

SAMPLE PRE-BID CONFERENCE GUIDE

GENERAL INFORMATION

- The Grantee must receive a “Release of Funds” HCD before awarding any construction contracts.
- A copy of the applicable wage decision and the Federal Labor Standards Provisions (HUD-4010) must be physically attached to the contract that the grantee signs with the contractor and to all subcontracts the contractor enters into with subcontractors.
- If the contractor or any subcontractor fails to comply with all applicable regulations, funds shall be withheld from the general contractor until all requirements have been met.
- This project is subject to all federal and state laws, regulations and guidelines pertaining to public works projects in California.

LABOR STANDARDS

1. The grantee may not enter into a contract with any contractor or subcontractor that has been debarred from working on federally funded construction projects. The eligibility status of all contractors must be verified by the Grant Administrator before being allowed to perform any work on this project.
2. All contractors and subcontractors working on this project must pay workers time and one half of the base wage rates listed on the wage decision for all hours worked in excess of 40 hours per week. Workers must receive hourly fringe benefits and/or a cash equivalent for all hours worked, including overtime. Fringe benefits do not have to be paid at time and one half.
3. The Copeland Anti-Kickback Act makes it illegal for contractors and subcontractors to coerce or intimidate employees to relinquish or give back any of their wages earned on this project.
4. All contractors and subcontractors working on this project must keep accurate payroll records of all hours worked on this project, including signed time cards. Payroll records must be kept for at least three years after grant closeout.
5. Payments made by a contractor to an employee must be verifiable. Payments may not be made with an I.O.U., equipment, or any other form of barter.
6. All contractors and subcontractors must submit certified weekly payroll records to the Grantee through the Grant Administrator within seven days after regular payment date of the payroll period.
7. No contractor or subcontractor shall employ workers on this project under the age of 16.
8. Contractors and subcontractors are not permitted to make payroll deductions which are contrary to state and federal law.

DAVIS-BACON REQUIREMENTS

All contractors and subcontractors must pay their workers no less than the hourly wages listed on federal wage determination for each classification of work performed on this project. In addition, if the applicable wage determination contains an hourly fringe benefit amount, the worker must receive benefits equal to that amount or a cash equivalent. All workers must be paid, in full, at least once a week. These requirements apply to salaried workers employed on this project engaged in physical or manual construction labor. It is the responsibility of the general contractor to clearly communicate all labor standards and Davis-Bacon requirements to all subcontractors employed on this project.

All workers must be paid at an hourly rate for the type of work performed. Helpers or Trainees may not be utilized on this project. Only the classifications listed in the applicable wage determination or apprentices may be used on this project. Laborers are not permitted to perform any skilled work which falls under the classification of another trade. For example, a laborer may not perform any electrical, carpentry, plumbing, sheet metal, etc. work on this project. All contractors and subcontractors having questions regarding the classification of workers shall direct their inquiries to the Grant Administrator.

Contractors and subcontractors may use and classify workers on this project as apprentices provided that the workers are duly registered in a bona fide apprenticeship program recognized by the U.S. Department of Labor, Bureau of Apprenticeship and Training. If a contractor or subcontractor intends to utilize apprentices on this project, they must forward documentation to the Grant Administrator to verify the enrollment of the employee in an approved Apprenticeship Program. Verification must be provided before the apprentice is permitted to work on the job site. Contractors and subcontractors may not exceed the ratio of apprentices to journeymen as established by the apprenticeship program.

Contractors and subcontractors are required to submit certified weekly payroll records to the Grantee through the Grant Administrator on a weekly basis within seven days after the regular payment date of the payroll period.

If an employee performs more than one classification per week on this project, that employee should be listed twice showing the division of work on separate lines of the payroll.

Contractors and subcontractors must submit documentation to the Grantee through the Grant Administrator to verify the type and the amounts paid into a bona fide fringe benefit program. The following are examples of bona fide fringe benefit plans:

- 1) Health, life, dental, vision or other similar insurance premiums paid by the employer;
- 2) Pension or retirement contributions made by the employer into a plan recognized by the Internal Revenue Service;
- 3) Expenses of certain recognized apprenticeship or training programs;
- 4) Vacation and holiday pay may be considered as long as the employee would receive any unused amounts at termination of employment.

NOTE: Payroll deductions required by law (e.g. social security, worker's compensation, unemployment insurance, taxes, etc.) are not considered fringe benefits under Davis-Bacon law.

The following are NOT considered bona fide fringe benefits:

- a. Travel time;
- b. Bonus payments;
- c. Use of company tools or equipment;
- d. Use of company vehicle;
- e. Uniforms or safety shoes

Independent subcontractors and self-employed owners are considered to be subcontractors of the contractor and are subject to the same requirements as are all subcontractors. Independent subcontractors and self-employed owners must submit a Certified Payroll Report or be listed on another contractors' weekly payroll.

If the contractor or its subcontractors do not pay the proper hourly rate and fringe benefit on this project, the grantee shall withhold a necessary amount from the prime contractor until restitution is made.

The prime contractor may be liable for liquidated damages if its workers or those of subcontractors on this project are not paid the proper hourly wage and benefit.

The Grant Administrator, a representative from the U. S. Department of Labor, a representative of the U. S. Department of Housing and Urban Development and a representative of HCD shall be permitted to visit the job site and interview workers employed on this project. A Record of Employee Interviews must be maintained in the project file.

A copy of the valid wage decision assigned to the project must also be posted at the job site.

SECTION 3

Section 3 of the Housing and Urban Development Act of 1968 provides that to the greatest extent feasible, contractors and subcontractors should make training and employment opportunities available to Section 3 Workers and Businesses to work on federally assisted projects. "Greatest Extent Feasible" means that contractors must make every effort to recruit, target and direct economic opportunities to Section 3 Workers, Targeted Workers and Businesses.

Section 3 applies to all projects that receive \$200,000 or more in CDBG, or other HUD assistance, including projects that are financed in conjunction with state, local or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- Section 3 applies to recipients of CDBG funding, as well as its sub-recipients, contractors and sub-contractors; and
- Professional service contract labor hours (construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and construction draw inspection and prevailing wage labor compliance) are not required to be reported.

- If a contract covers both professional services and other work and the recipient or contractor or subcontractor chooses not to report labor hours from professional services, the labor hours under the contract that are not from professional services must still be reported.

Contractors are required to give first consideration to any Section 3 Workers, Section 3 Targeted Workers and Section 3 Businesses for any available positions or subcontracting opportunities. Section 3 Workers or businesses are not guaranteed employment or contracting opportunities under Section 3. Section 3 Workers must demonstrate that they meet the qualifications for employment opportunities created as a result of the federally assisted project. Section 3 business concerns must submit evidence to the satisfaction of the party awarding the contract to demonstrate that they are responsible firms and have the ability to perform successfully under the terms and conditions of the proposed contract.

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 insure compliance with this federal regulation, all contractors and subcontractors 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 the Compliance Report.

The prime contractor and all subcontractors on a Section 3 covered project must provide a list of current employees to the Grant Administrator at the Preconstruction Conference. This list and weekly payroll reports will be used to determine whether any new employees were hired during the performance of their contract.

OTHER FEDERAL REQUIREMENTS

Title VI of the Civil Rights Act of 1964 states that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Title VII of the Civil Rights Act of 1964 prohibits discrimination in hiring, promotion and other employment practices on the basis of race, color, religion, sex, or national origin.

Section 109 of the Housing and Urban Development Act of 1974 prohibits discrimination on the basis of race, color, national origin, disability, age, religion and sex within Community Development Block Grant programs or activities.

Title III of the Americans with Disabilities Act prohibits discrimination based on “disability” by requiring that places of public accommodation be readily accessible to and useable by persons with disabilities.

The Architectural Barriers Act of 1968 requires that a project meet at least the minimum requirements of accessibility. A Certificate of Accessibility must be provided to the Grantee with a copy to OCRA on or before the completion of the project.

Section 504 of the Rehabilitation Act of 1974 states that a contractor or subcontractor may not discriminate against an otherwise qualified individual from participating in, or enjoying the benefits of this project as a result of a physical handicap.

Executive Order 11063 provides that no person on the basis of race, color, religion, sex, or national origin, shall be discriminated against in federal housing assistance, including lending assistance.

Executive Order 11246 as amended by Executive Order 11375 provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in any phase of employment on federally assisted construction contracts.

All contractors and subcontractors awarded a federal contract or subcontract in excess of \$50,000.00 and having more than 50 employees must have an Affirmative Action Plan established in writing and on file in its place of business. Failure to have an Affirmative Action Program may result in sanctions established under section 209(a) of Executive Order 11246. This regulation is enforced by the Office of Federal Construction Contract Compliance, and additional information may be found at www.dol.gov/esa/OFCCP or at 1-800-397-6251.

Other laws enforced by the U. S. Equal Employment Opportunity Commission (EEOC) may be found at www.eeoc.gov/policy/laws.html.

OTHER RESPONSIBILITIES WHEN PARTICIPATING IN A FEDERALLY FUNDED PROJECT

The contractor must display the following posters on the project job site in a location assessable to all employees. Posters may be obtained from the Grant Administrator.

- Equal Employment Opportunity is The Law
- Fair Housing Poster
- Safety and Health Protection on the Job
- Notice to All Employees working on Federally Financed Construction Projects
- Employee Polygraph Protection Act
- A copy of the valid wage decision assigned to the project