewing all payrolls before submitting them to the Grant Administrator. Subcontractors are to go through the Prime Contractor to submit their payrolls and request any information relative to the project. Lower-tier Subcontractors should go through the respective Subcontractor with whom they have a contractual agreement.

The Prime Contractor is responsible for the correctness and timely submission of all subcontractors' payrolls and is liable for violations or underpayments to workers by subcontractors. If violations or underpayments occur, payment to the Prime Contractor may be delayed until compliance is achieved.

In addition to examination of Certified Payroll Reports and fringe benefit plans, the Grant Administrator must conduct on-site employee interviews which include taking written statements from the employees and documenting observations of what type of work the employee was engaged in when approached for the interview. Contractors and subcontractors must not prohibit their employees from being interviewed or remove the employee from the work site in an effort to obstruct their availability to be interviewed.

Apprentices may perform work on the project and be paid *less than* the prevailing wage rate for the classification of work they are performing ONLY IF the contractor has provided documentation to the Grant Administrator that the Apprentice is individually registered in an apprenticeship program approved by the U. S. Department of Labor or Bureau of Apprenticeship and Training (BAT) recognized State Apprenticeship Agency (SAC). Documentation required is a "Certificate of Enrollment" from the approved Apprenticeship program which lists the apprentice's name, date of enrollment and percentage of the Journeyman's wages that are due the employee.

An approved Apprenticeship Program will state the proportion of apprentices the contractor can have working on the project based upon the size of his entire workforce. The number of Apprentices being utilized may **never** exceed the ratio of apprentice to journeyman identified by the approved Apprenticeship Program. If more than the allowable number of apprentices are utilized, those in excess of the allowable amount must be paid the full journeyman's wage rates and fringe benefits listed on the applicable wage decision. If there is no journeyman onsite while apprentices are conducting work, apprentices will be paid the full journeyman's wage.

Failure, by any employer, to submit the required records or make them available or to permit on-site employee interviews may, after written notice to the contractor, cause a suspension of any further payment, advance or guarantee of funds. In addition, failure to submit records on request or make them available may be grounds for debarment action pursuant to 29 CFR 5.12.

Section 3:

When it is determined that additional employees are needed to complete a contract, **stringent** regulations apply and all parties assume an important role in ensuring compliance.

Prior to Start of Construction, the Civil Rights/Section 3 Officer must place Section 3 Posters, providing the type and location of the project, and contact information that Section 3 residents and businesses may use to request additional information regarding Section 3 opportunities at the nearest Work One Office, (find location and contact person at in.gov/dwd/WorkOne.) The 11 x 14 Posters may be sent to Work One via electronic mail if desired. Posters should also be placed in local government offices, Post Office, Library, public housing developments or such other public place that Section 3 Residents may have the opportunity to observe the Posters.

Civil Rights/Section 3 Officer responsibilities:

- Post Section 3 Posters at local government offices, Work One offices, library, grocery stores or any other place frequently visited by the public. The nearest Work One office and contact person may be located at in.gov/dwd/WorkOne. Posters may be sent to the Work One office via electronic mail if desired.
- The Civil Rights/Section 3 Officer must maintain a list of names and contact information of persons who express an interest in obtaining employment or subcontracts under Section 3 guidelines and provide that information to the prime contractor or any subcontractors working on the federally assisted project as jobs, training or subcontracting opportunities become available.

Contractor responsibilities:

- The prime contractor and any subcontractors who are subject to Section 3 must submit a list of current employees to the Civil Rights/Section 3 Officer prior to beginning construction. Another list of employees will be required when their contract work is completed to verify new hires during the construction period.
- The prime contractor and any subcontractors who work on the project must place their job openings on Indiana Career Connect (ICC) at www.indianacareerconnect.com. In addition, all contractors and subcontractors must search ICC for candidates that meet the requirements of the open position and contact the appropriate regional Work One office to coordinate with the regional provider to help in filling open positions. At such time as the vacant position is filled, the contractor or subcontractor must advise Indiana Career Connect that the position is no longer available.
- Must advise the Civil Rights/Section 3 Officer of any job openings and obtain a list of contact information for any potential Section 3 employee or businesses that have contacted the Civil Rights/Section 3 Officer;
- Must give first consideration to Section 3 Employees or Section 3 Businesses and document reasons why Section 3 Employee or Business was not selected, if applicable;
- Is not required to hire any person who is not qualified to perform the work required;
- May not employ any person under the age of 16 years old;
- May not enter into a subcontract with any party who is suspended or debarred from participation in federally assisted projects.

- Contractors may never coerce, intimidate or threaten any employee to give up any part of the compensation to which he is entitled for his work on the project.

In all instances where new positions are being created, the contractor must document the results of any Section 3 Residents contacted regarding the position and the results of that contact. To ensure compliance with this federal regulation, all prime contractors, and any subcontractors whose contract amount exceeds \$100,000 must complete a Section 3 Compliance Report when work on the project called for in their contract is complete.

Any documentation regarding contacts or consideration of Section 3 applicants must be maintained by the contractor and provided to the Civil Rights/Section 3 Officer with their Compliance Report.

Contractors and subcontractors who are required to submit a Section 3 Compliance Report must attach a list of current employees when the work called for in their contract is complete. This list will be compared to the list submitted at the beginning of the project to verify any new hires during the performance of the construction contract.

Buy America Preference:

The Build America, Buy America Act (BABA) is a domestic content procurement preference that requires that all iron, steel, manufactured products, and construction materials used in infrastructure projects funded with Federal financial assistance must be produced in the United States. Under the U.S Housing and Urban Development (HUD) Phased Implementation Schedule, OCRA must implement the Buy America preference through an incremental process over two years into the CDBG program.

Contractors who receive funds from the Office of Community and Rural Affairs Community Development Block Grant program for infrastructure projects must be aware that none of the funds provided under an OCRA award can be utilized for an infrastructure project unless certain requirements are met:

- All **iron and steel** used in a project must be produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- BABA will apply to projects funded using HUD funds obligated in fiscal year 2024 and subsequent years used to purchase iron, steel, and **specifically listed construction materials**. Specifically listed construction materials must be manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The specifically listed construction materials include non-Ferrous Metals, lumber, plastic and polymer based composite building materials, pipe and tube.
- BABA will apply to projects funded using HUD funds obligated in fiscal year 2025 and subsequent years used to purchase iron, steel, specifically listed construction materials and **not listed construction materials**. All not listed construction materials must be manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The not listed construction materials

include all other plastic and polymer-based products (such as polymers used in fiber optic cables), glass, fiber optic cable, optical fiber, engineered wood, and drywall.

- BABA will apply to projects funded using HUD funds obligated in fiscal year 2025 and subsequent years used to purchase iron, steel, specifically listed, not listed construction materials, and **manufactures products**. All manufactured products used in the project must be produced in the United States— this means (1) the final product must be manufactured in the United States. (2) At least 55% of the cost of the components making up the manufactured product must be associated with components that were mined, produced, or manufactured in the United States.

The Buy America preference only applies to articles, materials, and supplies that are incorporated into, or affixed to an infrastructure project. It does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project.

Through the Phased Implementation process of the Buy America preference, OCRA will maintain Grant Administrators informed on which articles, materials or supplies must follow BAP requirements as HUD executes grant agreements with the State.

Contractor responsibilities:

- Identify the materials that will be used in the infrastructure project.
- Make a good faith effort to solicit bids for domestic products.
- Maintain documentation of compliance with the Buy America preference requirements. Documentation must demonstrate that all materials used in infrastructure projects are produced in the United States.

If after a good faith effort to procure domestic products for a specific project is made and the contractor finds that the inclusion of domestic products including iron, steel, manufactured products, or construction materials necessary to complete a project is not available in the United States in sufficient and reasonably available quantities or of a satisfactory quality to complete the project then the contractor must notify the Grant Administrator and OCRA to create a waiver that can be submitted to HUD. Once the waiver is approved, the change order process can be initiated.

Change Orders:

During the course of the construction, it may become necessary to change or alter the original project specifications. When that occurs, the change order must be prepared by the engineer or architect, signed by the contractor, and approved by the Grantee at an official meeting of the governing body. When approved, the change order becomes an addendum to the contract and must be provided to the Grant Administrator. Change orders may NEVER be issued before the start of the actual construction. The cumulative total of all change orders issued may not exceed twenty percent of the original contract amount. A change order issued as the result of circumstances that could not have been reasonably foreseen is not considered to increase the scope of the project, but justification must be provided by the engineer or architect. All change orders must be directly related to the original project specifications. If additional units of materials included in the original contract are needed, the cost of these units in the change order must be the same as those listed in the original contract. Contractor must ensure to procure

domestic products for all federal assisted projects in compliance with the Buy American Build America Act. This shall include reviewing manufacture information determining and certifying that to the best of the contractor's knowledge and belief all iron and steel products, manufactured products and construction materials referenced in any change orders comply with the provisions set by the Buy America Build America Act unless otherwise specified by a waiver.

All work on a federally assisted construction project must remain confined to the project area identified in the grant application. By the time construction is in progress, the project area has received environmental clearance and all property or easements have been acquired. In addition, the grant award was based upon a project area which was certified to be within the parameters of the National Objective of the grant award. No changes may *ever* be made to the project area or beneficiaries without the express written consent of the Office of Community and Rural Affairs, at the request of the Grantee's Chief Elected Official.