



**NORTH CAROLINA DEPARTMENT OF NATURAL
RESOURCES AND COMMUNITY DEVELOPMENT**

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

BULLETIN

88-4

SUBJECT: Enforcement of Liquidated Damages Under CWHSSA
DATE ISSUED: June 1, 1988
ATTENTION: CDBG Recipients

This bulletin replaces Bulletin #86-6.

The purpose of this bulletin is to ensure all parties are aware of their respective responsibilities for reporting overtime violations under the Contract Work Hours and Safety Standards Act (CWHSSA).

CWSSA requires the payment of wages at not less than one and one-half (1 1/2) times the basic rate of pay to employees on federally assisted construction contracts for hours worked in excess of 40 hours in one week. A violation occurs (1) when overtime wages were due an employee but were not paid, or (2) when overtime wages were computed based on a wage rate that was below the prevailing wage rate due an employee. A prime contractor or subcontractor who has failed to pay the proper overtime is liable for unpaid wages (restitution) and liquidated damages. Liquidated damages will be assessed at the rate of \$10.00 per day for each affected employee; except that underpayments of less than \$10.00 in overtime back wages to an employee will not result in the assessment of liquidated damages.

Grantees are required to report all violations of CWHSSA including those involving less than \$10.00 per employee to their CDBC Representative at the Division of Community Assistance (DCA). Careful review by the grantee of weekly payrolls submitted by the prime contractor and any subcontractors will facilitate early detection of violations prior to contract completion and final payment.

Upon receipt of the grantee's report and documentation of the violation, the Division of Community Assistance (DCA) will issue to the contractor in violation of the Act a Written Notice of Determination of Liquidated Damages and will assess the required liquidated damages. If final payment to the contractor has not been made, the grantee will be instructed to withhold contract funds equal to the computed liquidated damages pending final determination. The contractor has 60 days to appeal for a waiver or reduction of the liquidated damages. Appeals received by DCA will be submitted to RUD for a final determination.

If no appeal is received, the determination becomes final. If contract funds have been withheld to cover liquidated

damages, the grantee will make the payment. If no funds are withheld, a contractor is responsible for paying the liquidated damages. Payment of liquidated damages must be made directly to the U.S. Treasury by wire transfer. Specific instructions on wire transfers will be sent with the Written Notice of Determination of Liquidated Damages.

The regulatory basis for these and other labor standards requirements can be found in 29 CFR Part 5.8 and HUD's implementing regulations 1344.1, Rev. 1, Chg. 1.

Please contact your CDBG Representative at (919) 733-2850 if you have any questions.

Issued By: Robert E. Chandler
Robert E. Chandler, Director

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