

Federal Acquisition Regulation

22.404-1

(5) Part 7, relating to rules of practice by which contractors and other interested parties may appeal to the Department of Labor Administrative Review Board, decisions issued by the Administrator, Wage and Hour Division, or administrative law judges under the Davis-Bacon Act, Contract Work Hours and Safety Standards Act, or Copeland (Anti-Kickback) Act.

(c) Refer all questions relating to the application and interpretation of wage determinations (including the classifications therein) and the interpretation of the Department of Labor regulations in this subsection to the Administrator, Wage and Hour Division.

[53 FR 4935, Feb. 18, 1988, as amended at 66 FR 2141, Jan. 10, 2001; 66 FR 53480, Oct. 22, 2001]

22.404 Davis-Bacon Act wage determinations.

The Department of Labor is responsible for issuing wage determinations reflecting prevailing wages, including fringe benefits. The wage determinations apply only to those laborers and mechanics employed by a contractor upon the site of the work including drivers who transport to or from the site materials and equipment used in the course of contract operations. Determinations are issued for different types of construction, such as building, heavy, highway, and residential (referred to as rate schedules), and apply only to the types of construction designated in the determination.

22.404-1 Types of wage determinations.

(a) *General wage determinations.*

(1) A general wage determination contains prevailing wage rates for the types of construction designated in the determination, and is used in contracts performed within a specified geographical area. General wage determinations contain no expiration date and remain valid until modified, superseded, or canceled by a notice in the FEDERAL REGISTER by the Department of Labor. Once incorporated in a contract, a general wage determination normally remains effective for the life of the contract, unless the contracting officer exercises an option to extend the term of the contract (see 22.404-12).

These determinations shall be used whenever possible. They are issued at the discretion of the Department of Labor either upon receipt of an agency request or on the Department of Labor's own initiative.

(2) General wage determinations are published weekly in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts." Notices of general wage determinations are published in the FEDERAL REGISTER. General wage determinations are effective on the publication date of the notice or upon receipt of the determination by the contracting agency, whichever occurs first.

(3) The GPO publication is available for examination at each of the 50 Regional Government Depository Libraries and many other of the 1,400 Government Depository Libraries across the country. Subscriptions may be obtained by contacting: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. The GPO publication is divided into three volumes East, Central, and West which may be ordered separately. The States covered by each volume are as follows:

VOLUME I—EAST

Alabama	New York
Connecticut	North Carolina
Delaware	Pennsylvania
Florida	Rhode Island
Georgia	South Carolina
Kentucky	Tennessee
Maine	Vermont
Maryland	Virginia
Massachusetts	West Virginia
Mississippi	District of Columbia
New Hampshire	Puerto Rico
New Jersey	Virgin Islands

VOLUME II—CENTRAL

Arkansas	Missouri
Illinois	Nebraska
Iowa	Ohio
Indiana	Oklahoma
Kansas	Texas
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VOLUME III—WEST

Alaska	Colorado
Arizona	Guam
California	Idaho

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Montana	Utah
Nevada	Washington
North Dakota	Wyoming
Hawaii	Oregon
South Dakota	

(4) On or about January 1 of each year, an annual edition will be issued that includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year regular weekly updates will be distributed providing any modifications or superseded wage determinations issued. Each volume's annual and weekly editions will be provided in loose-leaf format.

(b) *Project wage determinations.* A project wage determination is issued at the specific request of a contracting agency. It is used only when no general wage determination applies, and is effective for 180 calendar days from the date of the determination. However, if a determination expires before contract award, it may be possible to obtain an extension to the 180-day life of the determination (see 22.404-5(b)(2)). Once incorporated in a contract, a project wage determination normally remains effective for the life of the contract, unless the contracting officer exercises an option to extend the term of the contract (see 22.404-12).

[53 FR 4935, Feb. 18, 1988, as amended at 66 FR 53480, Oct. 22, 2001]

22.404-2 General requirements.

(a) The contracting officer must incorporate only the appropriate wage determinations in solicitations and contracts and must designate the work to which each determination or part thereof applies. The contracting officer must not include project wage determinations in contracts or options other than those for which they are issued. When exercising an option to extend the term of a contract, the contracting officer must select the most current wage determination(s) from the same schedule(s) as the wage determination(s) incorporated into the contract.

(b) If the wage determination is a general wage determination or a project wage determination containing more than one rate schedule, the contracting officer shall either include only the rate schedules that apply to the particular types of construction

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(building, heavy, highway, etc.) or include the entire wage determination and clearly indicate the parts of the work to which each rate schedule shall be applied. Inclusion by reference is not permitted.

(c) The Wage and Hour Division has issued the following general guidelines for use in selecting the proper schedule(s) of wage rates:

(1) *Building* construction is generally the construction of sheltered enclosures with walk-in access, for housing persons, machinery, equipment, or supplies. It typically includes all construction of such structures, installation of utilities and equipment (both above and below grade level), as well as incidental grading, utilities and paving, unless there is an established area practice to the contrary.

(2) *Residential* construction is generally the construction, alteration, or repair of single family houses or apartment buildings of no more than four (4) stories in height, and typically includes incidental items such as site work, parking areas, utilities, streets and sidewalks, unless there is an established area practice to the contrary.

(3) *Highway* construction is generally the construction, alteration, or repair of roads, streets, highways, runways, taxiways, alleys, parking areas, and other similar projects that are not incidental to *building, residential, or heavy* construction.

(4) *Heavy* construction includes those projects that are not properly classified as either *building, residential, or highway*, and is of a catch-all nature. Such heavy projects may sometimes be distinguished on the basis of their individual characteristics, and separate schedules issued (e.g., *dredging, water and sewer line, dams, flood control*, etc.).

(5) When the nature of a project is not clear, it is necessary to look at additional factors, with primary consideration given to locally established area practices. If there is any doubt as to the proper application of wage rate schedules to the type or types of construction involved, guidance shall be sought before the opening of bids, or receipt of best and final offers, from the Administrator, Wage and Hour Division. Further examples are contained