
Chapter 3 DAVIS-BACON WAGE DECISIONS

- 3-1 **Introduction.** The U.S. Department of Labor (DOL) is responsible for determining prevailing wage rates for construction work pursuant to the Davis-Bacon Act and publishes schedules of these wage rates online. DOL regulations pertaining to the determination, publication, use, and effectiveness of Davis-Bacon wage decisions (also known as wage determinations) are found at 29 CFR Part 1.

Local Contracting Agencies must submit requests and reports for DOL review, other than additional classification requests (see paragraph 3-17 (C)), through the HUD Labor Standards Specialist.

- 3-2 **Definition of wage decisions.** The term “wage decision” includes the original decision and any subsequent decisions that modify, supersede, correct, or otherwise change the provisions of the original decision. The term “wage decision” is used within this chapter to mean the Davis-Bacon wage decision. The terms wage decision and wage determination are used interchangeably.

A wage decision is a schedule of construction work classifications, wage rates, and fringe benefits that represent the *minimum* rates that must be paid to workers employed in those classifications. General wage decisions are established for defined geographic areas, usually by county or group of counties, and the four characters of construction work.

- 3-3 **Character of work.** There are four basic categories (or characters) of general wage decisions based on the type of construction activity. DOL established these categories and provides details of each one in its [All Agency Memoranda Nos. 130 and 131](#). DOL provides further guidance in [All Agency Memorandum 236](#), [Prevailing Wage Resource Book](#), and [Field Operations Handbook, Chapter 15](#). The four categories include:

- A. **Residential.** Residential construction includes the construction, alteration, or repair of single-family houses or apartment buildings of no more than four (4) stories in height. This typically includes all incidental items such as site preparation work, utilities, and sidewalks, unless there is an established area practice to the contrary. (Refer to paragraph 3-6(B) part 1 for the definition of the term incidental.)
- B. **Building.** Building construction generally is the construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, or supplies. This category includes buildings *exceeding four (4) stories in height that have housing units* and buildings of *four (4) stories or less that do not have housing units*. This category also includes incidental items such as grading, sidewalks, and utilities. Building examples include high-rise apartment buildings, nursing homes and convalescent facilities, community centers, fire stations, commercial buildings, parking garages, and dormitories.

- C. **Highway.** Highway construction includes the construction, alteration, or repair of roads, streets, highways, alleys, parking areas, and other similar projects not incidental to the main category of construction, which is either residential or building for housing development projects.
- D. **Heavy.** Heavy construction includes those projects that are not properly classified as “residential,” “building,” or “highway.” Some examples include antenna towers, canals, landscaping, drainage and irrigation projects, permanent erosion control, storm sewers and storage tanks.

3-4 **Types of wage decisions.** Wage decisions are issued in two ways: general wage decisions and project wage decisions.

- A. **General wage decisions.** Most Davis-Bacon wage decisions are general wage decisions. General wage decisions contain prevailing wage rates for the character(s) of work designated in the wage determination. DOL publishes superseadas general wage decisions annually, and publishes modifications throughout the year. DOL usually publishes these annually and may modify or supersede them throughout the year. Local Contracting Agencies (LCAs) and HUD Labor Standard Specialists (LSS) may select general wage decisions without advance notice or approval from DOL; however, questions concerning the use of selected general wage decisions must be referred to DOL (*see* 29 CFR 1.6(b)). Most Davis-Bacon wage determinations for HUD projects will consist of General Wage Decisions.
- B. **Project wage decisions.** If an appropriate wage decision (by location, character of work, or specific trade required) is *not* published in the general wage decisions, the LCA or HUD shall request a project wage decision from DOL. Project wage decisions are applicable *only* to the construction work specified on the request to DOL and listed on the front page of the project wage decision. Project wage decisions are valid for 180 days from the date of original issuance by DOL. The issuance and expiration dates will be indicated on the front page of the wage decision.

Note: A project wage decision may be necessary even when a general wage determination exists for the project’s geographic location and character of work. For example: a project involves only roof replacement on a 4-story apartment building and the only classification needed for the entire contract is a roofer. A general wage decision is published for residential construction in the county where the project is located; however, the general wage decision does not include a roofer classification and wage rate. In this case, the general wage decision is not relevant to the roof replacement and the LCA or HUD will need to request a project wage decision from DOL.

- 3-5 **Obtaining wage decisions.** General wage decisions and modifications are available at www.sam.gov. This is the *only* official online publication of general wage decisions. Project wage decisions must be requested on a case-by-case basis from DOL (see paragraph B below).
- A. **General wage decisions.** The official website www.sam.gov provides both current and previous general wage decisions and modifications.
 - B. **Project wage decisions, as needed.** The responsible contracting officer or administrator (see 3-6 below) will submit a completed SF-308, *Request for Determination and Response to Request*, to the DOL National Office, allowing 30 days for return of the project wage decision from DOL.
- 3-6 **Selecting the correct wage decision.** The responsible contracting officer (also referred to as the contract administrator) selects the wage decisions for specific contracts or projects. For HUD-administered projects (e.g., FHA-insured multifamily development), the responsible contracting officer is the LSS. In addition, the LSS provides technical support and oversight to LCAs administering HUD programs in selecting the appropriate wage decisions. The responsible contracting officer selects the applicable wage decision(s) based on the geographic location and the character of work (Residential, Building, Highway, and/or Heavy) applicable to the project.
- A. **Geographic location.** General wage decisions are published by county or groups of counties. The applicable geographic location is generally the county in which the project is located.
 - B. **Character of work.** The applicable character of work is determined by the principal purpose(s) of the project and the end result of the construction. DOL guidance *All Agency Memorandum 130* states that a “project” is classified as belonging in one of the four categories of construction that are discussed in paragraph 3-3: Residential, Building, Heavy, and Highway. In certain cases, a single project may contain separate and distinguishable components that fall into different categories of construction.
 1. ***Incidental*** construction items are elements of a project whose function is to support the principal purpose and do not change the overall character of work. Examples of incidental items include sidewalks and handrails installed to support residential or building projects. While sidewalks, in and of themselves, constitute “highway” construction, this element installed in conjunction with a residential or building project is considered to be incidental to the principal purpose of the construction and is subject to the same wage decision that applies to the principal purpose.
 2. ***Substantial*** items are defined by DOL in All Agency Memorandum 236 as construction items that exceed either \$2.5 million or 20% of the total project

cost.¹ Additional general wage decisions may be applicable to a project that contains substantial construction items that fall into different categories of construction. (See paragraph 3-6(E), below.)

3. **End result** refers to the outcome of the construction activity determining the character of work. This is a factor only in rehabilitation projects. For example, if an existing 4-story office building is undergoing rehabilitation and the end result is an apartment building that is four (4) stories or less, the character of work is Residential. Conversely, if a single family-home is renovated and the end result is a community center, the character of work is Building.

C. **Considerations for residential construction.** Residential construction is defined as projects involving the construction, alteration, or repair of single-family houses or apartment buildings of no more than four (4) stories in height. This includes incidental items such as earthwork, utilities, and sidewalks. Generally, any housing development (four stories or less) is classified as Residential.

1. **First story (floor).**
 - a. A lowermost story is considered a first story (floor) if it is:
 - (1) Primarily above exterior grade on one or more sides; and,
 - (2) Contains at least 50% living accommodations or related nonresidential uses (e.g., laundry space, recreation/hobby rooms, commercial use, and/or corridor space).
 - b. A lowermost story is considered a first story (floor) without regard to a percentage test if it is primarily above ground on two or more sides.
 - c. A lowermost story is considered a first story (floor) if it contains the main entrance to the building.
 - d. A lowermost story is considered a first story (floor) without regard to exterior grade if it is used for apartment space in a way substantially similar to the upper floors.
2. **Basement.** Stories below grade used for storage, parking, mechanical systems/equipment, etc., are considered basement stories which are not used in determining the building's height.
3. **Attic.** An attic is an unfinished space located immediately below the roof. Such space is not used in determining a building's height even if used for storage purposes.

¹ AAM 236 states that to ensure that the monetary threshold, currently \$2.5 million, continues to be a reliable indicator of when construction items in a different category are substantial, the Wage and Hour Division will re-evaluate annually whether an update to the monetary threshold is warranted by inflation and rising costs. If WHD updates the monetary threshold, the most recent WHD monetary threshold should be used in determining whether a construction category is substantial. Note that WHD may update the monetary threshold; the 20% threshold will remain the same.

-
4. **Half-story.** A half-story over the building's fourth story classifies the character of construction as building. A half-story is a story finished as living accommodations located wholly or partially within the roof frame with floor space at least half as large as the story below. (Space with less than five (5) feet clear headroom shall not be considered as floor area.)
 5. **Top story.** The top story, not finished for living accommodations, between the uppermost floor and the ceiling or the roof above, with floor space as large as the story below, is considered a story for purposes of determining a building's height.
 6. **Housing unit requirements.** For assisted living properties, a Residential wage decision will apply if the property is four (4) stories or less and each assisted living unit has its own kitchen and bathroom. Additional considerations include:
 - a. For assisted living projects with memory care units, and/or units that do not have self-contained kitchens and bathrooms, a Building wage decision may apply based on AAMs 130, 131, and 236.
 - b. If an assisted living project that is four (4) stories or less has a mix of independent living and memory care units, and/or a mix of units with and without self-contained kitchens and bathrooms, the LLS or LCA must determine if one component of the mix of units is substantial, as defined above in paragraph 3-6(B) Part 2. If so, Residential rates and Building rates may be required.
 - c. Single room occupancy (SRO) projects are *exempt* from these criteria. SRO projects are not required to have a kitchen and bathroom in each housing unit. (*Dutch Hotel (SRO) Kitchen, WAB No. 90-29, March 22, 1991.*)
 7. **Projects with multiple characters of construction.** Some projects may contain elements of different construction characters that are separate in function to each other. For example, a three-story building and a five-story building in a multifamily project each has an independent purpose and function and are not incidental to the other. In such cases, it is appropriate to identify more than one character of work and to assign multiple wage decisions, i.e., a wage decision(s) covering each character of work involved.
- D. **Multiple wage decisions.** "Multiple wage decisions" refers to the responsible contracting officer or administrator selecting more than one general wage decision for a single project.
1. The responsible contracting officer initially selects the primary category of construction applicable to the covered project by identifying the category most consistent with the primary purpose of the project.
 - a. For example, in HUD's multifamily housing programs, the primary component of the project is residential housing units, and as such, the
-

- LSS should select either Residential (4 stories or less) or Building (5 stories or more) as the primary category of construction, and select the corresponding Residential or Building general wage determination for inclusion in the project's construction contract.
2. The responsible contracting officer then evaluates whether to select an additional wage decision for construction items of a separate category, e.g. if Residential is the primary category of construction, determining if Building, Highway, or Heavy also apply to the project.
 - a. In instances where functionally incidental construction items would be in a different category of construction, as those categories are defined in AAM 130, if constructed alone, and (b) meet or exceed the AAM 236 thresholds for substantial cost, the contracting officer will generally apply the wage determination for the different category in addition to the wage determination for the overall project.
 - b. However, where the cost of construction items in a different category is not significantly greater than \$2.5 million² or 20% of the total project cost, HUD will undertake additional analysis and consult with DOL to determine whether HUD's selection of a separate wage decision is appropriate and consistent with local area practice.

For HUD Staff: The Deputy Director will consult with HQLS for approval of multiple wage decisions for a housing development project. It is important to note that for these types of projects, multiple wage decisions come through HQLS, which in turn will consult with DOL, as needed. HQLS will interact with the DOL National Office on the final decision as necessary.

For LCA staff: Be aware of potential multiple wage decision possibilities. Projects should be closely scrutinized for substantial work components that might fall into different categories of construction requiring separate wage decisions if the components exceed either \$2.5 million³ or 20% of the total project cost.

Examples include:

- A project with multiple characters of construction (see paragraph C-7 above).
- A four-story apartment complex with an adjacent two-story parking garage that costs \$3 million. In this case, residential wage rates apply to the apartment complex and building wage rates apply to the parking garage.
- A five-story apartment building with a playground and outdoor pool or other structures. Building wage rates apply to the apartment building. Heavy construction wage rates apply to the playground and pool if their costs exceed either \$2.5 million⁴ or 20% of the total project cost.

² See footnote 1 regarding use of any updated WHD monetary threshold.

³ See footnote 1 regarding use of any updated WHD monetary threshold.

⁴ See footnote 1 regarding use of any updated WHD monetary threshold.

Given the numerous possibilities for multiple wage decisions, LCA staff are encouraged to consult with their LSS counterparts at HUD for guidance whenever needed.

- E. **Davis-Bacon compliance on projects with multiple wage decisions.** The developer/prime contractor must ensure that all laborers and mechanics receive not less than the applicable wage rate based upon the classification of work they are doing in relation to the wage decision assigned to the character of the construction work that is being performed. Compliance may be established in the following manners:
1. **Pay the highest of all wage rates.** The developer/prime contractor may establish compliance by ensuring the payment of the highest wage rate on all applicable wage decisions for each work classification. *Or,*
 2. **Utilize wage rates on all wage decisions.** The developer/prime contractor may utilize the wage rates contained in all the wage decisions assigned to the project provided that they comply with the following standards:
 - a. The project/contract specifications must clearly delineate which construction items are subject to each selected wage decision.
 - b. The developer/prime contractor must post all selected wage decisions at the job site with an explanation as to which construction items are covered by which applicable wage determination.
 - c. The developer/prime contractor must establish adequate controls to ensure that all covered workers are paid under the wage decision applicable to their respective construction work.
 - d. All employers (contractor, subcontractors, lower-tier subcontractors) must prepare, submit, and maintain accurate employee time and payroll records that evidence the selected separate wage decisions were properly applied to the relevant construction work.

3-7 **Modifications.** General wage decisions and project wage decisions may be modified from time to time to keep them current, correct errors, and for other purposes. Modifications may be limited to one or more particular work classifications and wage rates. Modifications are effective to a project if HUD or an LCA receives them, or if notice of the modification is published at <https://sam.gov> prior to the lock-in date. (See paragraph 3-10 for additional lock-in date guidance.) Modifications to a project wage decision expire on the same date as the original project wage decision. A modification to a general wage determination remains in effect until it is superseded by a subsequent modification, or the original general wage decision is superseded or cancelled.

3-8 **Supersedeas wage decisions.** A supersedeas wage decision stops the original wage decision completely and replaces it. The most common supersedeas wage decisions are those published annually to replace the prior year's general wage decisions to reflect the new calendar year, and frequently involve no changes to the work classifications or wage rates. However, supersedeas wage decisions may involve changes in a large number of

job classifications and/or wage rates after DOL publishes new wage surveys. Supersedeas wage decisions are effective to projects in the same manner as modifications.

3-9 **Letters of inadvertence.** Letters of inadvertence are issued by DOL to correct errors in the written text of a wage decision such as clerical errors made in processing the schedule of wage rates. The corrections issued in a letter of inadvertence shall be included in any bid documents, contract specifications, and/or in any on-going contract retroactively to the start of construction.

3-10 **Lock-in dates, use and effectiveness of wage decisions.** General and project wage decisions become effective or “locked-in” for a particular contract or project usually not later than the date construction starts. Once a wage decision is “locked-in”, subsequent modifications or supersedeas wage decisions are not effective for that contract/project. However, prior to the “lock-in” date, modifications and supersedeas wage decisions shall be considered to ensure consistency with DOL regulations.

Project wage decisions shall be monitored to ensure that the “lock-in” date occurs before the project wage decision expires. The “lock-in” date is also referred to as the “wage decision effective date.” (See also DOL Regulations at 29 CFR § 1.6.)

General and project wage decisions shall be effective (locked-in) on the date the contract is awarded or the date construction starts, whichever may occur first, except as follows:

A. **Contracts entered into pursuant to competitive bidding.** General wage decisions shall be locked-in on the date that bids are opened *provided* that the contract is awarded within 90 days after bid opening. If the contract is awarded more than 90 days after bid opening, the general wage decision shall be updated as of the date of award unless an extension is obtained (see paragraph D, below). A project wage decision shall be locked-in at contract award. Modifications to a general or project wage decision published at <https://sam.gov> or received by HUD or an LCA prior to the lock-in date shall be effective with respect to the contract/project.

Exception for competitive bid procedures ONLY: A modification to a general or project wage decision published or received less than 10 days before bid opening may be disregarded if it is found that there is not a reasonable amount of time to notify prospective bidders of the modification before bid opening. A record of such finding must be made to the contract/project file.

B. **Projects assisted under the National Housing Act (e.g., FHA-insured).** A general wage decision shall be locked-in on the date the mortgage is initially endorsed *provided* that construction starts within 90 days after initial endorsement. If construction starts more than 90 days after initial endorsement, the general wage decision must be updated as of the construction start date unless an extension is obtained (see paragraphs D – F). A wage decision shall be locked-in at initial endorsement or start of construction, whichever occurs first. Modifications published or received prior to the lock-in date shall be effective with respect to that project.

C. **Projects to receive Section 8 rental payments assistance under the U.S. Housing Act of 1937.** A general wage decision shall be locked-in on the date of the agreement to enter into a housing assistance payments contract (AHAP) or project rental assistance agreement (APRAC) or analogous instrument is executed *provided* that construction starts within 90 days after such execution. If construction starts more than 90 days after execution of the AHAP/APRAC, the general wage decision must be updated as of the construction start date unless an extension is obtained (see paragraph D, below). A project wage decision shall be “locked-in” on the date the AHAP or APRAC, or analogous instrument is executed or the start of construction, whichever occurs first. Modifications published/received prior to the lock-in dates shall be effective with respect to that project.

D. **Request for extension for general wage decisions.** In those cases where the 90-day time limitation for contract award (paragraph 3-10(A)) or construction start (paragraphs 3-10(B) or (C)) has been exceeded, HUD may request an extension to the effective date of the prior wage decision from DOL.

The request must be supported by a statement of the factual circumstances and a finding that the extension is necessary and proper in the public interest to prevent injustice or undue hardship. The LSS or LCA staff shall prepare these requests and submit them through the Deputy Director to HQLS. HQLS shall consider the request and, if warranted, shall transmit it to DOL for the Wage and Hour Administrator’s consideration. (See also DOL Regulations at 29 § 1.6(c)(3)(iv).)

E. **Special instructions concerning expiration of project wage decisions.** Project wage decisions are generally valid for 180 days from issuance. A project wage decision is void if it is not locked-in before the expiration date. HUD may request an extension when it appears that a project wage decision may expire before the lock-in date. The LSS or LCA staff shall follow the instructions at 3-10(D) above to submit an extension request. (See also DOL Regulations at 29 CFR § 1.6(a)(1).)

F. **Special instructions concerning FHA-insured projects.** HUD may request a variation from the lock-in date required by 29 CFR § 1.6 so that the project may proceed with the wage decision as it was published on the date that the firm commitment was issued when:

1. a modification or supersedeas decision is published (general) or received (project) by HUD before initial endorsement or initial closing but *after* the issuance of the firm commitment by HUD; *and*
2. less than 90-days has transpired between firm commitment and the set initial endorsement/closing date.

The LSS shall follow the instructions at paragraph 3-10(D) above to submit a request for variation. (See also DOL Regulations at 29 CFR § 5.14.)

3-11 **Retroactive wage decisions.** If HUD funding or assistance under a statute requiring the payment of Davis-Bacon wage rates is approved *after* contract award (or start of construction where there is no contract award), the LSS/LCA shall identify and obtain the Davis-Bacon wage decision in effect as of the contract award/construction start date. The applicable wage decision shall be incorporated into the contract specifications *retroactively* to the start of construction. (See also DOL Regulations at 29 CFR § 1.6(g).)

A. **Exceptions.** The two exceptions to retroactive wage decisions include:

1. The DOL Wage and Hour Administrator may issue a wage decision to be effective on the date of approval of HUD funding or assistance whenever the Administrator finds that it is necessary and proper in the public interest to prevent an injustice or undue hardship. *And*, provided further that the Administrator finds no evidence of intent to apply for federal funding or assistance prior to contract award or start of construction, as appropriate. Such requests shall be prepared and submitted in the same manner, including appropriate supporting statements of fact and reasoning, as described at 3-10(D) above.
2. Davis-Bacon wage decisions will not be applied retroactively to work that occurred prior to the filing of an application for FHA mortgage insurance under the National Housing Act.

3-12 **Incorporation of wage decision and labor standards provisions in bid specifications and contracts.** The applicable Davis-Bacon wage decision, including modifications, and the applicable federal labor standards provisions must be made a part of the bid documents (if any) and/or contract specifications for any construction work subject to Davis-Bacon prevailing wage requirements. (See also DOL Regulations at 29 CFR § 5.5(a).)

A. **Incorporation in contracts and subcontracts.** Every ensuing construction contract or subcontract, and any lower-tier subcontracts must include the applicable Davis-Bacon wage decision and its modifications, and the federal labor standards provisions. The prime contractor is responsible for ensuring the incorporation of the wage decision and labor standards provisions in all subcontracts.

B. **Contract labor standards provisions.** HUD has forms containing Davis-Bacon labor standards provisions applicable to various HUD programs. These are applicable as follows:

1. **HUD-92554M, Supplementary Conditions of the Contract for Construction** - HUD-administered projects including FHA-insured multifamily development, Section 202/811.
2. **HUD-4010, Federal Labor Standards Provisions** - CPD programs including CDBG, Section 108, EDI/BEDI, and HOME.

3. **HUD-5370, General Conditions of the Contract for Construction** - Public and Indian Housing programs.
4. **HUD-5370-EZ, General Conditions for Small Construction/ Development Contracts** - Public Housing and Indian Housing programs.
5. **HUD-52531-B, Agreement to Enter into A Housing Assistance Payments Contract, New Construction or Rehabilitation, Part II** - Public and Indian Housing programs, Section 8 Project-Based Vouchers.
6. **HUD-5679, Addendum to the HAP Contract - Labor Standards** - Project-Based Voucher HAP Contract and the Project-Based Rental Assistance HAP Contract under the Rental Assistance Demonstration.

Most of these forms are available at HUDClips online at https://www.hud.gov/program_offices/administration/hudclips/forms/ or can be found by utilizing the search feature on www.hud.gov. In addition, individuals can request printed forms through HUD's Customer Service Center by calling (800) 767-7468.

- C. **Acceptable methods of incorporation.** The applicable wage decision and federal labor standards provisions may be incorporated into bid specifications and contracts by one or more the following methods. (See also [Labor Relations Letter LR-06-03.](#))
1. **Incorporation by hard-copy.** The applicable HUD labor standards form and wage decision may be physically bound or attached to the contract (and bid specifications, if applicable) as issued by HUD (HUD forms) or DOL (Davis-Bacon wage decisions).
 2. **Incorporation into other documents.** The labor standards clauses/text of the applicable HUD form and wage decision may be incorporated into other documents (e.g., into a program participant's own forms) that are bound/attached to the contract (and bid documents, if applicable) or incorporated by reference (see paragraph 3, below). The program participant is responsible for the accuracy of the content. In all cases, the requirements imposed by the applicable HUD form and wage decision remain in force.
 3. **Incorporation by reference.** The applicable HUD form and wage decision, or other documents containing the HUD labor standards clauses/wage decision, may be incorporated into the contract and any bid specifications by reference.

The reference must be specific as to the exact form or clauses that are incorporated, and where the form or clauses may be accessed or obtained (e.g., specific HUD URL, agency web site). Davis-Bacon wage decisions may be incorporated by reference to <https://sam.gov> and to the specific wage decision number, modification number, and date of the applicable wage

decision. Hard copies of any referenced form, clauses, and/or Davis-Bacon wage decision must be provided upon request.

3-13 **Use of the wrong wage decision/failure to include a wage decision or contract labor standards provisions.** The use of the wrong wage decision and/or labor standards provisions in the bid documents/contract specifications, or the failure to include the required wage decision and appropriate labor standards provisions does not relieve the prime contractor from potential liabilities for compliance and enforcement actions related to meeting the obligations of the proper wage decision and labor standards. Any such error must be promptly rectified. (See also DOL Regulations at 29 CFR § 1.6(f).)

3-14 **Project Wage Rate Sheet.** Some general wage decisions cover large areas (e.g., several counties or different characters of construction) and may contain wage rates that do not apply to the contract/project to which the wage decision applies. Such wage decisions can be difficult to decipher and confusing to contractors and subcontractors, and to the workers reviewing the wage decision to determine whether they are being paid correctly.

For ease of reference for the LSS/LCA, the prime contractor and any subcontractors, and the workers, the LSS/LCA may prepare a form HUD-4720, *Project Wage Rate Sheet*, which should reflect the most commonly used work classifications and wage rates as contained in the wage decision applicable to the project. The Project Wage Rate Sheet does not replace the wage decision; it is only provided as a convenience. If there is a conflict between the Project Wage Rate Sheet and the incorporated wage decision, the wage decision prevails.

3-15 **Posting the wage decision and DOL notice to workers.** The prime contractor is responsible for posting a copy of the applicable wage decision and any additional classifications at the site of work in a prominent place accessible to the workers and protected from wind, rain, vandalism, etc. A copy of the DOL poster [WH-1321](#), *Employee Rights under the Davis-Bacon Act*, with the name, address, and telephone number of the LSS/LCA or other responsible contracting officer shall also be posted at the job site with the applicable wage decision. A Project Wage Rate Sheet may be posted at the job site with the DOL poster and wage decision so that the construction workers may more readily determine the wage rate(s) to which they are entitled.

3-16 **Review for missing work classifications and wage rates.** The LSS/LCA shall review the applicable wage decision to determine whether all work classifications required for the construction work are contained in the classifications and wage rates listed within the applicable wage decision.

The prime contractor is also responsible for identifying whether any classifications that are required for the project are included in the wage decision. The LSS/LCA shall notify the prime contractor of any missing work classifications; likewise, the prime contractor shall inform the LSS/LCA of any missing work classifications it may detect during its own review. The LSS/LCA shall provide instructions and assistance to the prime contractor concerning requests for additional classifications and wage rates.

3-17 **Additional work classifications and wage rates (conformance)**. After contract award, if it is determined that additional work classifications are required because the wage decision lacks all the necessary classifications and wage rates, the prime contractor and, if applicable, its subcontractors employing workers in such classification(s) shall request an additional work classification and propose a wage rate and fringe benefits for such classification on form SF-1444, *Request for Authorization of Additional Classifications and Rates*. The contractor or subcontractor shall make its request through the LCA or LSS, as appropriate, to the DOL at whd-cbaconformance_incoming@dol.gov for a final decision. The LSS/LCA shall assist the employer in preparing the request, and if necessary, provide guidance on the policies and procedures involved.

Note: Additional work classifications and wage rates may be requested *only* after the wage decision effective “lock-in” date. (See DOL Regulations at 29 CFR § 5.5(a)(1)(ii), All Agency Memorandum 213, and DOL guidance at <https://www.dol.gov/agencies/whd/government-contracts/construction/faq/conformance>)

A. **Additional work classification and wage rate parameters**. Additional work classifications must be signed by DBLS for FHA insured projects managed by HUD and signed by the LCA contracting officer for projects managed by LCAs, and then forwarded to the DOL with the applicable wage decision where:

1. The requested work classification is used in the area of the project by the construction industry;
2. The work that will be performed by the requested work classification is not performed by a work classification that is already contained within the applicable wage decision;
3. The proposed wage rate for the requested work classification bears a reasonable relationship to the wage rates on the wage decision.

General guide. The wage rate and fringe benefits proposed for any additional classification must be in accordance with the guidance available in All Agency Memorandum 213. The proposed wage rate and fringe benefits should bear a reasonable relationship to the entirety of the rates within the relevant category.

There are four (4) basic categories: skilled crafts, laborers, truck drivers, and power equipment operators. Additional classifications proposed for power equipment operators must specify the type(s) of power equipment involved.

B. **Making the request**. Although a request for additional work classification and wage rate may be prompted following an LSS/LCA review, the proposal must originate with the prime contractor/employer that will utilize the work classification. The prime contractor/employer must submit the request in writing. A basic request must identify the contract/project involved, the work classification requested, and the wage rate, including any bona-fide fringe benefits proposed. In

some cases, it may be necessary for the prime contractor/employer to describe the work that the requested work classification would perform. The prime contractor/employer should use form SF-1444, *Request for Authorization of Additional Classifications and Rates*, to submit the request.

- C. **LSS/LCA review of request.** The LSS/LCA will review the prime contractor's/employer's request to determine if it satisfies the approval criteria at 3-17(A). The LSS/LCA will contact the prime contractor/employer if clarification or additional information is needed to complete the review.
1. **Signing the request, reporting to DOL.** If the LSS/LCA review finds that the requested work classifications and wage rate/fringe benefits meet the criteria at 3-17(A), the LSS/LCA submits the completed SF-1444, *Request for Authorization of Additional Classifications and Rates*, related documentation, and the applicable wage decision to the DOL National Office for final decision using the DOL's dedicated email box whd-cbaconformance_incoming@dol.gov.
 2. **Disagreement with the request, referring for DOL decision.** If the LSS/LCA review finds that the requested work classification and wage rate/fringe benefits fails to meet the criteria (3-17(A)), or if the parties do not agree on the proper classification or wage rate/fringe benefits for the work described, the LSS/LCA shall prepare an SF-1444, *Request for Authorization of Additional Classifications and Rates*, and a written report explaining the results of the review and any issues in dispute among the parties, and shall forward these along with a copy of the applicable wage decision to the DOL National Office for its decision using the same dedicated DOL email box.
 3. **DOL decision.** DOL regulations permit 30 days for DOL to respond to the SF-1444. The DOL will notify the LCA/LSS in writing of its decision.
 4. **DOL approval.** When DOL approves the requested additional work classification and wage rate/fringe benefits, the LSS/LCA shall provide a copy of the DOL notice of approval to the prime contractor/employer with instructions that the additional work classification and wage rate/fringe benefits must be posted on the job site with the wage decision.
 5. **DOL disapproval.** When DOL disapproves the requested work classification and wage rate/fringe benefits, DOL will notify the LCA/LSS in writing of the reasons why the request cannot be approved. DOL may also indicate what work classifications/wage rate/fringe benefits could be approved for the work involved if a modified request is submitted. DOL may also state in its response what is the appropriate classification, wage rate, and fringe benefits. The LSS/LCA shall notify the prime contractor/employer of the DOL decision and shall provide a copy of the DOL notice to the prime contractor/employer.

-
6. **Notification to the prime contractor/employer.** The LSS/LCA shall notify the prime contractor/employer in writing of the results of the LSS/LCA review and/or DOL decision.
 7. **Requests for DOL reconsideration.** The LCA/LSS, the prime contractor/employer, or other interested parties may request reconsideration of the DOL decision on a requested additional work classification and wage rate/fringe benefits. Such requests must be made in writing accompanied by a full statement of the interested party's views and any supporting wage data or other pertinent information.
- 3-18 **Reconsideration on wage decisions.** HUD, the prime contractor/employer, or other interested parties may request reconsideration on any wage decision issued by DOL. Such requests are highly extraordinary and shall not be initiated by the LSS or Deputy Director without advance consultation with the Hub Director and HQLS. (See DOL Regulations at 29 CFR § 1.8.)
- A. **Content of requests.** Such requests must be made in writing accompanied by a full statement of the interested party's views and any supporting wage data or other pertinent information.
 - B. **Submission requirements.** Requests for reconsideration initiated by HUD must be submitted to DOL through the respective Deputy Director and HQLS.