

Subrecipient Logo

## DBRA Contract Review Checklist

Enter Subrecipiente Name: \_\_\_\_\_

Enter Project Name : \_\_\_\_\_

Enter RFP Number (if aplicable): \_\_\_\_\_

Enter Contract Number (if aplicable): \_\_\_\_\_

### Instructions

This form shall be prepared by the subrecipient and included in the construction file for the contractor and procurement/compliance division to acknowledge inclusion of these items in the model construction contract prior to execution.

This checklist is to verify that the construction contract for the project being funded with CDBG-DR funding contains the following language and items prior to signing:

Item	Present in Contract	Notes
Is this contract for construction services?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If no, does the professional services or supply non construction contract include applicable areas of installation where DB will be triggered? If No, you do not need to use this review checklist.
Language in the contract for DBRA is present and sufficient.	Yes <input type="checkbox"/> No <input type="checkbox"/>	Language will cover all the following areas. 1. <b>DAVIS-BACON ACT (DBA) OF 1931, AS AMENDED</b> 2. <b>HOUSING AND COMMUNITY DEVELOPMENT (HCD) ACT OF 1974</b> 3. <b>29 C.F.R. §5 (DEPARTMENT OF LABOR)</b> 4. <b>FAIR LABOR STANDARDS ACT OF 1938, AS AMENDED</b> 5. <b>CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (CWHSSA), AS AMENDED</b> 6. <b>COPELAND "ANTI-KICK BACK" ACT OF 1934</b>  If using a construction contract template of PRDOH, language should include this.

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<p><b>Language in contract will require all levels of subcontractors to implement.</b></p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>As recipients of HUD financial assistance, PRDOH and its contractors and subcontractors working within the PRDOH CDBG-DR Program are subject to the requirements of the Davis-Bacon Act of 1931 (DBA), 40 U.S.C. § 3141 et seq., which guarantees fair wages, benefits, and overtime to employees while working on government-funded construction, alternation, or repair projects in excess of \$2,000. The Davis-Bacon and Related Acts (DBRA) determine applicability of Davis-Bacon to Federally-assisted construction contracts. The Housing and Community Development Act of 1974 (HCD), 42 U.S.C. § 5301 et seq., Section 110 of the Act, determines the DBRA applicability to CDBG-DR. The DOL sets forth the principal set of regulations for labor rules in 29 C.F.R. Parts 1-7: • 29 C.F.R. Part 1 – Regulates wage rate determination • 29 C.F.R. Part 3 – Copeland “Anti-kickback” Act of 1934, 18 U.S.C. § 874 and 40 U.S.C. § 3145, defines anti-kickback regulations; obligation of weekly payrolls and governs payroll deductions • 29 C.F.R. Part 5 – Defines Labor Standards Regulations • 29 C.F.R. Part 6 – Regulates administrative proceedings to enforce Labor standards • 29 C.F.R. Part 7 – Regulates non-compliance All covered contracts must include Davis-Bacon and other labor standards clauses and the applicable wage determinations."</p> <p><b>And contract clauses see below**</b></p>
<p><b>Form 4010 is part of the contract package for signing.</b></p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p><a href="https://www.hud.gov/sites/documents/4010.PDF">https://www.hud.gov/sites/documents/4010.PDF</a></p>
<p><b>Wage determination is included in the contract and exhibits.</b></p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p><a href="https://beta.sam.gov/search?index=wd">https://beta.sam.gov/search?index=wd</a> Choose the correct wage determination based on the scope of work.</p>
<p><b>The correct wage determination is included: Residential, Building, Heavy or Highway.</b></p>	<p>Yes <input type="checkbox"/></p> <p>No <input type="checkbox"/></p>	<p>The correct wage determination is included in the contract as an exhibit or attachment and acknowledged by both parties as being part of the contract.</p>

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<b>Executive Orders</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>	Puerto Rico Executive Orders 2018-033, 2020-075 and 2021-023 are present in the contract as applicable and by reference.
<b>Additional Forms</b>	Yes <input type="checkbox"/> No <input type="checkbox"/>	HUD Forms are present on the contract: Davis Bacon Act Poster, HUD Employee Interview History 11, HUD Form WH-347, HUD Form 4010.

### **\*\*Contract clauses:**

*Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.*

*Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction*

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*work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.*

*COPELAND "ANTI-KICKBACK" ACT (Applicable to all construction or repair contracts) Salaries of personnel performing work under this contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The Contractor shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this contract to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.*

## Comments/Recommendations/Remarks


Enter the name of the person in charge of compliance with Davis Bacon of the subrecipient.

Write the position/position of the person in charge of compliance with Davis Bacon of the subrecipient.

Date