

**SUPPORTING STATEMENT
REPORT OF CONSTRUCTION CONTRACTOR'S WAGE RATES
REGULATIONS 29 C.F.R. PART 1, FORM WD-10
OMB CONTROL No. 1235-0015**

1. Circumstances that make the collection of information necessary.

The Davis-Bacon Act (DBA), 40 U.S.C. § 3141, *et seq.*, provides, in part, that every contract in excess of \$2000 to which the United States or the District of Columbia is a party for construction, alteration, and/or repair, which requires or involves the employment of mechanics and/or laborers, shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics that were determined by the Secretary of Labor to be prevailing for corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed.

The Administrator of the Wage and Hour Division (WHD), through a delegation of authority, is responsible for issuing these wage determinations (WDs). Regulations 29 C.F.R. § 1.3 provides, in part, that the Administrator will conduct a continuing program for obtaining and compiling wage rate information for the purpose of making WDs. The Administrator will also encourage the voluntary submission of wage rate data by contractors, contractors' associations, labor organizations, public officials, and other interested parties, reflecting wage rates paid to laborers and mechanics on various types of construction in the area. *See* 29 C.F.R. § 1.3(a). The information submitted should reflect not only the wage rates paid a particular classification in an area, but also the type or types of construction on which such rate or rates are paid, and whether or not such rates were paid on Federal or federally assisted projects subject to DBA prevailing wage requirements. *Id.*

In October, 2009, the National Defense Authorization Act (NDAA) of 2010 (Guam Realignment Fund) placed a requirement on the WHD to establish wage rates for Guam under the provisions of the Davis-Bacon Act. The NDAA required that WHD establish wage rates for Guam under the provisions of the Davis-Bacon Act. The NDAA required that WHD establish wage rates for Guam each year until 90% of the funds for the Guam realignment project were expended. In addition, this Act placed an additional requirement on the WHD that the rates and employees working in Guam under the H2B program could not be used in the calculation of the DBA rates. This requirement required that the WHD amend instructions for completion of the Form WD-10 which is the instrument for DBA data.

2. By whom, how and for what purpose is the information to be used.

Form WD-10 is an optional form respondents may use to ensure consistency in submission of wage data. Respondents may use an alternate format to submit data, provided it includes the information requested in the applicable regulations. The WHD uses the wage data submitted by voluntary respondents to determine locally prevailing wages under the Davis-Bacon and Related Acts (DBRA). This wage data collection is a primary source of information and is essential to the determination of prevailing wages.

The WHD sends letters announcing a DBRA wage survey to Congressional representatives, contractor trade associations, and building trade unions at both the local and headquarters levels to advise them of the survey and solicit their cooperation in furnishing payment data. The WHD also sends letters to general contractors that have been identified as working on construction projects within the survey period. General contractors and subcontractors are requested to supply a list of their subcontractors, who are then also notified of the survey. (The WHD provides a Form WD-10 continuation sheet for this purpose.) In addition, the WHD notifies Federal, state, and local agencies. These letters inform them of the type of construction and area being surveyed, survey period, and cut-off data for data submission and asks them to encourage contractors to respond to the survey when contacted.

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Form WD-10 has been altered. The changes to the electronic and paper versions of the form are further discussed in item #15.

3. Consideration of the use of improved information technology.

Because the WHD has an automated survey data system that generates contact letters to notify interested parties when up-coming surveys are initiated, the WHD requests that all interested parties (i.e., national, state and local unions, associated contractor groups) identify the appropriate survey contact(s) for their organizations. The WHD maintains this information in a central data bank and provides a list of active and planned wage surveys on its Internet site(<http://www.dol.gov/whd/govcontracts/wagesurveys.htm>), which broadens accessibility to other interested parties.

In accordance with the Government Paperwork Elimination Act (GPEA), an electronic version of this form is available through the WHD Internet Web site <http://www.dol.gov/whd/programs/dbra/wd10>), allowing respondents to complete and submit Form WD-10 electronically on-line.

4. Efforts to identify duplication.

Because this information is not available from any other source, and the WHD has the sole responsibility for determining prevailing wages under the DBRA, there is no duplicative effort to obtain this information.

5. **Methods to minimize the burden to small businesses involved.**

This information collection does not have a significant economic impact on a substantial number of small entities. The information collected is the minimum necessary for the DOL to determine prevailing wages under the DBRA.

6. **Consequences to the Federal program if collection were conducted less frequently.**

The WHD could not effectively issue WDs based on current prevailing wage rates for various localities throughout the country were the agency to collect the information less frequently.

7. **Special circumstances that would cause the information collection to be conducted in manner inconsistent with guidelines.**

There are no special circumstances associated with this information collection.

8. **Consultation.**

The DOL published a Federal Register Notice on December 3, 2013, inviting public comments about this information collection. 78 FR 72715. The agency received no comments.

To maximize opportunities for participation, the WHD (as previously indicated in Item 2) sends letters announcing a DBRA wage survey to Congressional representatives, contractor trade associations, and building trade unions at both the local and headquarters levels to advise them of the survey and solicit their cooperation in furnishing payment data. The WHD also sends letters to general contractors and subcontractors that have been identified as working on construction projects within the survey period. In addition, the WHD notifies Federal, state, and local agencies. The contents of these letters involve the type of construction and area being surveyed, survey period, and cut-off date for data submission and ask recipients to encourage contractors to respond to the survey when contacted. Finally, in order to facilitate participation by interested parties not known to the agency, the WHD Web site also includes information about upcoming and ongoing DBRA WD surveys. See www.dol.gov/whd/programs/dbra/surveys.htm. These additional outreach efforts have not resulted in the WHD becoming aware of improved collection methods.

9. **Explain any decision to provide any payment or gift to respondents.**

The DOL makes no payments or gifts to respondents.

10. **Describe any assurances of confidentiality provided to respondents.**

The DOL informs respondents that their identity will be kept confidential to the maximum extent possible under existing law. As a practical matter, the DOL would only disclose information collected under this request in accordance with the provisions of the Freedom of Information Act, 5 U.S.C. § 552, and its attendant regulations, 29 C.F.R. Part 70, and the Privacy Act, 5 U.S.C. § 552a, and its attendant regulations, 29 C.F.R. Part 71. The DOL has

disclosed summaries of the wage data utilized to determine prevailing wages and fringe benefits but not the names and addresses of the respondents who submitted the data.

11. **Additional justification for any questions of a sensitive nature.**

The DOL asks no sensitive questions in this information collection.

12. **Estimates of reporting and recordkeeping hour and cost burdens of the collection of information.**

Based on response rates, the DOL estimates that 22,000 respondents submit an average of three WD-10s per year, totaling 66,000 annual responses. The DOL also estimates that respondents spend an average of approximately 20 minutes completing each response, for a total of 22,000 annual burden hours. $66,000 \times 20 \text{ min}/60 \text{ min.} = 22,000$.

Clerical personnel generally complete most WD-10s. Without specific wage data regarding respondents, the DOL has used the October 2013 average hourly earnings for production or nonsupervisory workers in the private sector on nonfarm payrolls of \$24.11 to estimate respondent costs. (See *The Employment Situation: October 2013*, at 34, Table B-3, DOL, U.S. Bureau of Labor Statistics, http://www.bls.gov/news.release/archives/empsit_01102014.pdf). The DOL estimates total annual costs for respondents' time to be \$530,420. $22,000 \text{ hours} \times \24.11 .

13. **Estimates of annualized capital and start up costs.**

This information collection requires no extraordinary systems or technologies to collect data; thus, respondents incur no costs, except for the value of their time, as accounted for in Item 12. Moreover, respondents incur no mailing costs, since the WHD makes the forms available on the Internet or provides postage paid envelopes to return completed surveys.

14. **Estimates of annualized Federal Government costs.**

The DOL, based on expenses, estimates annual Federal costs as follows:

- Analysis

10 staff years (50% of work hours of 20 Wage Analysts in time spent analyzing and compiling wage data from completed WD-10s).

10 GS-9 (Step 4) employees x 0.5 time x \$56,791 salary = \$283,955

10 GS-11 (Step 4) employees x 0.5 time x \$68,712 salary = \$343,560

Analysis Sub-Total: \$627,515

- Mail Processing Costs for 66,000 Surveys

The WHD mails Forms WD-10 to survey respondents, enclosing franked and addressed envelopes for returning completed forms.

Printing and Mailing:	\$325,000
Scanning:	\$450,000
Mail Processing Sub-Total	\$775,000

- Contract for Data Entry

\$1,852,113

- Contract for Data Verification

\$486,187

- Data Sources

\$301,281 (Agency Share for *FW Dodge Reports* subscription)

TOTAL ANNUAL FEDERAL COSTS = \$4,042,096 (\$627,515 + \$775,000 + \$1,852,113 + \$486,187 + \$301,281)

15. **Explanation for change in burden.**

The DOL has maintained its annual burden hours estimate at 22,000. Agency operation and maintenance costs are estimated at \$4,042,096.

While not anticipated to change burden, the Department submits for approval changes to the electronic version of the WD-10 form and corresponding instructions for completing the electronic WD-10 form which offers new functionality and user-friendly enhancements to the online version of the form and some changes to the print version of the form. These include:

1. Wage classifications can be added and removed from the WD-10 form on an individual basis.
2. Subcontractors can be added and removed dynamically from the WD-10 form on an individual basis.
3. All populated fields in each section can be cleared or resent to the default value individually.
4. All populated fields in the form can be cleared or reset to the default value at once by clicking the “Clear All Sections” button.
5. The save and submission processes have been clarified by enhancing the instructions on the form, renaming the save button to “Save Draft.”

6. Functionality has been added to the Draft confirmation page to allow the user to continue editing the draft form after saving the form and receiving a Pending Submission (PS) number.
7. Error messages are no longer displayed in red at the top of the WD-10 electronic form. Instead, the system will display all error messages in a pop-up message panel and require the user to acknowledge the message.
8. The project description field has been expanded to accept 50 characters.
9. Project information in Section 5B has been removed from the Draft and Submit confirmation pages, when a subcontractor is reporting wage data for a project.
10. A maximum of 255 characters can be entered into the “Comments or Remarks” field.
11. Electronic WD-10 now uses standard email validation functionality.
12. The Subcontractor Value field in section 5 now accepts only numbers and the decimal point.
13. The “Health and Welfare,” “Pension (401K, etc.),” “Apprentice Training,” “Vacation and Holiday,” and “Additional Fringe” text fields now accept only numbers and the decimal point, depending on the option selected.
14. A maximum of 365 days can be entered for the “Vacation & Holiday” and “Additional Fringe” fields, when the “No. of days per year” option is selected.
15. When the user completes classification fields in section 7 and then selects the “Only Supplied Material” checkbox, the classification data is now retained after the user responds to the error message generated by the system to allow the user to uncheck the box without having to re-enter the classification data.
16. The user instruction near the bottom of section 6 has been updated to match the construction types listed on the form.
17. Error messages have been clarified when a construction type other than “Apartment Building,” “Nursing/Assisted Living Facility,” and “Residential” has been selected and the fields “Number of Stories,” “Kitchen in each Unit?” and “Bath in each Unit?” has been populated.
18. The error message has been updated when the field “Number of Employees” is not completed.
19. The error message has been clarified when a 10-digit phone number is incorrectly entered in Sections 1 and 2.
20. The error message generated for a missing state in section 1 has been revised to read, “Contractor/Subcontractor state is required.”
21. The error messages have been updated in section 7 when Additional Fringe information is selected from the drop down list and the associated fields are not completed.
22. Instructions for completing the Electronic WD-10 form have been updated to reflect the new functionality.
23. If a system error is encountered when the user submits the WD-10 form, the system will now display the error page without automatically redirecting the user to the Home Page.

24. The contractor's fax number in section 1 is now displayed on one line on the "Draft and Submit" confirmation pages.
25. The print version of the Draft and Submit confirmation pages is now formatted to display the field text on the same line as the field name, except for those fields which exceed the available limit for a single line.
26. The print version now also displays a space between each field name and its value.
27. The construction types in the error messages now match the construction types on the WD-10 form. This includes: "Apartment Building," "Nursing/Assisted Living Facility," and "Residential."
28. Corresponding instructions for the online form.

The changes to the paper form consist of: (1) the removal of the words "Employment Standards Administration" from the Title box. Employment Standards Administration was the former organizational entity under which Wage and Hour existed within the Department of Labor. During a reorganization, Employment Standards Administration was eliminated. (2) In box #2 (Submitter information), the Department proposes to add a fill in identifier so those who complete the form may identify into contractor/association/union/agency/other. (3) In box #5, the Department proposes to remove the words "I am the" from the choices listed. This will leave the choices of General /Prime Contractor or Subcontractor which were previously approved. (4) On page 2, the Department proposes to add a space to insert the union local number. (5) The Department proposes to change the background color on the form from blue to green to easily identify the old forms.

16. **Information collections data planned to be published for statistical use.**

The DOL does not publish this information for statistical use.

17. **Explanation for seeking not to display the expiration date for OMB approval of the information collection.**

The DOL will display the expiration date for this information collection.

18. **Exception to the certification statement.**

The DOL does not seek an exception to the certification requirement.