



August 4, 2025

Ms. Anna Guido  
Compliance Officer  
REE, Department of Housing and Urban Development  
451 7<sup>th</sup> Street, SW  
Room 8210  
Washington, DC 20410-5000

Re: OMB Control No. 2501-0043

Dear Ms. Guido:

The International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART) and the Sheet Metal and Air Conditioning Contractors' National Association (SMACNA) submit these comments in response to HUD's *60-Day Notice of Proposed Information Collection: Federal Labor Standards Monitoring Review Guides*.<sup>1</sup> These comments address HUD's solicitation of public input on "Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility."

SMART and SMACNA support HUD's collection of information on forms HUD-4741, HUD-4742, and HUD-4743<sup>2</sup> since these forms are: 1) necessary for HUD's compliance with Davis-Bacon regulations, 29 CFR 5.6(a)(1), (a)(2), and (a)(3); 2) necessary for the proper oversight of the enforcement functions of HUD's sub-agencies; and 3) are specifically tailored to elicit information necessary for proper oversight. HUD correctly states that, as a federal agency "administering programs subject to the Davis-Bacon wage provisions," HUD is "required to enforce the Federal wage and reporting provisions" in accordance with DOL regulations 29 CFR 5.6(a)(1), (a)(2), and (a)(3). HUD's reporting forms were developed for proper oversight of State, tribal, and local contracting agencies (LCAs) that administer HUD programs, and as condition for receiving HUD program assistance, agree to administer and enforce Davis-Bacon requirements.

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<sup>1</sup> 90 Fed.Reg. 23539 (June 3, 2025).

<sup>2</sup> HUD-4741, Federal Labor Standards Agency On-Site Monitoring Review Guide; HUD-4742, Federal Labor Standards Agency Remote Monitoring Review Guide; and HUD-4743, Federal Labor Standards State CDBG and HOME Programs Monitoring Review Guide

Under Reorganization Plan No. 14 of 1950 (64 Stat. 1267), the federal contracting or other administering agency has the primary responsibility for the enforcement of the Davis-Bacon and Related Acts (DBRA) and Contract Work Hours and Safety Standards Act (CWHSSA) labor standards provisions included in its contracts. The Secretary of Labor has coordination and oversight responsibilities, including the authority to investigate labor standards compliance as warranted, and has, indeed, issued the regulations referenced in to coordinate the administration and enforcement of DBRA/CWHSSA labor standards. HUD's Office of Davis-Bacon and Labor Standards is tasked with day-to-day administration of enforcement functions set forth in 29 CFR 5.6. HUD estimates that it has approximately 5,000 client agencies, and contractors who work on HUD-assisted construction projects subject to the DBRA.

As stated in its HUD's *Davis-Bacon and Labor Standards Agency/Contractor Guide*, its Office of Davis-Bacon and Labor Standards has identified five key labor standards objectives, which it deems to be "the basics of what must be accomplished in order to protect workers' rights."<sup>3</sup> Those objectives are:

- Ensure that that labor standards, including Davis-Bacon prevailing wage rates, are applied where required;
- Provide basic training and technical support to contractors to ensure that they understand their obligations under prevailing wage and reporting requirements and comply with those obligations;
- Review of certified payroll submissions and other information to monitor contractor compliance with labor standards provisions and the payment of prevailing wages to workers;
- Investigate probable violations and complaints of underpayments; and
- Carry out a "zero tolerance" policy toward contractors who violate labor standards.

The information elicited on HUD's review guides correlate with each of the oversight responsibilities set forth in 29 CFR 5.6. Part B. Agency Labor Standards Contract Compliance – Davis-Bacon Covered Projects of HUD-4741 form, for example, asks about incorporation of labor standards provisions and wage determinations into contracts;<sup>4</sup> review of certified payroll records (CPRs);<sup>5</sup> employee interviews;<sup>6</sup> and reporting violations to the DOL. Diligent review of certified payroll records, conducting employee interviews regularly, and comparing these records to information obtained in interviews are indispensable to verification of the correctness of reported classifications, rates of pay, hours worked, and fringe benefits. Trained reviewers are able to detect irregularities, such as a pattern of having an inordinately high number of laborers for the kind of work being performed; a disproportionate employment of apprentices (relative to journeyworkers); the same split of hours between two labor classifications, week after week; and the hours on the CPRs do not match up with the daily reports for the work site. HUD-4742 form

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<sup>3</sup> \*\*\*\*\*files.hudexchange.info/resources/documents/Davis-Bacon-and-Labor-Standards-Agency-and-Contractor-Guide.pdf

<sup>4</sup> 29 CFR 5.6(a)(1).

<sup>5</sup> 29 CFR 5.6(a)(2).

<sup>6</sup> 29 CFR 5.6(a)(3).

(remote monitoring) requires verification that employee interviews were conducted by directing submission of “interviews completed for this project.” The review guides also require disclosure of quantitative metrics, such as disclosure of the number of employee interviews conducted and total amount of funds escrowed for HUD/DBRA/CWHSSA violations,<sup>7</sup> that facilitate HUD’s oversight of the effectiveness of local enforcement efforts.

In the construction industry, rooting out fraud by DBRA and CWHSSA violators requires diligent oversight of local enforcement efforts by the headquarters of federal contracting agencies. As demonstrated by peer-reviewed academic studies, fraud is rampant in the construction industry. Research shows that “between 12 and 21 percent of the construction industry workforce were either misclassified as independent contractors or working ‘off-the-books.’”<sup>8</sup> HUD’s review guides are important tools in rooting out fraud.

SMART and SMACNA appreciate the opportunity to submit comments.

Respectfully submitted,



Michael Coleman  
General President  
SMART



Aaron Hilger  
Chief Executive Officer  
SMACNA

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<sup>7</sup> The Labor Standards Monitoring Review Process and Investigative Process section of the Federal Labor Standards Monitoring Review Guide State CDBG/HOME includes additional quantitative metrics.

<sup>8</sup> Russell Ormiston, Dale Belman, & Mark Erlich (2020). “An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry.” *See also*, Laura Valle-Gutierrez, Russ Ormiston, Dale L. Belman & Jody Calemine (2023). *Up to 2.1 Million U.S. Construction Workers Are Illegally Misclassified or Paid Off the Books*.