The Fair Labor Standards apply to proposed activities that involve construction or residential rehabilitation.

Construction contracts under $2,000 and residential rehabilitation in structures with less than eight units are the only projects exempted from the following Labor Standards.

I. **Labor Standards**
   A. **Davis-Bacon Act.** The Davis-Bacon Act (DBA) states that contracts in excess of $2,000 in the which the United States is party for the construction, alteration, and/or repair, including painting and decorating, of public buildings or public works, which involve the employment of laborers and/or mechanics shall contain provisions with respect to minimum wages, fringe benefits, payments without deductions or rebates, withholding funds from contractors to ensure compliance with the wage provisions, and termination of the contract or debarment for failure to adhere to the required provisions.

   B. **Contract Work Hours and Safety Standards Act.** This Act (CWHSSA) applies to both direct federal contracts and indirect federally assisted contracts except where the assistance is solely in the nature of a loan guarantee or insurance. CWHSSA provides that work in excess of 40 hours per week shall be compensated for at rates not less than one and one-half times the basic rate of pay. Th Act mandates that, all contracts requiring the employment of laborers and mechanics (and watchmen and guards) in the performance of work in connection with such activities contain implementing provisions which will render the contractor and any subcontractor responsible for violation liable to the affected employees for their unpaid wages and to the United States for liquidated damages. The Act establishes an appeals procedure and makes intentional violations of the CWHSSA a federal criminal misdemeanor.

   C. **Copeland Act (Anti-Kickback Act).** The Copeland Act makes it a criminal offense for any person to induce, by an manner whatsoever, any person employed in the construction, prosecution, completion, or repair of any public building, public work, or building or work financed in whole or in part by loans or grants from the United States, to give up any part of the compensation to which he is entitled under this contract of employment. The Act also provides for the submission of weekly statements or compliance and weekly payrolls by all contractors.

   D. **The Fair Labor Standards Act.** The Fair Labor Standards Act (FLSA) is applicable to HUD-assisted construction and provides for minimum wages for construction workers, overtime pay (forty-hour work week), record-keeping and child labor standards. The Department of Labor is responsible for the enforcement of the Fair Labor Standards Act. It is the responsibility of the contractor to request rulings from the Department of Labor relative to the applicability of FLSA and limitations on child labor.

   HUD and any local or State agencies that are responsible for the performance of labor standards administration and enforcement activities delegated by HUD are governed by the
regulations promulgated by the Secretary of Labor. The actual enforcement of labor standards, including activity investigations and the performance of routine activity compliance monitoring remains the overall responsibility of HUD. HUD has delegated certain aspects of the day-to-day enforcement responsibilities to local or state agencies that directly administer HUD-assisted programs. When such delegations have been made, they are set forth in the paragraphs that follow. HUD handles all other labor standards enforcement obligations directly.

II. **HUD Responsibility**

HUD ensures through the provision of training, technical assistance and resources, as well as, through the conduct of compliance reviews and monitoring, that local and state agencies are effectively performing their responsibilities. HUD Field Office Labor Relations staff shall:

A. Assist and provide technical assistance to local and state agencies.

B. Conduct comprehensive labor standards compliance reviews of local or state agencies and recipients.

C. Perform investigations of complaints and other labor standards matters.

D. Provide all labor standards technical support function to HUD program areas.

E. Make recommendations regarding debarment for labor standards violations.

III. **Local Government or Agency Responsibility**

Compliance with labor standards provisions is a condition for receipt of HUD assistance. Accordingly, each city or agency is responsible to HUD for ensuring compliance with Federal labor standards requirements as follows:

1. Designating appropriate staff before the start of construction to ensure compliance with all applicable labor standards requirements and to act for and in liaison with the county and HUD (appoint a Labor Standards Officer).

2. Establishing a construction contract management system.

3. Informing all contractors and subcontractors performing contract construction work of their labor standards obligations at the pre-construction conference if requested.

4. Ensuring that all bid documents, contracts, and subcontracts contain Federal labor standards provisions and the applicable Department of Labor wage determination, and that no contractor is ineligible for federally assisted work.

5. Conducting on-site activity inspections, which include employee interviews when needed, and checking for posting of the Federal/State Labor Laws, the wage determination as well as the review of weekly contractor payrolls.

6. Correcting all violations of labor standards promptly.
7. Maintaining full documentation attesting to all administrative and enforcement activities with respect to Federal labor standards requirements, such documentation to be made freely available for HUD review. Such documentation shall include all weekly payrolls, copies of wage determinations and any applicable changes or modifications, notices of start of construction, on-site inspection reports and employee interviews, and any other records utilized in enforcement administration including records of wage and restitution made and pre-construction conference minutes.

8. Complying with requirements imposed by HUD concerning special requirements of law, program requirements, and other administrative requirements.

**Equal Opportunity Regulations**

All proposed CDBG-CV activities are subject to the following Equal Opportunity Regulations.

I. **Title VI of the Civil Rights Act of 1964. Nondiscrimination in Federally Assisted Programs**

Title VI provides that no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. It directs each Federal department or agency which extends financial assistance to any program or activity through grants, loans, or contracts, except contracts of insurance or guaranty, to issue rules or regulations to be approved by the President to carry out the purposes of the Title. Title VI authorizes the termination of the refusal to grant or continue Federal assistance under any program or activity involving a recipient as to whom there has been an express finding on the record of failure to comply but only, after due notice, an opportunity for hearing and a determination that compliance cannot be secured by voluntary means.

II. **Section 109 of the Housing and Community Development Act of 1974**

Section 109 states that “No person in the United States shall on the grounds of race, color, national origin or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds available under this title.”

This provision, while similar in wording to Title VI of the Civil Rights Act of 1964 is in fact a totally separate provision requiring its own specific procedures and is an integral part of the Housing and Community Development Act. As a result, equal opportunity requirements have been interwoven into the application and performance reporting processes. The responses must be based upon the nondiscrimination provisions as well as the specific performance standards and record-keeping requirements.

Section 570.601 of the Community Development Block Grant Regulations outlines the various prohibited discriminatory actions and, more importantly, requires the amelioration of the effects of past discrimination. Discrimination is banned, *inter alia*, in the offering of services
or facilities; treatment of individuals; utilization of criteria and methods of administration; and determination of sites or locations of housing or facilities.

III. **Section 3 of the Housing and Urban Development Act of 1968**

Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the activity area. And that contracts for work in connection with the activity are awarded to business concerns which are located in, or owned in substantial part by persons residing in, the area of the activity.

IV. **Executive Orders**

A. **Executive Order 11063 (November 20, 1962)**

Executive Order 11063 requires all Federal departments and agencies to take all action necessary and appropriate to prevent discrimination because of race, color, creed, or national origin in the sale or rental of residential property and related facilities owner or operated by the Federal Government or provided with Federal financial assistance. The Order also prohibits discrimination in lending practices in so far as such practices relate to loans insured or guaranteed by the Federal Government.

B. **Executive Orders 11246 (September 24, 1965) and 11375 (October 13, 1967)**

Executive Order 11246 was issued on September 24, 1965, superseding Executive Orders 10590, 10772, 10925, 1114, and 11162 and abolishing the President’s Committee on Equal Employment Opportunity. Part I of this Order prohibits discrimination in Government employment because of race, color, creed or national origin, disability, or familial status. It directs each executive department and agency to establish and maintain a positive program of equal employment opportunity for all civilian employees and applicants for employment. It authorizes the Civil Service Commission to supervise and provide leadership and guidance for the programs. The Secretary of Labor is responsible for the administration of Parts II and III of the Orders and for issuing rules and regulations relating respectively to “Nondiscrimination Provisions in Federally Assisted Construction Contracts.” On October 13, 1967, Executive Order 11375 amended Executive Order 11246 to add the prohibition of discrimination because of sex.

V. **Equal Opportunity Records that Recipients and Subrecipients Must Maintain**

A. Demographic data by census tract. The data shall include prevailing population characteristics relating to race, ethnic group, sex, age, head of household, and income.

B. Data showing the extent to which these categories of persons have participated in or benefited from programs and activities funded under the Community Development Block Grant Program.

C. Data which record its affirmative action in equal opportunity employment, including but not limited to employment, upgrading, demotions, transfers, recruitment or recruitment advertising, layoffs or terminations, pay or other compensation, and selection for training.
D. Data which records its good faith efforts to identify, train and or hire lower income residents of the activity area and to utilize business concerns which are located in or owned in substantial part by persons residing in the area of the activity.

SAMS Registration and Active DUNS Number

To be eligible for federal funding or to carry out federal programs or projects, all agencies, organizations, service providers, businesses and contractors performing work funded and to be paid with federal funds are required to register with SAM.GOV and obtain and maintain an active DUNS Number for the duration of the program or project without exception. It’s the law. Failure to do so will result in funding application rejections, contract termination, and invoice rejection.

Here is the link to HUD’s Guide to Obtain a DUNS Number:

Should you have further questions regarding this requirements, please contact Neighborhood Services Division at 573.634.6410.