

**INDIANA HOUSING & COMMUNITY DEVELOPMENT
AUTHORITY**

**2009 HOME ENERGY CONSERVATION PROGRAM
LABOR STANDARDS MONITORING - POLICIES AND PROCEDURES
MANUAL**

TABLE OF CONTENTS

Page

1. Background	3
2. Implementing ARRA Davis-Bacon Requirements	4
3. Wage Determination and Conformances under the Davis-Bacon Act	4
4. Indiana Residential Weatherization Wage Determination	6
5. Effective Period for Compliance with DBA Requirements	7
6. Existing Postings Without the DBA Clauses and Wage Determinations	7
7. Discrepancies Between current Wages and the New Weatherization Rates	8
8. Commencement of Work and Retroactive Pay	8
9. Sub-grantee and Contractor Responsibilities	9
10. Timeliness Of Required Submissions	10
11. Listing of Owners on the Certified Payroll	11
12. Fringe Benefit Credits Against the DBA Prevailing Wage Requirements	11
13. Overtime Calculation and Reporting	11
14. Certified Payroll Compliance Review Protocol	12
15. Site Visits and Employee Interviews	14
16. Exhibits	
A. Certified Payroll Form WH-347	16
B. Instructions for completing Form WH-347	17
C. Davis-Bacon Fringe Benefits	19
D. Fair Labor Standards Act (FLSA) – Hours Worked (Fact Sheet)	24
E. Fair Labor Standards Act (FLSA) – Overtime Requirements (Fact Sheet)	26
F. Cover Sheet for The Certified Weekly Payroll Submittal	27
G. Proposed Site Visit Schedule	28

1. BACKGROUND

The American Recovery and Reinvestment Act of 2009 (ARRA) was signed into law by President Obama on February 17, 2009. Division A of ARRA appropriates substantial funding for construction, alteration and repair of federal buildings and for infrastructure projects, such as roads, bridges, public transit, water systems, and housing. In accordance with existing Davis-Bacon Act (DBA) requirements, federal agencies directly contracting for construction work using ARRA funds must ensure that bid solicitations and resulting covered contracts contain Davis-Bacon labor standards and wage determinations in accordance with the Federal Acquisition Regulations.

Also, generally, Federal agencies must ensure that recipients of assistance funded by ARRA appropriations require contractors and subcontractors to pay laborers and mechanics employed on ARRA-assisted construction at least the Davis-Bacon prevailing wages. In addition, Division B of ARRA requires application of Davis-Bacon prevailing wage requirements to projects financed with certain tax-favored bonds.

The Davis-Bacon and related Acts apply to contractors and subcontractors performing work on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works. The Act requires that all contractors and subcontractors performing on federal contracts (and contractors or subcontractors performing on federally assisted contracts under the related Acts) in excess of \$2,000 pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits, as determined by the Secretary of labor, for corresponding classes of laborers and mechanics employed on similar projects in the area.

Apprentices and trainees may be employed at less than predetermined rates. Apprentices must be employed pursuant to an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Trainees must be employed pursuant to a training program certified by the Department.

Covered contractors and subcontractors are also required to pay employees weekly and to submit weekly certified payroll records to the contracting agency.

Contractors or subcontractors found to have disregarded their obligations to employees, or to have committed aggravated or willful violations while performing work on Davis-Bacon covered projects, may be subject to contract termination and debarment from future contracts for up to three years. In addition, contract payments may be withheld in sufficient amounts to satisfy

liabilities for unpaid wages and liquidated damages that result from overtime violations of the Contract Work Hours and Safety Standards Act.

Falsification of certified payroll records or the required kickback of wages may subject a contractor or subcontractor to civil or criminal prosecution, the penalty for which may be fines and/or imprisonment.

2. IMPLEMENTING ARRA DAVIS-BACON WAGE REQUIREMENTS

Federal contracting/assisting agencies must include the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) in bid solicitations and resultant covered projects that are in excess of \$2,000 for construction, alteration or repair, regardless of the amount of ARRA funding or assistance. The \$2,000 threshold for Davis-Bacon and related Act coverage pertains to the amount of the prime construction contract, not to the amount of individual subcontracts. If the prime construction contract exceeds \$2,000, all construction work on the project is covered and a standard Davis-Bacon contract clause requires that the Davis Bacon labor standards be applied to all subcontractors. The use of the phrase “projects funded directly or in part” in the ARRA labor standard provision precludes the intentional splitting of ARRA projects into separate and smaller contracts to avoid Davis-Bacon coverage on some portion of a larger project, particularly where the activities are integrally and proximately related to the whole.

For an on-going construction project that was awarded, or for which construction had started, prior to notice of ARRA assistance, the agency should insert the applicable wage determination(s) in relevant contracts and assistance agreements effective as of the date the ARRA assistance is approved for the project. Projects that are already subject to Davis-Bacon labor standards would not require application of a new Davis-Bacon wage determination upon receipt of ARRA assistance unless such assistance is for work not contemplated under the existing contract.

3. WAGE DETERMINATION AND CONFORMANCES UNDER THE DAVIS-BACON ACT

The U.S. Department of Labor (DOL) issues wage determinations under the Davis-Bacon Act (DBA) using available statistical data on prevailing wages and benefits paid in a specific locality. On occasion, the data does not contain sufficient information to issue rates for a particular classification of worker needed in the performance of the contract. Because of this, DBA

provisions contain a **conformance procedure** for the purpose of establishing an enforceable wage and benefit rate for the missing classification.

Contractors are 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. 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.

The awarded **Contractor** initiates the request by preparing an **SF1444**, Request for Authorization of Additional Classification and Rate, at the time of employment of the unlisted classification. (*Reference FAR 22.406-3 and 52.222-6(b), and Title 29 CFR Part 5, Section 5.5(a)*). The contractor completes blocks 2 through 15 on the form. Request may be submitted to DOL without the form, but must contain the required information.

Employees, if present, or their designated representative **must sign block 16** noting their concurrence or disagreement with the contractor's proposed wage and benefit rate. If the employee indicates disagreement with the contractor's proposal, he must provide a statement supporting a recommendation for different rates. ("Designated representative" is generally a union. It cannot be the contractor's personnel officer or other contractor representative.)

The Contractor submits the request to the **Contracting Officer**. The Contracting Officer reviews the request for completeness and signs the form designating the contracting agency's concurrence or disagreement with regard to the contractor's proposal. If the Contracting Officer indicates disagreement with the contractor's proposal, a statement must be attached supporting a recommendation for different rates. The Contracting Officer then submits the proposal with all attachments **to DOL for approval**. The Contractor is obligated to pay the proposed wage and benefit rates pending a response from DOL.

Checklist for DBA Conformances:

1. The classification must be appropriate for the contract work, and must be a classification that is utilized in that locality by the construction industry.
2. The contractor cannot propose a new classification by combining job duties from two or more existing classifications on the wage determination, or propose a new classification that performs only part of the duties of an existing classification.
3. The proposed classification cannot be a "trainee". Generally, a proposed classification of "helper" will not be approved. Under DBA provisions, a "helper" will not be approved by DOL unless the contractor establishes in his proposal that a "helper" is an established industry area practice.

4. The proposed wage rate for the new classification should generally be no lower than the wage rate of the lowest skilled classification on the determination.
5. Conformance requests should not be submitted for exempt classifications (project managers, full-time supervisors, professionals such as engineers), nor for classifications other than "laborers or mechanics" employed on the site of work, as covered by DBA.
6. The proposed rate should bear a reasonable relationship to the wage rates listed on the wage determination. The proposed fringe benefits should be the same as listed on the wage determination.
7. The **contractor must** attach a brief job description to each SF1444 request submitted for classifications that are not generally known and utilized in the construction industry in the locality. The contractor should include all pertinent documentation that supports his request for approval of an additional classification.
8. If the contractor has further questions about a conformance process, he/she may contact the nearest Regional Office of the U. S. Department of Labor, Wage and Hour Division (see DOL's [Library](http://www.wdol.gov) at their website - <http://www.wdol.gov>).

4. INDIANA RESIDENTIAL WEATHERIZATION WAGE DETERMINATION

This project wage determination is issued in response to a request from the Department of Energy (DOE) for prevailing wage rates specific to weatherization of residential structures as those structures are defined in the All Agency Memorandum 130 and 131. This wage determination has application only to weatherization construction projects on existing residential structures as described in the SF 308 submitted by DOE. The primary purpose of the project for which this wage determination is being issued is weatherization and is not for the renovation, repair, or new construction of residential structures. All other types of residential construction projects are subject to the published general residential wage determinations for the State of Indiana found on <http://www.wdol.gov>.

Weatherization work for purposes of this wage determination is defined as minor repairs, batt insulation, blown insulation, window and door repair, and weather stripping, solar film installation, air sealing, caulking, minor or incidental structural repairs, duct sealing, air sealing, installation of light bulbs, and installation of smoke detectors. In Indiana, the Department's recent survey determined as a matter of prevailing practice that these duties are performed by a weatherization worker classification. The survey also found specialty weatherization work performed on weatherization construction projects. Specialty weatherization work is the (1) replacement of doors and windows; (2) installation and repair of furnace/cooling

(HVAC) systems and all associated work involved with the installation of the HVAC system including electrical, pipe, and duct work. Classifications performing this work are also listed on this project wage determination.

Wage payment data submitted for the State of Indiana included wage data information for a weatherization crew chief classification. This classification of worker is essentially a working foreman who performs the same tasks as the weatherization worker, but who is responsible for supervision, job oversight, forms completion, work assignments, and quality assurance. The additional duties are not "laborer or mechanic" work as defined by the Davis-Bacon and related Acts regulations, but are more supervisory in nature. The Department issues various classifications of workers when the duties are defined and distinct from all other classifications of workers on the wage determination. The "laborer or mechanic" duties of the crew chief are not sufficiently distinct to warrant the issuance of a separate classification on the wage determination. Moreover, the Department does not issue separate wage determinations based on a worker's skill, experience or individual training. Therefore, the weatherization crew chief is not listed as a separate classification of worker. The weatherization crew chief must be classified as a weatherization worker and paid at least the applicable wage determination rate of the weatherization worker when performing weatherization work. There is no restriction however to paying the weatherization crew chief more than the weatherization worker wage rate listed on the wage determination.

5. EFFECTIVE PERIOD FOR COMPLIANCE WITH DBA REQUIREMENTS

Davis-Bacon Act requirements are effective from the start of the ARRA grant period and no moratorium period is permitted. Once the States have incorporated the DBA labor clauses and wage determination into an agreement, employers should immediately begin complying with the DBA and make any retroactive back wage calculations and restitution as quickly as possible.

6. EXISTING POSTINGS WITHOUT THE DBA CLAUSES AND WAGE DETERMINATIONS

There is no need to remove or cancel the announcements/postings, as long as language was included in the announcements/postings and any awards, putting potential subcontractors on notice with regard to the Davis-Bacon Act. Any awards already made must be amended to incorporate the appropriate labor clauses.

7. DISCREPANCIES BETWEEN CURRENT WAGES AND THE NEW WEATHERIZATION RATES FOR SERVICES PROVIDED PRIOR TO INCLUSION OF DBA PROVISIONS

If local agencies engaged in procuring contractors services for ARRA funded weatherization activity prior to the inclusion of Davis-Bacon Act provisions, they must amend the contracts to reflect any applicable new project wage determination that may be made as a result of the completed DOL survey of wage rates applicable to weatherization work.

8. COMMENCEMENT OF WORK AND RETROACTIVE PAY

Community Action Agencies (CAAs) and other local entities may use Recovery Act funds to begin weatherizing homes, as long as they pay laborers and mechanics at least the appropriate DBA wage amounts, which are listed at <http://www.wdol.gov/Index.aspx> for the job classification that is most similar to the work to be performed by each of their employees or by each of the employees of the contractors or subcontractors.

The rates posted on the wage determinations at the DOL website are minimum rates that must be paid to DBA-covered workers. If DOL issues different wage rates after the survey of wage rates applicable to weatherization work is complete, the new wage determination, as issued by DOL, will be incorporated into the grant/sub-grants, and contracts retroactively to the beginning of ARRA assisted or funded construction.

The contractor/subcontractor and grantee/sub-grantee must compensate DBA-covered employees retroactively for any increases in wages resulting from such change. Grantees and sub-grantees may use Recovery Act funds they have already received to cover the cost of the retroactive adjustments in wages to their employees and to the contractor/subcontractor employees wages. Projects starting after any new wage determinations are issued (or options exercised after new wage determinations are issued) must use the new wage determinations.

If an agency has already started to perform weatherization work with ARRA funds, the wage determinations must be applied retroactively to all weatherization work performed with ARRA funds once DOE has issued the labor clauses and has provided the States with the applicable wage determinations. Recipients may use ARRA weatherization funds to pay any additional wage costs that result from the retroactive incorporation of the wage determinations. Weatherization work performed with ARRA funds is not subject to the DBA.

9. SUB-GRANTEE AND CONTRACTOR RESPONSIBILITIES

Maintenance of Contractor listing (Checklist)

The sub-grantees should maintain a listing of contractors and subcontractors working on Weatherization projects. The listing should include, at a minimum, the names and addresses of the contractors and subcontractors, the contact person for each contractor and subcontractor, the project description and project number, a description of the type of work, and the total contract amount.

Submission of Certified Weekly Payrolls

Completed payrolls are to be submitted by the 7th day following completion of the payroll work week. Certified weekly payroll sheets are submitted from the **Sub-grantee** to the State Contracting agency (Engaging Solutions). The Contracting Agency reviews the certified payroll from its Sub-grantees, and then forwards the Sub-grantee's/Contractor's/Sub-contractor's certified payrolls to the State Agency. If the Community Action Agency (CAA) is using its own employees to perform the weatherization work, the CAA submits its certified payroll to the State Contracting Agency (Engaging Solutions). Thus, if the CAA is using both its own employees and a contractor, it would submit both certified payrolls to the State Contracting Agency (Engaging Solutions) on a weekly basis.

The State maintains the certified payroll on behalf of U.S. Department of Energy (DOE) and makes them available for DOE's use. The State must maintain records of its monitoring of DBA compliance and make those records available to DOE as part of the compliance checking undertaken by DOE. The States are also required to maintain all certified weekly payrolls on behalf of DOE for a period of three years after completion of the project.

The sub-grantee should verify the submission of weekly payrolls against the contractor listing to ensure proper submission of the payrolls have been made each week.

A sample cover sheet has been developed for certified payroll submission. This cover sheet should be completed for each weekly certified payroll submission. **See Exhibit 16F.**

The cover sheet along with the certified payrolls should be submitted to:

**IHCDA
c/o Engaging Solutions
3965 N. Meridian St. Suite 1B
Indianapolis, IN 46208**

RESPONSIBILITY FOR ENSURING CONTRACTOR COMPLIANCE

CAAs and Sub-grantees are responsible for ensuring compliance by its contractors and lower-tier subcontractors with DBA requirements, including reporting and recordkeeping requirements. Contractors hired by CAAs to perform weatherization work also have compliance responsibilities as well as reporting requirements.

CONTRACTOR OBLIGATIONS

On contracts funded in whole or in part by ARRA appropriations, contractors and subcontractors must pay laborers and mechanics employed directly upon the site of the work no less than the locally prevailing wages (including fringe benefits) listed in the Davis-Bacon wage determination in the contract for the work performed. Contractors and subcontractors on covered projects must pay all laborers and mechanics weekly and submit weekly certified payrolls to the Sub-grantees.

RECORD RETENTION

All weatherization work payroll records must be retained for a period of 3 years. The records may be maintained either on-site or off-site for the 3-year retention period. The records, whether stored on-site or off-site should be maintained so as to be easily retrieved should DOE, DOL, or an authorized agent require the records for an audit.

10. TIMELINESS OF REQUIRED SUBMISSIONS

All laborers and mechanics employed on the work site must be paid, unconditionally, at least once a week. Covered employers must submit a certified payroll on a weekly basis. It is not permissible to aggregate weekly payrolls and submit them on a monthly or bi-weekly basis.

The employer must sign the certified payroll, affirming that the information is complete and accurate. Falsification of the certified payroll record can result in debarment from future contracts for up to three years and /or criminal penalties.

11. LISTING OF OWNERS ON THE CERTIFIED PAYROLL

Bona fide owners who are exempt pursuant to Department of Labor regulations, are not laborers and mechanics and are not subject to the Davis-Bacon Act. Owners of a business who also perform weatherization work must list themselves on the certified payroll and under the column for “Work Classification” insert the word “owner”. Additionally, the owner of a contracting or subcontracting company, or authorized officer or employee who supervises the payment of wages must sign the Statement of Compliance for the certified payroll.

12. FRINGE BENEFIT CREDITS AGAINST THE DBA PREVAILING WAGE REQUIREMENTS

Wages under the Davis-Bacon Act include both the cash wages and “bona fide” fringe benefits that are provided to laborers and mechanics. A covered employer may discharge its prevailing wage obligation for the payment of both straight time wages and its prevailing wage obligation for the payment of both straight time wages and fringe benefits by (1) paying both in cash, (2) making payments or incurring costs for “bona fide” fringe benefits, or (3) by a combination thereof. Examples of fringe benefits include health insurance, pension contributions, and paid time off. Employers can take credit for their bona fide fringe benefit costs towards meeting the applicable prevailing wage rate.

13. OVERTIME CALCULATION AND REPORTING – FEDERAL LABOR STANDARDS ACT (FLSA)

Earnings may be determined on a piece-rate, salary, commission, or some other basis, but in all such cases, the overtime pay must be computed on the basis of the average hourly rate derived from such earnings. This is calculated by dividing the total pay for employment in any workweek by the total number of hours actually worked.

Where an employee in a single workweek works at two or more different types of work for which different straight-time rates have been established, the regular rate for that week is the weighted average of such rates. That is, earnings from all such rates are added together and this total is then divided by the total number of hours worked at all jobs. In addition, the FLSA allows under specified conditions, the computation of overtime pay based on one and one-half times the hourly rate in effect when the overtime work is performed.

14. CERTIFIED PAYROLL COMPLIANCE REVIEW PROTOCOL

Objective

The review of Certified Payroll Reports (CPR) is primarily to ensure compliance with the requirements of Davis-Bacon and related laws. The intent is to discover non-compliance and or errors in classification, rate of pay, deductions and or computation. The review is to be conducted in such a manner as to ensure;

- Compliance with all labor standards requirements
- Early detection/correction of any labor compliance issues
- Sufficient documentation of the labor standards compliance activity
- Potential training needs are identified
- Notification to Contractors and sub-contractors of deficiencies and provide corrective action plans where warranted

General Instructions:

CPR reviews are to be conducted on all certified payrolls submitted by contractors / sub-contractors. The prevailing wage rate schedule must be the latest approved schedule issued by the Department of Labor. All contractors should have been provided with the prevailing wage rate schedule.

A copy of a certified payroll form (WH-347) can be found on the Labor Department's Wage and Hour Division ARRA website at <http://www.dol.gov/esa/whd/recovery/> or <http://www.dol.gov/esa/whd/forms/wh347.pdf>. See **Exhibit 16A** for an example.

Items to be Verified

- Contractor/subcontractor name and address identified
- Contracted work
- Payroll # and Pay period
- Employee(s) Name(s)
- Employee(s) social security number
- Employee(s) Classification
- Rate of pay (comparison to classification and Wage rate determination)
- Hours worked (straight time and overtime)
- Fringe benefit information
- Deduction information
- Certification statement and signature

Issues to be noted:

- ❖ Inaccurate or incomplete information
- ❖ Overtime violations
- ❖ Discrepancies in rate of pay and classifications
- ❖ Inaccurate calculation of gross wages, deductions and or net wages
- ❖ Variances between wage and fringe benefit rate compared to the DOL wage rate determination schedule
- ❖ Resolution of deficiencies noted on prior period audits

TYPICAL PROBLEMS, NOTIFICATIONS and OTHER

Typical Problems

- Misclassification of labors and mechanics
- Failure to pay full prevailing wage, including fringe benefits, for all hours worked (including overtime hours)
- Inadequate recordkeeping, such as not counting all hours worked or not recording hours worked by an individual in two or more classifications during a day
- Failure to submit certified payrolls weekly.

Notifications

Notifications will be provided when there are errors which need to be corrected. Errors are to be corrected by the Contractor/Sub-contractor. Notifications will contain the actions required to correct unacceptable errors, including any payments due employees, and the date revised payrolls are to be submitted.

Other

- Prevailing Wage determinations are only valid for 6 months from the date of issuance if not used.
- If work done on a project is outside the scope established by the Weatherization-specific wage rate, an agency must submit to DOL for “conformance” or a determination specific to that task in that county.
- If an agency submitted information to the DOL that was not representative of what they actually pay their workers when surveyed for whatever reason, they may submit amended information to the Indiana DOL and a revised wage determination will be considered.
- Any work done prior to the issuance of the Weatherization-specific wage rates does not require certified payrolls.

15. SITE VISITS AND EMPLOYEE INTERVIEWS

The sites to be visited in this program year can be found in **Exhibit 16G**. Each site will be visited twice during the program year beginning in October 2009. A schedule of site visits will be developed and distributed to the agencies.

Site Visit Activities:

Review documentation on basic training and technical support provided to sub-contractors during the pre-bid and pre-construction conferences. Not all sites will conduct these conferences.

Review compliance issues found during the reviews of the certified weekly payrolls submitted by the sub-grantee.

Review the results of the sub-grantee sub-contractor individual interviews performed prior to the site visit.

Determine the appropriate corrective action plans to ensure compliance with program requirements.

Conduct and document an exit interview for each site visit.

Provide technical support for the wage payments and documentation practices used at the site.

Site Visit Outcomes:

A report of each visit will be made and provided to the visited agency and filed in the program office for future review.

The Site Visit Report will include any corrective actions covered during the site visit and any additional assistance requested by the sub-grantee .

Contractor/Sub-contractor Interviews

A sample of the contractors/sub-contractors working in the HEC program will be selected from the certified weekly payrolls submitted by each sub-grantee. The goal is to select 10% of the

total pool of sub-contractors/contractors for an on-site interview during the program year. Additionally we will attempt to include one worker from each wage classification used by the contractor/sub-contractor during the interview process. The contractor/sub-contractor will be notified as far in advance as possible when the interview will be conducted and the pay period to be reviewed. There may be unscheduled interviews during the program year. The interview will be documented using the HUD Form 11 (attachment Z). A copy of this form will be kept for review by authorized groups or individuals at the Engaging Solutions Office.

Interview Activities:

The purpose of the interview is to determine if the contractor/sub-contractor is being paid the prevailing wage required by the Davis Bacon Act.

Documents needed at the interview include:

Picture ID of individual being interviewed.

Check stub for the period being reviewed.

Areas to be observed during the interview will include the number of workers on the site for the contractor/sub-contractor, the wage classifications of the workers and the proper display of Davis Bacon Act and prevailing wage documents.

The wage rate information gathered during the interview will be compared to the certified payroll submitted to determine compliance with the provisions of the Davis Bacon Act.

Interview Outcomes:

Each interview will be documented using the HUD Form 11 information.

An interview report will be created and a copy provided to the sub-grantee for review. The original report of each interview will be maintained in the program office for future use.

16A. Certified Payroll form WH-347

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

PAYROLL

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



Rev. Dec. 2008

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

OMB No.: 1215-0149
Expires: 12/31/2011

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 EMPLOYERS	(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				
			O	M	T	W	T	F	S				P	FICA	WITH- HOLDING TAX	OTHER	TOTAL DEDUCTIONS					
																			HOURS WORKED EACH DAY			
			O																			
			S																			
			O																			
			S																			
			O																			
			S																			
			O																			
			S																			
			O																			
			S																			
			O																			
			S																			
			O																			
			S																			

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. §§ 5.3, 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)(i) 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.

Public Burden Statement

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, Room 33502, 200 Constitution Avenue, N.W. Washington, D.C. 20210

(over)

16B. INSTRUCTIONS FOR COMPLETING THE PAYROLL FORM

- **Contractor or Subcontractor:** Fill in your firm's name and check appropriate box.
- **Address:** Fill in your firm's address.
- **Payroll No.:** Beginning with the number "1", list the payroll number for the submission.
- **For Week Ending:** List the workweek ending date.
- **Project and Location:** List the project and location.
- **Project or Contract No.:** List the project or contract number.
- **Column 1 - Name and Individual Identifying Number of Worker:** Enter each worker's full name and an individual identifying number (e.g., last four digits of worker's social security number) on each weekly payroll submitted.
- **Column 2 - No. of Withholding Exemptions:** This column is merely inserted for the employer's convenience and is not a requirement of Regulations, Part 3 and 5.
- **Column 3 - Work Classifications:** List classification descriptive of work actually performed by each laborer or mechanic. Consult classification and minimum wage schedule set forth in contract specifications. If additional classifications are deemed necessary, see Contracting Officer or Agency representative. An individual may be shown as having worked in more than one classification provided an accurate breakdown or hours worked in each classification is maintained and shown on the submitted payroll by use of separate entries.
- **Column 4 - Hours worked:** List the day and date and straight time and overtime hours worked in the applicable boxes. On all contracts subject to the Contract Work Hours Standard Act, enter hours worked in excess of 40 hours a week as "overtime".
- **Column 5 - Total:** List total hours
- **Column 6 - Rate of Pay (Including Fringe Benefits):** In the "straight time" box for each worker, list the actual hourly rate paid for straight time worked, plus cash paid in lieu of fringe benefits paid. When recording the straight time hourly rate, any cash paid in lieu of fringe benefits may be shown separately from the basic rate. For example, "\$12.25/.40" would reflect a \$12.25 base hourly rate plus \$0.40 for fringe benefits. This is of assistance in correctly computing overtime. See "Fringe Benefits" below. When overtime is worked, show the overtime hourly rate paid plus any cash in lieu of fringe benefits paid in the "overtime" box for each worker; otherwise, you may skip this box. See "Fringe Benefits" below. Payment of not less than time and one-half the basic or regular rate paid is required for overtime under the Contract Work Hours Standard Act of 1962 if the prime contract exceeds \$100,000. In addition to paying no less than the predetermined rate for the classification which an individual works, the contractor must pay amounts predetermined as fringe benefits in the wage decision made part of the contract to approved fringe benefit plans, funds or programs or shall pay as cash in lieu of fringe benefits. See "FRINGE BENEFITS" below.
- **Column 7 - Gross Amount Earned:** Enter gross amount earned on this project. If part of a worker's weekly wage was earned on projects other than the project described on this payroll, enter in column 7 first the amount earned on the Federal or Federally assisted project and then the gross amount earned during the week on all projects, thus

"\$163.00/\$420.00" would reflect the earnings of a worker who earned \$163.00 on a Federally assisted construction project during a week in which \$420.00 was earned on all work.

- **Column 8 - Deductions:** Five columns are provided for showing deductions made. If more than five deductions are involved, use the first four columns and show the balance deductions under "Other" column; show actual total under "Total Deductions" column; and in the attachment to the payroll describe the deduction(s) contained in the "Other" column. All deductions must be in accordance with the provisions of the Copeland Act Regulations, 29 C.F.R., Part 3. If an individual worked on other jobs in addition to this project, show actual deductions from his/her weekly gross wage, and indicate that deductions are based on his gross wages.
- **Column 9 - Net Wages Paid for Week:** List net wages for the week.
- **Totals** - Space has been left at the bottom of the columns so that totals may be shown if the contractor so desires.
- **Statement Required by Regulations, Parts 3 and 5:** While the "statement of compliance" need not be notarized, the statement (on page 2 of the payroll form) is subject to the penalties provided by 18 U.S.C. § 1001, namely, a fine, possible imprisonment of not more than 5 years, or both. Accordingly, the party signing this statement should have knowledge of the facts represented as true.
- **Items 1 and 2:** Space has been provided between items (1) and (2) of the statement for describing any deductions made. If all deductions made are adequately described in the "Deductions" column above, state "See Deductions column in this payroll." See "FRINGE BENEFITS" below for instructions concerning filling out paragraph 4 of the statement.
- **Item 4 FRINGE BENEFITS - Contractors who pay all required fringe benefits:** If paying all fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor, show the basic cash hourly rate and overtime rate paid to each worker on the face of the payroll and check paragraph 4(a) of the statement on page 2 of the WH-347 payroll form to indicate the payment. Note any exceptions in section 4(c).
- **Contractors who pay no fringe benefits:** If not paying all fringe benefits to approved plans, funds, or programs in amounts of at least those that were determined in the applicable wage decision of the Secretary of Labor, pay any remaining fringe benefit amount to each laborer and mechanic and insert in the "straight time" of the "Rate of Pay" column of the payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the application wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringe benefits, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on basic or regular rate, plus the required cash in lieu of fringe benefits at the straight time rate. In addition, check paragraph 4(b) of the statement on page 2 of the payroll form to indicate the payment of fringe benefits in cash directly to the workers. Note any exceptions in section 4(c).
- **Use of Section 4(c), Exceptions:** Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is

obliged to pay the deficiency directly to the covered worker as cash in lieu of fringe benefits. Enter any exceptions to section 4(a) or 4(b) in section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid each worker as cash in lieu of fringe benefits and the hourly amount paid to plans, funds, or programs as fringe benefits. The contractor must pay an amount not less than the predetermined rate plus cash in lieu of fringe benefits as shown in section 4(c) to each such individual for all hours worked (unless otherwise provided by applicable wage determination) on the Federal or Federally assisted project. Enter the rate paid and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll. See paragraph on "Contractors who pay no fringe benefits" for computation of overtime rate.

16C. DAVIS BACON FRINGE BENEFITS

Source: US Department of Labor Davis-Bacon Resource Book (11/2002) DBRA Compliance Principles

FRINGE BENEFITS Definition (29 CFR 5.2(p)):

- The term “wages” means: The basic hourly rate of pay.
- Any contribution irrevocably made by a contractor or subcontractor to a trustee or third party pursuant to a bona fide fringe benefit fund, plan or program.
- The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated to the employees in writing.

The statutory language regarding fringe benefits is in section 1(b)(2)(b) of the Davis Bacon Act, and is reiterated at 29 CFR 5.23.

In practice:

The Davis-Bacon “prevailing wage” is made up of two interchangeable components—a basic hourly wage and fringe benefits. Along with the basic hourly rate listed on the wage determination, a fringe benefit will be listed for any classification for which fringe benefits were found prevailing. The total, including any fringe benefits listed, comprises the “prevailing wage” requirement.

- This obligation may be met by any combination of cash wages and creditable “bona fide” fringe benefits provided by the employer:
 - The total, including any fringe benefits listed for the classification, may be paid entirely as cash wages;
 - Payments made or costs incurred by the contractor for “bona fide” fringe benefits may be creditable towards fulfilling the requirement; or
 - A combination of cash wages paid and “bona fide” fringe benefits may be used together to meet the total required prevailing wage.

Example

A Davis-Bacon wage determination requires:

Basic hourly rate	\$10.00
Fringe benefit	<u>\$ 1.00</u>
Total prevailing rate	\$11.00

The contractor can comply by paying:

1. \$11.00 in cash wages;
2. \$10.00 plus \$1.00 in pension contributions or other “bona fide” fringe benefits; or
3. \$9.00 plus \$2.00 in pension contributions or any combination of “bona fide” fringe benefits.

Note: Under DBA/DBRA (unlike SCA) monetary wages paid in excess of the basic hourly rate may be used as an offset or credit to satisfy fringe benefit obligations, and vice versa. (If fringe benefit contributions are credited towards fulfilling the basic hourly rate requirement in the wage determination, at least the basic hourly rate listed in the contract wage determination must be used in computing overtime pay obligations.)

Application to all hours worked

Under Davis-Bacon, fringe benefits must be paid for **all** hours worked, including the overtime hours. However, the fringe benefit amounts may be excluded from the half-time premium due as overtime compensation.

Example:

An employee worked 44 hours as an electrician. The wage determination rate was \$12.00 (basic hourly rate) plus \$2.50 in fringe benefits. He would be due:

44 hours x \$14.50 = \$638.00 – (straight time pay)

4 hours x ½(\$12.00) = 24.00 – (overtime pay)

\$662.00

Crediting fringe benefit contributions to meet DBA/DBRA requirements:

The Davis-Bacon Act (and 29 CFR 5.23), list fringe benefits to be considered.

Examples:

- ❖ Life insurance
- ❖ Health insurance
- ❖ Pension
- ❖ Vacation
- ❖ Holidays
- ❖ Sick leave

The use of truck is not a fringe benefit; a Thanksgiving turkey or Christmas bonus is not a fringe benefit.

No credit may be taken for any benefit required by federal state or local law, such as:

- ❖ Workers compensation
- ❖ Unemployment compensation

- ❖ Social security contributions

Funded fringe benefit plans

- ❖ The contractor's fringe benefit contributions made irrevocably to a trustee or third party pursuant to a fund, plan or program, can be credited toward meeting the prevailing wage requirement, without prior DOL approval. For example:
 - ❖ Contractor pays for health insurance monthly premiums without employee contributions. (Where payroll deductions for employee contributions are involved, additional rules apply).
 - ❖ Contractor makes quarterly contributions to retirement plan trust.
 - ❖ The amount of contributions for fringe benefits must be paid irrevocably to the trustee or third party.
 - ❖ Contributions to fringe benefit plans must be made regularly, not less often than quarterly. [This requirement is specified in the standard Davis-Bacon Contract clauses at 29 CFR 5.5(a)(1)(i)].
 - ❖ Annual contributions into a plan do not meet this requirement. While profit sharing plans are bona fide within the meaning of the Act, profits are not determined until the end of the year. Therefore, the DOL requires contractors to escrow money at least quarterly on the basis of what the profit is expected to be.
 - ❖ The contractor must make payments or incur costs in the amount specified by the applicable wage decision **with respect to each individual laborer or mechanic**. Thus, the amount contributed for each employee must be determined separately, and credit can be taken accordingly towards the prevailing wage requirement for each individual. (It is not permissible to take credit based on the average premium paid or average contribution made per employee.)
 - ❖ Credit may not be taken for fringe benefit contributions made on behalf of employees who are not eligible to participate in the plan (e.g., those excluded due to age or part-time employment).
 - Some plans provide that contributions and allocations under the plan will only be made on behalf of participants who are employed on the last day of the plan year. No credit is permitted for such participants for whom no contribution is made or for contributions made for employees whose accounts receive no allocation solely because they are not employed on the last day of the plan year.
 - On the other hand, it is not required that all employees participating in a fringe benefit plan be entitled to receive benefits from the plan at all times. For example, an employee who is eligible to participate in an insurance plan may be prohibited from receiving benefits from the plan during a 30-day waiting period. Contributions made on behalf of these employees would be creditable against the contractor's fringe benefit obligations.
- A pension plan that meets the Employment Retirement Income Security Act (ERISA) requirements may be considered "bona fide" for DBA /DBRA purposes.

- Some pension plans contain “vesting” requirements. Where an employer contributes to the plan, employees may be required to complete a certain length of service before they have a non-forfeitable right to benefits based on the employer’s contributions to the plan. Thus, an employee who leaves employment before completing the specified length of service may forfeit all or part of the accrued benefit. Such forfeitures are permitted, provided the plan is a bona fide plan that meets applicable requirements under ERISA, including minimum vesting requirements. Forfeited Davis-Bacon contributions may not revert to the employer, but should be distributed among the remaining plan participants.

Unfunded plans

- A fringe benefit plan or program under which the cost a contractor may reasonably anticipate in providing benefits that will be paid from the general assets of the contractor (rather than funded by payments to a trustee or third party) is generally referred to as an **unfunded plan**. These generally include:
 - Holiday plans
 - Vacation plans
 - Sick pay plans
- No type of fringe benefit is eligible for consideration as an unfunded plan unless it meets the following criteria:
 1. It can be reasonably anticipated to provide benefits described in the Davis-Bacon Act;
 2. It represents a commitment that can be legally enforced;
 3. It is carried out under a financially responsible plan or program; and
 4. The plan or program has been communicated in writing to the laborers and mechanics affected.
- To ensure that such plans are not used to avoid compliance with the Act, the Secretary of Labor directs the contractor to set aside, in an account, sufficient assets to meet the future obligation of the plan.

Annualization

- Davis-Bacon credit for contributions made to fringe benefit plans are allowed based on the effective annual rate of contributions for all hours worked during the year by an employee, regardless of whether or not the hours were worked on a Davis-Bacon project.

Examples:

- For a defined benefit pension plan, or for a defined contribution pension plan which does not provide for immediate or essentially immediate vesting, if a contractor wishes to receive \$2.00 per hour credit for a pension contribution, the contractor must contribute at this same rate for all hours worked during the year. If this is not done, the credit for Davis-Bacon purposes would have to be revised accordingly.

- If the firm’s contribution for the pension benefit was computed to be \$2,000 a year for a particular employee, the employee worked 1,500 hours of the year on a Davis-Bacon covered project and 500 hours of the year on other jobs not covered by the Davis-Bacon provisions, only \$1,500 or \$1.00 per hour would be creditable towards meeting the firm’s obligation to pay the prevailing wage on the Davis-Bacon project. (Annual contribution - \$2,000, divided by total hours worked – 1,500+500 = 2000; i.e. \$2,000/2000 hours = \$1.00 per hour.)
- For contributions made to defined contribution pension plans which provide for immediate participate and immediate or essentially immediate vesting schedules (100% vesting after an employee works 500 or fewer hours), and also certain supplemental unemployment benefit plans, a contractor may take Davis-Bacon credit at the hourly rate specified by the plan. Under such plans, contributions are irrevocably made by the contractor, most, if not at all, of the workers will become fully vested in the plan, and the higher contributions made during Davis-Bacon work result in an increase in the value of the individual employee’s account. The amount of contributions to such plans should be in conformance with any limitations imposed by the Internal Revenue Code.

Example:

- An employee works as an electrician where the wage determination rate is \$12.00 (basic hourly rate) plus \$2.50 in fringe benefits.
- Where the employer provides the electrician with medical insurance in the amount of \$200 per month (\$2,400 per year), the employer would divide the total annual cost of the benefit by 2,080 hours (40 hours x 52 weeks) to arrive at the allowable fringe benefit credit. (\$200 x 12 months) divided by 2080 hours = \$1.15 per hour.
- If the employee in this example receives no other “bona fide” fringe benefits, then for each hour worked on a covered contract the individual is due \$12.00 (basic hourly rate) plus \$1.35 paid as cash (the difference between the \$2.50 per hour fringe benefit required under the applicable wage determination and the credit allowed for the provision of medical insurance.) Thus,

Basic hourly rate	\$12.00
Medical insurance benefit	1.15
<u>Additional cash due</u>	<u>1.35</u>
Total due per hour	\$14.50 (\$12.00 + \$2.50)

16D. FAIR LABOR STANDARDS ACT (FLSA) – HOURS WORKED

This fact sheet provides general information concerning what constitutes compensable time under the [FLSA](#). The Act requires that employees must receive at least the [minimum wage](#) and may not be employed for more than 40 hours in a week without receiving at least one and one-half times their regular rates of pay for the [overtime](#) hours. The amount employees should receive cannot be determined without knowing the number of hours worked.

Definition of "Employ"

By statutory definition the term "employ" includes "to suffer or permit to work." The workweek ordinarily includes all time during which an employee is necessarily required to be on the employer's premises, on duty or at a prescribed work place. "Workday", in general, means the period between the time on any particular day when such employee commences his/her "principal activity" and the time on that day at which he/she ceases such principal activity or activities. The workday may therefore be longer than the employee's scheduled shift, hours, tour of duty, or production line time.

Application of Principles

Employees "Suffered or Permitted" to work: Work not requested but suffered or permitted to be performed is work time that must be paid for by the employer. For example, an employee may voluntarily continue to work at the end of the shift to finish an assigned task or to correct errors. The reason is immaterial. The hours are work time and are compensable.

Waiting Time: Whether waiting time is hours worked under the Act depends upon the particular circumstances. Generally, the facts may show that the employee was engaged to wait (which is work time) or the facts may show that the employee was waiting to be engaged (which is not work time). For example, a secretary who reads a book while waiting for dictation or a fireman who plays checkers while waiting for an alarm is working during such periods of inactivity. These employees have been "engaged to wait."

On-Call Time: An employee who is required to remain on call on the employer's premises is working while "on call." An employee who is required to remain on call at home, or who is allowed to leave a message where he/she can be reached, is not working (in most cases) while on call. Additional constraints on the employee's freedom could require this time to be compensated.

Rest and Meal Periods: Rest periods of short duration, usually 20 minutes or less, are common in industry (and promote the efficiency of the employee) and are customarily paid for as working time. These short periods must be counted as hours worked. Unauthorized extensions of authorized work breaks need not be counted as hours worked when the employer has expressly and unambiguously communicated to the employee that the authorized break may only last for a specific length of time, that any extension of the break is contrary to the employer's rules, and any extension of the break will be punished. Bona fide meal periods (typically 30 minutes or more) generally need not be compensated as work time. The employee

must be completely relieved from duty for the purpose of eating regular meals. The employee is not relieved if he/she is required to perform any duties, whether active or inactive, while eating.

Sleeping Time and Certain Other Activities: An employee who is required to be on duty for less than 24 hours is working even though he/she is permitted to sleep or engage in other personal activities when not busy. An employee required to be on duty for 24 hours or more may agree with the employer to exclude from hours worked bona fide regularly scheduled sleeping periods of not more than 8 hours, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. No reduction is permitted unless at least 5 hours of sleep is taken.

Lectures, Meetings and Training Programs: Attendance at lectures, meetings, training programs and similar activities need not be counted as working time only if four criteria are met, namely: it is outside normal hours, it is voluntary, not job related, and no other work is concurrently performed.

Travel Time: The principles which apply in determining whether time spent in travel is compensable time depends upon the kind of travel involved.

Home to Work Travel: An employee who travels from home before the regular workday and returns to his/her home at the end of the workday is engaged in ordinary home to work travel, which is not work time.

Home to Work on a Special One Day Assignment in Another City: An employee who regularly works at a fixed location in one city is given a special one day assignment in another city and returns home the same day. The time spent in traveling to and returning from the other city is work time, except that the employer may deduct/not count that time the employee would normally spend commuting to the regular work site.

Travel During Workday: Time spent by an employee in travel as part of their principal activity, such as travel from job site to job site during the workday, is work time and must be counted as hours worked.

Travel Away from Home Community: Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's workday. The time is not only hours worked on regular working days during normal working hours but also during corresponding hours on nonworking days. As an enforcement policy the Division will not consider as work time that time spent in travel away from home outside of regular working hours as a passenger on an airplane, train, boat, bus, or automobile.

Typical Problems

Problems arise when employers fail to recognize and count certain hours worked as compensable hours. For example, an employee who remains at his/her desk while eating lunch and regularly answers the telephone and refers callers is working. This time must be counted and paid as compensable hours worked because the employee has not been completely relieved from duty.

16E. FAIR LABOR STANDARDS ACT (FLSA) – OVERTIME REQUIREMENTS

This fact sheet provides general information concerning the application of the [overtime pay](#) provisions of the [FLSA](#).

Characteristics

An employer who requires or permits an employee to work overtime is generally required to pay the employee premium pay for such overtime work.

Requirements

Unless specifically exempted, employees covered by the Act must receive overtime pay for hours worked in excess of 40 in a workweek at a rate not less than time and one-half their regular rates of pay. There is no limit in the Act on the number of hours employees aged 16 and older may work in any workweek. The Act does not require [overtime pay](#) for work on Saturdays, Sundays, holidays, or regular days of rest, as such.

The Act applies on a workweek basis. An employee's workweek is a fixed and regularly recurring period of 168 hours -- seven consecutive 24-hour periods. It need not coincide with the calendar week, but may begin on any day and at any hour of the day. Different workweeks may be established for different employees or groups of employees. Averaging of hours over two or more weeks is not permitted. Normally, overtime pay earned in a particular workweek must be paid on the regular pay day for the pay period in which the wages were earned.

The regular rate of pay cannot be less than the [minimum wage](#). The regular rate includes all remuneration for employment except certain payments excluded by the Act itself. Payments which are not part of the regular rate include pay for expenses incurred on the employer's behalf, premium payments for overtime work or the true premiums paid for work on Saturdays, Sundays, and holidays, discretionary bonuses, gifts and payments in the nature of gifts on special occasions, and payments for occasional periods when no work is performed due to vacation, holidays, or illness.

Earnings may be determined on a piece-rate, salary, commission, or some other basis, but in all such cases the overtime pay due must be computed on the basis of the average hourly rate derived from such earnings. This is calculated by dividing the total pay for employment (except

for the statutory exclusions noted above) in any workweek by the total number of hours actually worked.

Where an employee in a single workweek works at two or more different types of work for which different straight-time rates have been established, the regular rate for that week is the weighted average of such rates. That is, the earnings from all such rates are added together and this total is then divided by the total number of hours worked at all jobs. In addition, section 7(g)(2) of the FLSA allows, under specified conditions, the computation of overtime pay based on one and one-half times the hourly rate in effect when the overtime work is performed. The requirements for computing overtime pay pursuant to section 7(g)(2) are prescribed in [29 CFR 778.415](#) through [778.421](#).

Where non-cash payments are made to employees in the form of goods or facilities, the reasonable cost to the employer or fair value of such goods or facilities must be included in the regular rate.

Typical Problems

Fixed Sum for Varying Amounts of Overtime: A lump sum paid for work performed during overtime hours without regard to the number of overtime hours worked does not qualify as an overtime premium even though the amount of money paid is equal to or greater than the sum owed on a per-hour basis. For example, no part of a flat sum of \$180 to employees who work overtime on Sunday will qualify as an overtime premium, even though the employees' straight-time rate is \$12.00 an hour and the employees always work less than 10 hours on Sunday. Similarly, where an agreement provides for 6 hours pay at \$13.00 an hour regardless of the time actually spent for work on a job performed during overtime hours, the entire \$78.00 must be included in determining the employees' regular rate.

Salary for Workweek Exceeding 40 Hours: A fixed salary for a regular workweek longer than 40 hours does not discharge FLSA statutory obligations. For example, an employee may be hired to work a 45 hour workweek for a weekly salary of \$405. In this instance the regular rate is obtained by dividing the \$405 straight-time salary by 45 hours, resulting in a regular rate of \$9.00. The employee is then due additional overtime computed by multiplying the 5 overtime hours by one-half the regular rate of pay ($\$4.50 \times 5 = \22.50).

Overtime Pay May Not Be Waived: The overtime requirement may not be waived by agreement between the employer and employees. An agreement that only 8 hours a day or only 40 hours a week will be counted as working time also fails the test of FLSA compliance. An announcement by the employer that no overtime work will be permitted, or that overtime work will not be paid for unless authorized in advance, also will not impair the employee's right to compensation for compensable overtime hours that are worked.

16G. Proposed Site Visit Schedule

PROPOSED SITE VISIT SCHEDULE

Proposed Meeting Date

Week Of:

Agency Name

10/20/2009	Mapleton Fall Creek Dev. Corp.
10/26/2009	Southeast Neighborhood Dev. Inc.
10/28/2009	Community Action of Western IN
11/4/2009	Community Action of NE IN (CANI)
11/5/2009	Hoosier Energy Electric Coop
11/10/2009	NW Indiana Community Action Corp.
11/12/2009	People Working Cooperatively
11/23/2009	Area 4 Agency on Aging and Community Action Programs
11/24/2009	IN Builders Assn.
11/25/2009	Housing Opportunities of Warsaw
12/2/2009	South Central Community Action
12/3/2009	Affordable Housing Corp.
12/7/2009	Community and Family Services
12/14/2009	Western IN Community Action
12/21/2009	Human Services Inc.
12/28/2009	Madison County Job Source
1/4/2010	Lincoln Hills Dev. Corp.
1/11/2010	ACTION Inc. of Delaware and Grant
1/18/2010	Westside Community Action Development Corp.
1/25/2010	Community Action of Southern IN
2/1/2010	Mapleton Fall Creek Dev. Corp.
2/15/2010	Community Action of NE IN (CANI)
2/22/2010	NW Indiana Community Action Corp.
3/1/2010	Area 4 Agency on Aging and Community Action Programs
3/8/2010	Housing Opportunities of Warsaw
3/15/2010	Affordable Housing Corp.
3/22/2010	Miami County YMCA
3/29/2010	Western IN Community Action
4/5/2010	Human Services Inc.
4/12/2010	Madison County Job Source
4/19/2010	Lincoln Hills Dev. Corp.
4/26/2010	ACTION Inc. of Delaware and Grant
5/3/2010	Westside Community Action Development Corp.
5/10/2010	Community Action of Southern IN