B-15: NOTICE OF RESTITUTION DUE

Notice of Restitution Due

1.	To Prime Contractor:	
2.	From Labor Compliance Officer:	
3.	Name of Local Government:	
4.	LCDBG Contract Number:	
5.	First Tier Subcontractor(s):	
6.	Lower Tier Subcontractor(s):	
7.	Signature of Preparer:	
8.	Date:	

9. Purpose of The Restitution Due Table: The Restitution Due Table provides a listing of employees who are due restitution and a calculation of liquidated damages. Please review the table for completeness and accuracy. The topic, "Corrective Actions Regarding Labor Standards Violations," in Section B of the most recent Louisiana Community Development Block Grant (LCDBG) Grantee Handbook provides guidance for proper payroll review and corrective actions. The LCDBG Grantee Handbook is located at:

www.doa.louisiana.gov/cdbg/cdbgHome.htm →Grants Management→Policy Manuals→Grantee Handbooks→Latest Edition.

10. Restitution: Restitution must be made by each contractor to each underpaid worker. Payrolls issued as part of the restitution process must be submitted by the prime contractor to the local government for review.

11. Liquidated Damages: A contractor having any liquidated damages deficiency, applicable if column 19 has any amount listed for a given contractor, must address the deficiency by one of two methods: (1) payment of the liquidated damages penalty by wire transfer or (2) contractor request to HUD for the waiver of the payment of the liquidated damages penalty. If wire transfer is chosen, the contractor must contact the Labor Compliance Officer of the Office of Community Development at (225) 342-7412 for detailed instructions. If a waiver is requested from HUD, the contractor must prepare the "waiver" letter on company letterhead. The waiver letter should have an explanation of overtime deficiencies, number of days per worker on which overtime deficiencies occurred, amount of the liquidated damages penalty for which a waiver is requested, and a statement indicating whether the deficiencies were intentional or unintentional. The contractor must submit the waiver letter to the local government for review and further processing.

12. Restitution Due Table (Use the format below and attach the table to the notice.)						
13. Contractor Prime or Sub	14. Employee Name	15. Date of Underpayment	16. Payroll #	17. Davis Bacon	18. CWHSSA	19. Liq. Damages
20. Reason for Restitution:						

Instructions: Notice of Restitution Due	
A payroll review letter to the prime contractor should be prepared by the local government explaining Labor Standards requirements and payroll review details. The Notice of Restitution Due is an optional form designed to be an attachment to a payroll review letter that allows restitution information to be listed in a standard format.	
1.	To Prime Contractor: The prime contractor is the addressee. Example: ABC Contractors, Inc.
2.	From Labor Compliance Officer: The Notice is from the local government's Labor Compliance Officer.
3.	Name of Local Government: Example: Abbeville
4.	LCDBG Contract Number: Six digit LCDBG contract number. Ex: 765432
5.	First Tier Subcontractor: Enter the name(s) of any first tier subcontractor(s) which has (have) a direct contractual relationship with the prime contractor. Ex: DEF, Inc. Additional first tier subcontractors may be listed on a separate sheet or, alternatively, a separate Notice of Restitution Due may be prepared for each first tier subcontractor.
6.	Lower Tier Subcontractor: Enter the name and "position identification" of any lower tier subcontractors. For example, an entry of "Holly Builders, Inc./DEF/ABC", would signify that Holly Builders, Inc., is a sub of DEF, Inc., which is a sub of ABC, Inc. Additional lower tier subcontractors and "position identification" may be listed on a separate sheet or, alternatively, a separate Notice of Restitution Due may be prepared for each lower tier subcontractor.
7.	Signature of Preparer: Signature of person responsible for preparation—normally the local government's Labor Compliance Officer.
8.	Date: Date on which the Notice of Restitution Due is completed.
9.	Purpose: Standard paragraph intended to enhance contractor knowledge.
10.	Restitution: Standard paragraph intended to enhance contractor knowledge.
11.	Liquidated damages: Standard paragraph intended to enhance contractor knowledge.
12.	Restitution Due Table: A table entitled, "Restitution Due Table," is to be prepared and attached to the Notice of Restitution Due. The general format of the table is provided; however, the landscape orientation is recommended instead of portrait, as shown. One table may be prepared covering all contractors or multiple tables may be prepared with a separate table for each contractor. A user friendly, form-fill version of the Restitution Due Table is available on the OCD website—in landscape orientation.
13.	Contractor, Prime or Sub: Enter the name of the prime or subcontractor who pays each employee for each day on which an employee was underpaid.
14.	Employee Name: Enter the name of each employee for each day underpaid.
15.	Date of Underpayment: Enter the date associated with each underpayment for each employee. Ex: If John Doe was underpaid three days in a row, Friday, Saturday and Sunday on payroll 15, then three rows with three different dates would be used for John Doe relative to payroll 15. The date of underpayment is not automatically the same date as the payroll ending date. The day by day entries per employee are needed to help determine the amount, if any, of liquidated damages under the Contract Work Hours and Safety Standards Act (CWHSSA).
16.	Payroll Number: Enter the relevant contractor's payroll number for each day on which an underpayment occurred.

17.	Davis Bacon: Enter the amount of restitution to be paid under Davis-Bacon for each listed date. Calculate the Davis Bacon amount as follows: The (amount of underpayment per hour of the basic hourly rate and hourly fringe benefits) x (times all the hours worked, both straight time and overtime hours, on a given day) will equal the amount of restitution due under Davis-Bacon for that date.
18.	CWHSSA: Each overtime hours has two components: • Component One: the basic hourly rate required or paid – whichever is greater – plus fringe benefits, if applicable, per hour worked in a given workday. • Component Two: fifty percent (50%) of the basic hourly rate required or paid – whichever is greater, per **overtime** hour woked, in a given workday. Component Two is the amount to be reported under CWHSSA. Conclusion – CWHSSA underpayment(s) for each employee and date, Column 18, "CWHSSA" is determined as follows: • Take overtime hours woked on a given date by a worker and multiply those hours by fifty percent (50%) of the basic hourly rate required or paid, whichever is greater, and then subtract any overtime "premium" amounts previously paid by the contractor. Enter the difference as restitution due under CWHSSA If there was not any overtime restitution due on a given date enter 0 for that date.
19.	Liquidated Damages: The entry for each row will be either $10.00 or $0. If there is any amount of restitution on the row in CWHSSA column 18, then enter $10.00 on the row for column 19. The liquidated damages penalty is $10.00 per worker per day on which overtime was not properly paid. The payroll review letter, discussed at the beginning of these instructions, should provide the prime contractor with a statement of the total amount of liquidated damages due from each applicable contractor. The total amount of liquidated damages due per contractor is derived from adding amounts associated with each contractor in column 19 of the Restitution Due Table(s).
20.	Reason For Restitution: Each row having restitution data will have an accompanying row for the provision of a reason why restitution is necessary. This row must be completed for each date for which restitution due was detected. Example for John Doe: Classified as laborer. Worked as carpenter. Underpaid 1.00 per hour.