

**Supplementary
Conditions of the
Contract for Construction
Section 232**

**U.S. Department of Housing
and Urban Development**
Office of Residential
Care Facilities

OMB Approval No. 2502-0605
(exp. 03/31/2018)

1
2
3 **Public reporting** burden for this collection of information is estimated to average 0.5 hours. This includes the time for collecting,
4 reviewing, and reporting the data. The information is being collected to obtain the supportive documentation which must be
5 submitted to HUD for approval, and is necessary to ensure that viable projects are developed and maintained. The Department will
6 use this information to determine if properties meet HUD requirements with respect to development, operation and/or asset
7 management, as well as ensuring the continued marketability of the properties. This agency may not collect this information, and
8 you are not required to complete this form, unless it displays a currently valid OMB control number.

9
10 **Warning:** Any person who knowingly presents a false, fictitious, or fraudulent statement or claim in a matter within the jurisdiction of
11 the U.S. Department of Housing and Urban Development is subject to criminal penalties, civil liability, and administrative sanctions.
12

13 **Article 1: Labor Standards**
14

15 **A. Applicability.** The Project or program to which the construction work covered by
16 this Contract pertains is being assisted or insured by the United States of America, and the
17 following Federal Labor Standards Provisions are included in this Contract or related instrument
18 pursuant to the provisions applicable to such Federal assistance or insurance. Any statute or
19 regulation contained herein shall also include any subsequent amendment or successor statute or
20 regulation.
21

22 **B. Minimum Wages.** Pursuant to Section 212 of the National Housing Act, as amended,
23 12 U.S.C. 1715c, the minimum wage provisions contained in this paragraph B do not apply to
24 those projects with Security Instruments insured under Section 221(h)(1) designed for less than 9
25 families and they do not apply to those projects with Security Instruments insured under either
26 Section 220 or 233 designed for less than 12 families.
27

28 1. (i) All laborers and mechanics employed or working upon the site of the work (or
29 under the United States Housing Act of 1937 or under the Housing Act of 1949 in the
30 construction or development of the Project) shall be paid unconditionally and not less often than
31 once a week, and without subsequent deduction or rebate on any account (except such payroll
32 deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland
33 Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents
34 thereof) due at time of payment computed at rates not less than those contained in the wage
35 determination of the Secretary of Labor which is attached hereto and made a part hereof,
36 regardless of any contractual relationship which may be alleged to exist between the Contractor
37 and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona
38 fide fringe benefits under Section 1 (b)(2) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii)) on
39 behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject
40 to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for
41 more than a weekly period (but not less often than quarterly) under plans, funds, or programs,
42 which cover the particular weekly period, are deemed to be constructively made or incurred
43 during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate
44 and fringe benefits on the wage determination for the classification of work actually performed,
45 without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics

46 performing work in more than one classification may be compensated at the rate specified for
47 each classification for the time actually worked therein: *Provided*, that the employer's payroll
48 records accurately set forth the time spent in each classification in which work is performed.
49 The wage determination (including any additional classification and wage rates conformed under
50 29 CFR 5.5(a)(1)(v)) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the
51 Contractor and its subcontractors at the site of the work in a prominent and accessible place
52 where it can be easily seen by the workers.
53

54 (ii) (a) Any class of laborers or mechanics that is not listed in the wage
55 determination and that is to be employed under this Contract shall be classified in
56 conformance with the wage determination. HUD shall approve an additional classification
57 and wage rate and fringe benefits only when the following criteria have been met:
58

59 (1) The work to be performed by the classification requested is not
60 performed by a classification in the wage determination; and
61

62 (2) The classification is utilized in the area by the construction
63 industry; and
64

65 (3) The proposed wage rate, including any bona fide fringe benefits,
66 bears a reasonable relationship to the wage rates contained in the
67 wage determination.
68

69 (b) If the Contractor and the laborers and mechanics to be employed in the
70 classification (if known), or their representatives, and HUD or its designee agree on the
71 classification and wage rate (including the amount designated for fringe benefits where
72 appropriate), a report of the action taken shall be sent by HUD or its designee to the
73 Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, D.C.
74 20210 (“**Administrator**”). The Administrator, or an authorized representative, shall approve,
75 modify, or disapprove every additional classification action within thirty (30) days of receipt and
76 so advise HUD or its designee or shall notify HUD or its designee within the thirty (30) day
77 period that additional time is necessary. (Approved by the Office of Management and Budget
78 under OMB control number 1215-0140.)
79

80 (c) In the event the Contractor, the laborers or mechanics to be employed in the
81 classification or their representatives and HUD or its designee do not agree on the proposed
82 classification and wage rate (including the amount designated for fringe benefits, where
83 appropriate), HUD or its designee shall refer the questions, including the views of all interested
84 parties and the recommendation of HUD or its designee, to the Administrator for determination.
85 The Administrator, or an authorized representative, shall issue a determination within thirty (30)
86 days of receipt and so advise HUD or its designee or shall notify HUD or its designee within the
87 thirty (30) day period that additional time is necessary. (Approved by the Office of Management
88 and Budget under OMB Control Number 1215-0140.)
89

90 (d) The wage rate (including fringe benefits where appropriate) determined pursuant
91 to subparagraphs B.1.(ii)(b) or (c) of this Article, shall be paid to all workers performing work in

92 the classification under this Contract from the first day on which work is performed in the
93 classification.
94

95 (iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers
96 or mechanics includes a fringe benefit that is not expressed as an hourly rate, the Contractor shall
97 either pay the benefit as stated in the wage determination or shall pay another bona fide fringe
98 benefit or an hourly cash equivalent thereof.
99

100 (iv) If the Contractor does not make payments to a trustee or other third person, the
101 Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs
102 reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*,
103 That the Secretary of Labor has found, upon the written request of the Contractor, that the
104 applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require
105 the Contractor to set aside, in a separate account, assets for the meeting of obligations under the
106 plan or program. (Approved by the Office of Management and Budget under OMB Control
107 Number 1215-0140.)
108

109 **2. Withholding.** HUD or its designee shall upon its own action or upon written request
110 of an authorized representative of the Department of Labor withhold or cause to be withheld
111 from the Contractor under this Contract or any other Federal contract with the same prime
112 contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage
113 requirements, which is held by the same prime contractor, so much of the accrued payments or
114 advances as may be considered necessary to pay laborers and mechanics, including apprentices,
115 trainees and helpers, employed by the Contractor or any subcontractor the full amount of wages
116 required by the Contract. In the event of failure to pay any laborer or mechanic, including any
117 apprentice, trainee or helper, employed or working on the site of the work (or under the United
118 States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development
119 of the Project), all or part of the wages required by the Contract, HUD or its designee may, after
120 written notice to the Contractor, sponsor, applicant, or Owner, take such action as may be
121 necessary to cause the suspension of any further payment, advance, or guarantee of funds until
122 such violations have ceased. HUD or its designee may, after written notice to the Contractor,
123 disburse such amounts withheld for and on account of the Contractor or subcontractor to the
124 respective employees to whom they are due.
125

126 **3. Payrolls, records, and certifications.**

127 (i) Payrolls and basic records relating thereto shall be maintained by the Contractor
128 during the course of the work and preserved for a period of three years thereafter for all laborers
129 and mechanics working at the site of the work (or under the United States Housing Act of 1937,
130 or under the Housing Act of 1949, in the construction or development of the Project). Such
131 records shall contain the name, address, and social security number of each such worker, his or
132 her correct classification, hourly rates of wages paid (including rates of contributions or costs
133 anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in
134 Section 1 (b)(2)(B) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii))), daily and weekly
135 number of hours worked, deductions made and actual wages paid. Whenever the Secretary of
136 Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include
137 the amount of any costs reasonably anticipated in providing benefits under a plan or program

138 described in Section 1 (b)(2)(B) of the Davis-Bacon Act (40 U.S.C. 3141(2)(B)(ii)), the
139 Contractor shall maintain records which show that the commitment to provide such benefits is
140 enforceable, that the plan or program is financially responsible, and that the plan or program has
141 been communicated in writing to the laborers or mechanics affected, and records which show the
142 costs anticipated or the actual cost incurred in providing such benefits. Contractors employing
143 apprentices or trainees under approved programs shall maintain written evidence of the
144 registration of apprenticeship programs and certification of trainee programs, the registration of
145 the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
146 (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140
147 and 1215-0017.)
148

149 (ii)(a) The Contractor shall submit weekly for each week in which any contract work is
150 performed a copy of all payrolls to HUD or its designee if the agency is a party to the Contract,
151 but if the agency is not such a party, the Contractor shall submit the payrolls to the applicant,
152 sponsor, or Owner, as the case may be, for transmission to HUD or its designee. The payrolls
153 submitted shall set out accurately and completely all of the information required to be maintained
154 under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses
155 shall not be included on weekly transmittals. Instead the payrolls shall only need to
156 include an individually identifying number for each employee (e.g., the last four
157 digits of the employee's social security number). The required weekly payroll
158 information must be submitted electronically. The prime contractor is responsible
159 for the submission of copies of payrolls by all subcontractors. Contractors and
160 subcontractors shall maintain the full social security number and current address of
161 each covered worker, and shall provide them upon request to HUD or its designee if
162 the agency is a party to the Contract, but if the agency is not such a party, the
163 Contractor will submit the payrolls to the applicant sponsor, or Owner, as the case
164 may be, for transmission to HUD or its designee, the Contractor, or the Wage and
165 Hour Division of the Department of Labor for purposes of an investigation or audit
166 of compliance with prevailing wage requirements. It is not a violation of this
167 subparagraph for a prime contractor to require a subcontractor to provide addresses
168 and social security numbers to the prime contractor for its own records, without
169 weekly submission to HUD or its designee. (Approved by the Office of Management and
170 Budget under OMB Control Number 1215-0149.)
171

172 (b) Each payroll submitted shall be accompanied by a "Statement of Compliance,"
173 signed by the Contractor or subcontractor or his or her agent who pays or
174 supervises the payment of the persons employed under the Contract and shall
175 certify the following:
176

- 177 (1) That the payroll for the payroll period contains the information required to be
178 provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being
179 maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and
180 complete.
- 181 (2) That each laborer or mechanic (including each helper, apprentice, and trainee)
182 employed on the Contract during the payroll period has been paid the full weekly
183 wages earned, without rebate, either directly or indirectly, and that no deductions

184 have been made either directly or indirectly from the full wages earned, other than
185 permissible deductions as set forth in 29 CFR Part 3;
186

187 (3) That each laborer or mechanic has been paid not less than the applicable wage
188 rates and fringe benefits or cash equivalents for the classification of work
189 performed, as specified in the applicable wage determination incorporated into the
190 Contract.
191

192 (c) The weekly submission of a properly executed certification set forth on the
193 reverse side of Optional Form WH-347 shall satisfy the requirement for
194 submission of the "Statement of Compliance" required by subparagraph B.3.(ii)
195 (b) of this Article.
196

197 (d) The falsification of any of the above certifications may subject the Contractor or
198 subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and
199 Sections 3801 *et seq.* of Title 31 of the United States Code.
200

201 (iii) The Contractor or subcontractor shall make the records required under
202 subparagraph B.3.(i) of this Article available for inspection, copying, or transcription by
203 authorized representatives of HUD or its designee or the Department of Labor, and shall permit
204 such representatives to interview employees during working hours on the job. If the Contractor
205 or subcontractor fails to submit the required records or to make them available, HUD or its
206 designee may, after written notice to the Contractor, sponsor, applicant, or Owner, take such
207 action as may be necessary to cause the suspension of any further payment, advance, or
208 guarantee of funds. Furthermore, failure to submit the required records upon request or to make
209 such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
210

211 4. Apprentices and Trainees.

212 (i) **Apprentices.** Apprentices shall be permitted to work at less than the predetermined
213 rate for the work they performed when they are employed pursuant to and individually registered
214 in a bona fide apprenticeship program registered with the U.S. Department of Labor,
215 Employment and Training Administration, Office of Apprenticeship, or with a State
216 Apprenticeship Agency recognized by such Office, or if a person is employed in his or her first
217 ninety (90) days of probationary employment as an apprentice in such an apprenticeship
218 program, who is not individually registered in the program, but who has been certified by the
219 Office of Apprenticeship, or a State Apprenticeship Agency (where appropriate) to be eligible
220 for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen
221 on the job site in any craft classification shall not be greater than the ratio permitted to the
222 Contractor as to the entire work force under the registered program. Any worker listed on a
223 payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above,
224 shall be paid not less than the applicable wage rate on the wage determination for the
225 classification of work actually performed. In addition, any apprentice performing work on the
226 job site in excess of the ratio permitted under the registered program shall be paid not less than
227 the applicable wage rate on the wage determination for the work actually performed. Where the
228 Contractor is performing construction on a project in a locality other than that in which its
229 program is registered, the ratios and wage rates (expressed in percentages of the journeyman's

230 hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed.
231 Every apprentice must be paid at not less than the rate specified in the registered program for the
232 apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified
233 in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance
234 with the provisions of the apprenticeship program. If the apprenticeship program does not
235 specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the
236 wage determination for the applicable classification. If the Administrator determines that a
237 different practice prevails for the applicable apprentice classification, fringes shall be paid in
238 accordance with that determination. In the event the Office of Apprenticeship, or a State
239 Apprenticeship Agency recognized by such Office, withdraws approval of an apprenticeship
240 program, the Contractor shall no longer be permitted to utilize apprentices at less than the
241 applicable predetermined rate for the work performed until an acceptable program is approved.
242

243 (ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees shall not be permitted to work
244 at less than the predetermined rate for the work performed unless they are employed pursuant to
245 and individually registered in a program which has received prior approval, evidenced by formal
246 certification by the U.S. Department of Labor, Employment and Training Administration. The
247 ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan
248 approved by the Employment and Training Administration. Every trainee must be paid at not
249 less than the rate specified in the approved program for the trainee's level of progress, expressed
250 as a percentage of the journeyman's hourly rate specified in the applicable wage determination.
251 Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program.
252 If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of
253 fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour
254 Division determines that there is an apprenticeship program associated with the corresponding
255 journeyman wage rate on the wage determination which provides for less than full fringe benefits
256 for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and
257 participating in a training plan approved by the Employment and Training Administration shall
258 be paid not less than the applicable wage rate on the wage determination for the classification of
259 work actually performed. In addition, any trainee performing work on the job site in excess of
260 the ratio permitted under the registered program shall be paid not less than the applicable wage
261 rate on the wage determination for the work actually performed. In the event the Employment
262 and Training Administration withdraws approval of a training program, the Contractor shall no
263 longer be permitted to utilize trainees at less than the applicable predetermined rate for the work
264 performed until an acceptable program is approved.
265

266 (iii) **Equal employment opportunity.** The utilization of apprentices, trainees and
267 journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity
268 requirements of Executive Order 11246, as amended, and 29 CFR Part 30.
269

270 **5. Compliance with Copeland Act Requirements.** The Contractor shall comply with
271 the requirements of 29 CFR Part 3, which are incorporated by reference in this Contract.
272

273 **6. Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the
274 clauses set forth in subparagraphs 1 through 10 of this paragraph B and such other clauses as
275 HUD or its designee may by appropriate instructions require, and a copy of the applicable

276 prevailing wage determination, and also a clause requiring the subcontractors to include these
277 clauses in any lower tier subcontracts. The prime contractor shall be responsible for the
278 compliance by any subcontractor or lower tier subcontractor with all Contract clauses referenced
279 in this subparagraph.
280

281 **7. Contract termination and debarment.** A breach of the Contract clauses in 29 CFR
282 5.5 may be grounds for termination of the Contract, and for debarment as a contractor or a
283 subcontractor as provided in 29 CFR 5.12.
284

285 **8. Compliance with Davis-Bacon and Related Act Requirements.** All rulings and
286 interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are
287 herein incorporated by reference in this Contract.
288

289 **9. Disputes concerning labor standards.** Disputes arising out of the labor standards
290 provisions of this Contract shall not be subject to the general disputes clause of this Contract.
291 Such disputes shall be resolved in accordance with the procedures of the Department of Labor
292 set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes
293 between the Contractor (or any of its subcontractors) and HUD or its designee, the U.S.
294 Department of Labor, or the employees or their representatives.
295

296 **10. Certification of Eligibility.**

297 (i) By entering into this Contract, the Contractor certifies that neither it (nor he or she)
298 nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible
299 to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C.
300 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD
301 programs pursuant to 24 CFR Part 24.
302

303 (ii) No part of this Contract shall be subcontracted to any person or firm ineligible for
304 award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act (40 U.S.C.
305 3144(b)(2)) or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD
306 programs pursuant to 2 CFR Part 2424.
307

308 (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18
309 U.S.C. 1001. Additionally, U.S. Criminal Code, 18 U.S.C. 1010, "Department of Housing and
310 Urban Development and Federal Housing Administration transactions" provides in part:
311 "Whoever, for the purpose of . . . influencing in any way the action of such Department . . .
312 makes, passes, utters or publishes any statement, knowing the same to be false . . . shall be fined
313 under this title or imprisoned not more than two years, or both."
314

315 **C. Contract Work Hours and Safety Standards Act.**
316

317 **1. Applicability and Definitions.** This paragraph C of Article 1 is applicable only if a
318 direct form of federal assistance is involved, such as Section 8, Section 202/811 Capital
319 Advance, grants etc., and is applicable only where the prime contract is in an amount greater
320 than \$100,000. As used in this paragraph C, the terms "laborers" and "mechanics" include
321 watchmen and guards.

322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364

2. **Overtime requirements.** No contractor or subcontractor contracting for any part of the Contract work that may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

3. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the immediately preceding subparagraph C.2, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of such subparagraph, for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the clause set forth in such subparagraph.

4. **Withholding for unpaid wages and liquidated damages.** HUD or its designee shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract, or under any other Federal contract with the same prime contractor, or under any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph 3 of this paragraph C.

5. **Subcontracts.** The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraphs 1 through 5 of this paragraph C and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in such subparagraphs 1 through 5.

D. Certification.

For projects with Security Instruments insured under the National Housing Act, as amended, that are subject to paragraph B of this Article 1, the Contractor is required to execute the Contractor's Prevailing Wage Certificate within HUD-92448 as a condition precedent to insurance by HUD of the Loan, or an advance thereof, made or to be made by the Lender in connection with the construction of the Project.

365 **Article 2: Equal Employment Opportunity**
366

367 A. **Applicability.** This Article 2 applies to any contract for construction work, or
368 modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter
369 60, which is paid for in whole or in part with funds obtained from the Federal Government or
370 borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance,
371 or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan,
372 insurance, or guarantee.
373

374 B. The Contractor shall not discriminate against any employee or applicant for
375 employment because of race, color, religion, sex, sexual orientation, gender identity, disability,
376 or national origin. The Contractor shall take affirmative action to ensure that applicants are
377 employed, and that employees are treated during employment without regard to their race, color,
378 religion, sex, sexual orientation, gender identity, disability or national origin. Such action shall
379 include, but not be limited to the following: employment, upgrading, demotion, or transfer;
380 recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of
381 compensation; and selection for training including apprenticeship. The Contractor agrees to post
382 in conspicuous places available to employees and applicants for employment notices to be
383 provided setting forth the provisions of this nondiscrimination clause.
384

385 C. The Contractor shall, in all solicitations or advertisements for employees placed by or
386 on behalf of the Contractor state that all qualified applicants shall receive consideration for
387 employment without regard to race, color, religion, sex, sexual orientation, gender identity,
388 disability, or national origin. The contractor will not discharge or in any other manner
389 discriminate against any employee or applicant for employment because such employee or
390 applicant has inquired about, discussed, or disclosed the compensation of the employee or
391 applicant or another employee or applicant. This provision shall not apply to instances in which
392 an employee who has access to the compensation information of other employees or applicants
393 as a part of such employee's essential job functions discloses the compensation of such other
394 employees or applicants to individuals who do not otherwise have access to such information,
395 unless such disclosure is in response to a formal complaint or charge, in furtherance of an
396 investigation, proceeding, hearing, or action, including an investigation conducted by the
397 employer, or is consistent with the contractor's legal duty to furnish information.
398

399 D. The Contractor shall send to each labor union or representative of workers with which
400 it has a collective bargaining agreement or other contract or understanding a notice to be
401 provided advising the said labor union or workers representatives of the Contractor's
402 commitments hereunder, and shall post copies of the notice in conspicuous places available to
403 employees and applicants for employment.
404

405 E. The Contractor shall comply with all provisions of Executive Order 11246 of
406 September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the
407 Secretary of Labor.
408

409 F. The Contractor shall furnish all information and reports required by Executive Order
410 11246, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and

411 shall permit access to its books, records, and accounts by the Secretary of Labor for purposes of
412 investigation to ascertain compliance with such rules, regulations, and orders.
413

414 G. In the event of the Contractor's noncompliance with the nondiscrimination clauses of
415 this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled,
416 terminated, or suspended in whole or in part and Contractor may be declared ineligible for
417 further government contracts or federally assisted construction contracts in accordance with
418 procedures authorized in Executive Order 11246 and such other sanctions may be imposed and
419 remedies invoked as provided in Executive Order 11246, or by rule, regulations or order of the
420 Secretary of Labor, or as otherwise provided by law.
421

422 H. The Contractor shall include the provisions of paragraphs A through H of this Article
423 2 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the
424 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246, as amended, so that
425 such provisions shall be binding upon each subcontractor or vendor. The Contractor shall take
426 such action with respect to any subcontract or purchase order as HUD or the Secretary of Labor
427 may direct as a means of enforcing such provisions, including sanctions for noncompliance.
428 *Provided, however,* that in the event the Contractor becomes involved in, or is threatened with,
429 litigation with a subcontractor or vendor as a result of such direction by HUD or the Secretary of
430 Labor, the Contractor may request the United States to enter into such litigation to protect the
431 interests of the United States.
432

433 **Article 3: Equal Opportunity for Businesses and Lower Income Persons Located**
434 **Within the Project Area**
435

436 A. This Article 3 is applicable to projects covered by Section 3, as defined in 24 CFR
437 Part 135.
438

439 B. The work to be performed under this Contract is on a project assisted under a program
440 providing direct Federal financial assistance from HUD and is subject to the requirements of
441 Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u.
442 Section 3 requires that to the greatest extent feasible opportunities for training and employment
443 be given to low- and very low-income persons who are (1) residents of the housing
444 developments for which the assistance is expended, (2) residents of other developments managed
445 by the public or Indian housing agency that is expending the assistance, (3) participants in
446 YouthBuild programs, and (4) other low- and very low-income persons residing within the
447 metropolitan area (or nonmetropolitan county) as determined by HUD in which the Project is
448 located and contracts for work in connection with the Project be awarded to business concerns
449 that provide economic opportunities for low- and very low-income persons.
450

451 **Article 4: Health and Safety**
452

453 A. This Article 4 is applicable only where the prime contract is in an amount greater than
454 \$100,000.
455

456 B. No laborer or mechanic shall be required to work in surroundings or under working
457 conditions which are unsanitary, hazardous, or dangerous to his or her health and safety as
458 determined under construction safety and health standards promulgated by the Secretary of
459 Labor by regulation.
460

461 C. The Contractor shall comply with all regulations issued by the Secretary of Labor
462 pursuant to 29 CFR Part 1926, and failure to comply may result in imposition of sanctions
463 pursuant to the Contract Work Hours and Safety Standards Act, 40 U.S.C 3701 *et seq.*
464

465 D. The Contractor shall include the provisions of this Article 4 in every subcontract so
466 that such provisions shall be binding on each subcontractor. The Contractor shall take such
467 action with respect to any subcontract as HUD or the Secretary of Labor shall direct as a means
468 of enforcing such provisions.