The Coda City Department of Housing and Community Development (DHCD) received a CDBG Grant from the state to build a new community center for low-income senior residents of the community. Prior to the start of the project, DHCD staff determined that Davis-Bacon wage standards would apply to the construction project. The DHCD Contract Administrator prepared the bid documents for the project, making sure to include both the Davis-Bacon wage decision and the HUD-4010, Federal Labor Standards Provisions. The wage decision – a listing of the wage rates and fringe benefit rates for each classification of laborers and mechanics in the construction field in the local area – sets the minimum amounts that contractors and subcontractors must pay for individuals working on the construction of the community center. Once the low bidder was determined, the Contract Administrator verified that the contractor was responsible (not debarred), and provided training to the contractor to make certain that the contractor understood its responsibilities for Davis-Bacon compliance.

During the bid process, DHCD developed a Davis-Bacon monitoring plan that described how it would monitor the payment of wage rates and fringe benefit rates, and how it would document its reviews. When construction on the community center began, it was time to implement this monitoring and enforcement plan. As part of its contract oversight responsibilities, DHCD verified that the Project Wage Rate Sheet and Employee Rights Under the Davis-Bacon Act forms were on the bulletin boards of the contractor and subcontractors at the job site. DHCD also regularly monitored the rates being paid to employees involved in the project, but about three months into the project, the DHCD review of contractor and subcontractor certified payroll reports began to reveal some discrepancies.

On one subcontractor’s payroll, the reviewer noticed a relatively high ratio of laborers to mechanics (about 2:1), without clear documentation as to whether some were landscaping or cement workers. In another case, several of a subcontractor’s employees appeared to be working schedules that fluctuated, and were consistently fewer than 40 hours per week. Two workers in particular appeared to work only about 20-25 hours per week in the previous month.

1. Why would the ratio of laborers to mechanics and the irregular hours indicate that a problem might exist? Why would an employee’s timesheet reflect only 20-25 hours per week?
The DHCD reviewer noted the discrepancies and proceeded to investigate further.

2. When and why would a Contract Administrator conduct interviews with construction staff? Who would be interviewed?

Following the interviews the DHCD reviewer had to determine if this was a case of falsification or if it was a case of a routine mistake. One step she took was to review the history of the certified payroll reports to determine if there was a pattern involving one or more employees, types of employees or deductions.

3. If the discrepancies or underpayments noted on the payroll do not appear to involve falsification, how should the Contract Administrator handle the issue?

4. If the payroll information indicates falsification, what steps must the Contract Administrator take?

HDCD determined that the employer was falsifying the payroll, based on review of the records and interviews with employees. The Contract Administrator sent a letter to the employer detailing the discrepancies and requiring the employer to take action.

5. What happens if the contractor disagrees with the findings of the Contract Administrator?
1. **Why would the ratio of laborers to mechanics and the irregular hours indicate that a problem might exist? Why would an employee’s timesheet reflect only 20-25 hours per week?**

The landscaping work is a relatively small part of the job and most of the landscaping work will be performed at the end of the project. The construction phase should have a higher number of mechanics, due to the higher skills needed for the different phases of construction. Generally, employees on construction sites work 40 hours per week. Unless the job is getting to a point that one category of worker is finishing a portion of the work, and that should be for only one or two weeks. Additionally, an employee may be splitting time between two projects for the same employer, so the total time spent by the employee may be 40 hours.

2. **When and why would a Contract Administrator conduct interviews with construction staff? Who would be interviewed?**

A Contract Administrator may conduct interviews as a routine monitoring/compliance tool, or in response to Information (such as payroll data) that warrants further investigation due to possible falsification. In either case, grantees can target on-site interviews to specific subsets of laborers and mechanics. The purpose of the interviews is to capture observations of the work being performed and to get the workers’ views on the hours they work, the type work they perform and the wages they receive.

3. **If the discrepancies or underpayments noted on the payroll do not appear to involve falsification, how should the Contract Administrator handle the issue?**

Some underpayments and other errors can appear on the face of the payroll (i.e., do not involve falsification). In these cases, the contract administrator contacts the employer and/or the prime contractor and provides instructions as to what steps should be taken to correct the payroll and to pay any back wages that may be due to the affected workers.

4. **If the payroll information indicates falsification, what steps must the Contract Administrator take?**

Information reported on payrolls that indicates falsification warrants investigation, which can include on-site interviews with the workers, mailing questionnaires to employees, taking written statements or complaints, and other methods to gather and
assess the facts of the case. In addition to the HUD-11, Record of Employee Interview, HUD has developed a questionnaire form (HUD-4730) and a complaint intake form (HUD-4731) for HUD and State and local agency use.

5. **What happens if the contractor disagrees with the findings of the Contract Administrator?**

If the employer disagrees with the findings or no agreement can be reached, a final determination and schedule of back wages must be given to the employer. The employer has 30 days to correct the underpayment or to request a hearing before the DOL. The request must be made in writing and must specifically address the areas in question and must be made through HUD’s OLR. DOL will review the written materials submitted and provide a decision. The employer may appeal the decision to the DOL Administrative Review Board by the contractor or subcontractor.