



Effective Communication with Contractors in Community Development

4 Tips for Ensuring Compliance with Labor Standards

By

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Executive Summary

The U.S. Department of Housing and Urban Development (HUD) Office of Labor Relations (OLR) is responsible for the oversight and enforcement of Federal Labor Standards in HUD Programs. OLR's mission is to ensure workers' rights are protected, and they are paid fair wages while performing work on projects which are subject to federal prevailing wage rates. The key to successfully carrying out this mission is effective communication between Contract Administrators (CA) and Contractors. Often times, communication between the two is complex. Contractors feel burdened with redundant policies and procedures, and throngs of paperwork with which they have no desire or intention to comply. Contract Administrators are at times unorganized and unaware of the authority that has been delegated to them rendering them apprehensive in their pursuit of ensuring compliance.

How does the CA effectively communicate the significance of the responsibilities of the Contractor and their accountability? How does the CA clearly identify the necessity of OLR policies and procedures? What resources are available to help ensure compliance? In an effort to (1) alleviate miscommunications, (2) foster and strengthen the relationship between the CA and the Contractor, and (3) maximize effectiveness and efficiency when enforcing Labor Standards, this article endeavors to provide tips on improving such conditions.

4 Tips for Ensuring Compliance with Labor Standards

- 1. Know Your Responsibility**
- 2. Know Your Labor Standards**
- 3. Know Your Contractor**
- 4. Provide Support and Resources**

Communication with Contractors is an essential tool in achieving success on federally funded projects and furthering the OLR mission. Whether through procurement, implementation, or completion, open communication generates a broad level of understanding from all. With these four tips at your disposal, CAs are armed with dynamic, supportive and well-received approaches to building successful relationships with Contractors. Eliminate roadblocks by understanding where responsibilities lie, fully grasping the policies and procedures associated with Labor Standards requirements, communicating effectively, and providing appropriate support and resources. In doing so the CA ensures compliance.



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How does the Contract Administrator effectively communicate the significance of the responsibilities of the Contractor and their accountability? How does the CA clearly identify the necessity of OLR policies and procedures? What resources are available to help ensure compliance? In an effort to (1) alleviate miscommunications, (2) foster and strengthen the relationship between the CA and the Contractor, and (3) maximize effectiveness and efficiency when enforcing Labor Standards, this article endeavors to provide tips on improving such conditions.

4 Tips for Ensuring Compliance with Labor Standards

1. Know Your Responsibility

Where does the responsibility lie? How do you know if you are designated as the Contract Administrator (CA)? In the Community Development field, CA is a term used to represent the person(s) who provide labor standards advice and support to the Contractor or project principals (such as the owner, sponsor,

architect, etc.).¹ The primary obligation of a CA is to communicate the importance of the Contractor's compliance with federal labor laws and its responsibility to provide fair and proper wages to workers. The CA is tasked with administering and enforcing a wide range of policies and procedures. Through contract preparation, project implementation and project completion, the CA provides necessary support and guidance to all Contractors.

So what are the responsibilities of the Contractor? According to *Making Davis-Bacon Work; A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects*:

The principal contractor (also referred to as the prime or general contractor) is responsible for the full compliance of all employers (the contractor, subcontractors and any lower-tier subcontractors) with the labor standards provisions applicable to the project. Because of the contractual relationship between a prime contractor and his/her subcontractors, subcontractors generally should communicate with the contract administrator only through the prime contractor.²

By clearly identifying where responsibilities lie, CAs take the first step towards ensuring compliance. But before they can enforce the myriad of policies and procedures that apply to these federally-funded projects, they must know their labor standards.

2. Know Your Labor Standards

In order to adequately teach or guide others, any CA must be prepared with all the necessary materials and possess a basic sense of all required labor standard functions. Reach out to your local OLR representatives, attend HUD trainings, and read any materials at your disposal in order to arm yourself with a proper knowledge base and understanding of current policies and procedures.

HUD offers in-depth, in-person training at their local field offices on an annual basis. Such trainings provide updates on streamlining the labor standards objectives and offer best practices techniques for implementing and enforcing current labor laws.

In addition to attaining basic knowledge of Federal labor standards, the CA must be equipped with tangible reference and guidance materials. Public access to a complete list of materials is located online at the HUD webpage (www.hud.gov) as well as the U.S. Department of Labor (DOL) webpage (www.dol.gov).³ References such as guide books, regulations and statutes, and notices/letters for determination of

¹ U.S. Department of Housing and Urban Development. (2011, September). *Making Davis-Bacon Work: A Practical Guide for States, Indian Tribes and Local Agencies*. Labor Relations Desk Guide LR04.DG. See Also <http://portal.hud.gov/hudportal/documents/huddoc?id=makingdavisbaconwork001.pdf>.

² U.S. Department of Housing and Urban Development. (2006, June). *Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects*, Labor Relations Desk Guide LR01.DG. (s. 1-4, p. 1-3). See Also <http://www.hud.gov/offices/adm/hudclips/guidebooks/HUD-LR-4812/4812-LR.pdf>.

³ U.S. Department of Housing and Urban Development. (2006, June). *Making Davis-Bacon Work: A Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects*, Labor Relations Desk Guide LR01.DG. See Also <http://www.hud.gov/offices/adm/hudclips/guidebooks/HUD-LR-4812/4812-LR.pdf>.

applicability include: HUD Regulations, Title 24 CFR; DOL Regulations, Title 29 CFR Parts 1, 3, 5, 6 & 7; The Davis-Bacon Act, 40 U.S.C. 3141 et seq.; Labor Relations Desk Guides, www.dol.gov; *On The Mark!* Series and *Making Davis-Bacon Work*, Labor Relations Library, www.hud.gov or www.dol.gov.

Additionally, HUD and DOL invite you to contact the HUD Labor Relations Staff for assistance and technical support. OLR Staff are knowledgeable and well-practiced in providing materials, guidance and training on how to effectively and efficiently administer and enforce Federal labor standards.

For Contract Administrators it is more than just knowing the labor standards. CAs must be prepared to take this knowledge and successfully communicate compliance needs to all contractors involved in federally funded projects. By getting to know each Contractor and identifying their capacity to meet labor standards requirements, CAs can better format their transfer of knowledge.

3. Know Your Contractor...and openly communicate with them.

Contractors come in every shape, size, and assortment - private, federal, commercial, local, residential, etc. Knowing the contractor – the company as a whole, its history (if any) working with federally-funded projects, its specialty, and its stance on prevailing wage requirements – helps set the stage for project compliance. Open communication between the CA and the Contractor is critical in developing positive working relationships and ensuring compliance.

As part of her lecture at the HUD Region IV *Labor Standards Training* on April 15, 2014, Jennifer A. Dupont, Labor Relations Specialist, stated, "... contractors will try to deceive you; so communicating the importance of these wage requirements and labor standards is a vital step to ensuring they don't... you have to take this seriously."⁴ We don't want to assume that all contractors are deceitful, but we do need to be aware of their focus...the bottom line. It is the responsibility of the CA to fully communicate what is required of Contractors working on federally funded projects and to provide them adequate support and resources to comply. By maintaining a supportive approach with the Contractor, the CA eliminates any miscommunication of contractual obligations, fostering a prosperous working relationship.

4. Provide Support and Resources

As mentioned, it is equally as important to inform the Contractor of their responsibility as it is to know your responsibility as the CA. One way of maintaining an acceptable level of support and resources is to provide detailed written communication. The CA must guarantee that the Bid Proposal and Contract includes applicable labor standards clauses and Davis-Bacon Wage Decisions, as well as ensure information regarding the implementation of labor laws has been supplied to all interested parties, and the Contractor receives appropriate training and guidance.

OLR has redefined its purpose and its approach to maintaining compliance among Contractors. This new approach is known as *Streamlining Davis-Bacon*. By utilizing this valuable method, CAs should aim to provide basic training and technical assistance to Contractors to ensure that they understand their obligations under prevailing wage and reporting requirements. Through a series of pre-construction conferences (a

⁴ Dupont, Jennifer A. (2014, April). U.S. Department of Housing and Urban Development Region IV Labor Standards Training, Atlanta, GA. Lecture.

conference before bidding and prior to construction commencement), the CA should identify all reporting requirements and highlight contractual obligations of each party involved. By instituting these mandatory conferences, the CA can provide the numerous resources found on the HUD and DOL webpages, and educate Contractors on the proper means of classification of laborers, fair and just wages owed to laborers, and accurate reporting on certified payroll submissions. The Contractor should be well equipped with the necessary tools for compliance prior to project implementation.⁵

Contractors may also be informed of onsite employee interviews. Such interviews are used as a tool to assist the CA in reviewing and approving certified payroll reports. The interviews will capture direct information from the construction workers themselves; further identifying and indicating any violations of the federal labor laws. The CA is responsible for investigating any violations and/or complaints of underpayment, falsification of payroll reports, or harassment. It is essential to inform the Contractor of these interviews and provide them with transparent policies and procedures for conducting the interviews. When lines of communication remain open, CAs and Contractors foster authentic business relationships that promote compliance.

Resources available to Contractors include: webpages, regulations and statutes, circulars and newsletters, written literature, desk guides/guidebooks, in-person HUD and DOL training, technical assistance providing by CA, OLR Field Staff, etc. (*Full source list can be provided upon request.*)

Conclusion

Communication with contractors is an essential tool to achieve success on federally funded projects and furthering the OLR mission. Whether through procurement, implementation, or completion, open communication generates a broad level of understanding from all. With these four tips at your disposal, Contract Administrators are armed with dynamic, supportive and well-received approaches to building successful relationships with Contractors. Eliminate roadblocks by understanding where responsibilities lie, fully grasping the policies and procedures associated with Labor Standards requirements, communicating effectively, and providing appropriate support and resources. In doing so the Contract Administrator ensures compliance.

Need More Information?

If your community or organization wants more information about Labor Standards or how to enforce Labor Standards, WFN Consulting has experienced practitioners who have been administering local HUD Program grants since 1981. The WFN Consulting team may be reached by telephone 770.420.5634, by email mail@wfnconsulting.com or by visiting our website www.wfnconsulting.com.

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⁵ U.S. Department of Housing and Urban Development. (2010, October). *Streamlining Davis-Bacon*. Office of Labor Relations. Campaign. See Also <http://www.hud.gov/offices/olr/streamline.cfm>.