

# Contractor Standards Compliance Guide

For

## MaineHousing-Financed Multi-Family Housing

May 2006



Maine State Housing Authority  
353 Water Street  
Augusta, Maine 04330-4633

**MAINE STATE HOUSING AUTHORITY  
CONTRACTOR STANDARDS COMPLIANCE GUIDE**

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# SECTION 1

## INTRODUCTION

### **General**

Maine State Housing Authority (*MaineHousing*) has adopted the Contractor Standards for MaineHousing-Financed Multi-Family Housing (*MaineHousing Contractor Standards*). In general, these standards apply to projects financed under MaineHousing multifamily programs. The contractor standards applicable to a particular project are dependent on the requirements of the specific MaineHousing financing program.

This Contractor Standards Compliance Guide (*Guide*) addresses the following four components of the MaineHousing Contractor Standards.

1. State Prevailing Wage Rates
2. Proper Classification of Employees
3. Workers' Compensation Insurance
4. Group Healthcare Coverage (as applicable under the specific MaineHousing financing program)

The developer/owner is responsible for investigating and determining which contractor standards are applicable to the project. As the project proceeds to the construction phase, the developer/owner is responsible for including the appropriate MaineHousing Contractor Standards provisions in all construction contract documents executed in connection with the project.

The contractors (including general contractors, construction managers and subcontractors) are responsible for ensuring compliance with the MaineHousing Contractor Standards throughout the duration of the project. Contractors and subcontractors are independently responsible for compliance with the MaineHousing Contractor Standards. The contractors and subcontractors will cooperate with MaineHousing, its agents and employees, in monitoring and facilitating compliance with the MaineHousing Contractor Standards during the construction of the project.

The Contractor Standards Compliance Officer (CSCO) represents MaineHousing. The primary role of the CSCO is to monitor and facilitate compliance with the MaineHousing Contractor Standards for MaineHousing. The CSCO will investigate potential violations and complaints and facilitate their resolution. The CSCO will cooperate fully with government agencies in resolving any issues concerning MaineHousing's contractor standards, either during the contract term or after construction.

### **Contractor Standards Compliance Guide**

This Guide is a reference for developer/owners, contractors, subcontractors and CSCO's in understanding, complying with and monitoring the MaineHousing Contractor Standards.

Developer/owners, contractors and subcontractors can refer to this Guide in developing and constructing projects under MaineHousing's multifamily financing programs. The CSCO will use this Guide as a basis for monitoring and facilitating compliance by contractors and subcontractors with the MaineHousing Contractor Standards.

The MaineHousing Contractor Standards are separate from the standards, programs and/or requirements of other State and Federal agencies and do not relieve contractors and subcontractors from complying with other State and Federal standards, programs and/or requirements applicable to MaineHousing-financed projects.

### **Additional MaineHousing Contractor Standards**

MaineHousing has additional contractor standards not addressed in this Guide. These standards include the following.

1. Equal Opportunity Job Listings
2. On-the-Job Training and Benefits

MaineHousing, either directly or through a contractor, performs the monitoring and facilitation of these contractor standards.

## SECTION 2

### ROLES AND RESPONSIBILITIES

#### General

The developer/owner, contractor, subcontractors and the Contractor Standards Compliance Officer (CSCO) have roles and responsibilities during the development of the project from the application phase to the completion of construction.

This section outlines the roles and responsibilities of these project personnel at various stages in the project relative to the MaineHousing Contractor Standards. Section 3 through Section 8 of this Guide describe the contractor standards and discuss the roles and responsibilities of personnel in more detail.

Section 9 of the Guide describes the requirements for projects subject to the Davis-Bacon and Related Acts (DBRA).

#### Project Development Phase

##### Developer/Owner Responsibilities

- Review the MaineHousing Contractor Standards applicable to the MaineHousing financing program under which the project is funded.
- Complete the application to the MaineHousing multifamily financing program.
- Develop contract documents for the construction of the project.
- Include the applicable MaineHousing Contractor Standards in the contract documents.
- Submit the contract documents to MaineHousing for review prior to bid.

##### Contractor Responsibilities

- Review and consider compliance with the MaineHousing Contractor Standards in bid preparation.
- Include the applicable MaineHousing Contractor Standards in all contracts and tier subcontracts.
- Prior to bid, have in place the required group healthcare coverage for the project. If appropriate, ensure that the required healthcare coverage is in place for subcontractors.

##### CSCO Responsibilities

- Obtain from MaineHousing the State prevailing wage rates for the project.
- Review the contract documents prior to bid to ensure that the appropriate MaineHousing Contractor Standards are included.

## **Construction Phase**

### Contractor Responsibilities

#### *Prevailing Wage Rates*

- Provide copies of weekly payrolls to the CSCO.
- Cooperate with the CSCO during scheduled and unscheduled site inspections and on-site interviews with workers.
- Participate in the investigation of violations and complaints relating to prevailing wage rates.

#### *Proper Classification of Employees*

- Submit to the CSCO a list of all independent contractors (IC's) working at the site and the methodology used to establish IC status. Refer to Section 5 for information and references for IC determination.
- Submit to the CSCO copies of predetermination of IC status or waivers received from agencies.
- Submit to the CSCO copies of all 1099 Forms issues for the project, as requested.
- Cooperate with the CSCO during unscheduled site inspections and on-site interviews with IC's.
- Provide the CSCO with copies of project check registers, if requested.
- Request an agency determination of IC status if recommended by the CSCO.

#### *Workers' Compensation Insurance*

- Provide the CSCO with a copy of certificate of coverage or other proof of workers' compensation insurance and contact information for the insurance carrier to the CSCO.
- Cooperate fully if referred by the CSCO to the Workers' Compensation Board for information or assistance.

#### *Group Healthcare Coverage (as applicable)*

- Provide the CSCO with a copy of certificate of coverage or other proof of group healthcare coverage and contact information for the insurance carrier. Proof is required for both the terms of the coverage and the period the coverage remains in effect.
- Provide the CSCO access to the check register or other files, as requested.
- Cooperate with the CSCO during unscheduled site visits and employee interviews.

### CSCO Responsibilities

#### *Preconstruction Conference*

- Attend the pre-construction conference and discuss the MaineHousing Contractor Standards applicable to the project. Provide the general contractor and each subcontractor in attendance with a Checklist of Contractor Standards in Appendix B. and discuss the responsibilities associated with these standards.

- Prepare and post a copy of the wage determination for the project at the site.

#### *Prevailing Wage Rates*

- Review payrolls submitted by contractors and subcontractors. (Refer to Section 4 for payroll review procedure for projects subject to State prevailing wage rates or to Section 9 for projects subject to the Davis-Bacon Act.)
- Conduct unscheduled site inspections and on-site interviews with workers. (Refer to Section 3 for site inspection and interview procedures.)
- Investigate complaints by employees for potential underpayment of wages and trade classification. (A form for investigating complaints is included in Appendix E.)
- Participate in the investigation of wage violations and complaints and facilitate resolution.

#### *Proper Classification of Employees*

- Review and evaluate independent contractor determinations by the contractor for legitimacy.
- Make periodic unscheduled site visits to observe and interview independent contractors.
- Examine available financial records to monitor and verify employee classifications.
- Attend monthly pay requisition meetings.
- If questions arise relative to employee classification, facilitate the resolution of proper classification with the appropriate agencies.

#### *Workers' Compensation Insurance*

- Verify that the contractor and subcontractors have the appropriate industrial accident insurance coverage by obtaining copies of certificates of coverage or other proof of coverage.
- Facilitate obtaining proof of coverage for contractors and subcontractors.
- Facilitate contractor or subcontractor requests for assistance with the Workers' Compensation Board.

#### *Group Healthcare Coverage*

- Determine and monitor contractor and subcontractor compliance with group healthcare coverage. (Refer to Section 7 for monitoring procedures.)



## SECTION 3

### SITE VISITS AND EMPLOYEE INTERVIEWS

#### General

In the monitoring and facilitation of the MaineHousing Contractor Standards, the Contractor Standards Compliance Officer (CSCO) will attend site meetings, conduct unscheduled on-site inspections and interview employees of the contractor and subcontractor. Site visits are required to monitor contractor standards compliance with prevailing wage rates, proper classification of employees, workers' compensation insurance and group healthcare coverage.

The CSCO will conduct site visits in a safe, polite, and expeditious manner and follow the procedures for construction site visits and employee interviews described below.

#### Construction Site Visits

##### Pre-Visit Preparation

1. Prior to arrival at the site, the CSCO should be identifiable as a representative of MaineHousing. The CSCO should be wearing an identification badge or be prepared to make known the affiliation and the purpose for the site visit.
2. The CSCO should bring a hard hat, safety shoes and safety glasses to the site.

##### Site Check-In/Check-Out

1. Upon arrival at the site, the CSCO should check in with the contractor's superintendent at the construction trailer or administrative office. The CSCO should identify self, state the purpose of the visit and give an estimate of how long the site visit will take. The CSCO should sign in on the visitor's log, if available.
2. If the contractor's superintendent is not available or is off site, the CSCO should attempt to locate the representative or person currently in charge at the site.
3. If the contractor's superintendent or representative denies access to the site for any reason, the CSCO should promptly and graciously leave the site and make a report of the event to MaineHousing.
4. The CSCO should notify the contractor's superintendent or representative when leaving the site. The CSCO should sign out on the visitor's log, if available.

##### Site Safety

1. Maintaining a safe workplace is a principal objective of contractors and subcontractors. The CSCO should strictly observe construction site safety.
2. The CSCO should not enter any area that appears unsafe.

3. The CSCO should be mindful of employee safety when conducting interviews. (For example, do not interview an employee in a trench or on a scaffold.) Conduct interviews in a safe area adjacent to the work.

## **Conducting Employee Interviews**

### Selecting Employees to Interview

1. After obtaining access to the site from the contractor's superintendent or representative, the CSCO should attempt to locate employees working in clusters such as electricians, roofers, painters, etc. working in one area.
2. The CSCO should approach workers individually and in a non-threatening and professional manner.
3. The CSCO should identify self as a representative of MaineHousing and say that the purpose of the visit is to ask some generic questions relative to wages and healthcare. The CSCO should say that only a brief period (usually around 5 minutes per interview) is required to ask questions.
4. The CSCO should not have the employees wait or stand in line for their interview. Allow employees to continue working until interviewed.
5. The selection process for the interviews should be random. In general, two or three employees from each subcontractor should be sufficient for each site visit. Include in the interviews an employee from the contractor, if possible.

### The Interview

1. The CSCO should explain to the interviewee that all information obtained in the interview is confidential and MaineHousing will use the information only to determine compliance with the MaineHousing Contractor Standards for the project.
2. The CSCO should use the Employee Interview form in Appendix A for conducting the interviews.
3. The total interview process should be approximately 30 minutes; depending on the size of the site and the number of subcontractors present.
4. If an interviewee does not know their rate of pay, the CSCO should ask for an estimate.
5. At the end of the interview, the CSCO should thank each interviewee for their time.

### Language Barriers

1. If a potential interviewee does not speak English and communication is not possible, the CSCO should try to find a coworker who can interpret.
2. If interpretative services are required, the CSCO should contact MaineHousing for assistance.
3. The CSCO should note any language barriers that prevent proper communication on the interview form.

## SECTION 4

### PREVAILING WAGE RATES

#### General

This section provides specific guidance and information relative to prevailing wage rate compliance and supplements the roles and responsibilities of project personnel previously presented in Section 2.

If the project is subject to the Davis-Bacon Act, see Section 9 of this Guide.

The MaineHousing Contractor Standards require that contractors and subcontractors pay their employees prevailing wage rates established by the Maine Department of Labor (MDOL).

Specifically, the MaineHousing Contractor Standards require the following:

*Contractors (including construction managers) and subcontractors working on MaineHousing-Financed Multi-Family Housing projects, that are not subject to 40 USC § 276(A) and associated regulations (the Davis-Bacon Act), will pay workers employed in the construction of these projects wages at least equal to the wage rates (not including the benefit rates) established annually by the Maine Department of Labor pursuant to 26 MRSA § 1304 et seq. and associated regulations (the State Minimum Wage Rates on State Construction Projects).*

MaineHousing will provide a schedule of prevailing wage rates for each construction project based on wage rates posted by the MDOL. The prevailing wage rates must be included in the contract documents. The contractors are required to classify workers and pay the fair minimum wage rates in accordance with the prevailing wage rates for the project.

MaineHousing contractor standards require the payment of prevailing wages only and not the sum of wages and benefits. The MDOL formal wage determination and enforcement procedures do not apply to MaineHousing projects.

#### **Prevailing Wage Rates for MaineHousing-Financed Multi-Family Housing Projects**

The MDOL establishes prevailing wage rates for each county and according to the type of construction project. The MDOL, Bureau of Labor Standards surveys the construction wages of all companies in Maine each year and adjusts the wage rates. Listed below are the four types of construction projects.

1. Building 1 - One or two family homes
2. Building 2 - Other than one or two family homes
3. Highway and Earthwork
4. Heavy and Bridge

MaineHousing will typically use either the Building 1 or the Building 2 category, depending on the project. In most cases, Building 2 wage rates will apply to MaineHousing-financed multifamily housing projects.

In instances where there is no predetermined wage rate for a particular trade, the wage agreed upon by the employer and the employee will apply, provided it is higher than State minimum wage.

### **Procedures for Monitoring Prevailing Wage Rates**

The CSCO will use the following procedures for monitoring contractor and subcontractor prevailing wage rates.

- As previously discussed in Section 2, the CSCO will review the bid documents prior to advertising the project for bid to ensure that the applicable prevailing wages are included in the documents.
- The CSCO will prepare a copy of the wage determination (with only the prevailing wage and not the benefits) and post a copy at the construction site. The wage determination poster is included in Appendix C.
- The CSCO will review payrolls for completeness, proper payment of wages, payment of overtime, use of proper deductions, and proper classification of employees, including any disproportionate employment of laborers, helpers, trainees and apprentices. The CSCO will check the signature on the payrolls for proper authorization. The CSCO will use the Weekly Payroll Labor Standards Compliance Review Form in Appendix D.
  - The CSCO will obtain weekly payroll reports from the general contractor and subcontractors.
  - The CSCO will compare the wage rates with the trade classifications listed and ensure that the prevailing wage rates shown are correct for the classification listed using the wage determination issued for the project. The CSCO will contact the contractor to discuss and clarify any inaccuracies or discrepancies.
  - The CSCO will facilitate any wage payment adjustments required with the contractor as a result of reviews.
- The CSCO will conduct unscheduled site inspections and on-site interviews with workers.
  - The CSCO will conduct a minimum of two site inspections per project.
  - The CSCO will conduct a minimum of three interviews per site visit with the number of interviews being about 10% of the workers present.
- The CSCO will investigate complaints by employees for potential underpayment of wages and trade misclassifications. A form for investigating complaints is included in Appendix E.
- The CSCO will participate in the investigation of violations and complaints and facilitate prompt resolution.

## **Agency Contact Information**

During the project development phase, MaineHousing will answer questions regarding the prevailing wage rates for MaineHousing-financed multifamily housing projects. During the construction phase, the CSCO will address prevailing wage rate questions and issues.

Maine State Housing Authority  
Attn: Director of Development  
353 Water Street  
Augusta, Maine 04330-4633  
Telephone (207) 626-4600; (800) 452-4668

## SECTION 5

### PROPER CLASSIFICATION OF EMPLOYEES

#### General

This section provides specific guidance and information relative to proper classification of employees and supplements the roles and responsibilities of project personnel previously presented in Section 2.

The MaineHousing Contractor Standards require contractors and subcontractors to properly classify their employees.

Specifically, the MaineHousing Contractor Standards require the following:

*Contractors (including construction managers) and subcontractors shall provide evidence to MaineHousing that they have properly classified workers employed in the construction of MaineHousing-financed multifamily housing projects as employees or independent contractors for purposes of workers' compensation insurance coverage, unemployment taxes, income tax withholding, prevailing wage rates and overtime wage rates in accordance with applicable State and Federal laws and associated regulations.*

Employers are required to withhold Federal and State income taxes from the paychecks of employees and to pay fees for Social Security, Medicare, unemployment compensation taxes and workers' compensation insurance.

An independent contractor (IC) is a person who contracts to perform services for others, but does not have the legal status of an employee. Most people who qualify as IC's have their own trade, business or profession and are in "business for themselves".

It is the responsibility of the contractor to properly classify a worker as an IC or an employee. The contractor's determination, however, is subject to review by the Internal Revenue Service (IRS), the Maine Department of Labor, the Workers' Compensation Board and other agencies having jurisdiction.

#### Classification of Employees

Under the MaineHousing Contractor Standards, MaineHousing's function is to verify and facilitate compliance with the employee classification requirements imposed by the agencies referenced above.

There is no single test used by all State and Federal governmental agencies to determine whether an employee is an IC or an employee. Because different agencies are responsible for a number of different aspects of employment law, agencies use different guidelines to decide whether a worker is an IC or an employee. Therefore, an employee could potentially be classified as an IC by one agency and an employee by another agency. For example, a contractor may have to pay unemployment compensation taxes and/or carry workers' compensation coverage even if the IRS or Maine Revenue Service (MRS) determines that its workers are IC's for income tax purposes.

The two common tests used are the so-called IRS Test and the ABC Test.

The tests and/or laws that are used by the agencies for determining whether an employee is an IC or an employee are shown on the following table. Refer to the web sites of these agencies for specific information and guidance on employee classification.

| Item  | Agency                              | Independent Contractor Test Used  |
|---|-------------------------------------|---|
|   |                                     | Web Site Reference  |
| Workers' Compensation Insurance Coverage                                | Workers' Compensation Board         | Employees and Independent Contractors are defined in<br>Maine Workers' Compensation Act of 1992   |
|   |                                     | <a href="http://janus.state.me.us/legis/statutes/39-A/title39-Asec102.html">http://janus.state.me.us/legis/statutes/39-A/title39-Asec102.html</a> |
| Unemployment Compensation Taxes   | Bureau of Unemployment Compensation | ABC Test  |
|   |                                     | <a href="http://mainegov-images.informe.org/labor/uitax/I-41.pdf">http://mainegov-images.informe.org/labor/uitax/I-41.pdf</a>                     |
| Federal Income Tax Withholding (including Social Security and Medicare) | IRS                                 | IRS Test (Publication 15-A)   |
|   |                                     | <a href="http://www.irs.gov/pub/irs-pdf/p15a.pdf">http://www.irs.gov/pub/irs-pdf/p15a.pdf</a>   |
| State Income Taxes  | Maine Revenue Service               | Refer to "Independent Contractors in Maine" in Appendix G   |
|   |                                     | <a href="http://www.state.me.us/revenue/">http://www.state.me.us/revenue/</a>   |

### Agency Contact Information

Contractors and subcontractors can also refer to the pamphlet "Independent Contractors in Maine" in Appendix G for general information relative to proper employee classification. Listed in the pamphlet are the State and Federal agencies that can answer questions about independent contractor issues.

## SECTION 6

### WORKERS' COMPENSATION INSURANCE

#### General

This section provides specific guidance and information relative to workers' compensation insurance compliance and supplements the roles and responsibilities of project personnel previously presented in Section 2.

The MaineHousing Contractor Standards require that contractors and subcontractors provide workers' compensation insurance for their employees in accordance with State law.

Specifically, the contractor standards require the following:

*Contractors (including construction managers) and subcontractors shall provide evidence to MaineHousing that they maintain appropriate industrial accident insurance coverage for all workers employed in the construction of multi-family housing projects in accordance with 39-A M.R.S.A. § 101 et seq.*

Industrial accident insurance is required for all employers by the Maine Workers' Compensation Board. MaineHousing intends to monitor and facilitate compliance with existing statutes.

#### Agency Contact Information

State of Maine  
Workers' Compensation Board  
27 State House Station  
Augusta, Maine 04333-0027  
Telephone (207) 287-7066



## SECTION 7

### GROUP HEALTHCARE COVERAGE

#### General

Certain financing programs offered by MaineHousing may require developers/owners of multi-family housing to select contractors that provide eligible group health insurance coverage to their employees. Other MaineHousing financing programs may give a preference to developers/owners of multi-family housing by awarding points in the selection process to developers who pledge to use contractors that provide eligible group health insurance coverage to their employees.

Contractors include general contractors, construction managers, subcontractors and materials suppliers.

An eligible group health insurance plan is a plan that either (a) provides coverage for employees and the contractor pays at least 60% of the premium for employee coverage or, in the alternative, (b) provides family coverage for employees and the contractor pays at least 50% of the premium for employee coverage plus some portion of the premium for the family coverage. The eligible group health insurance plan must be in place at the time the contractors bid on the multi-family housing project and must be maintained during the construction of the project.

If less than 100% of the contractors are required to provide eligible group health insurance coverage, applicants can satisfy the applicable percentage required or pledged based on the percentage of contractors that provide coverage or based on the percentage of the total construction costs paid to contractors that provide coverage. Total construction costs for these purposes are determined at the time the owner of the multi-family housing enters into a construction contract with the general contractor (or construction manager) for the construction of the multi-family housing project.

#### Compliance by Applicants

Applicants to MaineHousing's financing programs should review and understand the requirements or selection criteria, as applicable, of the particular program to which they are applying at the time they submit the application. If contractor group health insurance coverage is a requirement, the applicant will certify compliance with the requirement by signing the application. If an applicant pledges to use contractors who provide health insurance coverage under a selection criterion in a competitive program, the applicant will be awarded points at the time of scoring of the application. MaineHousing will require the applicant to explain how the applicant expects to satisfy the requirement or the pledge.

The health insurance requirement or the pledge by the applicant in a competitive application shall be included in the bid package that is sent to all contractors bidding on the project. MaineHousing will determine whether the applicant satisfies the requirement or the pledge at the time the applicant receives the construction bids and is selecting a contractor. MaineHousing will compare the health insurance coverage represented in the bids selected by the applicant to the amount of health insurance coverage required under the program or pledged by the applicant in its competitive application. If the applicant

fails to satisfy the requirement or fulfill its pledge, MaineHousing will determine, in its sole discretion, whether the applicant made a good faith effort to satisfy the requirement or fulfill its pledge.

If MaineHousing determines that the applicant made a good faith effort to satisfy the requirement or fulfill its pledge, MaineHousing will not deem the application withdrawn or re-score the application. Notwithstanding the foregoing, selected contractors that indicate that they will provide an eligible group health insurance plan for their employees at the time of bid selection will be required to maintain the eligible group health insurance plan during the construction of the multi-family housing project.

If MaineHousing determines, in its sole discretion, that the applicant did not make a good faith effort to satisfy the requirement or fulfill its pledge, MaineHousing will give the applicant an opportunity to comply. The consequences for failure to comply will differ based on whether contractor group health insurance coverage is a requirement or a selection criterion.

If contractor group health insurance coverage is a program requirement, MaineHousing will not deem the application withdrawn or declare the applicant in default, but will make a formal determination of noncompliance and keep a record of the violation and failure to comply. The applicant's failure to comply may affect the applicant's future availability for other MaineHousing programs. After three formal determinations of noncompliance by the applicant (which includes any affiliate, related entity or principal of the applicant) within any given time period, MaineHousing may notify the applicant that the applicant is suspended for one year from participating in any of MaineHousing's programs. The applicant will have an opportunity to request an administrative hearing to challenge the suspension.

If the applicant fails to fulfill a pledge made in its application to a competitive program, MaineHousing will not deem the application withdrawn, but will re-score the application. If upon re-scoring, the application does not score high enough to maintain its award of funding, the application will be added to the waiting list according to its new score relative to the score of other applications, and the next project on the waiting list will be awarded the funding that was originally awarded to the applicant.

### **Compliance by Contractors**

The contractors selected by the applicant (which includes the owner of the multi-family housing project if the owner is different from the applicant to the program) that indicate they provide an eligible group health insurance plan for their employees at the time of bid selection will be required to maintain the eligible group health insurance plan during the construction of the project. Applicants and general contractors (or construction managers) will not be responsible for compliance by subcontractors. General contractors (and construction managers) will be responsible for their own compliance. Noncompliance by a contractor (including construction managers and subcontractors) will result in MaineHousing notifying the contractor of the violation and giving the contractor an opportunity to cure the violation. If the contractor fails to cure the violation, then MaineHousing will make a formal determination of noncompliance and keep a record of the violation and failure to comply. After three formal determinations of noncompliance by a contractor within any given time period, MaineHousing may notify the contractor that the contractor is suspended for one year from participating in any of MaineHousing's programs. The contractor will have an opportunity to request an administrative hearing to challenge the suspension.

## **CSCO Monitoring Procedures**

- The CSCO will evaluate compliance with MaineHousing healthcare coverage requirements using the Group Healthcare Coverage Evaluation form in Appendix H.
- The CSCO will obtain from contractor and subcontractors information on their qualifying group health coverage. Proof of both terms of coverage and that the coverage remains in effect for the required period is required. Options for proof of insurance may include the following:
  - A copy of the most recent IRS Schedule A (5500).
  - A copy of a monthly premium bill at both the beginning and end of the contract term(s.)
  - Cancelled checks to the insurance carrier or copies of the check register.
  - A copy of a current certificate of insurance and contact information for the insurance carrier.
  - An affidavit with information on the terms of the coverage and that the coverage will remain in effect throughout the construction period.
- When conducting employee interviews, the CSCO will ask employees about the healthcare coverage offered by the contractor or subcontractor.
- The CSCO will prepare a summary report of the healthcare coverage and submit to MaineHousing early in the construction period.
- The CSCO will facilitate the correction of healthcare coverage noncompliance.

## **Agency Contact Information**

Maine State Housing Authority  
Attn: Director of Development  
353 Water Street  
Augusta, Maine 04330-4633  
Telephone: (207) 626-4600; (800) 452-4668

## SECTION 8

### CONTRACTOR STANDARDS COMPLIANCE FILE

#### General

The CSCO will maintain a Contractor Standards Compliance File for the duration of the project. The file will include the following items.

- a) Signed copies of all contracts
- b) Name and contact information for prime contractor and all subcontractors
- c) Applicable performance and payment bonds
- d) Contractors proof of insurance
- e) Pre-construction conference and attendance list
- f) Weekly payrolls
- g) Copy of wage determination
- h) Notice(s) of start of construction
- i) On-site inspection reports
- j) Employee interviews
- k) Copies of payroll checks issued for wage restitution
- l) Other relevant material relative to the contractor compliance standards

#### Compliance File Format

The format for the Compliance File is subject to the review and approval of MaineHousing. Presented below is a proposed file format.

Section 1 - Project Contacts and General Correspondence-----  
Section 2 - Contract Information -----  
Section 3 - Project Meetings -----  
Section 4 - Weekly Payrolls and Compliance Reviews-----  
Section 5 - Employee Interviews-----  
Section 6 - Independent Contractor Questionnaires and Issues -----  
Section 7 - Group Healthcare Coverage Issues -----  
Section 8 - Other Records and Issues -----

The Compliance File will be developed in electronic format to the extent practical.

## **Compliance Report and File Submittal**

Within 30 days of the completion of construction, the CSCO will submit to MaineHousing a final report certifying compliance by all contractors and subcontractors with the contractor standards. The report will summarize the issues and their resolution. The CSCO will also submit to MaineHousing all associated files, records and supporting documentation necessary to demonstrate compliance with contractor standards.

## SECTION 9

### DAVIS-BACON AND RELATED ACTS (DBRA)

#### General

This section provides specific guidance and information relative to projects that are subject to Davis-Bacon and Related Acts (DBRA) and supplements the roles and responsibilities of project personnel previously presented in Section 2.

If the project is subject to State wage rates, see Section 4 for guidance.

#### The Davis-Bacon Act

The Davis-Bacon Act is a Federal law that requires prevailing wages and fringe benefits be paid to all laborers and mechanics employed under direct federal contracts and certain other federally-assisted construction and renovation projects.

Workers on these federally-assisted projects are compensated based on a wage determination. A wage determination is the listing of wages and fringe benefits for each classification of laborers and mechanics, which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in a given area for a particular type of construction.

Most projects subject to the Davis-Bacon Act are also required to comply with the Contract Work Hours and Safety Standards Act and the Copeland Anti-Kickback Act. The requirements of these acts are specified under the Federal Labor Standards Provisions.

#### Davis-Bacon Act Responsibilities

##### Developer/Owner Responsibilities

- Apply for a wage determination from MaineHousing prior to bidding the project. Submit request for additional worker classifications to MaineHousing as necessary if desired worker classifications are not included in the wage determination issued.
- Include in the bid documents the wage determination and the Federal Labor Standards Provisions.
- Include in the bid documents other information required by MaineHousing relating to the DBRA.

##### Contractor Responsibilities

- Comply with the Federal Labor Standards Provisions.
- Post the Notice to All Employees in Appendix I and the applicable wage determination at the job site.

- Submit weekly payrolls along with the Statement of Compliance to the CSCO and correct any violations. A non-mandatory payroll form (with instructions) can be found on the U.S. Department of Labor website at <http://www.dol.gov/esa/forms/whd/wh347instr.htm>.
- Cooperate with MaineHousing, the Department of Housing and Urban Development and the United States Department of Labor in any potential Labor Standards investigation.

#### CSCO Responsibilities

- Review the bid documents prior to advertising the project for bid to ensure that the applicable wage determination and Federal Labor Standards Provisions are included in the documents.
- Assure that the contractor properly posts at the job site the Notice to All Employees and the applicable wage determination. The Notice to All Employees is included in Appendix I.
- Review weekly payrolls against the applicable wage determination for completeness, proper payment of wages and fringe benefits, payment of overtime, inclusion of only listed classifications, use of proper deductions and any disproportionate employment of laborers, helpers, trainees and apprentices. Check the signature on the Statement of Compliance for proper authorization.
- Assure that all underpayments are corrected and full restitution is made to affected employees.
- Conduct unscheduled site inspections and on-site interviews with workers for assessing Federal Labor Standards Provisions compliance.
- Investigate complaints by employees for potential underpayment of wages/benefits and trade misclassifications. A form for investigating complaints is included in Appendix E.
- Cooperate with MaineHousing and/or Department of Housing and Urban Development as well as the United States Department of Labor in any potential labor standards investigation.
- Assure compliance by contractors and subcontractors regarding the use of apprentices and trainees.
- Assure that all contractors comply with the Federal Labor Standards Provisions.
- Include in the Contractor Standards Compliance File a copy of the applicable wage determination, a record of volunteer labor, a record of summer youth or apprentices on the project and documentation relative to the Federal Labor Standards Provisions compliance.

#### **Agency Contact Information**

U.S. Department of Labor  
 Wage and Hour Division  
 The Curtis Center, Suite 850 West  
 170 South Independence Mall West  
 Philadelphia, PA 19106-3317  
 Telephone: (215) 861-5830

Maine State Housing Authority  
 Attn: Director of Development  
 353 Water Street  
 Augusta, Maine 04330-4633  
 Telephone: (207) 626-4600; (800) 452-4668

## SECTION 10

### MAINEHOUSING'S NON-DISCRIMINATION POLICY

MaineHousing does not discriminate on the basis of race, color, religion, sex, sexual orientation, national origin, ancestry, age, physical or mental disability, or familial status in the admission or access to, or treatment or employment in, its programs, and activities. MaineHousing will provide appropriate communication auxiliary aids and services to persons with disabilities upon sufficient notice. MaineHousing will also provide this document in alternative formats upon sufficient notice. MaineHousing has designated the following person responsible for coordinating compliance with applicable federal and state nondiscrimination requirements and addressing grievances: Jodie Stevens, Maine State Housing Authority, 353 Water Street, Augusta, Maine 04330-4633, Telephone Number (207) 626-4600 or 1-800-452-4668 (voice), or 1-800-452-4603 (TTY).



**APPENDIX A**  
**EMPLOYEE INTERVIEW FORM**



353 Water Street  
Augusta, Maine 04330-4633

### EMPLOYEE INTERVIEW

MaineHousing-Financed Multi-Family Housing Projects

### CONFIDENTIAL

*This document contains personal information and it will be kept confidential in order to protect against unauthorized disclosure.*

|   |   |  |   |  |  |
|---|---|--|---|--|--|
| 1a. Project Name  |   |  | 2a. Employee Name                         |  |  |
| 1b. Project Number  |   |  | 2b. Employee Phone Number                 |  |  |
| 1c. Contractor or Subcontractor (Employer)  |   |  | 2c. Employee Home Address                 |  |  |
| 3a. How long on this job?   | 3b. Last date on this job before today? | 3c. No. of hours last day on job?  | 4a. Hourly rate of pay?                   | 4c. Do you have a pay stub?<br>Yes <input type="checkbox"/> No <input type="checkbox"/>                |  |
|   |   |  | 4b. Overtime rate of pay?                 |  |  |
| 5. What is your job classification?   |   |  |   |  |  |
| 6. What are your duties?  |   |  |   |  |  |
| 7a. What tools do you use?  |   |  | 7b. Are these tools provided by employer? |  |  |
| 8a. Are you enrolled in company healthcare program?<br>Yes <input type="checkbox"/> No <input type="checkbox"/> |   | 8b. Has healthcare program been offered?<br>Yes <input type="checkbox"/> No <input type="checkbox"/> |   | 8c. Has healthcare program been explained?<br>Yes <input type="checkbox"/> No <input type="checkbox"/> |  |
| 9a. Employee Signature  |   |  | 9b. Date                                  |  |  |
| 10. Duties Observed by the Interviewer  |   |  |   |  |  |
| 11. Interviewer Remarks   |   |  |   |  |  |
| 12a. Interviewer Name (print)   |   | 12b. Interviewer Signature   |   | 12c. Date of Interview   |  |

## INSTRUCTIONS FOR EMPLOYEE INTERVIEW FORM FOR MAINEHOUSING-FINANCED MULTI-FAMILY HOUSING PROJECTS

### General

This form shall be used by the MaineHousing representative for recording information gathered during on-site interview with workers employed on projects subject to State prevailing wage rates and/or MaineHousing healthcare requirements. Typically, the persons that will conduct on-site interviews and use this form are the Contractor Standards Compliance Officers (CSCO's) and/or staff from the Maine State Housing Authority (MaineHousing).

The information recorded on this form will be used to evaluate compliance with contractor standards.

The interview and the information collected are considered confidential. Interviews shall be conducted individually and privately. The employee's participation in the interview process is voluntary. The interviews shall be conducted in a manner and place that are safe and conducive to the purposes of the interview and cause the least inconvenience to the employer and the employees.

### Completing the Form

- a) Items 1a to 1c. Self-explanatory.
- b) Items 2a to 2c. Enter the employee's full name, a telephone number where the employee can be reached and the employee's home address. If the employee has a temporary construction address, try to obtain a more permanent address, if possible.
- c) Items 3a to 4c. Enter the employee's responses. Ask the employee whether they have a pay stub with them. If so, determine whether the pay stub is consistent with the information provided by the employee.
- d) Item 5. Try to obtain specific information relative to job classification.
- e) Items 6 to 7b. Information obtained about duties performed and tools used should be specific. It may be helpful to observe work at the site prior to interviewing. If observations indicate that there may be violations, the interview should be more detailed and a greater number of workers in the suspected class should be interviewed.
- f) Items 8a to 8c. These questions are asked to determine if the employee has knowledge of the healthcare program and if the program has been explained and offered to the employee.
- g) Items 9a to 9b. Self-explanatory.
- h) Items 10 to 11. Any discrepancies between the classification and wages noted on this form and that on the payrolls should be noted in Item 11.
- i) Items 12a to 12c. Self-explanatory.

**APPENDIX B**

**PRE-CONSTRUCTION CONFERENCE FORMS**  
**(for projects subject to State prevailing wage rates)**



353 Water Street  
Augusta, Maine 04330-4633

**PRECONSTRUCTION CONFERENCE**  
**(for projects subject to State prevailing wage rates)**

MaineHousing-Financed Multi-Family Housing Projects

PRE-CONSTRUCTION CONFERENCE MINUTES

(Attendance List Attached)

Date: \_\_\_\_\_

MaineHousing Project Number: \_\_\_\_\_

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

Developer: \_\_\_\_\_

Amount of Contract: \_\_\_\_\_

Conducted By (CSCO): \_\_\_\_\_

General Contractor: \_\_\_\_\_

Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

FAX: \_\_\_\_\_

Email: \_\_\_\_\_

PREVAILING WAGE RATES

- Contractors/Subcontractors must pay employees prevailing wage rates established by the Maine Department of Labor
- Posting of Wage Rates at Job Site by CSCO
- Weekly payrolls to be submitted to CSCO for review
- CSCO to make periodic unscheduled visits to site for inspections and employee interviews
- Employee interview process explained
- CSCO will investigate wage related complaints and facilitate restitution

### PROPER CLASSIFICATION OF EMPLOYEES

- Proper classification of workers as employees or independent contractors (IC's) is required
- List of IC's on site to be submitted to CSCO
- Copies of predeterminations of IC status to be submitted to CSCO
- Other IC documentation from contractor or subcontractors may be requested by CSCO
- CSCO to make periodic unscheduled visits to site for inspections and employee interviews
- CSCO to facilitate agency contact for IC questions

### WORKERS' COMPENSATION INSURANCE

- Contractor and subcontractors will maintain appropriate industrial accident insurance coverage and provide documentation of coverage
- CSCO to facilitate coordination with Workers' Compensation Board

### HEALTHCARE COVERAGE

- Discuss MaineHousing's healthcare coverage requirements for the project
- Discuss documentation required to be submitted to CSCO from contractor and subcontractors
- Discuss the role of the CSCO in assessing healthcare coverage compliance

Prepared By: \_\_\_\_\_

Title: Contract Standards Compliance Officer (CSCO)

Date: \_\_\_\_\_

PRE-CONSTRUCTION CONFERENCE ATTENDANCE LIST

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

Date of Conference: \_\_\_\_\_

| ATTENDEE | AFFILIATION | CONTACT INFORMATION                               |
|----------|-------------|---|
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>Email:  |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |

**APPENDIX C**  
**WAGE DETERMINATION POSTER**  
**(for projects subject to State prevailing wage rates)**





**MaineHousing**  
Maine State Housing Authority

## NOTICE TO ALL EMPLOYEES

Title of Project: \_\_\_\_\_

Location of Project: \_\_\_\_\_

State prevailing wage rates apply to this project. The minimum wage rates established for this project are listed below. Workers are entitled to these wages.

Any suspected violations in wage rates can be reported to the following MaineHousing Contractor Standards Compliance Officer (CSCO):

Name of (CSCO): \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

E-mail: \_\_\_\_\_

(Sample)

**2005 Fair Minimum Wage Rates**  
**Building 2 Cumberland County**  
**(other than 1 or 2 family homes)**

| <u>Occupation Title</u>      | <u>Minimum Wage</u> | <u>Occupation Title</u>        | <u>Minimum Wage</u> |
|------------------------------|---------------------|--------------------------------|---------------------|
| Asbestos Abatement Wrkr      | \$14.00             | Loader Operator - Front End    | \$14.00             |
| Assembler - Metal Bldg       | \$11.75             | Mechanic - Maintenance         | \$17.63             |
| Backhoe Loader Operator      | \$14.00             | Mechanic - Refrigeration       | \$17.96             |
| Boilermaker                  | \$19.00             | Millwright                     | \$20.50             |
| Boom Truck Operator          | \$15.63             | Oil/Fuel Burner Serv & Instr   | \$19.00             |
| Bricklayer                   | \$21.50             | Painter                        | \$13.00             |
| Bulldozer Operator           | \$15.25             | Paperhanger                    | \$11.75             |
| Carpenter                    | \$17.00             | Paver - Bituminous             | \$14.38             |
| Carpenter - Rough            | \$12.00             | Pipe/Stm/Sprkler Fitter        | \$19.00             |
| Cement Mason/Finisher        | \$14.50             | Plumber (Licensed)             | \$19.00             |
| Concrete Pump Operator       | \$16.50             | Plumber Trainee                | \$14.58             |
| Crane Operator =>15 Tons     | \$15.20             | Reclaimer Operator             | \$16.51             |
| Dry-Wall Applicator          | \$19.00             | Rigger                         | \$16.00             |
| Dry-Wall Taper & Finisher    | \$19.50             | Roofer                         | \$13.85             |
| Electrician                  | \$20.00             | Sheet Metal Worker             | \$16.48             |
| Electrician Hlpr (Licensed)  | \$13.00             | Sider                          | \$12.00             |
| Elevator Constrctr/Installer | \$31.52             | Stone Mason                    | \$15.16             |
| Excavator Operator           | \$15.50             | Tile Setter                    | \$19.25             |
| Floor Layer                  | \$14.00             | Transfer Machine Operator      | \$16.50             |
| Glazier                      | \$14.00             | Truck Driver - Light           | \$11.70             |
| Insulation Installer         | \$14.25             | Truck Driver - Medium          | \$12.28             |
| Ironworker - Reinforcing     | \$17.25             | Truck Driver - Heavy           | \$10.50             |
| Ironworker - Structural      | \$16.75             | Truck Driver - Tractor Trailer | \$12.38             |
| Laborers/Helper/Tender       | \$11.03             | Truck Driver - Mixer (Cement)  | \$11.05             |
| Laborer - Skilled            | \$13.25             |                                |                     |

If there is no wage rate listed for a particular trade, the wage agreed upon by the employer and the employee will apply, provided it is higher than the State minimum wage.

**APPENDIX D**

**WEEKLY PAYROLL LABOR STANDARDS COMPLIANCE REVIEW FORM**  
**(for projects subject to State prevailing wage rates)**





**APPENDIX E**  
**EMPLOYEE COMPLAINT FORM**



**MaineHousing**  
Maine State Housing Authority

353 Water Street  
Augusta, Maine 04330-4633

**EMPLOYEE COMPLAINT  
FORM**

MaineHousing-Financed Multi-  
Family Housing Projects

*Please print clearly and return the completed form (Parts 1, 2 and 3) to MaineHousing at the address shown on the left. The information provided on this form is confidential.*

**PART 1 - EMPLOYEE DATA**

|                                 |                     |                       |
|---------------------------------|---------------------|-----------------------|
| 1a. Your Name                   | 1b. Street Address  | 1c. Phone Number      |
| 1d. Your Social Security Number |                     |                       |
| 1e. Job Title (Classification)  | 1f. Hourly Pay Rate | 1g. Overtime Pay Rate |

**PART 2 - EMPLOYER DATA**

|                  |                              |                        |
|------------------|------------------------------|------------------------|
| 2a. Company Name | 2b. Project Name or Location | 2c. Name of Supervisor |
|------------------|------------------------------|------------------------|

**PART 3 - COMPLAINT**

3. Dates you earned the pay claimed From \_\_\_\_\_ To \_\_\_\_\_

4. Start date of employment: \_\_\_\_\_ 5. Last day worked: \_\_\_\_\_

6. Employment status     Quit                       Discharged                       Still employed

7. Are you filing this claim because the employer did not pay the minimum wage and/or time and one-half for overtime hours?                      Yes                       No

8. Describe the Complaint (Attach additional information or documentation which supports the complaint)

9. Employee Certification

The above information is true and correct to the best of my knowledge

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

**PART 4 - COMPLAINT RESOLUTION**

10. Claim Number

11. Reviewer

12. Date

13. Amount, Nature and Dates of Claim

14. Action/Resolution



**APPENDIX F**  
**INDEPENDENT CONTRACTOR QUESTIONNAIRE**



353 Water Street  
 Augusta, Maine 04330-4633

**INDEPENDENT  
 CONTRACTOR  
 QUESTIONNAIRE**

MaineHousing-Financed  
 Multi-Family Housing Projects

**CONFIDENTIAL**

*This document contains personal information and it will be kept confidential in order to protect against unauthorized disclosure.*

|  |  |                   |
|--|--|-------------------|
| 1a. Business Name  | 1d. Project Name   |                   |
| 1b. Business Address   | 1e. Do you have an Independent contractor agreement for this project? <input type="checkbox"/> Yes <input type="checkbox"/> No |                   |
| 1c. Legal Form of Business<br><br><input type="checkbox"/> Corporation <input type="checkbox"/> Partnership<br><br><input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> Limited Liability Company | 1f. Business Phone   |                   |
|  | 1g. Employer Identification Number (EIN)   |                   |
|  | 1h. Social Security Number (SSN)   |                   |
| 2. List the following information for companies you have performed services as an IC over the past two years.  |  |                   |
| Name   | Address  | Dates of Services |
| 2a.  |  |                   |
| 2b.  |  |                   |
| 2c.  |  |                   |
| 2d.  |  |                   |
| 2e.  |  |                   |
| 3. Have you ever hired employees? <input type="checkbox"/> Yes <input type="checkbox"/> No   |  |                   |
| 4. Have you paid federal and state payroll taxes for your employees? <input type="checkbox"/> Yes <input type="checkbox"/> No  |  |                   |
| 5. Do you hold a professional or business license? <input type="checkbox"/> Yes <input type="checkbox"/> No  |  |                   |
| Describe:  |  |                   |
| 6. Have you paid federal and state payroll taxes for your employees? <input type="checkbox"/> Yes <input type="checkbox"/> No  |  |                   |

7. Do you advertise or market your services?

Yes

No

Describe:

8. Describe the equipment and facilities that you own.

9. Describe the tools and materials that you will use on this project.

10a. Interviewer Name (print)

10b. Interviewer Signature

10c. Date of Interview

**APPENDIX G**  
**INDEPENDENT CONTRACTORS IN MAINE**

The following agencies can answer questions about independent contractor issues.

**Maine Department of Labor**  
P.O. Box 259  
Augusta, ME 04332-0259  
Tel: (207) 624-6400, Fax: (207) 624-6449  
TTY: (800) 794-1110  
e-mail: [webmaster\\_bls@state.me.us](mailto:webmaster_bls@state.me.us)  
web site: <http://www.state.me.us/labor/>

**Maine Workers' Compensation Board**  
Coverage Division  
27 State House Station  
Augusta, ME 04333-0027  
Tel: (207) 287-7066, Fax: (207) 287-7198  
TTY: (207) 287-6119  
e-mail: [Brad.Howard@state.me.us](mailto:Brad.Howard@state.me.us)  
web site: <http://www.state.me.us/wcb.htm>

**Maine Revenue Service**  
Income/Estate Tax Division  
24 State House Station  
Augusta, ME 04333  
Tel: (207) 626-8475, Fax: (207) 624-9694  
TTY: (207) 287-4477  
e-mail: [withholding\\_tax@state.me.us](mailto:withholding_tax@state.me.us)  
web site: <http://www.state.me.us/revenue>

**U.S. Department of Labor**  
Wage and Hour Division  
P.O. Box 554  
Portland, ME 04112-0554  
Tel: (207) 780-3344 or (207) 945-0330  
Fax: (207) 780-3787  
e-mail: [mcoll@phi.dol-esa.gov](mailto:mcoll@phi.dol-esa.gov)  
web site: <http://www.dol.gov>

**U.S. Internal Revenue Service**  
SS-8 Unit  
SS-8 Coordinator/Site Manager  
40 Lakemont Road  
Newport, VT 05855  
Tel: (802) 334-0252  
Fax: (802) 334-5607  
e-mail: [Gail.Lontine@irs.gov](mailto:Gail.Lontine@irs.gov)

*Disclaimer: This brochure provides brief information and is not a substitute for laws or formal interpretations, which can be obtained from the agencies listed.*

# Independent Contractors in Maine

## Independent Contractor or Employee: Why Does it Matter?

Being classified as an employee or independent contractor affects the taxes you pay and how you pay them. It affects eligibility for unemployment and workers' compensation, Medicare and other benefits and protections. Employers must classify workers either as independent contractors or employees.

## What is an Independent Contractor?

In determining independent contractor status, all government agencies consider the amount of direction and control the business has on the worker. In general, if the business supplies training or equipment or tells the workers when and how to do the job, the workers are probably employees. Independent contractors usually use their own tools and work on their own schedule.

That said, there is no single rule or test used by all government agencies. Because they are responsible for a number of different aspects of employment law, agencies use different guidelines to decide whether a worker is an independent contractor or an employee. For example, Internal Revenue Service (IRS) and Maine Revenue Service (MRS) refer to "common law rules." Unemployment Compensation uses the "ABC" test and Workers' Compensation considers other factors. Because agencies have different ways of determining independent contractor status, a business may have to pay unemployment tax and/or carry workers' compensation coverage even if IRS or MRS determines that its workers are independent contractors for income tax purposes.

The guidelines of each agency are too detailed for one brochure. However, it is important to understand how the different laws may affect you. Employers should ask each agency if they consider workers to be employees or independent contractors before the contracted work begins.

### If you work as an independent contractor, you:

- Pay your own taxes.
- May not be entitled to unemployment or workers' compensation.
- May not be protected by wage payment and recordkeeping laws, such as minimum wage and overtime.
- Direct and control your work and the work of your employees.

### If your business uses independent contractors, you

- Do not withhold taxes or Medicare insurance.
- May have to carry workers' compensation insurance.
- May have to pay unemployment taxes.
- Must ensure that foreign workers are legal and documented.
- Should consult each of the governmental agencies listed in this brochure to find out if they consider your workers to be independent contractors.
- May be liable for back taxes and wages and/or penalties if you misclassify employees as independent contractors.

## Here are typical questions about independent contractor status:

**1. How can I find out how and when I have to pay taxes?**

*Contact the Internal Revenue Service (IRS), Maine Revenue Service (MRS), and Maine Department of Labor Bureau of Unemployment Compensation (contact information listed on front page).*

**2. What kind of wage statement should employees get or businesses provide?**

*Employees receive a W-2 wage statement. Independent contractors receive a 1099-nonwage payment statement. If you're not sure which you should get (or provide), contact the IRS.*

**3. Should businesses have written contracts with independent contractors?**

*Written contracts can show the intent of both parties before the beginning of their working relationship. They may be useful in determining independent contractor status. The Workers' Compensation Board requires a written contract to apply for determination of independent contractor status.*

**4. Can General Contractors put people to work without putting them on the payroll?**

*If IRS determines the workers are independent contractors, they do not have to be on the payroll for income tax purposes. However, even if IRS determines the workers are independent contractors, another agency may consider them employees. So employers may have to buy workers' compensation insurance and pay unemployment tax. To avoid paying back taxes and penalties, businesses should contact each agency before workers start a job.*

**5. How can businesses employ temporary workers from other countries when they are unable to find sufficient U.S. workers?**

*The Alien Labor Certification program of the Maine Department of Labor provides assistance in the hiring of temporary foreign workers.*

**6. How can employers learn if they need to purchase workers' compensation insurance?**

*Contact the Workers' Compensation Board.*

**7. Do woodlot owners need to purchase workers' compensation insurance for workers who are harvesting trees?**

*A woodlot owner who gets a "Conclusive Predetermination" from the Workers' Compensation Board or contracts with a wood harvester who has an approved Certificate of Independent Status does not have to carry workers' compensation insurance for that harvester.*

**8. How do harvesters obtain proof of independent contractor status?**

*Apply to the Workers' Compensation Board for a Certificate of Independent Status to confirm independent contractor status.*

**9. What agency investigates wage or overtime issues for employees?**

*The Maine Department of Labor and the U.S. Department of Labor Wage and Hour Division investigate complaints.*

**10. What protection do independent contractors have if injured on the job?**

*Contact the Workers' Compensation Board to learn about rights.*

**11. Can independent contractors get unemployment compensation?**

*The Maine Department of Labor, Bureau of Unemployment Compensation will determine coverage.*

*If you don't know all the responsibilities of being—or contracting with—an independent contractor, find out now so you can make the right decisions and avoid legal and financial problems down the road.*

**APPENDIX H**  
**GROUP HEALTHCARE COVERAGE EVALUATION FORM**



**MaineHousing**  
Maine State Housing Authority

353 Water Street  
Augusta, Maine 04330-4633

**GROUP HEALTHCARE COVERAGE EVALUATION**

MaineHousing-Financed Multi-Family Housing Projects

|                 |                            |  |
|-----------------|----------------------------|--|
| 1. Project Name | 2. Total Construction Cost | 3. MaineHousing Program<br><input type="checkbox"/> Walk-in <input type="checkbox"/> QAP<br><input type="checkbox"/> Other _____ |
|-----------------|----------------------------|--|

|  |  |
|--|--|
| 4. Coverage Level<br><br><input type="checkbox"/> 70% <input type="checkbox"/> 80% <input type="checkbox"/> 90% <input type="checkbox"/> 100%<br><br><input type="checkbox"/> Other Describe _____ | 5. Coverage Goals<br><br>____% of Total Construction Cost or<br>____% of All Contractors |
|--|--|

| Contractor | Construction Cost (\$) | In Program |    | Eligible Construction Cost (\$) |
|------------|------------------------|------------|----|---------------------------------|
|            |                        | Yes        | No |                                 |
|            |                        |            |    |                                 |
|            |                        |            |    |                                 |
|            |                        |            |    |                                 |
|            |                        |            |    |                                 |
|            |                        |            |    |                                 |
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|            |                        |            |    |                                 |
|            |                        |            |    |                                 |
|            |                        |            |    |                                 |
|            |                        |            |    |                                 |
| Totals     |                        |            |    | \$                              |

|   |  |
|---|--|
| 6. Actual Coverage<br><br>_____ % of Total Construction Cost or<br>_____ % of All Contractors | 7. Coverage Requirements Satisfied<br><br><input type="checkbox"/> Yes <input type="checkbox"/> No |
|---|--|



**APPENDIX I**  
**DAVIS-BACON ACT FORMS**



**MaineHousing**  
Maine State Housing Authority

353 Water Street  
Augusta, Maine 04330-4633

**REQUEST FOR WAGE DETERMINATION**  
**(for projects subject to Davis-Bacon Act)**

MaineHousing-Financed Multi-Family Housing Projects

1. Project Information

|                    |  |                            |  |
|--------------------|--|----------------------------|--|
| Developer/Owner:   |  | Date:                      |  |
| Financing Program: |  | Grant Year:                |  |
| Contact Person:    |  | Telephone:                 |  |
| Fax:               |  | E-mail:                    |  |
| Address:           |  | Prior Determination #:     |  |
|                    |  | Contract Dollar Value \$:  |  |
| State and Zip:     |  | Proposed Advertising Date: |  |
| County:            |  | Proposed Bid Opening Date: |  |

Type of Work:  Building  Residential  Highway  Heavy

2. Project Description

3. Design Professional Information:

|          |      |         |  |
|----------|------|---------|--|
| Name:    |      | Phone:  |  |
| Address: |      | Fax:    |  |
|          |      | E-mail: |  |
| State:   | Zip: |         |  |

Submit to:  
Maine State Housing Authority  
Attn: Director of Development  
353 Water Street  
Augusta, Maine 04330-4633  
Telephone: (207) 626-4600; (800) 452-4668

## **Instructions for Completing Wage Determination Request**

### 1. Project Information

- a) Fill out all information in this section.
- b) If an exact contract dollar amount is not available, give the best estimate possible.
- c) If a prior determination number was issued list it, if not, enter N/A.
- d) Check the type of work the wage rates will apply to. (Building 1, Building 2, Highway and Earthwork, Heavy and Bridge)

### 2. Project Description

- a) Give an accurate, detailed narrative of the proposed project. If the project is multifaceted, describe each specific section. Also, indicate what the projected use of the project will be. Attach an additional page if needed.

### 4. Design Professional Information

- a) Submit the wage determination request at least 15 days prior to the proposed bid solicitation date. This is essential to allow the necessary time for the request to go through the system.
- b) If your current determination (if applicable) looks as though it may run out prior to the contract award, submit another request immediately. The date of the contract award must predate the expiration date of the determination, or the determination is void.



353 Water Street  
Augusta, Maine 04330-4633

**PRECONSTRUCTION CONFERENCE  
(for projects subject to Davis-Bacon Act)**

MaineHousing-Financed Multi-Family Housing Projects

PRE-CONSTRUCTION CONFERENCE MINUTES  
(Attendance List Attached)

Date: \_\_\_\_\_

MaineHousing Project Number: \_\_\_\_\_

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

Developer: \_\_\_\_\_

Amount of Contract: \_\_\_\_\_

Conducted By (CSCO): \_\_\_\_\_

General Contractor: \_\_\_\_\_

Telephone: \_\_\_\_\_

Address: \_\_\_\_\_

FAX: \_\_\_\_\_

Email: \_\_\_\_\_

LABOR STANDARDS ACT

Wage Decision Number: \_\_\_\_\_

Posting of Wage Decision at Job Site by CSCO

Davis-Bacon Act

If a contract exceeds \$2,000, all laborers and mechanics employed by the Contractor and any Subcontractor on construction work pursuant to this Contract shall be paid wages at rates not less than the prevailing wages contained in the Wage Determination for \_\_\_\_\_ County, Maine, as determined by the United States Department of Labor. Furthermore, each Contractor or Subcontractor shall submit to the CSCO weekly payrolls for each week from the time the work is started on the project until it is completed.

Exceptions to minimum wage requirements

Fringe Benefit Payments Discussed

- Payroll forms explained and distributed
- Underpayments and Restitution explained
- Employee interview process explained
- Posting of "Notice to all Employees" poster (Poster distributed to Contractor)
- CSCO will investigate wage related complaints and facilitate restitution

Contract Work Hours and Safety Standards Act

- All laborers and mechanics employed by the Contractor or any Subcontractor shall receive overtime compensation at rates not less than one and one-half times the basic rate of pay for work in excess of 40 hours per week.
- Underpayments and Liquidated Damages explained

Copeland Anti-Kickback Act

- The Contractor or any Subcontractor shall be prohibited from inducing, by any means, any person employed in the construction, completion or repair of any public building or public work to give up any part of the compensation to which he or she is otherwise entitled.
- Violations explained
- Permissible deductions explained

Use of Volunteers

- Check here if any Contractor or Subcontractor intends to utilize volunteer labor on this project.
- Permissible use of volunteers explained
- Need of OCD notification and approval

PROPER CLASSIFICATION OF EMPLOYEES

- Proper classification of workers as employees or independent contractors (IC's) is required
- List of IC's on site to be submitted to CSCO
- Copies of predeterminations of IC status to be submitted to CSCO

- Other IC documentation from contractor or subcontractors may be requested by CSCO
- CSCO to make periodic unscheduled visits to site for inspections and employee interviews
- CSCO to facilitate agency contact for IC questions

WORKERS' COMPENSATION INSURANCE

- Contractor and subcontractors will maintain appropriate industrial accident insurance coverage and provide documentation of coverage
- CSCO to facilitate coordination with Workers' Compensation Board

HEALTHCARE COVERAGE

- Discuss MaineHousing's healthcare coverage requirements for the project
- Discuss documentation required to be submitted to CSCO from contractor and subcontractors
- Discuss the role of the CSCO in assessing healthcare coverage compliance

Prepared By: \_\_\_\_\_

Title: Contract Standards Compliance Officer (CSCO)

Date \_\_\_\_\_

PRE-CONSTRUCTION CONFERENCE ATTENDANCE LIST

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

Date of Conference: \_\_\_\_\_

| ATTENDEE | AFFILIATION | CONTACT INFORMATION                               |
|----------|-------------|---|
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>Email:  |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |
|          |             | Office Phone:<br>Mobile Phone:<br>FAX:<br>E-mail: |

Date: \_\_\_\_\_

## STATEMENT OF COMPLIANCE

I, \_\_\_\_\_, \_\_\_\_\_, do hereby state:  
(Name of Signatory Party) (Title)

**(1) That I pay or supervise the payment of the persons employed by \_\_\_\_\_**  
(Contractor or Subcontractor)  
**on the \_\_\_\_\_;**  
(Name of Project)  
**that during the payroll period commencing on the \_\_\_\_ day**  
**of \_\_\_\_\_, 20--, all persons employed on said project have been paid the full weekly wages earned, that no**  
**rebates have been or will be made either directly or indirectly to or on behalf of said \_\_\_\_\_**  
(Contractor or Subcontractor)

**from the full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3, (29 CFR Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948.63 Stat. 108, 72 Stat. 357: 40 U>S> C> 276c) and described below:**

**(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers and mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into this contract; that the classifications set forth therein for each laborer or mechanic conform with the work he or she performed.**

**(3) That any apprentices employed in the above period are duly registered in a bona fide apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a State, are registered with the Bureau of Apprenticeship and Training, United States Department of labor.**

**(4) That:**

**(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS**

In addition to the basic hourly wage rates paid to each laborer or mechanic listed in the above referenced payroll, payments of fringe benefits as listed in the contract have been or will be made to appropriate programs for the benefit of such employees, except as noted in Section 4(c) below.

**(b) WHERE FRINGE BENEFITS ARE PAID IN CASH**

Each laborer or mechanic listed in the above referenced payroll has been paid as indicated on the payroll an amount not less than the sum of the applicable basic hourly wage rate plus the amount of the required fringe benefits as listed on the contract, except as listed in Section 4(c) below.

**(c) EXCEPTIONS**

| EXCEPTION (CRAFT)     | EXPLANATION      |
|-----------------------|------------------|
|                       |                  |
|                       |                  |
|                       |                  |
|                       |                  |
| <b>Name and Title</b> | <b>Signature</b> |
|                       |                  |

THE WILFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1001 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.



## INSTRUCTIONS FOR PREPARATION OF STATEMENT OF COMPLIANCE

This statement of compliance meets needs resulting from the amendment of the Davis-Bacon Act to include fringe benefits provisions. Under this amended law, the contractor is required to pay fringe benefits as predetermined by the Department of Labor, in addition to payment of the minimum rates. The contractor's obligation to pay fringe benefits may be met by payment of fringes to the various plans, funds or programs or by making these payments to the employees as cash in lieu of fringes.

The contractor should show on the face of his payroll all monies paid to the employees whether as basic rates or as cash in lieu of fringes. The contractor shall represent in the statement of compliance that he is paying to others fringes required by the contract and not paid as cash in lieu of fringes. Detailed instructions follow:

### Contractors who pay all required fringe benefits:

A contractor who pays fringe benefits to approved plans, funds, or programs in amounts not less than were determined in the applicable wage decision of the Secretary of Labor shall continue to show on the face of his payroll the basic cash hourly rate and overtime rate paid to his employees, just as he has always done. Such a contractor shall check paragraph 4(a) of the statement to indicate that he is also paying to approved plans, funds, or programs not less than the amount predetermined as fringe benefits for each craft. Any exception shall be noted in Section 4(c).

### Contractors who pay no fringe benefits:

A contractor who pays no fringe benefits shall pay to the employee and insert in the straight time hourly rate column of his payroll an amount not less than the predetermined rate for each classification plus the amount of fringe benefits determined for each classification in the applicable wage decision. Inasmuch as it is not necessary to pay time and a half on cash paid in lieu of fringes, the overtime rate shall be not less than the sum of the basic predetermined rate, plus the half time premium on the basic or regular rate plus the required cash in lieu of fringes at the straight time rate. To simplify computation of overtime, it is suggested that the straight time basic rate and cash in lieu of fringes be separately stated in the hourly rate column, thus \$3.25/.40. In addition, the contractor shall check paragraph 4(b) of the statement to indicate that he is paying fringe benefits in cash directly to his employees. Any exceptions shall be noted in Section 4(c).

### Use of Section 4(c), Exceptions

---

Any contractor who is making payment to approved plans, funds, or programs in amounts less than the wage determination requires is obligated to pay the deficiency directly to the employees as cash in lieu of fringes. Any exceptions to Section 4(a) or 4(b), whichever the contractor may check, shall be entered in Section 4(c). Enter in the Exception column the craft, and enter in the Explanation column the hourly amount paid the employees as cash in lieu of fringes, and the hourly amount paid to plans, funds, or programs as fringes.



**MaineHousing**  
Maine State Housing Authority

353 Water Street  
Augusta, Maine 04330-4633

**WEEKLY PAYROLL LABOR STANDARDS REVIEW  
FORM**

**(for projects subject to Davis-Bacon Act)**

MaineHousing-Financed Multi-Family Housing Projects

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

Name of Prime Contractor: \_\_\_\_\_

Subcontractor (if applicable): \_\_\_\_\_

Employer's ID Number: \_\_\_\_\_

Payroll Period: From \_\_\_\_\_ to \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Date Reviewed: \_\_\_\_\_

Reviewed By: \_\_\_\_\_

Is Payroll and Statement of Compliance Properly Completed? Yes \_\_\_\_\_ No \_\_\_\_\_

Findings: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Job Classification

Wage and Fringe Paid

Determination Rate

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Compliance Determination: Yes \_\_\_\_\_ No \_\_\_\_\_ Follow-up Actions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of Reviewer (CSCO)

\_\_\_\_\_  
Date

# NOTICE TO ALL EMPLOYEES



## Working on Federal or Federally Financed Construction Projects

### MINIMUM WAGES

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of work you perform.

### OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 a week. There are some exceptions.

### APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

### PROPER PAY

If you do not receive proper pay, contact the Contracting Officer listed below:



or you may contact the nearest office of the Wage and Hour Division, U.S. Department of Labor. The Wage and Hour Division has offices in several hundred communities throughout the country. They are listed in the U.S. Government section of most telephone directories under:

**U.S. Department of Labor  
Employment Standards Administration**

WH Publication 1321  
Revised January 1986  
★ U.S. GOVERNMENT PRINTING OFFICE: 1988-209-886

U.S. Department of Labor  
Employment Standards  
Administration  
Wage and Hour Division



**APPENDIX J**  
**MISCELLANEOUS FORMS**



**MaineHousing**  
Maine State Housing Authority

353 Water Street  
Augusta, Maine 04330-4633

**MEETING RECORD**

MaineHousing-Financed  
Multi-Family Housing  
Projects

Project Name:

CSCO:

MEETING SUBJECT:

LOCATION:

DATE:

ATTENDEES:

NARRATIVE:



**MaineHousing**  
Maine State Housing Authority

353 Water Street  
Augusta, Maine 04330-4633

**SITE VISIT RECORD**

MaineHousing-Financed Multi-  
Family Housing Projects

Project Name:

CSCO:

PURPOSE OF SITE VISIT:

LOCATION:

DATE:

TIME:

CONTRACTOR CONTACT:

NARRATIVE:

**Contractor Standards for MaineHousing Financed Multifamily Housing  
For Inclusion with Bid Package**  
(for Projects subject to the Davis-Bacon Act, related acts and associated regulations)

Contractors include general contractors, construction managers, subcontractors and material suppliers.

**Wages and Benefits**

Contractors shall pay their employees working on this project no less than the wage and benefit rates established under the Davis-Bacon Act and shall comply with the Contract Work Hours and Safety Standards Act, the Copeland Anti-Kickback Act and the Fair Labor Standards Act, and all associated regulations, all as same may be amended.

**Proper Classification of Employees**

Contractors shall properly classify employees and treat them accordingly for purposes of workers compensation insurance coverage, unemployment taxes, income tax withholding, prevailing wage and benefit rates and overtime wage rates.

**On-the-job Training**

Contractors shall provide a minimum of 700 hours of on-the-job training (OJT) for women and minorities for each \$1,000,000 increment of the total construction contract in accordance with the Maine State Housing Authority Equal Opportunity and Affirmative Action Plan for Multi-family Housing Finance Programs.

**Job Listings**

Contractors shall post all job openings within their organizations with Maine Career Centers and Women Unlimited.

**Workers Compensation**

Contractors shall maintain appropriate industrial accident insurance coverage for all employees employed in the construction of this project.

**Healthcare Coverage**

The developer of this project has made representations that it will make a good faith effort to use a certain percentage of contractors who provide an eligible health insurance plan to their employees. An "eligible health insurance plan" is a plan that either (a) provides coverage for employees and the contractor pays at least 60% of the premium for employee coverage or, in the alternative, (b) provides family coverage for employees and the contractor pays at least 50% of the premium for employee coverage plus some portion of the premium for the family coverage. The eligible health insurance plan must be in place at the time the contractor bids on the construction of this project, and the contractor must maintain the eligible health insurance plan throughout construction. The developer can satisfy this requirement based on the percentage of contractors or based on the percentage of the total construction costs paid to contractors that provide an eligible health insurance plan to their employees. Each contractor shall indicate in its proposal whether it provides an eligible health insurance plan to its employees. The general contractor or construction manager shall complete the attached Group Healthcare Coverage Proposal Form based on the information that it receives from the bidders concerning health insurance and submit the completed form to MaineHousing. A successful bidder that indicated in its proposal that it provides an eligible health insurance plan to its employees will be required to submit evidence of the eligible health insurance plan to MaineHousing. In the event that a successful bidder who indicated that it has an eligible health insurance plan in its proposal is unable to participate in the final construction contract, the general contractor or construction manager shall use its best efforts to find an alternate contractor that provides an eligible health insurance plan to its employees.

These standards will be monitored for compliance by MaineHousing in accordance with the Contractor Standards Compliance Guide. For further information regarding these standards please refer to the Contractor Standards Compliance Guide.