

NECA Labor Relations Conference



New Orleans, Louisiana
Tuesday, April 16, 2019



Presented by:

Torres Consulting & Law Group, LLC

Leslie Peaslee, Senior Compliance Specialist
Anna Clark, Senior Compliance Specialist

Today's Topics

- TCLG overview
- Wage determinations
- CBA updates
- Conformances
- Surveys
- U.S. Department of Labor investigations
- State vs. federal prevailing wage

What We Do

- Federal (Davis-Bacon) compliance monitoring
- State prevailing wage compliance monitoring
- Notify contractors that someone is watching
- Aggressively monitor work awarded to non-signatory contractors
- Report wage theft to the U.S. Department of Labor
- Publicize back wages paid to employees as a result of cheating contractors

Wage Determinations and CBA Updates

Wage Determinations

- www.wdol.gov
- Locked in for the duration of the project

ELEC0130-010 12/03/2018

General Decision Number: LA190041 01/11/2019 LA41

Superseded General Decision Number: LA20180045

State: Louisiana

Construction Type: Building

County: Orleans County in Louisiana.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Modification Number	Publication Date
0	01/04/2019
1	01/11/2019

Rates

Fringes

ELECTRICIAN (Including Communication Technician and Low Voltage Wiring).....	\$ 30.93	11.78
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SULA2012-026 09/22/2014

Rates

Fringes

BRICKLAYER.....	\$ 18.66	0.00
CARPENTER (Form Work Only).....	\$ 15.00	0.00
CARPENTER, Excludes Drywall Hanging and Metal Stud Installation, and Form Work.....	\$ 19.37	2.46
DRYWALL FINISHER/TAPER.....	\$ 16.55	0.00
DRYWALL HANGER AND METAL STUD INSTALLER.....	\$ 18.21	4.90
LABORER: Common or General.....	\$ 13.09	0.00
LABORER: Mason Tender - Brick...	\$ 12.38	0.00

CBA Updates

- Importance
 - Update your wages once new CBA's go into effect
 - Failure to do so can cause issues

General Decision Number: AZ190031 03/08/2019 AZ31

Superseded General Decision Number: AZ20180032

State: Arizona

Construction Type: Building

County: Maricopa County in Arizona.

PLUM0469-002 07/01/2016

PLUMBER/PIPEFITTER

Cononino, Maricopa, and

Yuma.....\$ 36.35

Pima.....\$ 34.45

Rates

Fringes

17.00

17.00

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

CBA Updates

- <https://www.dol.gov/whd/govcontracts/stateassignments.htm>
- WHD_CBA_UPDATES@dol.gov

BRANCH OF CONSTRUCTION WAGE DETERMINATIONS

200 Constitution Avenue, NW, Washington, DC 20210

Davis-Bacon conformance submission public email box address:

WHD-CBACONFORMANCE_INCOMING@dol.gov

Davis-Bacon CBA update submission public email box address:

WHD_CBA_UPDATES@dol.gov

RhonTia Thomas-Johnson, -(202) 693-0806, Branch Chief

Timothy Holmes, Acting Section Chief (202)-693-0838

Jamie Conyers, Acting Section Chief - (202) 693-0400

Administrative Support:

Dorothy Fulcher - (202) 693-0557

Johnie Smith - (202) 693-0424

Conformance Requests

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND RATE

CHECK APPROPRIATE BOX
☐ SERVICE CONTRACT
☐ CONSTRUCTION CONTRACT

OMB Number: 9000-0081
 Expiration Date: 9/30/201

PAPERWORK REDUCTION ACT STATEMENT: Public reporting burden for this collection of information is estimated to average .5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspects of this collection of information, including suggestions for reducing this burden, to U.S. General Services Administration, Regulatory Secretariat (MVCB)/IC 9000-0089, Office of Governmentwide Acquisition Policy, 1800 F Street, NW, Washington, DC 20405.

INSTRUCTIONS: THE CONTRACTOR SHALL COMPLETE ITEMS 3 THROUGH 16, KEEP A PENDING COPY, AND SUBMIT THE REQUEST, IN QUADRUPLICATE, TO THE CONTRACTING OFFICER.

1. TO: ADMINISTRATOR, WAGE AND HOUR DIVISION U.S. DEPARTMENT OF LABOR WASHINGTON, DC 20210			2. FROM: (REPORTING OFFICE)	
3. CONTRACTOR				4. DATE OF REQUEST
5. CONTRACT NUMBER	6. DATE BID OPENED (SEALED BIDDING)	7. DATE OF AWARD	8. DATE CONTRACT WORK STARTED	9. DATE OPTION EXERCISED (IF APPLICABLE) (SERVICE CONTRACT ONLY)
10. SUBCONTRACTOR (IF ANY)				
11. PROJECT AND DESCRIPTION OF WORK (ATTACH ADDITIONAL SHEET IF NEEDED)				
12. LOCATION (CITY, COUNTY AND STATE)				
13. IN ORDER TO COMPLETE THE WORK PROVIDED FOR UNDER THE ABOVE CONTRACT, IT IS NECESSARY TO ESTABLISH THE FOLLOWING RATE(S) FOR THE INDICATED CLASSIFICATION(S) NOT INCLUDED IN THE DEPARTMENT OF LABOR DETERMINATION				
NUMBER: _____		DATED: _____		
14. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (Service contracts only) (Use reverse or attach additional sheets, if necessary)			b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS

Conformance Requests

- Submit an SF-1444
 - When your craft does not appear on the wage determination
 - After the general contractor is awarded the contract and/or with your bid for work
- Conformance challenges
 - Sub-classifications for classifications already covered in the wage determination
- DOL All Agency Memorandum (AAM) 213
 - Reasonable relationship test
 - ❑ <https://www.dol.gov/whd/programs/dbra/Survey/AA M213.pdf>

Conformance Requests

- WHD-CBACONFORMANCE_INCOMING@dol.gov

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Conformance Requests

Example of a conformance issue in Oklahoma

NUMBER: OK120014		DATED: 02/24/2012	
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY)		b. WAGE RATE(S)	
<i>(Use reverse or attach additional sheets, if necessary)</i>			
<p>Pipelayer- Lays underground electrical duct. To include smoothing bottom of trench to proper elevation by scooping with a shovel; receives pipe lowered from top of trench; inserts spigot end of pipe into bell end of last laid pipe; adjusts pipe to line and grade, caulks and seals joints with cement of other sealing compound and performs other related duties.</p>		10.50	

NUMBER: OK120021		DATED: 07/06/2012	
a. LIST IN ORDER: PROPOSED CLASSIFICATION TITLE(S); JOB DESCRIPTION(S); DUTIES; AND RATIONALE FOR PROPOSED CLASSIFICATIONS (SCA ONLY)		b. WAGE RATE(S)	c. FRINGE BENEFITS PAYMENTS
<i>(Use reverse or attach additional sheets, if necessary)</i>			
<p>Electrician - Plans and supervises the layout of metal electrical conduit, installs wiring systems, switch-panels, buss bars, works on overhead distribution systems and underground distribution systems. Performs other related duties.</p>		27.15	\$4.70 + 17.25%

Conformance Requests

This letter serves to withdraw our previous conformance decision dated January 11, 2013 and Branch Review decision dated September 24, 2014 in response to an letter requesting reconsideration of a 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:

<u>Proposed Classification</u>	<u>Proposed Hourly Rate</u>	<u>Fringe Benefits</u>
Pipelayer	\$10.50	\$0.00

This decision is predicated on the information contained in the appeal letter and based upon our internal review. We have elected to modify the decision as follows:

The request for Pipelayer cannot be approved because the work to be performed by this classification may be performed by a classification already included in the wage decision [see 29 C.F.R, section 5.5(a)(1)(ii)(A)(1)]. The appropriate classification is Electrician for the laying of underground electrical duct at a rate of \$27.15 per hour plus \$4.70+17.25% in fringe benefits and Laborer for the smoothing bottom of trenches to proper elevation by scooping with a shovel; receiving pipe lowered from top of trench; inserting spigot end of pipe into bell end of last laid pipe; adjusting pipe to line and grade, caulking and sealing joints with cement or other sealing compound and performs other related duties at a rate of \$7.50 per hour plus \$1.31 in fringe benefits. These rates shall be paid to all workers performing work in these classifications under this contract from the first day on which work is performed. As these are minimum wage rates, higher wage rates may be paid.

U.S. DOL Wage Surveys

- <https://www.wdol.gov/aam/AAM228.pdf>

ALL AGENCY MEMORANDUM NUMBER 228

TO: ALL CONTRACTING AGENCIES OF THE FEDERAL GOVERNMENT AND THE DISTRICT OF COLUMBIA

FROM: Keith E. Sonderling, Acting Administrator 

SUBJECT: Fiscal Year 2019 Davis-Bacon Survey Plan
Fiscal Year 2020 Davis-Bacon Survey Plan under Co

Fiscal Year 2019

2020 under consideration

DOL Midwest Region:

- Nebraska Statewide – Building
- Nebraska Statewide – Residential

DOL Northeast Region:

- West Virginia Statewide – Highway

DOL Southeast Region:

- Georgia (Metropolitan Counties) – Residential
- South Carolina Statewide – Highway

DOL Southwest Region:

- Texas (Rural Counties) – Highway

DOL Midwest Region:

- Indiana Statewide – Residential
- Missouri (Metropolitan Counties) – Building

DOL Northeast Region:

- New Hampshire Statewide – Highway
- Virgin Islands & Puerto Rico – Building, Heavy, Highway and Residential
- Delaware Statewide – Highway

DOL Southeast Region:

- Florida (Metropolitan Counties) – Heavy
- South Carolina (Metropolitan Counties) – Building
- South Carolina (Metropolitan Counties) – Heavy

DOL Southwest Region:

- Texas (Metropolitan Counties) – Highway
- Utah Statewide – Highway

DOL Western Region:

- Arizona Statewide – Building
- Guam – Building, Heavy, Highway and Residential
- Idaho Statewide – Building
- Idaho Statewide – Heavy

U.S. DOL Wage Surveys

Current surveys

- **North Carolina (metro counties) – Building**
 - Timeframe: 6/1/2017 – 5/31/2018
 - Cut-off date: 5/31/2019
- **Indiana (statewide) – Residential**
 - Timeframe: 8/1/2017 – 7/31/2018
 - Cut-off date: 7/12/2019

U.S. DOL Wage Surveys

Current surveys

- **New Hampshire (statewide) – Highway**
 - Timeframe: 11/1/2017 – 10/31/2018
 - Cut-off date: 9/6/2019
- **Utah (statewide) – Highway**
 - Timeframe: 1/1/2018 – 12/31/2018
 - Cut-off date: 9/27/2019
- **Arizona (statewide) – Building**
 - Timeframe: 12/1/2017 – 11/30/2018
 - Cut-off date: 10/31/2019

U.S. DOL Wage Surveys

2019 ARIZONA SURVEY FACT SHEET

TYPES OF CONSTRUCTION: STATEWIDE BUILDING

PROJECT TIMEFRAME: 12/01/2017 to 11/30/2018

THE OVERALL PROJECT MUST HAVE BEEN
ACTIVE OR ONGOING WITHIN THE SURVEY TIMEFRAME

FORM WD-10s MUST BE POSTMARKED OR
ELECTRONICALLY SUBMITTED BY
CUT-OFF DATE **10/31/2019** TO BE USED IN THE SURVEY

POINT OF CONTACT:

Helen Thach
Wage Analyst
Wage and Hour Division
90 7th Street, Suite 11-100
San Francisco, CA 94103
Telephone/ Fax: (415) 241- 3530
Email: thach.helen@dol.gov

U.S. DOL Wage Surveys

SURVEY BRIEFING RESERVATION FORM 2019 ARIZONA STATEWIDE SURVEY BUILDING CONSTRUCTION

PHOENIX LOCATION

PHOENIX FEDERAL BUILDING
230 N. 1ST AVENUE, Rm: 205
PHOENIX, AZ 85003

Date/Time: Tuesday, April 16, 2019
1:30 p.m. to 4:00 p.m. OR
Date/Time: Wednesday, April 17, 2019
9:00 a.m. to 11:30 a.m.

TUCSON LOCATION

TUCSON FEDERAL BUILDING
300 W. CONGRESS STREET, Rm: A
TUCSON, AZ 85701

Date/Time: Tuesday, April 23, 2019
1:30 p.m. to 4:00 p.m. OR
Date/Time: Wednesday, April 24, 2019
9:00 a.m. to 11:30 a.m.

Please indicate below which session you will be attending and return the form by fax, email, or mail to the Wage and Hour Division on or before Friday, April 12, 2019.

Fax: (415) 241-3530
Email: thach.helen@dol.gov

Mail: U.S. Department of Labor
Wage and Hour Division
90 7th Street, Suite 11-100
San Francisco, CA 94103-6714

U.S. DOL Investigations

- Audits and investigations (federal or state)
 - ✓ Be thorough in completing paperwork
 - ✓ Be responsive
 - ✓ Be cooperative
 - ✓ Don't be afraid to ask questions
 - ✓ Don't be afraid to ask for assistance



U.S. DOL Investigations

- U.S. DOL process
 - Gathers payroll information, timecards, interviews employees, reviews scope of work and contract
- CBA vs. Apprenticeship Standards
 - They don't always say the same thing, causing issues during the course of the investigation
 - Ensure that the U.S. DOL receives both a copy of the CBA and the Standards

State Prevailing Wage vs. Federal Wage Determinations

State vs. Federal

- State prevailing wage
 - Alaska, California, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Washington, Washington DC, and Wyoming
- <https://www.dol.gov/whd/state/dollar.htm>
- Coverage thresholds vary by state

State vs. Federal

- When a state and federal wage determination are incorporated into the contract – use whichever wages are HIGHER
- Third Party Complaints
 - Federal: U.S. Department of Labor – Regional Office
 - State: varies
- Challenges – some U.S. DOL Regional Offices and state agencies refuse to accept Third Party Complaints
- Employee statements are key



THANK YOU!



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Torres

Consulting & Law Group, LLC