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**SUBJECT:** Use of Force Account Labor in Community and Economic Development Programs

**ISSUED:** July 1, 2016

**DISTRIBUTED TO:** Office of Community Development Award Recipients and their Affiliates

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Under certain circumstances, and subject to Office of Community Development (OCD) approval, a grantee may use existing, qualified local government employees to perform construction work on projects assisted by OCD's Community Development Block Grant (CDBG)-funded Community and Economic Development Programs. Using local government employees, termed "force account" labor, is an exception to competitive bidding requirements that grantees may use for road, bridge, culvert, or other public facility projects that meet defined cost thresholds. Materials and equipment acquired from outside vendors, and all subcontracted labor, remain subject to applicable competitive procurement requirements, in accordance with state and federal laws and regulations.

#### Summary

Force account labor can be an effective construction alternative for certain road, bridge, culvert, or other public facility projects if a local government has existing, qualified staff that can perform the work in a timely, cost-effective manner. A local government grantee may structure a force account project using its own employees, or, in certain situations, the employees of another local jurisdiction<sup>1</sup>. Grantees use a Force Account Project Assessment Form, developed by the Auditor of State, to estimate the cost of a proposed force account project. If the estimated cost meets specific thresholds for the type of jurisdiction providing the force account labor, grantees may submit a Community Development Force Account Labor Certification to OCD for consideration.

#### Applicability

Force account labor is a construction option for road, bridge, culvert, or other public facility projects that receive assistance from the following OCD Community and Economic Development Programs:

- Residential Public Infrastructure Grant Program
- Community Development Allocation, Critical Infrastructure, Neighborhood Revitalization, and Downtown Revitalization Programs
- Economic Development Public Infrastructure Grant Program
- Targets of Opportunity Program

Force account projects must meet applicable cost thresholds, outlined below, and be approved by OCD.

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<sup>1</sup> For example, a County grantee conducting a street improvement activity in a Village may propose, in coordination with the Village, to complete project construction work using Village force account labor.

## Cost Estimate and Certification

Grantees use the Force Account Project Assessment Form, developed by the Auditor of State, to estimate the cost of a proposed force account project. The form, used in accordance with [Auditor of State Bulletin 2003-003](#), provides a standardized format for estimating labor, materials, and equipment costs, including a reasonable allowance for all tools and equipment used on, or in connection with, such work and for the depreciation on the tools and equipment.

The grantee must certify that the community has:

- existing, qualified staff to perform the work associated with the project,
- the administrative capacity to carry out the project in a timely manner; and
- determined that it is cost effective to utilize force account labor for this purpose.

If a grantee proposes to utilize force account labor from another jurisdiction on an OCD-funded project, the entity providing the force account labor must certify that it has qualified staff to perform the work in a timely manner. The grantee maintains ultimate responsibility for completing the work in accordance with U.S. Department of Housing and Urban Development (HUD) and OCD requirements.

To use force account labor on a Community and Economic Development Program project, a grantee must submit a Community Development Force Account Labor Certification and Force Account Project Assessment form with the grant application. OCD will evaluate the force account proposal and cost estimate, and will either approve the proposal or provide technical assistance regarding alternative procurement requirements. If, following the grant award, a grantee wishes to pursue a previously unanticipated force account labor option, the grantee must submit a Community Development Force Account Labor Certification and Force Account Project Assessment form and obtain written OCD approval prior to engaging force account labor to perform project work.

## Force Account Limits

OCD local government grantees may use force account labor for road, bridge, culvert, or other public facility projects when the estimated cost meets defined thresholds. The following thresholds apply to the public entity that supplies the force account labor:

- County road projects<sup>2</sup>, when the total estimated cost per mile<sup>3</sup> is less than \$30,000;
- County bridge or culvert projects<sup>4</sup>, when the total project cost is less than \$100,000;
- City, village or township street improvement projects<sup>5</sup>, when the total estimated project cost is less than \$30,000; and
- Other county, city village or township public facilities projects<sup>6</sup>, when the total estimated project cost is less than \$50,000.

If the calculated cost on the Force Account Project Assessment Form, including materials, equipment, and work performed by subcontractors, exceeds the applicable force account limit, grantees must use a competitive procurement process for the project in accordance with state and federal laws and regulations.

## Applicability of Federal Prevailing Wage

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<sup>2</sup> Ohio Rev. Code § 5543.19

<sup>3</sup> See [Auditor of State Bulletin 2007-001](#) for guidance regarding limits for projects involving partial miles.

<sup>4</sup> Ohio Rev. Code § 5543.19

<sup>5</sup> Ohio Rev. Code § 723.52

<sup>6</sup> Ohio Rev. Code § 307.86, § 735.05

Force account workers on HUD-assisted projects are not subject to Davis-Bacon prevailing wage requirements<sup>7</sup>. Any portion of a project that is not performed with excluded force account labor is subject to federal Davis-Bacon prevailing wage requirements and other labor standards in the usual manner.

### Allowable Costs

Office of Management and Budget (OMB) regulations at 2 CFR Part 200, Subpart E, establish cost principles for federally assisted projects. Only actual expenditures incurred by the grantee as a result of the OCD-funded force account project are considered allowable costs. These costs can include labor, materials<sup>8</sup>, and equipment. [Auditor of State Bulletin 2003-003](#) provides specific guidance regarding determining these costs and their inclusion in the Force Account Project Assessment Form. Grantees must commit OCD Community and Economic Development Program funds to materials, equipment, or other project components in order to use OCD funds to compensate force account labor costs.

### Recordkeeping

Grantees must maintain adequate supporting documentation to substantiate costs incurred in a project that utilizes force account labor. Supporting documentation should address the following items, as outlined in the Force Account Project Assessment Form:

- Employee salaries and benefits, and other labor costs;
- Materials;
- Freight, fuel, and hauling;
- Overhead expenses;
- Workers' compensation premiums; and
- All other items of cost and expense, including a reasonable allowance for all tools and equipment used and for the depreciation on the tools and equipment.

At a minimum, supporting documentation for force account labor must include employee time sheets<sup>9</sup>, employee wage rates, and benefits. Documentation for equipment and materials must include, as applicable, procurement documentation and invoices, materials inventory, equipment use, time sheets and operating costs, requests for reimbursement, and cancelled checks.

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<sup>7</sup> Federal Labor Standards Requirements in Housing and Urban Development Programs (HUD Handbook 1344.1, Rev 2), Chapter 11.

<sup>8</sup> Grantees may use OCD funds to reimburse costs for stockpile (on hand) materials used in an OCD assisted project if the materials were competitively procured. Reimbursement is based on the actual cost of the material at the time of purchase.

<sup>9</sup> Time sheets must meet the standards outlined in 2 CFR 200.430(i)(1)(i-viii).