



**U.S. Department of Housing and Urban Development
Office of Labor Relations**

Special Attention of:
Regional Directors, Field Office Directors
Regional and Field Labor Relations Staff
Regional and Field Directors, Offices of
Community Planning and Development,
Housing, and Public Housing
Administrators, Offices of Native American
Programs
Regional and Field Counsels
CPD Program Recipients
Public and Indian Housing Agencies

Notice SL-2005-01

Issued: October 11, 2005

Expires: October 11, 2006

Cross References: Presidential Proclamation
7924; DOL All Agency Memorandum No. 199

Subject: Suspension of Davis-Bacon wage requirements for areas impacted by Hurricane Katrina

The President signed a proclamation on September 8, 2005, suspending the Davis-Bacon Act, related provisions of other statutes (Davis-Bacon Related Acts), and other directives providing for the payment of Davis-Bacon wage rates in areas impacted by Hurricane Katrina. The suspension is effective, until further notice, for all contracts awarded on or after September 8, 2005, for work to be performed in certain jurisdictions located within the states of Alabama, Florida, Louisiana and Mississippi (see Attachment 1).

On September 22, the Department of Labor provided implementation guidance with the issuance of All Agency Memorandum No. 199. The Department of Labor also issued two fact sheets providing further Guidance on the Suspension of the Davis-Bacon and Related Acts in Areas Impacted by Hurricane Katrina and Employment and Wages under Federal Law during Natural Disasters & Recovery. Links to these documents, including the President's proclamation, may be found at <http://www.wdol.gov/katrina.html>.

This suspension affects all HUD program activity in the named areas that would otherwise be subject to Davis-Bacon wage requirements including, but not limited to, public and Indian housing development; Community Development Block Grant; HOME; FHA-insured multifamily housing; Section 202 and Section 811 supportive housing; and repair of HUD-owned properties.

Notes:

1. Davis-Bacon wage requirements remain in effect, as usual, for work undertaken in areas outside of the jurisdictions named in the proclamation.
2. Davis-Bacon wage requirements remain in effect for all contracts entered into on or before September 7, 2005.
3. HUD-determined maintenance wage rates applicable to the operation of public housing, and housing assisted under the Native American Housing Assistance and Self-Determination Act remain in effect in *all* areas.
4. Special provisions relating to HUD programs. The suspension is effective in the jurisdictions named in the proclamation:

- a. For projects assisted under the National Housing Act (e.g., FHA mortgage insurance), the suspension is effective where initial endorsement **and** start of construction occur on or after September 8, 2005.
 - b. For projects receiving Section 8 housing assistance payments, the suspension is effective where the execution of the Agreement to Enter Into Housing Assistance Payments Contract or comparable instrument **and** start of construction occur on or after September 8, 2005.
 - c. For construction work performed under the U. S. Housing Act of 1937 or the Native American Housing Assistance and Self-Determination Act where there is no contract (e.g., public and Indian housing agencies using force account labor), the suspension is effective for construction work started on or after September 8, 2005.
5. The overtime requirements of the Contract Work Hours and Safety Standards Act (CWHSSA) remain applicable. Thus, for prime contracts exceeding \$100,000 (except where the nature of Federal assistance is solely a loan guarantee or insurance, e.g., FHA mortgage insurance), all laborers and mechanics (including watchmen and guards), must be paid not less than one and one-half times their basic hourly rate of pay for all hours worked over 40 hours in a work week.
 6. The Anti-Kickback provisions of the Copeland Act as well as the regulations governing payroll deductions (29 CFR Part 3) continue to apply.
 7. The recordkeeping requirements of the Fair Labor Standards Act remain applicable to any employer covered by that Act.
 8. Certain labor standards provisions should be omitted from contracts affected by the suspension. The labor provisions that are still required, with appropriate modifications, are listed with respect to the HUD forms used most often (HUD-2554, HUD-4010, and HUD-5370) in Attachment 2. All other clauses within these contract forms remain in force, as written.

For more information about the effect of this proclamation in HUD programs, please contact the HUD Labor Relations staff for your area.

/s/

Edward L. Johnson
 Director
 Office of Labor Relations

Attachments

1. Counties and Parishes affected by the President's Proclamation suspending Davis-Bacon wage requirements
2. Modifications to labor standards contract clauses for work affected by the suspension

Attachment 1 – Notice SL-2005-01**Counties and Parishes affected by the President’s Proclamation suspending Davis-Bacon wage requirements:**

Alabama	Baldwin, Choctaw, Clarke, Mobile, Sumter, and Washington Counties
Florida	Broward, Miami-Dade, and Monroe Counties
Louisiana	Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson, Jefferson Davis, La Salle, Lafayette, Lafourche, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn Parishes
Mississippi	Adams, Alcorn, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, DeSoto, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, Leflore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, and Yazoo Counties

Attachment 2 – Notice SL-2005-01

Modifications to labor standards contract clauses for work affected by the suspension (referenced by HUD form):

<p>HUD-2554, Supplementary Conditions of the Contract for Construction</p>	<p>Required paragraphs of Article 1 – Labor Standards, with modifications:</p> <p>(Delete or strike all paragraphs of Article 1 <i>except</i> those identified, below. For paragraphs A.5 and A.6, delete or strike printed provisions and replace with modified provisions.)</p>	
<p>Articles 2, 3 and 4 remain in force, as written.</p>	A.2	Withholding.
	A.5	<p>Compliance with Copeland Act Requirements. (modified as follows)</p> <p>The contractor shall comply with the requirements of 29 CFR Part 3 which, with the exception of 29 CFR Part 3, Section 3.3, are incorporated by reference in this contract.</p>
	A.6	<p>Subcontracts. (modified as follows)</p> <p>The contractor or subcontractor will insert in any subcontracts the clauses contained in 29 CFR 5.5(a) as applied herein and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all applicable contract clauses in 29 CFR 5.5.</p>
	A.7	Contract termination; debarment.
	A.8	Compliance with Davis-Bacon and Related Act Requirements.
	A.9	Disputes concerning labor standards.
	A.10	Certification of Eligibility.
	B.	Contract Work Hours and Safety Standards Act.

<p>HUD-4010, Federal Labor Standards Provisions</p>	<p>Required subparagraphs of Paragraph A, with modifications:</p> <p>(Delete or strike all subparagraphs of Paragraph A <i>except</i> those shown, below. For subparagraphs A.5 and A.6, delete or strike printed provisions and replace with modified provisions.)</p>	
<p>Paragraphs B and C remain in force, as written.</p>	A.2	Withholding.
	A.5	<p>Compliance with Copeland Act Requirements (modified as follows)</p> <p>The contractor shall comply with the requirements of 29 CFR Part 3 which, with the exception of 29 CFR Part 3, Section 3.3, are incorporated by reference in this contract.</p>
	A.6	<p>Subcontracts. (modified as follows)</p> <p>The contractor or subcontractor will insert in any subcontracts the clauses contained in this paragraph A as applied herein and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all applicable contract clauses in this paragraph.</p>
	A.7	Contract termination; debarment.
	A.8	Compliance with Davis-Bacon and Related Act Requirements.
	A.9	Disputes concerning labor standards.
	A.10	Certification of Eligibility.

<p>HUD-5370, General Conditions of the Contract for Construction</p>	<p>Required paragraphs of Clause 46. Labor Standards – Davis-Bacon and Related Acts, with modifications:</p> <p>(Delete or strike all paragraphs of Clause 46 except those shown, below. For paragraphs (e) and (k), delete or strike printed provisions and replace with modified provisions.)</p>	
<p>All other clauses remain in force, as written.</p>	(b)	<p>Withholding of funds.</p>
	(e)	<p>Compliance with Copeland Act requirements. (modified as follows)</p> <p>The Contractor shall comply with the requirements of 29 CFR Part 3 which, with the exception of 29 CFR Part 3, Section 3.3, are incorporated by reference in this contract.</p>
	(f)	<p>Contract termination; debarment.</p>
	(g)	<p>Compliance with Davis-Bacon and related Act requirements.</p>
	(h)	<p>Disputes concerning labor standards.</p>
	(i)	<p>Certification of eligibility.</p>
	(j)	<p>Contract Work Hours and Safety Standards Act.</p>
	(k)	<p>Subcontracts. (modified as follows)</p> <p>The Contractor or subcontractor shall insert in any subcontracts the provisions contained in this clause as applied herein and such other clauses as HUD or its designee may by appropriate instructions require, and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The prime Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with these provisions as applied herein.</p>