

PREVAILING WAGE
CONFERENCES 

Webinars on the Davis-Bacon
Act for USDA-RUS &
Commerce-NTIA, Broadband
Grantees, and Stakeholders



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American
Reinvestment &
Recovery Act of 2009
(ARRA)



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Overview of ARRA

- Signed into law by President Obama on February 17, 2009
- Division A of ARRA appropriates substantial funding for
 - Construction, alteration and repair of federal buildings
 - Infrastructure projects such as roads, bridges, public transit, water systems, and housing
 - Various activities that federal agencies may contract out for service employees to perform



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Labor Standards Coverage on ARRA funded projects

- Davis-Bacon requirements apply to:
 - Federal contracts funded by ARRA
 - Most ARRA-assisted construction projects
- Reorganization Plan No. 14 of 1950 gives:
 - Federal agencies responsibility to ensure that laborers and mechanics are paid at least the prevailing rates established by DOL
 - DOL has regulatory authority and oversight responsibility and can investigate compliance.



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DOL ARRA Guidance

- All Agency Memorandum No. 207, dated May 29, 2009, provides DOL basic guidance on Davis-Bacon labor standards applicability to federal and federally assisted construction work funded under ARRA
- Advisory letters, such as those issued to the Department of Energy and Department of Interior, provide further guidance



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ARRA Labor Standards Implementation

- Federal agencies must:
 - Ensure that their bid solicitations and resulting covered contracts contain labor standards and wage determinations in accordance with Federal Acquisition Regulations
 - Generally, ensure that recipients of assistance funded by ARRA appropriations require contractors and subcontractors to pay laborers and mechanics employed on covered ARRA-assisted construction at least the Davis-Bacon prevailing wages



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Davis-Bacon Wage Determinations



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Federal or Funding Agency Responsibilities

- **Ensure proper wage determination (WD) is applied**
- **Advise contractors which schedule of rates applies to various construction items**
- **Advise contractors regarding the duties performed by various crafts in the WD**



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“General” WDs

- **Issued-most counties, each major type of construction, nationwide**
- **Official site for General Wage Determinations – www.wdol.gov**
- **May be used by Federal agency without notifying the WHD**



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Selecting Proper WD (29 CFR 1.5)

- **Location of the construction project**
- **Type of construction**
- **Current Wage Determination**



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Selecting & Incorporating Proper WD (Construction Type - AAM 130)

- **Building**
- **Residential**
- **Highway**
- **Heavy**



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Selecting & Incorporating Proper WD (Construction Type - AAM 131)

- **Application of Multiple Wage Schedules**
- **Separate construction types (AAM 131)**
 - **At least 20% of the total project
and/or**
 - **At least \$1,000,000 in cost**
- **Separate construction types**



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Selecting & Incorporating Proper WD (Construction Type - AAM 131)

- **Application of Multiple Wage Schedules (AAM 131)**
- **Incidental Construction types**
 - **Less than 20% of total project cost and**
 - **Less than \$1,000,000 in cost**



Selecting & Incorporating Proper WD (Current WD)

- Incorporate most current WD**
- **Negotiated contracts (“RFPs”) – Time of award**
 - **Competitively bids contracts: In effect 10 days (or less) before opening of bids**
 - **Exceptions**



Selecting & Incorporating Proper WD (Current WD)

Extension of General WD:

- Contract - Not awarded within 90 days of bid opening
 - Any modification to the WD must be incorporated into the contract up to award unless the Federal agency requests and obtains an extension of the 90-day period



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Selecting & Incorporating Proper WD (Current WD)

Issuance of WD After Contract Award or Start of Construction:

- **Failure to incorporate a WD into contract**
- **Use of a WD that did not apply to contract**
- **Incorporation of wrong WD into the contract**



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Selecting & Incorporating Proper WD (Current WD)

- Clerical error in WD
- Letter of Inadvertence correcting the error will be issued by DOL
- Corrected WD to be included in contract retroactively



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Interpreting "General" WDs

- Cover Sheet
- Body of WD (Classifications, Rates & Fringe Benefits)
- Conformance Process
- Appeals Process



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Interpreting “General” WDs Cover Sheet

- Decision Number (Supersedeas)
- State
- County or City Covered
- Type of Construction
- Description of Construction
- Record of Modifications



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Interpreting “General” WDs Cover Sheet

Decision Number (Supersedeas)

- **Annual publication-General WDs**
- **Replace prior wage decisions**
- **WD numbers reflect new year**



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Interpreting “General” WDs Cover Sheet

- **State**

- **County**



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Interpreting “General” WDs Cover Sheet

- **Type of Construction**

- **Description of Construction**
 - **Include and Exclude Language**



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Interpreting "General" WDs Cover Sheet

- **HIGHWAY CONSTRUCTION PROJECTS** (Does not include building structures in rest area projects)
- **HEAVY CONSTRUCTION PROJECTS** (includes flood control, water & sewer lines, and water wells; excludes elevated storage tanks, industrial construction-chemical processing, power plants, and refineries)
- **BUILDING CONSTRUCTION PROJECTS** (Does not include Treatment Plants or single family homes & apartments up to and including 4 stories)



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Interpreting "General" WDs Cover Sheet

Record of Modifications

- **List of all modifications of the WD**
- **Results of new survey**
- **Update union rates**

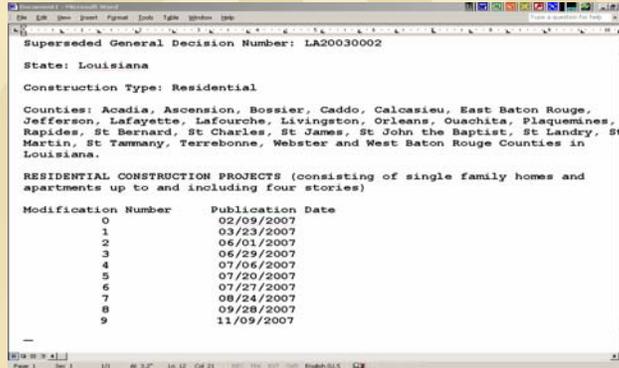


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Interpreting "General" WDs Cover Sheet



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Interpreting "General" WDs Body of WD

List of classifications and rates

Basis for rates - Identifiers

- Union Identifiers
- SU Identifiers



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Interpreting "General" WDs Body of WD

Union Identifiers

ELEV0101A 10/15/2006

ELEVator Constrs: International Union

Local 101: Local union Number

A: Internal Processing Number

10/15/2006: Date of the CBA:



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Interpreting "General" WDs Body of WD

ELEC0194-002 09/06/2007

BOSSIER, CADDO, & WEBSTER PARISHES

Rates Fringes

ELECTRICIAN (including low voltage wiring and installation of fire alarms and security systems).....	\$22.35	\$8.56
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CBA rates are updated when CBA rates are changed



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Interpreting "General" WDs Body of WD

SU (Non-Union) Identifiers
SULA2004-012 06/15/2004

SU: **SU**urvey – Basis of Rate(s)
LA: Louisiana
2004: Date of Survey
012: Internal numbering
6/15/2004: Date submitted for publication

*** SU rates remain unchanged until new survey**



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Interpreting "General" WDs Body of WD

SULA2004-012 06/15/2004

	Rates	Fringes
CARPENTER (including drywall hanging, metal stud installation, and Form building and form setting).....	\$ 11.78	0.00
Laborer, common.....	\$ 8.01	0.00



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Interpreting “General” WDs Conformance Process

- **Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a) (1) (ii)).**



Criteria for Conformance Actions

- **Work not performed by classification in Wage Determination (WD)**
- **Rate must bear a reasonable relationship to WD rates**
- **Classification is utilized in the area by the construction industry**



What does this mean for you?



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Craft Classifications

- Aerial Groundman
- Aerial Lineman
- Asphalt Distributor Operator
- Asphalt Paving/Lay-Down Machine
- Blaster
- Bore Locator
- Borehole Driller
- Cable Locator
- Cable Splicer
- Cable Splicer (Low Voltage & Fiber Optic)
- Cementing Equipment Operator
- Cementing Field Technician
- Communication Technician
- Communications Equipment Installer
- Communications Lineman
- Directional Bore Operator
- Directional Drill Operator
- Driller
- Dump Truck (2 ton under 8 cyd)
- Electrician
- Electronic Technician
- Fiber Optic Cable Splicer
- Fiber Optic Handler
- Fiber Optic Placement Operator
- Fiber Optic Splicer
- Fiber Splicer Fiber Tech I
- Fiber Tech II
- Field Service Technician
- Field Technician Telecommunication Equipment
- Fork-lift (under 5 ton)
- Forklift Operator (Skytrap 10,000lb boom lift)
- Fusion Technician



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Craft Classifications

- Groundman
- Home Wiring Technician
- Installer
- Installer Technician
- Landscaper
- Lineman
- Lineman Foreman
- Network Technician
- Outside Plant Installer
- Outside Plant Technician
- Pipe Roller/Stabber
- Pump Rig Operator
- Radio Frequency Tech
- Rubber Tire Backhoe Operator
- Telecom Services Technician
- Telecommunication Lineman
- Tong Machine Operator
- Tower Equipment Installer/Repairer
- Tower Tech
- Trench Operator
- Trenching Machine Operator
- Truck Driver: Semi-Trailer/Low Boy
- Underground Laborer
- Vacuum Truck Driver
- Vibratory Plow Operator
- Water Truck
- Winch Operator



Processing a Craft Request

- **Work not performed by classification in Wage Determination (WD)**
- **Rate must bear a reasonable relationship to WD rates**
- **Classification is utilized in the area by the construction industry**





Example of a Request "Approved"



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REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

SERVICE CONTRACT CONSTRUCTION CONTRACT OMB No. 9300-0089 Expires: 02/28/96

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and reviewing the data needed for collecting and reviewing the information, sending comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Management and Budget, Paperwork Reduction Project (9300-0089), Washington, DC 20503; and to the Office of Management and Budget, Paperwork Reduction Project (9300-0089), Washington, DC 20503.

NOTE: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 11 AND SHOW PREVIOUSLY REQUESTED CLASSIFICATIONS TO THE CONTRACTING OFFICE.

1. TO: FEDERAL AGENCY STATE AGENCY LOCAL AGENCY FEDERAL AGENCY STATE AGENCY LOCAL AGENCY

2. CDF: _____ 3. DATE INFORMATION REQUESTED: _____ 4. DATE OF REQUEST: 02/08/11

5. CONTRACT NUMBER: _____ 6. DATE OF CONTRACT: 7/22/2010 7. DATE CONTRACT WORK BEGAN: _____ 8. DATE WORK ESTIMATED TO BE COMPLETED: _____

9. TO: SUBCONTRACTOR (IF ANY): Unknown 10. PROJECT AND DESCRIPTION OF WORK: (ATTACH ADDITIONAL SHEET IF NEEDED)
Fiber-optic network construction in southeast Alabama.

11. LOCATION (CITY, COUNTY AND STATE): Various cities and rural areas in Dale County in the state of Alabama.

12. TO BE COMPLETED BY THE WORK PROVIDER FOR USE OF THE BIDDING CONTRACTOR (IF NECESSARY TO ESTABLISH THE PROPOSED RATES FOR THE REQUESTED CLASSIFICATION NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION)

13. NUMBER	14. DATE	15. WAGE RATES	16. FRINGE BENEFIT PAYMENTS
AL20100123	October 29, 2010		
<small>SEE THE OTHER "PROPOSED CLASSIFICATION RATES" FOR DISCRIMINATING DUTIES AND RATES FOR PROPOSED CLASSIFICATIONS (DEA ONLY)</small>			
Fiber Splicer	14.00	n/a	
Amplifier	11.70	n/a	
Amplifier Groundman	9.36	n/a	
Directional Bore Operator	11.86	n/a	
Trench Operator	11.86	n/a	
Underground Laborer	9.56	n/a	
Restroom	11.70	n/a	
See attached			

17. SIGNATURE AND TITLE OF SUBCONTRACTOR REPRESENTATIVE (IF ANY): _____ 18. SIGNATURE AND TITLE OF BIDDING CONTRACTOR REPRESENTATIVE: Unknown

19. SIGNATURE OF EMPLOYEE OR REPRESENTATIVE: _____

I, THE INTERESTED PARTY, AGREE AND THE CONTRACTING OFFICER RECOMMENDS APPROVAL BY THE WAGE AND HOUR DIVISION. AVAILABLE INFORMATION HAS BEEN REVIEWED BY THE INTERESTED PARTY AND AGREES TO THE PROPOSED CLASSIFICATION AND WAGE RATE. A DETERMINATION OF THE QUESTION BY THE WAGE AND HOUR DIVISION IS NOT NECESSARY. AVAILABLE INFORMATION AND RECOMMENDATION IS AS FOLLOWS:

SIGNATURE OF CONTRACTING OFFICER OR REPRESENTATIVE: _____ TITLE AND ORGANIZATION: _____ DATE SUBMITTED: 2.2.11

FOR PREVIOUS EDITIONS: DEPARTMENT OF LABOR STANDARD FORM 1244 (REV. 10/96) NUMBER OF COPIES FOR THE: 04/10/2010



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Classification Title(s)	Wage Rates	Fringe Benefits	Descriptions
1 Fiber Splicer	14.00		Performs fiber splicing
Basis:	Based on General Decision "AL20100123" an electrician should be paid \$13.24 plus \$1.76 fringe for a total of \$15.00. An electrician in the state of Alabama requires the worker to pass an examination and a combination of four years of experience or education. Fiber Splicing does not require an examination and only requires three to six months training. Due to the fact that Fiber Splicing requires less training than an electrician and no examination, a total rate of \$14.00 per hour has been requested.		
2 Aerial Lineman	11.70		Installs hardware and lather
Basis:	Based on General Decision "AL20100123" a Pipelayer should be paid \$10.00 plus \$1.70 fringe for a total of \$11.70. An Aerial Lineman would require training on operation of the bucket truck, but would not be required to work in the electrical space like an electrician. Based on these facts, an aerial lineman would earn more than a common laborer but less than an electrician. Due to the similarities in training and skill set with a Pipelayer, a total rate of \$11.70 per hour has been requested.		
3 Aerial Groundman	9.56		Pulls strand, lather, cable
Basis:	Based on General Decision "AL20100123" a common laborer should be paid \$8.37 plus \$1.19 fringe for a total of \$9.56. An Aerial Groundman would require very little training and is the common position a new employee with no prior experience would fit. Due to the similarities in training and skill set with the common laborer, a total rate of \$9.56 per hour has been requested.		
4 Directional Bore Operator	11.86		Operates boring machine
Basis:	Based on General Decision "AL20100123" a Drill Operator should be paid \$9.50 plus \$2.36 fringe for a total of \$11.86. A Directional Bore Operator would require similar training as a Drill Operator. Due to the similarities in training and skill set with the Drill Operator, a total rate of \$11.86 per hour has been requested.		
5 Trench Operator	11.86		Machine Operators
Basis:	Based on General Decision "AL20100123" a Drill Operator should be paid \$9.50 plus \$2.36 fringe for a total of \$11.86. A Trench Operator would require similar training as a Drill Operator. Due to the similarities in training and skill set with the Drill Operator, a total rate of \$11.86 per hour has been requested.		
6 Underground Laborer	9.56		Hand diggers for trenches
Basis:	Based on General Decision "AL20100123" a common laborer should be paid \$8.37 plus \$1.19 fringe for a total of \$9.56. An Underground laborer would require very little training and is the common position a new employee with no prior experience would fit. Due to the similarities in training and skill set with the common laborer, a total rate of \$9.56 per hour has been requested.		
7 Installer / Technician	11.70		Installs fiber to the anchor / business
Basis:	Based on General Decision "AL20100123" a Pipelayer should be paid \$10.00 plus \$1.70 fringe for a total of \$11.70. An Installer would require training on operation of the bucket truck, but would not be required to work in the electrical space like an electrician. Based on these facts, an installer would earn more than a common laborer but less than an electrician. Due to the similarities in training and skill set with a Pipelayer, a total rate of \$11.70 per hour has been requested.		



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FEB 22 2011
Greg Orlando
NTIA, U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Mr. Orlando:

This is in response to your request proposing the addition of a classification and wage rate to the above wage decision in accordance with 29 CFR 5.5(a)(1)(ii).

CLASSIFICATIONS	BASIC HOURLY RATES	FRINGE BENEFITS
Fiber Splicer	\$14.00	
Aerial Lineman	\$11.70	
Aerial Groundman	\$9.56	
Directional Bore Operator	\$11.86	
Trench Operator	\$11.86	
Underground Laborer	\$9.56	
Installer	\$11.70	

The above conformed classifications and wage rates are approved and shall be paid the above wages to all workers performing work in the classifications under this contract from the first day on which work is performed in the classifications.

This matter is subject to further review if any interested party should wish to present additional information for reconsideration. Requests should be sent to the Branch of Construction Wage Determinations, Room 5-3016 200 Constitution Avenue, NW, Washington, D.C. 20210. If you have any questions, please contact Mr. Evan Ibrahim at (202) 693-1172.

Sincerely,

Forest Randall
Branch Chief, Construction
Wage Determinations



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Ms. Laurel Leverrier
USDA Broadband Div Stop 1599
1400 Independence Ave., SW Rm-2868-S
Washington, DC 20250

Dear Ms. Leverrier:

This is in response to your request proposing the addition of a classification and wage rate to the above wage decision in accordance with 29 CFR 5.5(a)(1)(ii).

The proposed additional classification and wage rate is:

CLASSIFICATIONS	BASIC HOURLY RATES	FRINGE BENEFITS
Cable Splicer (Low Voltage & Fiber Optic)	\$15.00	\$3.00

The request cannot be approved because the proposed wage rate, including any bona fide fringe benefits, does not bear a reasonable relationship to wage rates contained in the wage decision [see section 5.5(a)(1)(ii)(A)(3)]. However, we would not take exception to a rate of at least \$22.26 per hour plus \$6.20 in fringes.

This matter is subject to further review if any interested party should wish to present additional information for reconsideration. Requests should be sent to the Branch of Construction Wage Determinations, Room 8-3016 200 Constitution Avenue, NW, Washington, D.C. 20210. If you have any questions, please contact Ms. Telisa Walter at (202) 683-0697.

Sincerely,

Forest Randall
Section Chief, Construction
Wage Determinations



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Example of a Request
“Denied”
(Work Already Performed)



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What Should I Do for Bid Purposes When There is No Rate Listed?

- Be sure that the work is not performed by any other craft.
- Look for the lowest skilled rate on the applicable decision (typically excludes truck driver, laborer and PEO)
- Bid contract at or above this rate.



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Criteria for Conformance Actions

**Conformance requests are not
needed for bona fide:**

- **Apprentices**
- **Trainees**
- **Welders**



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Conformance Process Contracting Agency & Contractor

Pre-Bid/Pre-Award

- Review WD
- Compare WD with project work
- Anticipate needed classifications
- Apply key criteria



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Conformance Process Contractor

After-Award:

- Identify needed classes
 - Pre-construction conference
 - Certified payrolls
- Advise agency of needed classification
- Complete Contractor Part of SF-Form 1444
 - Apply Conformance Key Criteria
- Forward SF-Form 1444 to agency for review, signature, and submission to DOL



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Conformance Process Contracting Agency

After-Award:

- **Identify needed classes**
 - **Pre-construction conference**
 - **Certified payrolls**
 - **On-site inspections**
 - **Contractor/employee/union/competitor inquiries/complaints**
- **Conformance requests (SF-1444 or other) to contractor**



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Conformance Process Contracting Agency

- **Review contractor conformance request**
- **Get interested parties' and employee views**
- **Apply key criteria for approval**
- **Document parties' agreement or dispute**
- **Document agency agreement or disagreement**
 - **Supporting information if disagree**
- **Contracting Officer Signature**



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Conformance Process Contracting Agency

- **Submit conformance request to DOL for review and determination**

- **Communicate with DOL to:**
 - **Obtain status if no response in 30 days**
 - **Respond to requests for additional information needed by DOL to process the request**



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Conformance Process DOL

Apply Conformance Criteria

Is requested classification listed on WD or can a classification on WD perform the work?

If no, then determine if proposed rate bears a reasonable relationship to the rates already in the contract WD for the given county and type of construction



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Conformance Process DOL

If **yes**, then the next determination: Is the listed classification union or open-shop?

- If union, information from only the union segment of the industry is solicited.
- If open-shop, only information from open-shop contractors is requested.



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Conformance Process DOL

Relevant data to be obtained from union or open-shop contractors:

- Project payment evidence for:
 - Same county
 - Same type of construction
 - Same work duties performed
 - Period one year prior to award of contract



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Conformance Process DOL

If data submitted shows listed classification performed the work in question, request is denied as duties of proposed classification are performed by listed classification in WD

If data is not submitted that the work was performed by the listed classification, then the next step is to determine if proposed rate bears a reasonable relationship to the rates already in the contract WD for the given county and type of construction



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Conformance Process DOL

Proposed rate “bears a reasonable relationship”

- No rate below WD unskilled laborer rate
- Skilled craft proposed rate not below WD’s lowest “skilled craft” rates (excluding laborers, truck drivers, and power equipment operators)
- Power equipment operators or truck drivers proposed rate relates to WD power equipment operator or truck driver



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Conformance Process DOL

**Verifies classification is utilized in
the area by the construction industry**

**Returns Conformance request with
approval/disapproval to agency**



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Conformance Process Contracting Agency

- **Communicate DOL's determination to
contractor and other interested parties**
- **Advise the contractor and other interested
parties of procedures for reconsideration
and appeal**



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Wage Determinations On-Line (WDOL)

<http://www.wdol.gov>
(An E-Government Initiative)



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WDOL.GOV

- Created by an inter-agency task force including DOL, DOD, OMB, GSA, DOE, and the National Technical Information Systems
- The purpose was two-fold:
 - To meet the Presidential initiative for e-government
 - To enhance the public's ability to obtain WDs



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WDOL.GOV

- Provides access to:
 - SCA & DBA Wage Determinations (WDs)
 - Current, Archived, and to be Revised
 - DBA Wage Determinations (WDs)
 - Current, Archived, and to be Revised
 - Library



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WDOL Home Page

Wage Determinations OnLine.gov

Providing public access to federal wage determinations and related information.

WDOL.gov is part of the Integrated Acquisition Environment, one of the E-Government initiatives in the President's Management Agenda. It is a collaborative effort of the Office of Management and Budget, Department of Labor, Department of Defense, General Services Administration, Department of Energy, and Department of Commerce.

HOMER USER GUIDE | HELP

Service Contract Act	Davis-Bacon Act	Related Information
<ul style="list-style-type: none">• Selecting SCA WDs• #910• Archived WDs• WDs due to be revised	<ul style="list-style-type: none">• Selecting DBA WDs• Archived WDs• WDs due to be revised	<ul style="list-style-type: none">• Agency Labor Advisors• Library• DOL Wage and Hour Website

Welcome to the Wage Determinations OnLine Program!

This website provides a single location for federal contracting officers to use in obtaining appropriate Service Contract Act (SCA) and Davis-Bacon Act (DBA) wage determinations (WDs) for each official contract action. The website is available to the general public.

News and Updates...

- > NOTICE: New Health & Welfare Fringe Benefit Rates
- > Updated All Agency Memorandum (AAN) #197



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Cross Walk from Title 29 CFR to Title 48 CFR

- Cross Reference - Index between the DOL regulations and the FAR Regulations



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Conformances Additional Classification Requests

- SF-1444 – PDF Document
- Procedures
 - SCA
 - DBA



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Davis-Bacon Compliance Principles



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DBA/DBRA Compliance Principles

- Laborers and mechanics
- Site of the work
- Truck drivers
- Apprentices Trainees & Helpers
- Area Practice
- Fringe Benefits
- Computing overtime pay



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WHD/Recovery

- <http://www.dol.gov/whd/recovery/index.htm>
- Prevailing Wage Resource Book
- Videos of past Prevailing Wage Conferences
- A list of upcoming Prevailing Wage Conferences
- Other information pertaining to ARRA
- whdarra@dol.gov



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Laborers and Mechanics

- Workers whose duties are manual or physical in nature
- Includes apprentices, trainees, and helpers
- For CWHSSA, includes watchmen and guards



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Laborers and Mechanics

- Does not include:
 - Timekeepers, inspectors, architects, engineers
 - Bona fide executive, administrative, and professional employees as defined under FLSA
- Working foremen are generally non-exempt
 - must be paid the Davis Bacon (DB) rate for the classification of work performed if not 541 exempt



Site of the Work

- Davis-Bacon applies only to laborers and mechanics employed “directly upon the site of the work”
- A three-part definition applies to determine the scope of the term “site of the work”



Site of the Work Definition ¶1

- DBA applies only to workers on the “site of the work”
 - The physical place or places where the construction called for in the contract will remain after work has been completed; and,
 - Any other site where a **significant** portion of the building or work is constructed, *provided that* such site is established specifically for the contract



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Site of the Work Definition ¶2

- “Site of the work” also includes job headquarters, tool yards, batch plants, borrow pits, etc., *provided they are*:
 - Located adjacent or virtually adjacent to the “site of the work” described in paragraph 1 and
 - Dedicated exclusively or nearly so to the performance of the contract or project
 - Except if they are excluded – see next slide



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Site of the Work Definition ¶ 3

- “Site of the work” does not include a contractor’s or subcontractor’s
 - permanent home office, branch locations, fabrication plants, tool yards, etc.,
 - whose location and continuance in operation are determined without regard to a particular covered project.



Definition ¶ 3 (Cont’d.)

- Also not included in the “site of the work” are:
 - Fabrication plants, batch plants, job headquarters, tool yards, etc., of a commercial supplier established by a supplier of materials
 - Before the opening of bids for a project, and
 - Not located on the actual site of the work
 - Such permanent, previously established facilities, are not part of the “site of the work,” even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract



Truck Drivers

- Truck drivers of the contractor or subcontractor are covered by Davis-Bacon for time:
 - Spent driving on the “site of the work,” and
 - Spent loading or unloading materials and supplies on the “site of the work,” if such time is more than *de minimis*



Truck Drivers

- Truck drivers are also covered when:
 - Transporting materials and supplies between a facility that is part of the “site of the work” and the actual construction site; or
 - Transporting portions of a building or work between a site where a significant portion of the project is being constructed and the physical place where the building or work will remain



Truck Drivers

- Truck drivers are not covered in the following instances:
 - Material delivery truck drivers while off the “site of the work”
 - Truck drivers of a contractor or subcontractor traveling between a commercial facility and the Davis-Bacon job when they are off the “site of the work”
 - Truck drivers whose time spent on the “site of the work” is *de minimis* for pick-up or drop off



Truck Drivers Owner-Operators

- DOL has an enforcement position with respect to *bona fide* owner-operators of trucks who are independent contractors (an owner-operator is a person who owns and drives a truck). Certified payrolls including the names of such owner-operators do not need to show the hours worked or the rates paid, only the notation “owner-operator”.
- This position does not apply to owner-operators of other equipment such as bulldozers, cranes, etc.



Apprentices

- Persons individually registered in a bona fide apprenticeship program registered with DOL or a DOL approved State apprenticeship agency
- Include individuals in their first 90 days of probationary employment as an apprentice
- DOL regulations: 29 CFR 5.2(n)(1) and 5.5(a)(4)(i)



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Trainees

- Persons registered and receiving on-the-job training in a construction occupation under a program that has been approved in advance by DOL's Employment Training Administration (ETA)
- DOL regulations: 29 CFR 5.2(n)(2) and 5.5(a)(4)(ii)



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Apprentices and Trainees

- Are laborers and mechanics, but are not listed on the WD
- Permitted to be used on covered projects and paid less than the journeyman rate when:
 - Individually registered in an approved apprenticeship or training program
 - Paid the percentage of hourly rate required by the apprenticeship or training program



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Apprentices and Trainees

- Paid the FB's specified in the approved program, or the full amount of FB's listed on the WD, if the program is silent; and,
- Within the allowable ratio specified in the approved program for the number of apprentices or trainees to journeymen



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Helpers

- May be employed if:
 - Duties are clearly defined and distinct from other classifications on the WD
 - An established prevailing practice in the area,
 - Not employed in an informal training program
- May be added to WD if all above conditions are met; no WD class performs the work



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Wages & Fringe Benefits

- DBA: the term “wages” or “prevailing wages” includes:
 - The basic hourly rate (BHR)
 - Contractor contributions *irrevocably* made to a trustee or third party pursuant to a bona fide fringe benefit (FB) fund, plan, or program
 - The rate of costs the contractor reasonably anticipates in providing bona fide FB’s where certain conditions are met



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Fringe Benefits

- Under DBA, FB's are a component "prevailing wage"
- The WD obligation may be satisfied by:
 - Paying the BHR and FB in cash
 - Contributing payments to a bona fide plan
 - Any combination of the two



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Examples of Fringe Benefits

- Life Insurance
- Health Insurance
- Pension
- Vacation
- Holiday
- Sick Leave



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Discharging DB Prevailing Wage Obligation

- If WD requires a prevailing wage of \$14.50 (\$12.00 BHR plus \$2.50 in FB's), the contractor can comply by paying:
 - \$14.50 in cash wages; or
 - \$12.00 plus \$2.50 in bona fide FB; or
 - \$11.00 plus \$3.50 in bona fide FBs



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Computing Overtime Hours (CWHSSA Earnings)

An employee worked 44 hours as electrician,
where WD BHR is \$12.00 plus \$2.50 in FB's:

44 hours	X	\$ 2.50	= \$110.00	FB's
44 hours	X	\$12.00	= \$528.00	BHR
4 hours	X	\$12.00/2	= \$ 24.00	OT
			\$662.00	



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Overtime Computation where Employee Employed at Two Rates

During a workweek an employee works 20 hours as an Electrician at \$12.00 BHR plus \$2.50 in FB's and as a Painter for 24 hours at \$10.00 BHR plus \$3.00 in FB's.

The regular rate for determining the Overtime rate is:

$$20 \times \$12.00 = \$240.00 \text{ (as Electrician)}$$

$$24 \times \$10.00 = \underline{\$240.00} \text{ (as Painter)}$$

$$\$480.00/44 = \$10.91$$

$$\text{Overtime due: } \$10.91 \times 1/2 \times 4 \text{ hours} = \$21.82$$



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