



Davis-Bacon and Related Acts

Wage Determinations: Conformance & Appeals Process



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR



dol.gov/agencies/whd
1-866-4-US-WAGE

Introduction

- The Wage and Hour Division (WHD) is responsible for administering and enforcing several federal laws involving labor standards including:
 - The Davis-Bacon and Related Acts (DBRA);
 - The McNamara – O’Hara Service Contract Act (SCA);
 - Executive Orders applicable to federal contractors;
 - The Fair Labor Standards Act (FLSA);
 - Family Medical Leave Act (FMLA).



Davis-Bacon and Related Acts

- The DBRA applies to contractors and subcontractors performing on federal or federally assisted contracts in excess of \$2,000 for construction, alteration, or repair.
- Covered contractors and subcontractors must pay their laborers and mechanics working on the site of work no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.



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)(iii)).
- Conformance requests are not needed for bona fide:
 - Apprentices
 - Welders



Criteria for Conformance Actions

Conformance of an additional classification and wage rate and fringe benefits is appropriate only when all the following criteria have been met:

- The work to be performed by the proposed classification is not performed by a classification already in the wage determination (WD)
- The proposed classification is used in the area by the construction industry
- The proposed wage rate bears a reasonable relationship to WD rates



“Reasonable Relationship”

When determining whether a proposed rate bears a “reasonable relationship” to wage rates in the wage determination:

- Determine the category of the classification in question (skilled craft, laborer, equipment operator, or truck driver)
- Determine whether the rates in that category are predominantly CBA or survey rates
- Consider the rates that category (or all the rates in that category, if neither CBA nor survey rates predominate) and determine whether the proposed rate is reasonable in light of those rates
- Do not automatically use the lowest rate in the category



“Reasonable Relationship” – Example

Based on the following, does the proposed hourly rate of \$20.99 plus \$10.04 in fringe benefits (\$31.03 in total) for a skilled craft bear a reasonable relationship to the rates on the WD? In this case, the amount proposed does not bear a reasonable relationship to the rates on the WD.

Classification	Sector	Hourly Wage	FB	Total
Carpenter	CBA	\$26.06	\$10.56	\$36.62
Cable Splicer	CBA	\$28.62	3% + \$12.98	\$42.46
Electrician	CBA	\$28.37	\$13.98	\$42.35
Ironworkers	CBA	\$31.09	\$19.60	\$50.69
Cement Mason/Finisher	Survey	\$20.22	\$7.98	\$28.20
General Laborer	CBA	\$21.04	\$9.65	\$30.69



Contracting Agency & Contractor Responsibilities

Pre-Bid/Pre-Award

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



Contractor Responsibilities

After-Award:

- Identify additional classification(s) needed
 - At the pre-construction conference
 - From certified payrolls
- Advise agency of the needed classification(s)
- Complete Contractor Part of SF-1444
- Apply Conformance Key Criteria
- Forward SF-1444 to agency for review, signature, and submission to DOL



Submitting the SF-1444

- Contracting Officers may submit completed SF-1444 Requests to the Department of Labor via email. Please scan the completed form and all supporting documents into a 'pdf' file and attach to the email. Include the Contracting Officer's name, address, telephone, and email address.
- DBAConformance@dol.gov
- <https://sam.gov/content/wage-determinations/resources/dba-conformances>



Appeal Process: WDs and Conformances

Has an initial determination been made on a:

- Published WD
- Wage survey
- Letter setting forth a position, or
- A conformance determination



Initial Contacts

- Initial contact on survey related matters should be directed to the WHD, National Office, Branch of Wage Surveys
- Initial contact on WD and conformance actions should be directed to the WHD, National Office, Branch of Construction Wage Determinations
 - <http://www.dol.gov/whd/govcontracts/stateassignments.htm>



Review & Reconsideration

Requests for review and reconsideration are submitted to the Administrator, WHD:

- In writing or by email to:
 - For WD appeals, per 29 CFR 1.8, dba.reconsideration@dol.gov
 - For conformance determinations, per 29 CFR 5.13, dba.rulingrequest@dol.gov
- Include supporting data
- Response or notification of additional time needed within 30 days



Final Rulings: WHD and ARB

- A final ruling will be issued by the WHD Administrator and may be appealed to the Administrative Review Board (ARB).
- The ARB issues final agency decisions on behalf of the Secretary of Labor:
 - Requests for review of WDs must be timely (29 CFR 7.4(a))
 - The ARB will not request that a contracting agency postpone contract action (29 CFR 7.4(b))



SAM.gov Resources

- Labor Advisors
- All Agency “Memoranda”
- Cross Index for Contract Labor Standards
- DBA conformances
- Project Wage Determinations (SF308)
- Debarment, Ineligible Contractors Listing
- Video on how to search wage determinations

www.sam.gov



SAM.gov Resources

The screenshot shows the SAM.gov website interface. At the top, there is a browser tab for 'SAM.gov | Home' and a URL bar with 'sam.gov/content/home'. Below the browser, a banner indicates it is an official website of the United States government. A notification area contains two alerts: 'Entity Validation Processing' dated Oct 17, 2023, and 'SCR Reporting Opens October 5, 2023' dated Oct 3, 2023. A 'See All Alerts' button is present. A 'Sign In' link is also visible. The main navigation menu includes 'Home', 'Search', 'Data Bank', 'Data Services', and 'Help'. The main content area features the SAM.GOV logo, a badge stating 'Official U.S. Government Website 100% Free', and a section titled 'The Official U.S. Government System for:' followed by 'Register Your Entity or Get a Unique Entity ID'.

DOL Resources

- Government Contracts Compliance Assistance page
- Prevailing Wage Resource Book
- DBA Wage Determination Conformance Request Guide
- Fact Sheets
- Construction Surveys

www.dol.gov/whd



DOL Resources

The screenshot shows a web browser window with the URL dol.gov/agencies/whd. The page header includes the U.S. Department of Labor logo and the text "Wage and Hour Division". Navigation links for "ABOUT US", "CONTACT US", and "ESPAÑOL" are visible, along with a search bar labeled "Search WHD". A blue navigation bar contains menu items: "TOPICS", "WORKER RIGHTS", "FOR EMPLOYERS", "RESOURCES", "INTERPRETIVE GUIDANCE", "STATE LAWS", and "NEWS RELEASES". Below the navigation bar, a breadcrumb trail reads "Home > WHD". The main content area features a large banner image of agricultural workers in a field. Overlaid on the left side of the banner is a white text box with the heading "Essential Protections for Essential Workers" and a blue "Learn More" button.

Internet Sites

- Wage Determinations: <https://sam.gov>
- Wage and Hour Division: <http://www.dol.gov/agencies/whd/government-contracts>
- WHD Protections for Workers in Construction under the Bipartisan Infrastructure Law: <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>
- Resource Book: <http://www.dol.gov/agencies/whd/prevaling-wage-resource-book>
- Office of the Administrative Law Judges Law Library: <https://www.dol.gov/agencies/oalj/topics/libraries/LIBDBA>
- Prevailing Wage Topic videos: <https://www.dol.gov/agencies/whd/government-contracts/construction/presentations>



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