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Wage and Hour Division (WHD)

Davis-Bacon and Related Acts Frequently Asked Questions

What is a Wage Determination?

A "wage determination" is the listing of wage rates and [fringe benefit rates](#) for each classification of laborers and mechanics which the Administrator of the Wage and Hour Division of the U.S. Department of Labor has determined to be prevailing in a given area for a particular type of construction (e.g., [building](#), [heavy](#), [highway](#), or [residential](#)).

The [Wage and Hour Division](#) issues two types of wage determinations: [general determinations](#), also known as area determinations, and [project determinations](#). The term "wage determination" is defined as including not only the original decision but any subsequent decisions modifying, superseding, correcting, or otherwise changing the rates and scope of the original decision.

In accordance with the provisions of [29 CFR Part 1](#) and [Part 5](#), the wage rates and fringe benefits in the applicable Davis-Bacon wage determination shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

What is a General Wage Determination?

A general wage determination reflects those rates determined by the [Wage and Hour Division](#) to be prevailing in a specific geographic area for the type of construction described. General wage determinations and [modifications](#) and [supersedes](#) decisions thereto, contain no expiration dates and are effective from their date of publication on the Wage Determination On Line (WDOL) web site at <http://www.wdol.gov>; or notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. Effective September 26, 2005, the WDOL web site will be the official source for contracting agencies to use when obtaining wage determinations issued by DOL. If a contracting agency has a proposed construction project to which a general determination would be applicable, the published determination may be used by the contracting agency without consulting the Department of Labor, provided that questions concerning its use shall be referred to the Department of Labor.

What is a Project Wage Determination?

A project wage determination is issued at the specific request of a contracting agency (using a [Standard Form \(SF\) 308](#)); is applicable to the named project only; and expires 180 calendar days from the date of issuance unless an extension of the expiration date is requested by the agency and approved by the [Wage and Hour Division](#). If such a determination is not used in the period of its effectiveness, it is void.

What are Supersedes Wage Determinations?

Supersedes wage determinations are issued annually to replace [general wage determinations](#) published on the Wage Determination On Line (WDOL) web site at <http://www.dol.gov>; or issued in the previous edition of the publication entitled [General Wage Determinations Issued Under the Davis-Bacon and Related Acts](#). Supersedes wage determinations are "published" on the date of the notice of the supersedes wage determination published on WDOL or on the date the agency receives actual written notice of the modification from the Department of Labor, whichever occurs first.

What is a modification to a wage determination?

A modification to a wage determination is issued to update data in the original determination. Where a contract will be entered pursuant to competitive bidding procedures, a modification, notice of which is published on the Wage Determination On Line (WDOL) web site at <http://www.dol.gov>; or in the **Federal Register** less than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available before bid opening to notify bidders of the modification and a report of the finding is inserted in the contract file. A modification to a general wage determination is "published" on the date of the notice of the modification published on WDOL or on the date the agency receives actual written notice of the modification from the Department of Labor, whichever occurs first. (For projects assisted under the National Housing Act, and for projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, dates other than bid opening apply. See Regulations, [29 CFR Part 1, section 1.6](#)).

If a contract has not been awarded within 90 days after bid opening, modifications prior to award to a [general wage determination](#) in the contract shall be effective with respect to that contract unless the agency requests and obtains an extension of the 90-day period from the [Wage and Hour Division](#).

Is the rate on the wage determination the minimum hourly rate?

Yes. The wage rate listed on the [wage determination](#) is the minimum rate that the contractor can pay its employees working on the project.

Can apprentices, trainees, and/or helpers work on a project covered by the Davis-Bacon or related Acts (DBRA), and what wage rates must they be paid?

Individuals who meet the following definition may be employed as **apprentices** on DBRA projects:

(a) A person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau,

Or

(b) A person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been properly certified to be eligible for probationary employment as an apprentice.

Trainees employed must be persons registered in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, as meeting its standards for on-the-job training programs and which have been so certified by that Administration.

Information on wage rates paid to apprentices and trainees is not reflected in Davis-Bacon wage determinations. Similarly, their addition through the additional classification procedure (conformance) is neither necessary nor appropriate. On projects funded by the Federal-Aid Highway Act, apprentices and trainees certified by the Secretary of Transportation are not covered by Davis-Bacon labor standards.

The proper wage rates to be paid to apprentices and trainees are those specified by the particular programs in which they are enrolled, expressed as a percentage of the journeyman rate on the wage determination. In the event employees reported as apprentices or trainees on a covered project have not been properly registered within the meaning of the Regulations and the contract stipulations, or are utilized at the job site in excess of the ratio to journeymen permitted under the approved program, they must be paid the applicable wage rates for laborers and mechanics employed on the project performing in the classification of work they actually

performed. This applies regardless of work classifications which may be listed on the submitted payrolls and regardless of their level of skill.

Helper classifications may be issued in or added to a wage determination only where the (a) the duties of the helpers are clearly defined and distinct from those of the journeyman classification and from the laborer, (b) the use of such helpers is an established prevailing practice in the area, and (c) the term "helper" is not synonymous with "trainee" in an informal training program.

What wage rates must be paid to supervisory employees (foremen, superintendents, etc.) employed on a covered project?

The wage rates for bona fide supervisory employees are not regulated under the [Davis-Bacon and Related Acts](#) because their duties are primarily administrative or executive in nature rather than those of laborers or mechanics. However, such employees who devote more than 20 percent of their time during a workweek to mechanic or laborer duties are laborers and mechanics for the time so spent, and must be paid at least the appropriate wage rates specified in the wage determination. Employees who are bona fide executive, administrative, or professional employees as defined under the Fair Labor Standards Act at [29 CFR Part 541](#) are not covered by the Davis-Bacon Act.

The wage determination applicable to my project does not contain a class of workers which is needed to complete construction. Can other worker classification(s) and wage rate(s) be approved for use on the project?

Prior to bid opening, if the only classification that will perform work on a contract is not listed on a [general wage determination](#) for the type of construction in the area, the contracting/assisting agency may submit a [SF-308](#) request for a [project wage determination](#) for application to that project. In order to assure special treatment of a request where this circumstance exists, a note explaining the special circumstances should be made in the project description block of the SF-308. (A similar note may be made on a SF-308 request for a project wage determination, where a general wage determination is not applicable, and all of the work on the project will be performed by a particular classification, as a means to assure that a wage rate for that classification will be issued for the project).

Example:

An upcoming contract calls for repainting all the residences at a military base, and there is no painter classification in the general wage schedule issued for application to residential construction in the county where the project is located. A SF-308 may be submitted by the agency for application to that contract, and a project wage determination will be issued with a painter classification and wage rate for use prior to bid opening (or the other applicable date where certain assistance programs of the Department of Housing and Urban Development (HUD) are the basis for coverage under the Davis-Bacon and Related Acts). If there is no general wage determination issued for that area and type of construction, the same procedure should be followed.

After contract award, if the contract wage determination does not contain a class of workers that is needed to complete the construction, a contractor shall submit to the contracting officer a request for the addition of the needed classification(s) of laborers or mechanics not listed in the wage determination, together with proposed wage rates and [fringe benefits](#) conformable to the wage determination.

The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. **An additional classification action, even if undisputed, is not valid unless the Department of Labor has approved it. If a dispute exists, the matter must be referred to the [Wage and Hour Division](#) for resolution, together with the views of all interested parties and the**

recommendation of the contracting officer. Approval of the additional classification and the proposed wage rate and fringe benefits requires that the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by any classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) There is evidence of agreement on the classification and proposed wage rate among the parties involved, or the views of those involved -- the contractor(s), employees (if known) or their representative, and the contracting officer/agency -- are forwarded for consideration to the Wage and Hour Division; and
- (5) The request does not involve wage rates for [apprentices](#) or [trainees](#).

All conformance notices should be responded to in writing within 30 days of receipt. These responses either approve or deny the request or inform the submitting agency that additional time will be required. Failure to receive a response does not constitute approval. If a response is not received, the Wage and Hour Division should be contacted directly. Every conformance request is analyzed to verify that the criteria for approval are met.

Any interested person requesting reconsideration of a conformance should present their request in writing accompanied by supporting data or other pertinent information to the Wage and Hour Division. The Wage and Hour Division should respond within 30 days or notify the requester within this time frame that additional time is needed.

If reconsideration of a conformance action has been sought and denied, an appeal for review may be filed with the [Administrative Review Board](#). (See [29 CFR 1.8](#) and [1.9](#), and [29 CFR Part 7](#).)