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# TDHCA RECORD OF PRECONSTRUCTION CONFERENCE

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# RECORD OF PRE-CONSTRUCTION CONFERENCE

| Texas Department of Housing and Community Affairs | |
| --- | --- |
| Davis-Bacon Labor Laws & HUD Section 3 | |
| Owner/Developer: | **Source(s) and Contract(s) #**: |
| Property Name, Address: | **Project County**: |
| Conference Location: | **Conference Date**: |
| Owner/Developer Contact Person: |  |
| Address: |  |
| Telephone: | **Fax**: |
| Email: |  |
| General Contractor (Prime): |  |
| Address: |  |
| Telephone: | **Fax**: |
| Email: |  |
| Master Subcontractor: |  |
| Address: |  |
| Telephone: | **Fax**: |
| Email: |  |
| Texas Department of Housing and Community Affairs (TDHCA) |  |
| P. O. Box 13941 / 221 E. 11th Street / Austin, TX 78711-3941 |  |
| Telephone: 512-475-3800 / Fax: 512-475-0220 |  |
| A preconstruction conference was held at the above date and place signed by attendees named. |  |

# LABOR LAWS

## DAVIS BACON AND RELATED ACTS (DBRA)

* “Related Acts” are HUD federal fund source laws passed by Congress that involve construction activity.

## DAVIS BACON ACT (DBA)

* Federal applicability is $2,000 in a construction contract[[1]](#footnote-1), which is triggered by Prime contract that trickles DBA compliance down to all project executed construction contracts regardless of amount.
* Requires all laborers and mechanics employed at the work site are paid, at a minimum, Department of Labor – Wage and Hour Division (DOL-WHD) approved prevailing wages including fringe benefits payments for specific workers.
* Mandates for laborers and mechanics prevailing wage(s) are published by the DOL-WHD via the General Wage Determination (GWD) that applies to the project. Note: Laborer or mechanic needed on site but not listed on the project applicable GWD requires DOL-WHD approval.
* All workers must be paid weekly – no exceptions
* DOL-WHD publishes prevailing wages by county at: <https://sam.gov/content/wage-determinations>

## CONTRACT WORK HOURS SAFETY STANDARDS ACT (CWHSSA)

* Enforces overtime payment at the rate of 1.5/hours to all workers who exceed 40 hours in a workweek (seven days). Note: Applies to **supervisors and foreman** who work on-site in excess of 20% of hours performing trade work and exceed 40/hours workweek including **pieceworkers** who exceed 40/hours in a workweek.[[2]](#footnote-2)
* Enforces *liquidated damages* (penalties) for violations. Current rate is $29[[3]](#footnote-3) per day per worker per event (day), and requires that overtime pay restitution be paid to worker who is underpaid.
* Establishes safety standards compliance

## COPELAND ACT

* Prohibits the payment of “kickbacks” (construction contract or worker employment) to work on federally assisted project(s)
* Enforces worker (required by DBA) weekly payment mandates
* Sets forth rules for worker allowable and disallowed deductions from weekly pay
* Establishes basis for construction contract termination

## FAIR LABOR STANDARDS ACT (FLSA)

* Establishes minimum wages paid to all employed workers, not just construction workers, including laws that protect the hiring of minors
* Prohibits wage discrimination on the basis of gender
* Covers independent contractors
* Governed and enforced by the Department of Labor

## SECTION 3

* Threshold for contract applicability is $200,000
* Section 3 also requires that businesses and employers working on the HUD funded project must demonstrate “good efforts” to the greatest extent feasible was made to train and employ low- and very low-income individual
* Section 3 Business Concern a business that meets at least one of the criteria (in the last six months)
  + Low-income owner has 51% interest in company
  + Company is owned and controlled by low income or very low-income persons
  + Over 75% of labor hours are performed for the business over a three month period are performed by Section 3 workers
  + At least 51% of the company is owned and controlled by current residents of public housing Section 8 housing
* HUD established benchmarks include:
  + 25% of the total labor hours for grant-assisted projects each year as performed by eligible Section 3 workers; and
  + 5% of targeted eligible Section 3 total labor hours worked
    - Employed by Section 3 Business Concern (see below)
    - Low- or very low-income workers who reside within the neighborhood or project service area
    - Youth Build participants

## WEBSITE LINKS

* Department of Labor Wage and Hour Division: [Dept. of Labor](https://www.dol.gov/agencies/whd)
* HUD Office of Labor Standards and Enforcement: [HUD](https://www.hud.gov/states/shared/working/r4/olr/)
* TDHCA Program Services: [TDHCA](http://www.tdhca.state.tx.us./program-services/davis-bacon/index.htm)

# SHARED LABOR STANDARDS OBLIGATION

## OWNER AND PRIME CONTRACTS

* Recipients (owner) who receive TDHCA federal funds that trigger DBRA labor laws in the project are held primarily responsible to ensure all contractors comply with laws and the Department of Labor Wage and Hour Division (DOL-WHD) prevailing wage mandates.
* All executed contractor construction contracts (Prime, Subs and Lower-tiers) must incorporate the Housing Urban Development (HUD) Davis Bacon Labor Standards (DBLS) Federal Labor Standards Provisions (HUD 4010) including the project’s applicable DOL General Wage Determination
* All hiring contractors must ensure laborers and mechanics (construction workers) classifications listed on the DOL GWD (issued prior to start of project construction) are paid, at a minimum, the listed prevailing wage mandates
* All worker classifications that are needed to perform construction work at the project that are not listed on the GWD must be approved by the Department of Labor Wage and Hour (DOL-WHD). To request approval, written submission must identify the type of worker classification needed and proposed hourly wage including fringe benefits, if applicable. DOL-WHD requires compliance with the DOL-WHD Memorandum No 213 which mandates to approve proposed worker class and hourly wage. To ensure compliance with Memo No 213, including TDHCA labor standards, all worker requests must adhere to the instructions below:

1. Group published GWD worker classifications into four categories: (1) laborers, (2) trades, (3) power equipment operators, (4) truck drivers
2. Find the median wage listed for published workers’ wages under the category (or categories) that apply to the proposed classification/wage. Note: if the count of listed “category classifications” equal an even number, consider proposing the higher wage published for the proposed worker wage for DOL-WHD easier review and approval consideration.
3. Attach a letter from hiring contractor confirming:
   1. Worker classification is used in construction industry and
   2. Proposed wage and fringe benefit, if applicable, is reasonable and comparable to GWD and local pay rates
4. Attach copy of project applicable GWD
5. Complete the HUD Report of Additional Classification and Wage (HUD 4230a) located at: [HUD](https://www.hud.gov/states/shared/working/r4/olr/trainingmaterials)
6. Prime should review contractor request for accuracy, scan completed documents and send to LSO for review and approval
7. LSO is responsible for accuracy of documents prior to sending completed documents to *TDHCA Labor Standards Specialist* for conditional approval, who in turn will to send to DOL-WHD for final approval/denial determination
8. Post all DOL-WHD written approved classification(s) and wage(s) in an area on-site visible to all workers (i.e., post inside trailer facing outside of window visible to all workers)

## CONTRACT WORK HOURS AND SAFETY STANDARDS (CWHSSA) VIOLATIONS

* Prime must inform and assess liquidated damages (penalties) to contractors who fail to pay workers the required overtime rate of 1.5 multiplied by base hourly wage for all hours worked in access of 40 hours in a workweek (seven days)
* Prime must ensure contractor pays worker(s) owed overtime wage underpayment (difference between hourly wage amount paid and amount due) restitution or Prime is responsible for payment
* Owner/LSO must send formal letter (Sample – TDHCA Exhibit 11) to contractor notifying of overtime underpayment restitution owed to each worker(s) and amount of assessed liquidated damages. Liquidated Damages equals $29 per day per worker per each day overtime is accrued (recorded on weekly payroll)
* General Contractor responsibility:
  1. Contractor has thirty days (30 days) to appeal
  2. Complete and submit Liquidated Remittance form (TDHCA Exhibit 12)
  3. Complete and submit Liquidated Summary form (TDHCA Exhibit 13)
  4. Attach contractor check payable to **Texas Department of Housing and Community Affairs** for the owed amount of liquidated damages including verification of payment to worker(s) owed restitution (both sides of check or employee signature confirming payment)
  5. Place restitution owed to *unfound* workers in escrow for three years after construction completion. Annual outreach to locate unfound workers is mandatory for a period of three years after project construction completion
* Department remits liquidated damages collected payments to HUD, who in turn sends to the U.S. Treasury

## FRAUD, WASTE, OR ABUSE

* Report fraud, waste, or abuse if you believe or suspect that money or assistance TDHCA uses for its operations, or money or assistance that TDHCA has provided to an organization, person, or affordable housing property may have been lost, stolen, or misused
* For more information, visit TDHCA’s Report Fraud, Waste and Abuse ([TDHCA](http://www.tdhca.state.tx.us/fraud-waste-abuse.htm)) page or call toll free 1-800-TX-AUDIT (1-800-892-8348)

# OWNER’S LABOR STANDARDS OBLIGATIONS

1. Attend (or assign representative) to participate in the Department sponsored pre-construction meeting which covers labor laws and Department labor standards. Meeting participants must include LSO and Prime (General Contractor)
2. Appoint Labor Standards Officer (LSO), primary individual responsible for overseeing Project labor standards and records compliance mandates. Note: LSO must not be an employee of Construction Company (affiliate or third-party)
3. Once Department loan officially closes, submit a copy of the project City’s Building Permit including verification of fee payment(s), if applicable, to receive construction start authorization and initial construction disbursement approval via the Department Notice to Proceed (NTP) that also serves to lock-in DOL-WHD workers prevailing wages throughout project construction *unless* a new construction contract is executed prior to construction completion
4. Provide copy of the NTP to Prime prior to start of construction
5. Clear all hired subcontractors and lower-tier contractors on the SAM.gov prior to executing any construction contracts at [SAM.gov](https://www.sam.gov/SAM/)
6. Ensure Prime incorporates HUD Labor Standards Provisions (4010) in all project executed contractor contracts. Copy available at [HUD](https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/olrform)
7. Upon completion of project construction submit the Department ***Final Wage Compliance Report* (TDHCA Exhibit 14)** to the Department Labor Standards Specialist for labor standards compliance review and approval to release project Retainage. Attach a list of all contractors (Prime, Subs and lower-tiers) hired during construction including name, address, contract amount and telephone (optional)
8. Ensure Prime retains and makes accessible original labor records for three years after construction

# PRIME’S LABOR STANDARDS OBLIGATIONS

1. Ensure contractors including the principal owner(s), are not listed as “debarred” in the System for Award Management (SAM) sam.gov prior to award and execution of construction contract
2. Ensure all executed construction contracts (Subcontractor and Lower-tier contractor) incorporate ***HUD Federal Labor Provisions (4010)*** including the project DOL-WHD GWD workers prevailing wage pay demands.
3. Ensure all hired contractors (Subs and Lower-tiers) use the Department’s required ***DOL-347 Payroll Form*** to report workers weekly paid wages located at: [Department of Labor](https://www.dol.gov/whd/forms/wh347instr.htm)

**Note**: Optional reports require the Department’s approval

1. Ensure workers are paid, at a minimum, the DOL-WHD approved prevailing wages and fringe benefits, if applicable
2. Ensure hired contractor (Sub and Lower-tier) pay workers ***weekly*** (every seven days)
3. Collect contractor payrolls weekly (every seven days) and review for compliance with DBRA labor law mandates. Make payrolls available to assigned LSO for compliance review.
4. Document and process owed overtime pay violations and enforce liquidated damage payments in accordance with CHWSSA mandates and TDHCA labor standards requirements – See “Shared Responsibilities”
5. Display the ***DOL Employee Rights under the Davis-Bacon Act*** poster in an area accessible to all workers located at [Department of Labor](https://www.dol.gov/whd/resources/posters.htm)
6. Retain original labor records for three years after project construction is complete

# LABOR STANDARDS OFFICER (LSO) OBLIGATIONS

1. Review weekly DOL-347 Payrolls received from Prime for accuracy and compliance with DBRA mandates
2. Follow-up, in writing, all documented worker misclassifications and/or worker wage underpayment (including owed overtime) discrepancies and deductions noncompliant with the **Copeland Act. Note: contractors have up to 30 days to respond to written notice.**
3. Conduct on-site employee (worker) interviews that represent multiple classifications working throughout the project construction phase
4. Employee interview sampling should include representation of workers used throughout project construction phase (i.e., laborers, heavy operators, plumbers, electricians, carpenters, insulators, sheet rock, flooring, etc.) Employee interview sampling should be used as a tool to target interviews to projects or groups of workers where violations are suspected or alleged instead of interviewing workers based on classification sampling basis.
5. Document interview results using the ***Record of Interview – HUD 11 form (Exhibit 9a)*** and ***TDHCA Consent to Voluntarily Disclose Confidential Wage – Earner Information (Exhibit 9b)***. Forms are available in English and Spanish and are located at https://www.tdhca.state.tx.us/multifamily/home/davis-bacon.htm
6. Compare employee interview results with the applicable weekly payroll (date) for accuracy of worker classification, wage and hours worked
7. Follow-up, in writing, with contractor(s) on all discrepancies documented
8. Record all employee interview resolutions on the HUD 11 form – Section ***Remarks, No. 16***
9. Require contractors pay worker(s) owed wage underpayment restitution and overtime, if applicable, and provide proof of payment
10. Document and process owed overtime pay violations and enforce liquidated damage payments in accordance with CHWSSA mandates and TDHCA standards requirements – See “Shared Responsibilities”
11. Correct all labor standards violations promptly
12. Gather required labor standards data needed by owner to complete the Department Final Compliance Wage Report (TDHCA Exhibit 13) tied to release of Retainage. Attach a list of all contractors (Prime, Subs and lower-tier) hired during construction including name, address, contract amount and telephone (optional)
13. The person (LSO) who will monitor this project for compliance with the labor requirements and serve as Liaison to the Department is:  
      
    Name of designated Labor Standards Officer: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# LABOR STANDARDS SPECIALIST (LSS) OBLIGATIONS

1. Confirm appointment of LSO (receipt of LSO form) prior to approval of initial disbursement of federal funds
2. Issue Notice to Proceed (NTP) that ***incorporates*** the DOL-WHD GWD prevailing wage mandates applicable to the project and ***authorizes*** start of construction activity. Construction must begin within ten ***calendar*** days upon release of NTP. The NTP locked-in wages are good throughout entire construction phase. Note: If construction does not begin within authorized start time period, the Department will send new NTP (project prevailing wage mandates remain the same) extending construction start date.
3. Withholds release of NTP until the TDHCA Multifamily division confirms loan is closed, and copy of Building Permit from local jurisdiction is received authorizing construction start including verification of fee payment (s), if applicable
4. Issue Notice to Proceed – Ten Day Call (calendar days), to authorize the start of Project construction activity and to lock in the DOL-WHD GWD applicable throughout project construction
5. NTP identified by General Decision No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
6. Valid for County: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
7. Effective date: Locked in upon NTP release \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* Approves initial disbursement triggered by DBRA labor standards compliance mandates.
* Review and approves ***TDHCA Final Wage Compliance Report*** associated with the Department’s labor standards Retainage release requirements.

# LABOR STANDARDS STEP-BY-STEP PROCESS

## STEP 1: PLAN PROJECT (APPLICATION)

OWNER/PRIME: Print most current DOL General Wage Determination (GWD) applicable to the County where the Project will be located to use as a reference when completing the construction budget. The GWD is located at [SAM.gov](http://beta.sam.gov/)

PRIME: Review published worker classifications, wage rate and fringe requirement, if applicable

OWNER: Consider construction worker classifications not listed on GWD including wages and fringe benefit amount, if applicable

If requesting bids, ask contractors to review GWD and ensure worker classifications and pay rates are correctly captured

PRIME: Ensure DBRA ***laborer and mechanic*** pay mandates are represented accurately in construction budget

## STEP 2: PROJECT APPROVED – FEDERAL AND TDHCA LABOR STANDARDS PRE-CONDITION

OWNER: Identify Labor Standards Officer (LSO) who will oversee project DBRA administration and enforcement. MUST not be an employee of construction company or construction affiliate

Participate in TDHCA Preconstruction Conference to review labor standards mandates. Participants MUST include General Contractor (Prime), LSO and Owner/owner rep.

LSS: Receipt of TDHCA Notice to Proceed (NTP) prior to start of Project Construction. Distributed after federal loan closes. Release requires receipt of City Building Permit including verification of fee payment, if applicable. Locks-In DOL workers prevailing wage mandates throughout project construction phase unless new construction contract is executed during construction. Construction MUST begin within ten calendar days after receipt or updated NTP must be requested.

## STEP 3: CONSTRUCTION PHASE PREPARATION

OWNER: Establish organizational process and management control system related to labor standards requirements. Ensure ***all*** contractor contracts (Prime, Subs, Lower-tiers) incorporate HUD Federal Labor Standards Provisions (HUD Form 4010) and applicable General Wage Determination. Establish record-keeping procedures.

PRIME/LSO: Submit request for approval of worker classifications, as needed.

LSS: Work with TDHCA Labor Standards Specialist to obtain ***final*** approval from the Department of Labor (DOL)

## STEP 4: CONSTRUCTION PHASE – CONTRACTORS PAYROLL RECEIPT AND REVIEW

PRIME: Ensure contractors submit complete weekly (every seven days) DOL Payroll-347 payrolls

PRIME/LSO: Review weekly payrolls for accuracy and completeness. Follow up on all discrepancies and require contractor to submit revised payroll – do NOT return original for correction. Follow through with violations of the Contract Work Hours Safety Standards Act (CWHSSA) and impose liquidated damages (penalties), as needed

LSO: Collect amount owed in liquidated damages to send via check to TDHCA who in turn will send to HUD

LSS: Work with TDHCA Labor Standards Specialist to complete and process all CWHSSA violations.

## STEP 5: CONSTRUCTION ON-SITE WORKER INTERVIEWS

LSO: Conduct periodic interviews of on-site construction work and record using **HUD Record of Employee Interview (HUD Form 11)** and **TDHCA Consent to Voluntarily to Disclose Confidential Wage Earner Information** – both forms are located on the TDHCA Program Services website (Exhibits 8a and 8b). Employee interview sampling should include representation of workers used throughout project construction phase (i.e., laborers, heavy equipment operators, plumbers, electricians, insulators, sheet rock, flooring, etc.) Compare results with applicable DOL 347-Payroll and follow up with all discrepancies. Record resolution of discrepancies on HUD Record of Employee Interview (HUD 11)

LSO/PRIME: Follow through with all CWHSSA violations

## STEP 6: CONSTRUCTION PHASE – CONTRACTOR AND ON-SITE OBSERVATIONS

PRIME/LSO: Report all Abuse, Waste or Fraud

## STEP 7: TDHCA LABOR STANDARDS RELEASE OF RETAINAGE CONDITIONS

OWNER/LSO: Submit accurately completed TDHCA Final Wage Compliance Report to TDHCA Labor Standards Specialist. Attach list of all contractors (Prime, Subs and lower-tier) hired during construction including, name, address, contract amount and telephone (optional)

## STEP 8: FOLLOW-UP

OWNER/LSO: Evaluate labor standards success. Improved procedures for future projects. Maintain labor records for three years after construction. Make records available to authorized individuals.

# SECTION 3 OBLIGATIONS

1. **Contractor Compliance during Construction Phase**

All hired contractors must document the labor hours performed by each eligible Section 3 employee and certify low-income status. Supporting documentation may include, but is not limited to the following:

1. Certified Payrolls – DBRA weekly payrolls may serve as verification of Section 3 labor worked hours only if payroll is supported by documentation that verifies worker low or very low income eligibility.
2. Employer low-income certification – Form S304
3. Backup documentation for each Section 3 worker’s status must be retained including a worker’s self-certification for income verification or public housing/Section 3-assisted housing.
4. Section 3 Reporting form (Form S301) completed by/for each contractor to be submitted to LSO and maintained by the owner to complete the Summary Section 3 Final Cumulative Summary report (S302). These forms (S301 and S302) will capture the labor hours to determine if the Section 3 benchmarks have been met and allow the contractor and owner to identify qualitative efforts to meet Section 3 benchmarks. (TDCHA may request and spot-check the S301 during the early stages of construction).
5. **Owner Reporting Requirements**
6. Upon completion of project, complete and submit Section 3 Final Cumulative Summary Report (Form S302) to assigned staff. Receipt and approval of the Report is tied to release of last project draw.

# DOL 347 - PAYROLL FORM INSTRUCTION

| PAYROLL FORM INSTRUCTIONS |  |  |  |
| --- | --- | --- | --- |
| CONTRACTOR SECTION |  |  |  |
| Name of Contractor: | **Check box that applies** |  |  |
| Address: | **Self - explanatory** |  |  |
| Payroll No: | Begin with #1 and number consecutively. Mark last weekly payroll as “#-Final” | **Note:** If temporary break occurs, 1) number and submit weekly and write “no work week” OR 2) write memo to file stating “temporary break, returning MM/DD/YYYY” and number sequentially when returning to job site |  |
| FOR WEEK ENDING | List the workweek ending date |  |  |
| Project Name and Location: | **Self - explanatory** |  |  |
| Project or Contract No.: | **(Enter TDHCA Contract No.)** |  |  |
| COLUMNS 1 - 9 |  |  |  |
|  | **FORM DESCRIPTION** | **ACTION** | **RESPONSIBILITY** |
| COLUMN 1 | Name and Individual identifying No. (e.g., LAST 4 – digit # of Social Security or Payroll No.) of Worker | DO NOT enter full worker Social Security number | Separate W**orker Information Sheet** that lists all hired workers name, full social security number, address and telephone (optional) must be provided to Prime by each hired contractors |
| COLUMN 2 | Worker and No. of Withholding Exemptions | Optional | Not required but can be completed |
| COLUMN 3 | Work Classification | 1. Worker class on GWD | If NOT listed on GWD, process request for class approval by DOL |
|  |  | 2. Apprentice and/or Trainees | Must be registered in a bona fide program approved by the Department of Labor Employment & Training Office of Apprenticeship (DOL-ETA). NO exceptions. Must NOT exceed the ration of apprentices to journeymen**.** |
|  |  |  |  |
|  |  |  | NOTE: State licensing apprentice programs MUST be approved DOL-ETA |
|  |  |  | NOTE: “Helper” class is forbidden unless listed on GWD. |
|  |  | 3. Union trade workers | MUST be paid union rates |
|  |  |  |  |
|  |  | 4. Piece Worker | Classify according to GWD and pay class hourly wage. Convert total hours worked in workweek into hourly rate. Pay required overtime at 1.5 basic rate if hours worked exceed 40 in a workweek |
|  |  | 5. Foreman or Supervisor | If Supervisor or Foreman performs the work of the trade and exceeds 20% during workweek, he/she must be listed on weekly payroll as “trade” worker. He/she is also entitled to earn 1.5 basic hourly rate if worked hours exceed 40/hours |
|  |  |  | NOTE: Salaried employees loose exemption status if performing construction work on federally assisted DBRA project |
|  |  | 6. Owner | If Owner performs trade work on project, he/she must be listed on payroll showing daily hours worked and total hours worked in workweek – hourly wage rate earned is NOT required |
|  |  |  | NOTE: If working solo, an owner CANNOT certify his/her payroll. Prime MUST certify hours worked on Prime payroll |
| COLUMN 4 | Day and Date | Daily Hours worked during Workweek: (0=Overtime hours and S=Straight time hours) | **Day and Date:** - List the first letter of each work day (i.e. S,M,T,W,T,F,S) and the date (i.e. 3/1, 3/2) |
|  |  |  | **Hours Worked Each Day:** List the straight (S) time and overtime (O) hours worked in the applicable boxes. Note: If hours worked in the workers “workweek” (seven days) exceeds 40 hours, enter hours worked as "overtime" |
|  |  |  | NOTE: Enter ONLY hours worked on TDHCA project |
| COLUMN 5 | Total Hours | Total hours worked on TDHCA project during workweek | Calculate total hours worked on TDHCA project during workweek: Overtime (O) – document all “Overtime” hours worked and Straight (S) – document all “Straight” hours worked |
| COLUMN 6 | Rate of Pay | Straight (S) and Overtime (O) hourly rate paid to employee working on TDHCA project | Overtime (O) – hourly amount must equal base rate multiplied by 1.5 Straight (S) – hourly amount must equal, at a minimum, base rate approved by DOL-WHD |
|  |  |  | NOTE: Fringe OT paid @ straight time |
| COLUMN 7 | Gross Amount Earned9 | Gross amount paid to employee for all hours worked on federally assisted project and other jobs during the workweek (seven days) | **Left** Diagonal Section – gross amount earned ONLY for hours worked on TDHCA project. **Right** Diagonal Section – Gross amount earned for ALL hours worked in entire WORKWEEK (seven days) this includes TDHCA project hours and off site project hours |
| COLUMN 8 | Deductions | Five columns are titled showing deductions. If more than five are needed, use first four columns and enter total of remaining deduction(s) amount under “Other” columns and attach description. | With the exception of federal (FICA, withholding taxes) and state required (real estate taxes or child support) deductions, ALL others (including 401K and insurance) require Employee written authorization (Sample letter – TDHCA Exhibit 2) |
|  |  | NOTE: ALL deductions must comply with the provisions of the Copeland Act Regulations, 29C.F.R. Part 3 |  |
| COLUMN 9 | Net Wages Paid for Week | Self-Explanatory | 347 Payroll Form automatically calculates deductions. |
|  |  | NOTE: Using alternate payroll form requires TDHCA approval. Form MUST capture DOL recording requirements. |  |

# DOL 347 - PAYROLL FORM COMPLIANCE

| STATEMENT OF COMPLIANCE |  |
| --- | --- |
| Requirement Required by Regulations, Part 3 and 5 on Page 2 | ***Subject to the penalties provided by 18*** 18 U.S.C. § 1001, fine and possible imprisonment of not more than five years, or both. Party who a sign certifies employee(s) pay rate and worked hours documented are factual and true |
| Date, Name of Signatory, Title |  |
| Section (1) | **Name of Contractor or Subcontractor** |
|  | **Commencement work day to ending work day (seven day workweek)** |
|  | **Note: Date(s) - “workweek” recorded MUST match dates noted on DOL- Payroll 347 form "For Week Date"** |
|  | ***Name of Contractor or Subcontractor Affirms workers were paid required weekly wages*** |
|  | **List any other permissible deductions as defined in Regulations, Part 3 (29 C.F.R. Subtitle A) subtracted from employee(s) weekly check in access of those noted on DOL-347 form "Column (8) - Deductions"** |
| Section (2) | **Affirms payrolls under this contract submitted for the above period are correct and complete and workers wage rates are paid not less than the applicable wage rates contained in the wage determination incorporated into the contract and conform to the work he/she performed** |
| Section (3) | **Hired “apprentices” MUST be registered in a bona fide apprenticeship program approved by the US Department of Labor of Employment and Training Administration Office of Apprenticeship (ETA) and paid, at a minimum, approved wage rate** |
| Fringe Benefits | ***PAID AT “STRAIGHT”RATE IF EMPLYEE WORK HOURS EXCEED 40/hour WORKWEEK RESULTING IN WORKED OVERTIME. FRINGE BENEFIT RATE IS NOT REQUIRED TO BE MULTIPLIED BY 1.5 HOURLY BASE RATE. NOTE: IF WAGE DETERMINATION DOES NOT REQUIRE FB pay, CONTRACTOR DOES NOT HAVE TO CHECK SECTIONS (4)(a) – 4(c)*** |
| Section (4)(a) | ***Check box if, employee receives “fringe” amount, at a minimum, listed on the project applicable wage determination is paid in the form of actual benefits to approved plans,, funds, or programs under the Copeland Act*** |
| Section (4)(b) | ***Check box if, “fringe” amount listed on applicable wage determination is paid in the form of “cash” in lieu of actual benefits paid to approved plans under the Copeland Act*** |
| Section (4) (c) Exceptions | ***Complete section if, “fringe” benefit given to employee results in a lesser amount than the published dollar amount listed on the project applicable wage determination. The employee MUST be compensated in cash for the difference of underpayment.*** |
|  | ***The difference should be listed in 347 Payroll Column (4) as “straight” time with written explanation on line (c) Exception, page 2. Enter the approved pay rate and amount of cash paid in lieu of fringe benefits per hour in column 6 on the payroll.*** |
| Name and Title |  |
|  | ***TDHCA sample “authorization letter” available on Program Services website (Exhibit 2)*** |
| Signature | **Name and Title of Signatory**  **Signature of Owner or authorized individual** |

**In order to view, fill out, and print PDF forms, you need Adobe® Acrobat® Reader® version 5 or later, which you may download for free at** [**Adobe.com**](http://www.adobe.com/products/acrobat/readstep2.html)**.**

# PRE-CONSTRUCTION and SECTION 3 CONFERENCE SIGN-IN SHEET

I hereby certify that each of the foregoing topics was discussed in the Pre-Construction Conference and Section 3 Conference. I understand that nothing presented in this document or discussed in the Pre-Construction Conference and Section 3 Conference represents a modification to any existing contract or agreement or to any state, federal, or local requirement.

| Meeting Attendee | Date of Conference |
| --- | --- |
| Development Owner Name (Print & Signature) | **Date** |
|  |  |
| Labor Standards Officer Name (Print & Signature) | **Date** |
|  |  |
| Consultant Name (Print & Signature) | **Date** |
|  |  |
| General Contractor Name (Print & Signature) | **Date** |
|  |  |
| Master Subcontractor Name (Print & Signature) | **Date** |
|  |  |
| TDHCA Labor Standards Specialist Name (Print & Signature) | **Date** |
|  |  |
| Other (Print & Signature) | **Date** |
|  |  |
| Other (Print & Signature) | **Date** |
|  |  |
| Other (Print & Signature) | **Date** |
|  |  |
| Other (Print & Signature) | **Date** |
|  |  |

1. Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA): <https://www.dol.gov/agencies/whd/fact-sheets/66-dbra> [↑](#footnote-ref-1)
2. 14. What wage rates must be paid to supervisory employees (foremen, superintendents, etc.) employed on a covered project?: <https://www.dol.gov/agencies/whd/government-contracts/construction/faq> [↑](#footnote-ref-2)
3. Civil Money Penalty Inflation Adjustments: [Contract Work Hours and Safety Standards Act (CWHSSA) | U.S. Department of Labor (dol.gov)](https://www.dol.gov/agencies/whd/government-contracts/cwhssa) [↑](#footnote-ref-3)