



**City of Alameda**  
**Community Development Block Grant (CDBG)**  
**Capital Improvements**  
**Contract Provisions Checklist**

The guidance in this document is intended to assist City Community Development Block Grant (“CDBG”) Subrecipients in developing CDBG-compliant contracts and procurement (“bid”) documents. When creating a formal procurement packet, the City recommends that you refer to your entity’s procurement documents in addition to the following checklist to ensure all required provisions are included during the process.

All procurements funded in whole or in part with CDBG funds must comply with the federal requirements found in 2 CFR Part 200. The goal in using these procurement procedures is to achieve maximum open and free competition. All Subrecipients of CDBG funds must follow the procurement standards in 2 CFR §§ [200.318](#) through [200.327](#).

When entering into a contract for services funded, in whole or in part, with CDBG funds, Subrecipients must ensure all contracts include all applicable provisions listed below. If your entity’s contract document is missing any required provisions, sample materials have been provided for your review and use.

*Bid packets or Request for Proposals must be submitted to the City Housing and Human Services Division for compliance review prior to public posting. When submitting documents for review, please provide a copy of the Checklist indicating the document location for each compliance item.*

**Allow at least 10 business days for review.**

NOTE: While the City Housing and Human Services Division has made every effort to provide timely and accurate information, the City makes no claims, promises, or guarantees regarding the accuracy, completeness, or adequacy of the contents of this guidance document, and expressly disclaim liability for errors and omissions in its contents. No warranty of any kind, implied, expressed, or statutory, including but not limited to the warranties of non-infringement of third-party rights, title, merchantability, or fitness for a particular purpose is given with respect to the contents of this website or its links to other Internet resources. It is the sole responsibility of the Subrecipient to determine CDBG requirements and the appropriate language and actions required to address such requirements.

*Each Subrecipient should seek its own legal counsel. The sample provisions and materials are not to be relied upon in lieu of seeking independent legal counsel as the law.*

<b>1. Labor Laws and Requirements</b>	
This federally funded project is subject to the following labor laws and regulations:	
	<b>Davis-Bacon and Related Acts</b> require the payment of prevailing wage rates to all laborers and mechanics working on the construction site. The prevailing wages for this project are listed in the contract documents. Prevailing wages include a basic hourly rate of pay and in most cases a fringe benefit payment.
	The <b>Copeland Act</b> makes it a crime for anyone to require any laborer or mechanic to kickback any part of their wages. Consequently, the only deductions that can be taken out of an employee's paycheck are those <b>required by law</b> or those <b>authorized</b> by the employee <b>in writing</b> . <b>The Copeland Act also requires that every contractor pay their employees weekly and submit weekly certified payroll reports (CPRs).</b>
	<b>The Contract Work Hours and Safety Standards Act (CWHSSA)</b> requires time and one-half pay for hours worked over 40 in any workweek. The time and one-half is computed on the basic hourly wage and then the fringe amount is added to it. CWHSSA violations carry a liquidated damages penalty of ten dollars per day per violation. Intentional violations of CWHSSA standards are considered a federal criminal misdemeanor
<b>2. Additional Classifications</b>	
	If the work classifications needed do not appear on the wage decision, a request for additional classification and wage rate will be needed. The contract administrator can assist you in this process. These additional classifications and rates must be approved by the U.S. Department of Labor.

3. Job Site Postings	
The contractor is required to display, in a <b>conspicuous place</b> , the following:	
	Postings must include the Project Name, Project Description, and Funding Sources
	If applicable, detour and warning signs must be visible in multiple areas on the premises
	The Wage Decision for this project which is: _____ with ____ modifications, dated __/__/_____
	<p>Appropriate Posters to be Posted at the Job Site (State &amp; Federal)</p> <ol style="list-style-type: none"> <li>1. <b>Notice to Employees</b> Davis Bacon (English): <a href="https://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf">https://www.dol.gov/whd/regs/compliance/posters/fedprojc.pdf</a> Davis Bacon (Spanish): <a href="https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/davispan.pdf">https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/davispan.pdf</a></li> <li>2. <b>Minimum Wage</b> Federal Minimum Wage (English): <a href="https://www.dol.gov/whd/regs/compliance/posters/flsa.htm">https://www.dol.gov/whd/regs/compliance/posters/flsa.htm</a> Federal Minimum Wage (Spanish): <a href="https://www.laborposters.org/federal/86-federal-minimum-wage-spanish-poster.htm#PDF">https://www.laborposters.org/federal/86-federal-minimum-wage-spanish-poster.htm#PDF</a></li> <li>3. <b>OSHA Job/Work Site Safety</b> <a href="https://webapps.dol.gov/elaws/firststep/poster_direct.htm?p_osh=1">https://webapps.dol.gov/elaws/firststep/poster_direct.htm?p_osh=1</a></li> <li>4. <b>Know Your Rights</b> <a href="https://www.dol.gov/agencies/whd/posters">https://www.dol.gov/agencies/whd/posters</a></li> </ol>
4. Payrolls	
	Original payrolls must be submitted weekly by all contractors and subcontractors.
	Contractors are not required to use Payroll Form WH-347, but the payroll used must contain all information required on the WH-347; and the Statement of Compliance must be the exact same wording as on the reverse of WH-347. <a href="https://www.dol.gov/whd/forms/wh347.pdf">https://www.dol.gov/whd/forms/wh347.pdf</a>
	Payroll information needed:
A.	Number of payrolls (mark last payroll final).
B.	All mechanics and laborers employed on the site must be listed on the payroll.
C.	Employee name, and last four digits of social security number.
D.	Correct work classification taken from the wage decision or approved classification.
E.	Hourly wage paid and fringe if paid in cash (see below for fringe paid to a plan).
F.	Daily and weekly total number of hours worked (only hours worked on this project).
G.	Gross pay for this project.
H.	Allowable deductions (those required by law or authorized by the employee in writing).
I.	Net pay.
J.	Reverse of WH-347 completed, box "a" or "b" checked, and the certification signed.
	Payroll deductions must be made according to DOL Regulations 29 CFR Part 3. These regulations prohibit the employer from requiring employees to "kick-back" any of their earnings. Allowable deductions include employee obligations for income taxes, Social Security payments, insurance premiums, retirement, savings account and any other legally permissible deduction <b>authorized by the employee</b> . Deductions may also be Made for payments on judgments and other financial obligations legally imposed against the employee. Non-permissible deductions are tools, gas and similar items.
	If fringe benefits are paid to a plan instead of in cash, the hourly contribution must be determined. Documentation of the plan and the amount paid into the plan per employee must be submitted with the first payroll. Fringe benefits include health insurance and retirement. They do not include employer payments or contributions required by other federal, state, or local laws, such as the employer's contribution to Social Security or some disability insurance payments.
	If payrolls are not numbered sequentially by the respective contractor or subcontractor, then submit a letter or the "No Work" form to the contract administrator for the period that work is not

		performed so that a continuous record is maintained. One form may be submitted for extended period of inactivity on the job.
		General and all subs submit Signature Authorization Form stating who is designated to sign payrolls if someone other than the owner signs them.
		Payrolls must be submitted to the Grant Administrator indicated below within seven (7) days after the payroll period ends.
<b>5. Split Classification</b>		
		If employees perform work in more than one classification during the workweek, the wage rates specified for each classification can be paid <b>only if</b> accurate time records are maintained showing the amount of time spent in each classification of work. If there is a dispute, the contractor will be asked to provide the employee time records. <b>If accurate time records are not maintained, the employees must be paid the highest wage rate of all the classifications for work performed.</b>
<b>6. Proper Designation of Trade</b>		
		The classification of each employee must be selected from the wage decision, or an approved Additional Classification based on the actual type of work performed. Each worker must be paid no less than the wage rate on the wage decision for that classification regardless of their level of skill. In other words, if someone is performing carpentry work on the project, they must be paid no less than the wage rate on the wage decision for Carpenters, even if they aren't considered by the contractor to be fully trained as a Carpenter. <b>The only people who can be paid less than the rate for their craft are apprentices registered with the U.S. Department of Labor or approved program.</b>
<b>7. Foremen</b>		
		Foremen or supervisors who regularly spend more than 20% of their time performing construction work are covered laborers and mechanics (workers, employees) for labor standards purposes and must be paid the designated wage for the classification in which they work.
<b>8. Relatives</b>		
		Relatives are not exempt from Davis-Bacon requirements and must be paid the prevailing wage rate for the classification of work performed.
<b>9. Apprenticeship Provisions</b>		
		Documentation of Apprentice registration must be submitted with the first payroll on which he appears. If the papers are not submitted, the employee must be paid the mechanic rate for the classification of work being performed. The apprentice must be registered prior to going to work on the job.
		The Journeyman-Apprentice ratio must be observed. If more apprentices per journeymen are used than permitted, the extras must be paid at the journeyman's rate.
<b>10. Wage Interviews</b>		
		Every contractor must make their employees available for interviews at the job site. Interviews should be conducted individually and in private. Each employee should be informed that the information given is confidential, and that their identity will not be disclosed to the employer without the employee's permission.
<b>11. Working Subcontractors</b>		
		In the event the general contractor or the subcontractor hires a self-employed proprietor (someone who has no employees so will perform all the work themselves), the Davis-Bacon rate must be paid and the following procedure must be followed:
	A.	Report the self-employed proprietor on the certified payroll of whoever hired them.
	B.	Provide their name, address and social security number.
	C.	State their classification of work (i.e. "finish carpenter").
	D.	Indicated daily hours of work, by date, and the total hours per week.
	E.	Show the hourly rate of pay, with the gross amount earned in the week.

F.	Enter "self-employed" and their contracting license number, where the payroll asked for "deductions."
<b>12. Truck Drivers</b>	
	Truck drivers employed by a construction contractor or subcontractor are not covered by Davis-Bacon prevailing wage requirements while engaged in transporting materials or supplies to or from <b>(BUT NOT DIRECTLY ON)</b> the site of the work. <b>These truck drivers must be paid Davis-Bacon rates for time spent while employed "directly upon the site of the work;"</b> and while hauling between the project site and any special facilities established exclusively for the project (i.e., "dedicated facilities" under 29 CFR 5.2(1)(2)).
<b>13. Violations</b>	
	Violations of state/federal prevailing wage requirements can result in withholding of funds, termination of the contract or contractor debarment.
<b>14. Minority-Owned and Women-Owned Business Enterprise &amp; Equal Employment Opportunity</b>	
	All procurement awards in excess of \$10,000 for supplies, equipment, construction or services must demonstrate a good faith effort to hire/contract with minority and women-owned businesses; including subcontracts under 24 CFR Part 85.36 (e) (1).
	The utilization of any worker, including apprentices, trainees and journeymen shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
<b>15. Section 3 Hiring and Contracting Activity</b>	
	Section 3 is mandatory for all housing rehabilitation, housing construction, and other public construction projects that exceed \$200,000 or more of housing and community development financial assistance from one or more HUD programs. Under Section 3, Grantees, contractors, and subcontractors must actively work to employ Section 3 Workers and Targeted Section 3 Workers and direct economic opportunities to Section 3 Business Concerns.
	The prime contractor and all subcontractors must receive, read, and understand the Section 3 Compliance Manual and all of its attachments.
	Contractors and subcontractor(s) must make a good faith effort to utilize Section 3 Workers and Targeted Section 3 Workers as trainees and employees in connection with the project.
	Contractors and subcontractors(s) must make a good faith effort to award contracts to Section 3 business concerns for work in connection with the project.
	Contractors and subcontractor(s) must keep records documenting good faith efforts taken and results of these efforts.
	Contractors must complete and submit all documentation required to comply with Section 3 as stated and included in the <a href="#">Section 3 Compliance Manual</a> .
<b>17. Build America, Buy America (BABA)</b>	
	The Buy America Preference (BAP) requires that all iron, steel, manufactured products, and construction materials used in infrastructure projects funded with Federal financial assistance (FFA), as outlined in Section 70914(a) of BABA, must be produced in the United States. BAP does not apply to "pre and post disaster or emergency response expenditures" under Section 70912(4)(B).
<b>16. Changes</b>	
	All work on a CDBG project must remain in the project area identified in the grant application and the environmental review record. Grant funds are awarded based upon strict criteria according to HUD National Objectives.
	CDBG funds may only be used for activities approved in the project application and award. Changes to the project must be approved by DCS through a Request for Amendment, and include information about the reason for the request, an official change order, and meeting minutes approving the change order. The project cannot continue, and expenses cannot be paid prior to DCS approval of the Request for Amendment.
	Additional work performed by the contractor not specifically required for the approved project must be deducted from the contractor's invoice and only eligible activities will be considered when requesting CDBG funds. By not verifying the approved activities and contract amounts, CDBG funds may be used for ineligible activities. This scenario would make the project ineligible and may require repayment of the funds.