

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

This is a proposed revision to a currently approved collection.

A. Justification

- 1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.**

The Davis-Bacon Act (DBA), as enacted in 1931 and subsequently amended, requires the payment of minimum prevailing wages determined by the Department of Labor to laborers and mechanics working on federal contracts in excess of \$2,000 for the construction, alteration, or repair, including painting and decorating, of public buildings and public works. *See* 40 U.S.C. 3141 *et seq.* Congress has also included the Davis-Bacon requirements in numerous other laws, known as the Davis-Bacon Related Acts (the Related Acts and, collectively with the Davis-Bacon Act, the DBRA), which provide federal assistance for construction projects through grants, loans, loan guarantees, insurance, and other methods.

The DBA delegates to the Secretary of Labor the responsibility to determine the wage rates that are “prevailing” for each classification of covered laborers and mechanics on similar projects “in the civil subdivision of the State in which the work is to be performed.” 40 U.S.C. 3142(b). The Administrator of the Wage and Hour Division (WHD), through this delegation of authority by the Secretary of Labor, is responsible for issuing these wage determinations (WDs). The DBRA implementing regulations provide that the Administrator will conduct a continuing program for obtaining and compiling wage rate information for issuing WDs. 29 CFR 1.3. As a part of this program, the regulation provides that the Administrator will 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 CFR 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 such rates were for federal or federally assisted projects subject to DBA prevailing wage requirements.

To carry out the program required by the DBA and 29 CFR 1.3, the Administrator uses the collection instrument called the Form WD-10 to solicit information that is used to determine locally prevailing wages under the DBRA. The wage-data collection using the WD-10 is a primary source of information and is essential to the determination of prevailing wages.

In October 2009, the National Defense Authorization Act (NDAA) of 2010 (Guam Realignment Fund) placed a requirement on WHD to establish wage rates for Guam under the provisions of the DBA. The NDAA also requires that WHD establish such wage rates each year until 90% of the funds for the Guam realignment project are spent. In addition, the NDAA stipulates that

WHD cannot use the rates and employees working in Guam under the Immigration and Nationality Act (INA) H-2B program when calculating the DBA rates. The NDAA required that WHD amend instructions for completion of the form WD-10.

The Department is proposing changes to the WD-10 form to improve the overall efficiency of the DBA survey process. The proposed changes aim to streamline the collection of data required for the survey and make the collection less burdensome for the submitter. The questions and requests for information have been arranged in a manner that is intended to enable respondents to quickly gather and report information necessary for WHD to properly determine prevailing wage rates. For example, on the proposed form, the respondent will no longer be asked to determine a peak week(s) of construction for reported projects, identify the project value, or identify contractors or subcontractors on the project. Additionally, the proposed form uses a “picklist” of labor classifications from which a respondent may choose, rather than requiring the respondent to manually enter the labor classification into an open text field. These proposed changes to the WD-10, among others, are designed to increase the ease of participating in a survey and solicit more usable wage data to issue more comprehensive wage determinations.

The Department also proposes to add a new WD-10A collection instrument, which is a companion form to the new WD-10 form. This collection instrument primarily will be used pre-survey to identify potential respondents that performed construction work within the survey period in the survey area so that the Department can solicit for survey participation.

A complete listing of the Department’s proposed changes to the information collection are posted on the Department’s website located at: <https://www.dol.gov/agencies/whd/government-contracts/construction/surveys/wd10pra>.

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

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 on the Form WD-10. WHD uses the wage data submitted by voluntary respondents to determine locally prevailing wages that are the required minimum wages for contracts that are subject to DBRA. This wage data collection is a primary source of information and is essential to the process of issuing wage determinations. Those wage determinations are then published in SAM.gov, and contracting agencies incorporate them into certain federally funded contracts.

WHD will continue to send letters announcing a DBRA wage survey to interested parties such as Congressional representatives, contractor trade associations, contractors, and unions at both the local and headquarters levels to advise them of the survey and solicit their cooperation in furnishing payment data. In addition, WHD will also notify federal, state, and local agencies. The notice will inform them of the type of construction, the area surveyed, the survey period, and cut-off date for data submission. The letter encourages contractors to respond to the information request.

WHD will also send pre-survey information requests (the WD-10A) to general or prime contractors and certain subcontractors identified as working on construction projects within the survey period in an attempt to better identify additional contractors that performed construction work in the surveyed area.

The WD-10A requests that general contractors and subcontractors supply a list of their subcontractors to whom WHD can send notification of the survey. A paper copy of the WD-10A will be mailed only upon request; otherwise, the respondent will be directed to either fill out an electronic version or download the form and complete it before submitting it.

The NDAA (Guam Realignment Fund) placed a requirement on WHD to establish wage rates for Guam under the provisions of the DBA. The NDAA required that WHD establish wage rates for Guam each year until 90% of the funds for the Guam realignment project expired. This Act placed an additional requirement on WHD that it could not use the rates and employees working in Guam under the INA H-2B program when calculating the DBA rates.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

Because WHD has an automated survey data system that generates contact letters notifying interested parties of upcoming surveys, WHD requests that all interested parties (e.g., national, state, and local unions; contractors; and contractor associations) identify the appropriate survey contact(s) for their organizations. WHD maintains this information in a central data bank and provides a list of active and planned wage surveys on its Internet website (<https://www.dol.gov/agencies/whd/government-contracts/construction/surveys/status>), which broadens accessibility to other interested parties.

In accordance with the Government Paperwork Elimination Act, an electronic version of the WD-10 form is available through the WHD Internet website (<https://www.dol.gov/agencies/whd/government-contracts/construction/surveys/wd10>), allowing respondents to complete and submit the form electronically online.

In addition to the notice letter, which will contain directions to the electronic version of the WD-10 and WD-10A, WHD will mail a paper version of these forms to respondents who do not have access to the electronic version and to respondents who request a paper copy.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

Generally, this information is not available from any other source. WHD has the sole responsibility for determining prevailing wages under DBA, and there is no duplicative effort to obtain this information. However, where appropriate, WHD uses state or local prevailing wage rates to determine the Davis-Bacon prevailing wage.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

This information collection does not have a significant economic impact on a substantial number of small entities. To minimize burden, WHD has designed the information collection to request the minimum information necessary for WHD to determine prevailing wages as required under the DBA. Moreover, WHD's request that respondents provide contractor or subcontractor information on a separate WD-10A form does not add to the burden. Such information is already requested of every respondent completing the current WD-10 form. Because the WD-10A asks for no new information, and not all stakeholders responding to the WD-10 will be asked to respond to the WD-10A, there could be an overall burden reduction.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

WHD's ability to issue WDs based on current prevailing wage rates for various localities throughout the country would be impacted if the agency were to collect the information less frequently. Outdated wage determinations and missing wage rates can impact WHD's ability to effectively administer and enforce the Davis-Bacon Act and ensure laborers and mechanics on covered projects are paid the wages that prevail locally for the trade they performed.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- Requiring respondents to report information to the agency more often than quarterly;
- Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- Requiring respondents to submit more than an original and two copies of any document;
- Requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- Requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- Requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

There are no special circumstances associated with the conduct of these information collections.

- 8. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every three years – even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These circumstances should be explained.

A 60-day notice with respect to the proposed revision to this Information Collection Request was published in the Federal Register on [DATE]. See XX FR XXXX. XX comments were received.

- 9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

The Department offers no payments or gifts to respondents.

- 10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a system of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here**

WHD informs respondents that it will keep their identity confidential to the maximum extent possible under existing law. As a practical matter, WHD 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 CFR 70, and the Privacy Act, 5 U.S.C. 552a, and its attendant regulations, 29 CFR 71. WHD has disclosed summaries of the wage data used to determine prevailing wages and fringe benefits but not the names and addresses of the respondents who submitted the data.

- 11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.**

The Department does not request sensitive information in these information collections.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.**
- **If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens.**
- **Provide estimates of annualized cost to respondents for hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included under ‘Annual Cost to Federal Government’.**

• Estimated Annualized Respondent Burden Hours and Costs

Based on actual three-year averages with the WD-10 collection instrument, the Department estimates that 2,731 respondents complete 21,029 responses annually. The Department estimates that there will be approximately one third as many respondents with fewer responses on the WD-10A collection instrument.

Form	Number of Respondents	Number of Responses per Respondent	Total Annual Responses	Avg. Burden per Response	Total Burden Hours	Hourly Wage Rate	Total Burden Costs
WD-10	2,731	7.7	21,029	20min/60 min or 0.3333 hrs.	7,009	\$51.72	\$362,505
WD-10A	910	1	910	10 min	152	\$51.72	\$7,861
Total	3,641	various	21,939		7,161		\$370,366

Clerical personnel generally complete most WD-10s. Without specific wage data regarding respondents, WHD has used the March 2022 average hourly earnings for workers in the private sector on nonfarm payrolls of \$31.73 to estimate respondent costs. This hourly rate was adjusted by a factor of 46% for benefits and 17% for overhead

$$(\$31.73 \times 0.46) + (\$31.73 \times 0.17) + \$31.73 = \$51.72$$

(See *The Employment Situation: March 2022*, Table B-3, DOL, U.S. Bureau of Labor Statistics.)

13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden already reflected on the burden worksheet).

The Department associates no respondent costs with the subject information collections, other than the value of time.

14. Provide estimates of annualized costs to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies may also aggregate cost estimates from Items 12, 13, and 14 into a single table.

The Department estimates the following federal costs associated with this information collection.

- Mail Processing Costs for 47,082 Surveys

Under an Inter-Agency Agreement, the US Census Bureau (Census) mails forms WD-10 for the WHD to potential survey respondents, enclosing franked and addressed envelopes for returning completed forms. Census also scans returned forms, envelopes, and attachments into the automatic survey data system. WHD reimburses Census for printing, mailing, and scanning costs.

Printing and Mailing (contract obligated cost):	\$160,000
Scanning (contract obligated cost):	\$220,000

Mail Processing Sub-Total	\$380,000
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- Contract for Data Entry and remote data verification

\$1,983,123

- Data Sources

(WHD Share for <i>FW Dodge Reports</i> subscription)	\$398,968
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Total Federal Costs: **\$2,762,091**

15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.

This is a revision to the information collection. The Department proposes to add a new collection instrument (WD-10A). The WD-10A primarily will be a pre-survey collection instrument to identify potential respondents who performed construction work within the survey period in the survey area and wish to participate in the voluntary survey.

16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

Although the raw data are not published, the results of these information collections are used to calculate prevailing wage rates which are published in wage determinations on Sam.gov. These are ongoing collections, the schedule for which is found at <https://www.dol.gov/agencies/whd/government-contracts/construction/surveys/status>.

17. If seeking approval to not display the expiration date for OMB Approval of the information collection, explain the reasons that display would be inappropriate.

The Department does not seek an exception to the requirement to display the expiration date for OMB approval of these information collections.

18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”

The Department is not requesting an exception to any of the certification requirements for these information collections. This request complies with 5 CFR 1320.9.

Part B. Statistical Methods

NA.