

## Slides 1 and 2 (title slides)

Hello everyone, and welcome to our presentation today on the Davis-Bacon Wage Determinations, Conformances, and Application of Multiple Wage Determinations. My name is Jamie Conyers, and I will be one of your presenters today going over the process, as well as Natalie Collins, who will be your other presenter.

## Slide 3

When it comes to Davis-Bacon wage determinations, there is five major criteria that we'll be focusing on in this presentation: the Federal agencies responsibility to identify the correct wage determination to put in your project, the difference between General wage determinations and Project wage determinations, as well as selecting the proper WD to incorporate into your contract, as well as interpreting the wage determination.

## Slide 4

When it comes to the Federal agency, they're responsible to make sure that the correct WD is attached to the contract as well as advise any contractors of any changes that happens to those wage rates. So that way they would know if a project has new wages that they need to look at, and it is their responsibility to tell that contractor. As well as it is their responsibility to work with the contractor to know if there is a specific craft on that WD that could perform that work.

## Slide 5

There are two different types of wage determinations, General wage determinations and Project wage determinations, and in the upcoming slides, we will talk a little bit more about the difference between the two different types of wage determinations.

## Slide 6

When it comes to General wage determinations, it's issued for most counties for each type of construction (building, heavy, highway, and residential). So you will have different WDs based upon where your project is located as well as the type of work that is being performed. When it comes to wage determinations, the official site to find all WDs is [beta.sam.gov](http://beta.sam.gov), and the agency could actually go the website and pull the wage determination without notifying the Wage and Hour Division.

## Slide 7

When it comes to project wage determinations, they are issued at the federal agency's request. So what happens is, if a federal agency knows that they have a project that's for one classification, for example a roofer, if that's all the work that's being performed on that WD, then that agency will come in with an SF-308, which is the request for a project wage determination, requesting that prior to the award of the contract. If that's the only work that's being performed, WHD will go ahead and approve that request and provide to them the wage rate to pay the worker's for doing that roofing work.

There are some other instances where project wage determinations could be allowed. One major instance would be if you have a project for heavy construction and maybe the project is dam work only.

Now there could be an instance where that WD does not exist and it would be OK to request a project wage determination for that work. So there is some exceptions for that work.

#### Slide 8

As a matter of longstanding policy, in developing and issuing general Davis-Bacon wage determinations, the Department of Labor has distinguished four general categories of construction: building, residential, highway, and heavy. The basis for general wage determination categories is described in All Agency Memorandum 130, which includes a description of the types of projects typically found within each category. We'll be discussing these categories in more detail in this presentation. The general wage determination category applicable to a project will be the category that applies to projects of a character similar to the project in question.

#### Slide 9

Although frequently only a single category of wage determination is applicable to a project, in some circumstances more than one category of general wage determination is applicable. Where a construction project includes construction work that in and of itself would be classified in another category of construction, the wage determination for that category of construction is applicable to that project if the work in the other category of construction is substantial. Generally speaking, work in another category will be considered substantial if the total work in the other category is either at least \$1 million or at least 20% of total project costs. These guidelines for applying multiple wage determinations are set out in All Agency Memorandum 131, and will also be discussed in subsequent slides.

#### Slide 10

In determining the applicability of general wage determinations, it is important to understand when work is comparable to "projects of a character similar," as required by the statutory language of the Davis-Bacon Act. First, it must be determined whether the work in question can ever be a project in and of itself, or whether it is only ever a necessary step in another project. If the work can be a, then it must be determined what category of work applies to that type of project, by comparing that project to the projects generally found in the four categories of general wage determinations, building, residential, highway, and heavy.

#### Slide 11

Building construction is the construction, alteration, or repair of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment, supplies, and so on. Structures do not have to be "habitable," so a person doesn't need to be willing to live in them to be considered building construction, but the Wage Appeals Board has held that such structures must be more than a mere covering for protection from the elements and for security to be considered building construction.

Building construction does include all construction necessary to actually complete the construction of the building, such as clearing and grading the site, connecting of building utilities to an existing utility main, or installation of necessary equipment.

Examples of projects typically found in the building category include civic centers, libraries, hotels, parking garages, arenas, multi-family apartment buildings if they're over four stories, or warehouses, or other similar structures.

#### Slide 12

Residential construction, much like its name sounds, includes the construction, alteration, or repair of single family homes, townhomes, and multi-family apartment buildings of four stories or less. As with building construction, residential construction includes all the construction necessary to actually complete the residence, such as clearing and grading the site, connection of utilities to an existing utility main, or installation of necessary equipment.

#### Slide 13

Because residential wage determinations apply to apartment buildings of four stories or less, while building wage determinations apply to apartment buildings above four stories, in some circumstances it is necessary to determine exactly how many stories an apartment building has, which can be a difficult question when the building has floors that are partially or completely underground, or even contains partial stories.

The following rules govern when a floor that is partially or completely underground is considered to be the first story of the building:

Even if the lowermost floor of the apartment building is completely underground on all sides, it will be considered the first story of the apartment building if it contains the main entrance to the building, or if it is used for apartment space in a way substantially similar to the upper floors.

A lowermost floor that is partially belowground but does not meet either of the first two requirements will still be considered to be the first story of the building if it is primarily aboveground on at least two sides, however that floor is used, or if it is primarily aboveground on at least one side and contains at least 50% living accommodations or related non-residential uses, such as laundries, gym facilities, community rooms, residential parking, and so on.

In determining when a side of a floor is primarily aboveground, you should compare the total square footage of the portion of the side that is above ground to the total square footage of the portion of the side that is belowground, rather than comparing single measurements.

Stories that are completely belowground that are used for storage, parking, mechanical systems or equipment, are considered basement stories that do not count towards the building's height.

#### Slide 14

There are also rules governing when a top floor is considered to be a story when determining the height of an apartment building:

A top floor between the uppermost floor and the ceiling or roof, with a floor space at least as large as the floor immediately below, is considered a story even if it is not finished for living accommodations, but is finished for other purposes, such as those laundries, gyms, and so on.

A partial floor located wholly or partially within the roof frame will also be considered a story if it's finished as living accommodations, and its floor space is at least half as large as the floor below.

Note that when comparing the floor space for a top floor (either full or half) to determine whether it should be considered a story, the area of the floor space must be compared to the area of the floor space of the floor immediately below, not to the floor space of the first floor. Contractors or contracting agencies will sometimes make the mistake of comparing the floor area of the top floor to the first floor instead of the floor immediately below, which can lead to the incorrect conclusion that the top floor is not a story, because the first floors of apartment buildings sometimes have a floor area larger than that of the other floors, due to administrative offices and other non-residential uses being included on that first floor.

Attics, unfinished space located immediately under the roof, are not considered a story when determining the height of the apartment building, even if they are used for storage purposes.

#### Slide 15

Highway construction is a fairly straightforward category. As the name suggests, includes projects for the construction, alteration, or repair of highways, streets and roads. However, it does also include other projects that primarily involve paving, such as parking lots, trails and paths, runways, helipads, and even basketball or volleyball courts.

#### Slide 16

Heavy construction is the "everything else" category— if the project is not a building, residential, or highway project, it is categorized as a heavy project. The heavy category includes projects such as major bridges designed for navigation, canals, dams, land drainage, landscaping, pipelines, railroads, swimming pools, utility mains, and all similar kinds of projects.

Because heavy is a catch-all category, when the survey provides sufficient data and that data indicates it is warranted, in addition to a general heavy wage determination, some localities may have additional heavy wage determinations applicable to specific types of heavy projects, such as wage determinations applicable only to dredging projects, to water and sewer work, and so on.

#### Slide 17

Now that we've discussed the categories of wage determinations and how to determine the main category of wage determination that is applicable to a project, we're going to talk a little more about when wage determinations from multiple categories are applicable to the same project. As briefly discussed earlier, multiple wage determinations are applicable to a project where, in addition to the main category of construction, the project contains a substantial amount of work that in and of itself is in another category of construction. Determining whether there is a substantial amount of work in another category of construction has three main steps.

The first step is to determine whether the work in question can be a project in and of itself. In other words, although this particular work is occurring within the framework of a larger project, can the work in other circumstances be an independent project?

For example, clearing and grading a construction site so that a building or work can be built there is only ever a step in the construction of a project, it's never a project in and of itself. A contractor would not just clear and grade a construction site, on the off chance that someone might have a use for it at some other time, and then consider the project to be done. A contractor clears and grades a construction site as a necessary early step in the construction of a building or work, and the project is the building or work itself. So if a contractor clears and grades a site as a step in the construction of an office building, a building category project, the building wage determination will apply to the clearing and grading. In contrast, parking lots can be projects by themselves. For example, a municipal authority may put in a parking lot when no other construction is going on, because of increased traffic to an area, to provide a parking lot for ride sharing, and for other similar reasons. That parking lot itself is the whole project. Parking lots can therefore be projects in and of themselves, so if an office building project also includes a parking lot for office employees and visitors, the application of another category of wage determination to the parking lot may be necessary.

Once it has been determined that the project does contain work that can be a project in and of itself, then a determination must be made as to whether that work is indeed in another category of construction. In the earlier example of the office building with a parking lot, having determined that the parking lot can be a project in and of itself, next we would determine what category of construction typically applied to parking lot projects. Parking lots, as projects, are in the highway category, so this project would have work in another category of construction.

#### Slide 18

Once it is clear that a project contains work that in and of itself is in another category of construction, the next step is to determine whether the work in the other category is substantial. A project is considered to have a substantial amount of work in another category if the total cost of the work in that category exceeds either \$1 million or 20% of total project costs.

When considering whether work meets these thresholds to be considered substantial, this should be based on the total amount of work in the other category, not just the cost of the individual items of work in the other category. For example, a residential project may include a community building costing approximately \$800,000 to build, and a parking garage for residents, costing approximately \$750,000. Community buildings and parking garages can both be projects in and of themselves, and when they are, they are both in the building category. To determine whether the building wage determination is also applicable to the residential project, the total work in the building category should be added together. The \$800,000 community building plus the \$750,000 parking garage together total over \$1.5 million in the building category, so the building wage determination would generally be applicable to the project.

It's also important to note that although over \$1 million or 20% of total project costs will generally be considered substantial, these numbers are guidelines. If there is evidence of a local area practice or other circumstance specific to the project that would indicate that the application of these thresholds is not appropriate for a particular project, that evidence should be submitted to the Department of Labor for consideration.

#### Slide 19

If work in the other category is not substantial, and that work is incidental in function to the main project, than only a single wage determination is applicable to the project. Work is incidental in function to the project if it is being used for the purposes of that project. For example, in a project to repair a stretch of highway and add a rest area to that section of the highway, the rest area would be incidental in function to the highway, as it is included to make the highway more usable by motorists and to improve the functionality of the highway.

It is important to note that sometimes a contract will contain additional work that is not incidental in function to the main project, where the contracting agency has essentially included two different projects in the same contract for contracting efficiency or convenience. For example, a city may want to have a new courthouse built. They may also want to build a new parking lot a couple of blocks away, because that area does not have sufficient parking to accommodate the needs of the town. But the parking lot is not for courthouse parking specifically, as the courthouse will have an underground parking garage as part of the building. However, the contracting agency believes it would save money and reduce inconvenience to city residents if both the courthouse and the parking lot were included in the same contract, so a single contractor could perform the work over the same time frame. If the contracting agency chose to include the courthouse and the unrelated parking lot in the same contract, the highway wage determination would apply to the parking lot regardless of its cost, even if it was below \$1 million or 20%, because it is not incidental in function to the courthouse. It is its own project that just happened to be included in the same contract.

#### Slide 20

Although contracting agencies make the initial determination as to which category or categories of wage determination are applicable to a project, the Department of Labor is the final authority on wage determination applicability. Any questions about wage determination applicability should be referred to us as early in the contracting process as possible and should include all of the information listed on this slide. Please include as much detail as possible when providing information on the different kinds of work involved in the project, and their costs, and any local area practice evidence which you believe is relevant. Also, please keep in mind that local area practice information should be specific to the locality in which the project is being built.

#### Slide 21

When it comes to selecting and incorporating the proper wage determination it is the contracting agency's responsibility to make sure the contractor has the most current updated data to be able to determine which way to pay their workers for working on this project. So when it comes to bidding projects, if the bids are more than 10 days out, it's the agency's responsibility to provide the contractors the most current wage determination to make sure that it's incorporated into the contract. If that WD is not incorporated into the contract, there could be a potential where the contractor could be paying the incorrect wages to their workers on that contract. So the agency must make sure that if it's more than 10 days out, let's give them that most current wage determination, but there is some exceptions that they can come through the Wage and Hour Division requesting those exceptions.

#### Slide 22

When contracts are not awarded within 90 days of bid opening the agency will have to go and either request an extension on those current wage rates for their contracts for the contractor or they will have to incorporate the most current WD. So that project must be awarded within the 90-day period. If not, there are exceptions and they can contact Wage and Hour Division to determine if those exceptions will be warranted in their contract.

#### Slide 23

When it comes to issuing WDs after contract awards, there are some instances where that can happen. What happens is if a contractor incorporated a building wage determination and the project is actually residential, then, of course it would be recommended for them to issue that correct WD and modify it in their contract documents. So what they could do is, they could either terminate that contract and resolicit it out for the contractors to apply it initially to give everyone a fair opportunity to determine if they still want to bid on that project, or they could issue the contractor a variance in the wage rate. So if it's determined that the new WD is going to cost the contract more, it's the agency's responsibility to provide that additional funding to the contractor. Also too when it comes to the start of construction, if they don't incorporate the correct WD, they could cause some compliance issues. So it's important that they make sure that contract has the correct wage determination for that contract.

#### Slide 24

When it comes to wage determinations there can be sometimes clerical errors on the WD. When it comes to clerical errors, whenever a contractor or a union knows that there's something is on the wage determination that looks incorrect, they will reach out to the Wage and Hour Division, Branch of Construction Wage Determinations, to make an inquiry saying that those wage rates look incorrect. What will happen is Branch of Construction Wage Determinations will look over those wages and if the wages are incorrect they will issue a letter of inadvertence correcting those wage rates to be issued into the contract. So if there's a project that has building construction wages and the analysts for Branch of Construction Wage Determinations incorporate the highway wages instead, then we will issue that letter to that contractor explaining to them that we incorporate incorrect wage rates and these are the wages you need to pay your workers for that contract and those wage rates will be retroactive to the beginning of when that contract was awarded.

#### Slide 25

The next few slides that we'll be talking about will be talking about interpreting the general wage determination. So we'll be focusing on the cover sheet of the WD; the body of the WD; the conformance process. We'll explain the rate identifier and the appeals process.

#### Slide 26

When it comes to the cover sheet, there will be the main criteria listed on these slides will be listed on that wage determination. There will be a general decision number, a superseded general decision number, the state, the county or city that is covered for this WD; the type of construction, the description of the construction, and the record of modifications. So anytime a WD is changed, that modification will be captured on that cover sheet.

#### Slide 27

When it comes to the general decision number or the superseded general decision number, it will be based upon at the top of that wage determination. So if you're looking for a WD, the top number will be what the actual wage determination number is, so it could be a state that says MD190004. So that will be the actual general decision number. If you look below that where it says superseded, it'll be MD180004, which will show that the change of that WD was the year. So whenever we go through a process that we call rollover, where we update our wage rates, just like the most current year that will be the difference between those two decision numbers, and we will do this every year and anytime we replace that wage determination you can go to our website [beta.sam.gov](http://beta.sam.gov), and it will have a crosswalk that will show you what that general decision number was before the changes.

#### Slide 28

Also, on the cover sheet you'll see that you'll have the state and the county. So every wage determination will list what state it's for as well as the county or cities that is covered, but some areas have independent cities instead of counties or townships. So that will be listed on the wage determination under the area that says county.

#### Slide 29

When it comes to type of construction, the next slide will explain the different qualifying language that could be listed for that type of construction. So certain projects could have inclusionary or exclusionary language depending on what that wage determination is.

#### Slide 30

As you can see on this next slide, it says highway construction projects does not include building structures and rest areas. So this would be one of the qualifying language for the construction type that'll be listed on that wage determination. As you remember in a prior slide, when we talk about AAM 130 that broke down the different types of construction, this will be some of the language you could see that will be published on the wage determination. As you can see with heavy construction projects, it says includes flood control water sewer lines and water wells, but exclude elevated storage tanks, industrial construction, chemical processing, power plants and refineries. So that's some of the language you can see on the WD based upon what prevails on that survey.

#### Slide 31

Whenever it comes to WD, when they start with that first modification of that WD it will say mod 0. Mod 0 means that that is the first WD for that year, or if our office publishes a new survey, it will say mod zero which could have a date that throughout the year depending on when that survey was published. So every time you see mod 0 that is the first version about wage determination and as we update the union wage rates that's listed on the survey, we will actually change it from mod 0 to mod 1 and there will be some asterisks that will be on that wage determination that will show you what changes we have made to that WD.

#### Slide 32

This slide actually shows you example of what the cover sheet looks like. As you can see at the top, it says general decision number LA170002 with a date of January 20th 2017. Then underneath that is a superseded journal decision number which is LA20160002. So in the case of this WD it shows you that in

2017 it was one date, one number, and in 2016 it was the same number. So when we did the update to our wage determinations, those numbers didn't change, they're still the same. As you look below that you'll see the state which is Louisiana, the construction type heavy, then it lists all the counties and as you can see below the counties, you see that you have this type of construction language. So in this case it's also heavy construction projects, and it talks about what work it includes and what work it excludes, but as you can see right below that there is a note. That is the executive order 13658 that talks about the minimum wage for construction projects. So in some projects you might be subject to the executive order and sometimes you might not be, depending on if you are covered under Related Acts or Davis Bacon direct project. So that will make the difference whether or not you are subject to the executive order language. And right below that you'll see that this WD has been modified twice. So it first has the date of mod 0, then it shows the date of mod 1 and the date of mod 2, the mod 2 is the current version of this wage determination.

### Slide 33

When it comes to further breaking down the wage determination, the next three slides will show you the difference of how it's published on there, whether it's union identifiers or non-union identifiers which is also known as SU which is called survey. So when you look at these upcoming slides we're going to break down more of how you can read this wage determination.

### Slide 34

As you look at this slide here, this one shows you how the union rate will be captured on the wage determination. So you see here it has the union identifier ELEV, which is for Elevated Construction International Union 0101 which is local 101. The 001 is an internal identifier number used by our office to be able to keep track of the data that comes in from the different union rates, and 10-1-2017 is the effective date of this CBA wage rate.

### Slide 35

As you look at this slide here, this is what will look like when it's published on the wage determination. You see here this is Carpenter local 55, the internal identifier is 001, with the wage rates being effective November 1<sup>st</sup>, 2016. So this language that prevailed on this survey is carpenter acoustical ceiling installation and draw wall hanging only, at a rate of \$26.25 per hour with fringe benefits of \$8.64. What happens is whenever we have union wage rates, they will change whatever the union wages are renegotiated. So sometimes those wages might change only once a year, sometimes it could be twice a year. It just depends on when the union renegotiates their wage rate.

### Slide 36

When it comes to survey rates for non-union wage rates, it will be identified on the wage determination starting off with SU, which will be survey, the initials of the state, in this case CO for Colorado, 2015, which will be the date of the survey, and 015 which is the internal number that we keep track of the survey, and 7-31-2016 is the date it was submitted for publication. Wherever it comes to survey or non-union rates, these wage rates will stay in effect until we publish a new survey.

### Slide 37

So if you look at the next slide it will actually show you what those wage rates would look like on the wage determination. So whenever we do survey rates the wage rates will line up. So you see here it has brick layer at a wage rate of \$21.96 with no fringe benefits, and in carpenter \$18.22 with no fringe benefit. So whatever is survey rates, it will be listed under the SU identifier.

#### Slide 38

There are some instances where you can have a union wage rate where the union prevails, but they do not have a clear majority of the wage rates. So when you have a union that has more than one union that submits data for the survey, and we don't have one union rate that is majority, we will do what we call a union average of those wage rates. So when you look at the range determination the union average wage rates will come on the WD between the union rates and the survey rates. And it will have identifier in the front saying UADG which is union weighted average identifier, then it will have the initials of the state, and then it will have the internal identifier number and the date of that wage rate. So you see here, in this case, it talks about operator bulldozer. So that wage rate is an average of more than one union who performed the work during the times of survey, but they did not have a single majority of the rate that prevailed. Whenever comes to union wage rates for union average, we only update those once a year in January. So what will happen is as we get ready to update those wage rates, we will reach out to unions that prevailed in January, requesting that they send in their data, so we can update those and have it published by the end of January or the beginning of February.

#### Slide 39

Now the next few slides that we start talking about is about the conformance process. What happens is whenever we have a wage determination and a classification is not listed on this WD, this is what will issue the conformance process. What will happen is whenever a contractor needs a classification that's not listed, then they will come in to request that classification from the Branch of Construction Wage Determinations, and it will only be requested after the project has been awarded to a contractor.

#### Slide 40

There is three criteria when it comes to the conformance process. The first criteria is the work to be performed by the proposed classification is not performed by a classification already in the wage determination. So what happens is when the contractor is determining that they need a classification to perform work on the contract, their first step should be, is that classification listed on the WD? So if you're requesting a roofer, when you look on that WD, you should not see a roofer clarification listing. So if you do not see a listing, that means you met the first criteria, it's not on the WD. Then the second criteria is the proposed wage rate bears a reasonable relationship to wage rates on the WD. Over the next few slides we'll explain a little bit more about what reasonable relationship means. And the third criteria would be is the classification that is utilized in the area by the construction industry. So if you're requesting every conformance request, it should be for a construction classification. So if you're coming in for a cook, a cook classification would not be considered construction, which means that would not fall under the criteria, which means it would not be a Davis Bacon classification.

#### Slide 41

All right, reasonable relationships, before we dive into what the reasonable relationship is, I want to find out how many people know about all agency memorandum 213. I know some of you probably heard of

it, and some of you probably have not. When it comes to AAM 213, it talks about our criteria of determining what is reasonable relationship.

So when it comes to 213 we first look at it to determine what category does this classification falls under. So if you're requesting a roofer, we know that is a skilled classification. So when we look at that wage determination the first thing we're going to look at is determining what skilled wages on the WD would be reasonable to that roofer wage rate. So the first criteria is we look at all the skilled wages. The next thing we will look at is determining whether that wage determination is majority union or majority non-union wage rates. So if you have a WD that has six skilled union rates and two non-union skilled rates, for reasonable relationship, those wages should be in line with those union wage rates, because they have the clear majority of the wages on the WD. Now let's just say if you have more of a split of six union wage rates, and six non-union wage rates. Then according to 213, it would be reasonable to look at the lowest union or the highest open shop to determine a reasonable relationship. So whenever you're determining which way to pay the workers you need to keep in mind the criteria of AAM 213, because it will give you a guide on determining roughly which wage rates may or may not be approved, when you come into the conformance process.

Also too in the past, we used to use the lowest wage rate as a criteria to determine a reasonable relationship. There could be some instances where that would still be okay, especially if you have a wage determination that might have only two skilled wages on there. Then it might be reasonable to go to the lowest of the two wage rates, depending on how that wage determination looks.

Also, one other criteria you need to keep in mind is, when it comes to determining skilled wage rates, you want to also look at to determine where is that laborer, general laborer, listed on that WD. Because in AAM 213, it clearly outlines that there could be instances where that labor common general could be union, and that wage could be higher than the majority of the skilled wage rates. So in that instance you want to make sure that when you determine a reasonable relationship, the wage that you're proposing is at or above the skilled wage, that's above that laborer common general. So it's really important to look over AAM 213 because it will give you a good guide on what is reasonable.

#### Slide 42

This following slide is an example of whether or not a classification will be approved or denied. so if you look at this slide, it's saying that they propose an out of hourly wage rate of \$20.99 per hour plus \$10 in fringe benefit for a skilled craft. So if you look at this example, do you think this wage will be approved or denied? Based upon this example, I would tell you that this wage will be denied for two reasons. First, if you look at the wage rates listed on the wage determination, there is four union skilled wage rates, one non-union wage rate, and the general laborer wage rate is union. So when it comes to determining a classification wage rate in this instance, this wage will be denied because it's only above the lowest non-union wage rate. So when you look at, the wage rate you're proposing should be in line with the \$36.62 and the \$50.69. We're not saying that you have to go with the highest union or the lowest, but it should be within the range of those wage rates for it to be approved.

#### Slide 43

There's instances where conformance requests are not needed for bona fide reasons: for apprentices, trainees, and welders.

So if you're in a certified apprenticeship program, that would not be approved through our office. That can be approved either through the state or through ETA, the apprenticeship training office. So when you would go through them for the approval for apprenticeship programs that would not come through our office, so when we received those requests, we would not be approving those, we'll be denying those.

If you're a trainee or a helper, we're going to tell you on that letter that you need to pay the journeyman wage, if you're actually a helper that's doing the work with the tools of the trade. Now there's some instances where you can have a helper that really is just a laborer, but then what you should be doing is looking at the wage determination, and see if those duties will fall under the laborer common general that's already listed on the wage determination.

As for welders, there's some instances where we might approve welders. The first time we will approve a welder is that they're performing 100% welding, if that's all they're doing on the project, and they're not doing any other work, then that welder wage should be in line with the skilled wages on the WD. If the welder is doing other work besides welding, unless we're saying they're doing work for our structural iron worker, then that welder wage should be paid based upon what that structural iron worker is making.

#### Slide 44

When it comes to pre-bid and pre-award, it is the contractor's responsibility to start making a determination what classifications they might need on a project. So they should be talking with the agency during that pre-bid process to kind of find out what work is going to be performed on that project, so that way they can determine is that classification listed or do they need to request it, once the project has been awarded to them on the contract. So they must review that WD to determine what classifications they may or may not need, and they should apply the criteria that we went over on the prior slides about AAM 213 to determine if the wage they're proposing would be in line and possibly approved, or if the wage they're proposing is too low, and they will have to come in with a different wage rate.

#### Slide 45

Once the project has been awarded, the contractor should be submitting that SF1444 form, or in the case of HUD the 4238 form, requesting that classification they need for the project. So if they need a project for a painter, they should be requesting it as soon as the project has been awarded. That way it gives them enough time to get a response back from the Branch of Construction Wage Determinations, whether or not that wage rate is approved or denied. Because that way, it takes some time to process these requests, and we want to make sure we give you the most accurate wage determination. So we recommend that you come in sooner rather than later. Also too, when you're at the pre-construction conferences, and also too some certified payrolls, will give you an idea of what classifications you're going to need, so it's best to come in as soon as possible.

So if you have a question on whether or not a classification you're requesting could be based upon a conformance request, you can contact the Branch of Construction Wage Determinations, and they'll be more than happy to walk you through the steps on whether or not you'll need a conformance request, but you cannot submit the final request without having the contracting officer sign off on that request.

So it's important to come and ask questions, but the **agency** will have to make a final signature on it before it comes for us to respond back to your letter.

#### Slide 46

When it comes to submitting conformances, the official site for anything involving wage determinations is [beta.sam.gov](https://beta.sam.gov). If you have any questions on submitting the conformance request or determining how to pull a wage determination, please visit [beta.sam.gov](https://beta.sam.gov), and they will have very useful tools and videos that can help you through the different steps and guides on finding what you need. As well, you can contact the Branch of Construction Wage Determinations for any questions that you have, as well as on the conformance process, as well as pulling a wage determination.

#### Slide 47

When it comes to appealing a wage determination, the first thing you have to determine is, has an initial determination been made. So the question is, was it made on a published wage determination, was it on a survey, was it a letter based upon a conformance request, where maybe you disagree with the wage rate? So before you can come and appeal, there has to be a determination made. So depending on what type of appeal it is, it can either go to the Branch of Construction Wage Determinations or the Branch of Wage Surveys.

#### Slide 48

When it comes to survey appeals, in the past, appeals would have been submitted to one of the five regional offices, but now they are all under one branch, which is now known as the Branch of Wage Surveys. So if you have any questions on a survey that maybe you disagree with the classification that prevails, or you think that the wage rate should have been open shop and it is instead showing a union, please contact the branch of wage surveys, Branch Chief Matt Hardin, for any questions you have on that appeal, and he'll be more than happy to walk you through the steps on submitting the appeals, as well as answering any questions you have. And his email address is [Hardin.Matthew@dol.gov](mailto:Hardin.Matthew@dol.gov).

#### Slide 49

Now if you have questions about appealing a conformance request, or maybe you disagree with a union wage rate that was published, that you think the wage is too high or too low, you can contact the National Office Branch of Construction Wage Determinations. As you see here this is a link to the most current state assignment listing, which shows which analyst who has which state. So please contact their analyst, and they'll be more than happy to look over your inquiry to see where the issues come in, whether it was that maybe the wage on a conformance letter was incorrect, because maybe we did a clerical error on the WD, and we had to fix it. We're more than happy to look at it and make any changes that you need.

#### Slide 50

So let's just say you appeal at the first level, which is at the branch, and you say "hey, I disagree with your determination on the response letter, and I want to appeal and request a review and reconsideration of that wage determination or that conformance request." Those requests will be addressed to the Administrator of Wage and Hour, it must be in writing, and it must include supporting documentation about why you disagree with our decision. Those ones within the first 30 days of

receiving the request, you will receive an acknowledgement letter explaining that we received your request and we are working on it. Sometimes these requests can take longer than 30 days to process, so if you have any questions and you want to know where it's at in the process, please contact the Branch of Construction Wage Determinations, or if the letter is for the Branch of Wage Surveys, contact the Branch of Wage Surveys, and they will be able to tell you what step of the process that request is at.

#### Slide 51

So let's just say you get to the review and reconsideration letter level and you disagree with the ruling, you can always appeal to the Administrative Review Board, which will be a final ruling by the Secretary of Labor. So if you disagree, you definitely can go to that level and say "hey, we still disagree with the findings, can you look at it again and make a determination." And that will go to the Administrative Review Board.

#### Slide 52

And when it comes to those requests, it must be timely, and you must not postpone any contract action. So if you have something that you disagree with, please comment as soon as possible, because if it's untimely that means we are not able to make a determination on it, and that's a matter for you when it comes to your contract. So we recommend within moments of you receiving it, reach out, let us know you disagree with it, so that way at least someone knows that you're going to be submitting in a request, requesting it to go to the ARB.

#### Slide 53

All right, the next few slides talk about the different regulations that the Davis Bacon deals with, as well as SCA as well. These regulations can be found on [beta.sam.gov](http://beta.sam.gov) under the reference library. So if you need any of this information, or any of these criteria on finding the Title 41 CFR, Federal Register, Title 29 CFR or the engineer pamphlet or SCA labor relations, that is all found under the reference library under [beta.sam.gov](http://beta.sam.gov).

#### Slide 54

As well as any All Agency Memoranda, as we spoke of earlier, AAM 130, 131, 213 for conformances, all these memorandums are listed on [beta.sam.gov](http://beta.sam.gov) under All Agency Memoranda. So you should do a search under the reference library and find that information as well, as well as it has a breakdown of the difference between DBA, also known as construction on the site, as well as SCA, Service Contract Act. So any additional information you need on those two different types of work is listed under [beta.sam.gov](http://beta.sam.gov), so please take a look at the website and get yourself familiar with it, so that way you can find all the tools you need. Especially when it comes to the different prevailing wage resource books, they are all listed on that site as well.

#### Slide 55

The next slide actually shows you the different AAMs that is issued by DOL. You will have the same format listed on [beta.sam.gov](http://beta.sam.gov), where you can click on it, and actually go to the specific AAM, and read about what the AAM is about.

#### Slide 56

Also too on dol.gov, as well as beta, you have the Prevailing Wage Resource Book. So if you need any more information on the slides that we discussed in this presentation, as well as any other criteria that's enforced by the Wage and Hour Division, please check out that prevailing wage reason book, because it has very good tools that will help you anytime you get stuck or you have questions or concerns. Whether it's about the survey process, whether it's about Davis Bacon, SCA or any other requirements under the Wage and Hour Division, whether it's CWHSSA, there's a lot of good information in there. So it's recommended that you take a look at it as well.

#### Slide 57

As well too on this link, you see here it talks about the debarred contractors list, the pre-award registry, industry goals, and regional offices. All this information is also found on beta.sam.gov, so anything you need even though in the past the website with wdol.gov, you can still find the exact same information on beta.sam.gov. So just check it out and see what that information is that you could need.

#### Slide 58

As well as this information is listed on beta too.

#### Slide 59

You will also have on that side to a crosswalk that represents the difference between the DOL regulations and the FAR regulations. So that information is listed, as well to show you the difference between the two regulations based upon whether you find it in the CFR or the FAR. You will find the same information on beta.sam.gov, so please check it out.

#### Slide 60

As well as it comes to Davis Bacon, as well as any Wage and Hour criteria, you can find everything on our website of dol.gov. So anything involved in the Wage and Hour Division or Department of Labor is listed on dol.gov, and you can go under specific agencies to find information you need for that agency. As well as there's a link to the Administrative Law Judges, Administrative Review Board and the debarred list. So all this is listed either on our site or on beta.sam.gov. so please take a look at it. If you have any questions or concerns, please let us know.

#### Post-slide discussion

Ok, we're going to talk a little bit about beta.sam.gov. So whenever you need to pull a wage determination, you will go to the website beta.sam.gov, and when it comes up, it will come up with a drop down list starting off with "all award hierarchy." So when you go to that drop down list, you're going to select wage determinations and click search. When you click search, there is a couple different criteria on how you will be able to pull that wage determination. If you know the WD number, then you can click on it where it says the DBA, which is Davis Bacon Act, and go down to the screen and type in that wage determination, and click search.

But let's just say you don't know what your WD is, and you need to pull one. So on the left side once you click under DBA, it's going to come down with some drop downs. So the first drop down we'll have is the state, so you will select the state that you're looking for. Once you select the state, that will come up with the county or city depending on the area, and you'll select the county or city. Then you click on the

type of construction, and as you're doing that it will filter it down to that specific wage determination. Once you filter down to that WD, if you look on your right side, it will have the specific wage determination that you need for the contract.

But let's just say you don't want a current wage determination, and you had a project that has been awarded a while back and you need to find that WD. So let's just say you are working on a project in California. You know the wage determination is CA190009. So what you'll do, you'll go back to the main screen on [beta.sam.gov](http://beta.sam.gov), select the drop down for wage determination, and right next to that drop down you will type in CA9, and click search. Once you click search, you're going to scroll down, and you're going to see on your right side, it's going to have the 2020 wage rate for that WD. But as we said here, we need the 2019 wage rate, so if you look to your left, you will see where it says active only. Uncheck active only, and that will bring up all the wage determinations for CA9, so what you would do is you scroll through that list until you see the one for 2019. Once you see the one for 2019, you will click on that WD. Let's just say, it comes up with mod 6, but you really need mod 3. There's two ways you can pull that wage determination once you click on it. You can either go to your left side and click on the word "history," which will bring you to the bottom of the wage determination, and you'll click on the one for mod 3. Or you just go all the way down to the bottom, and click on mod 3. But just remember when you're looking at a WD that you need, the WD that you're looking for, when it says mod 0 might have a date of February 2019, but mod 0 is really January 2019. So just make sure if you need that February one, it's the one above that date. So make sure you're clicking the correct mods. That way you're incorporating the right one into your contract, or if you already awarded it, and you need to pull it because you can't find it. Just remember, it's the one above that you need.

So that's what you will have to do when it comes to pulling the wage determinations. If you have any questions, please reach out to the Branch of Construction Wage Determinations, and I'll be more than happy to walk you through step by step, on how to pull the current WD, pull the archive wage determination, or answer any questions that you might have about beta. Then maybe you can't find something, then definitely reach out to the analysts, and they'll be more than happy to find out what your issue is and help you fix it. Thank you so much and we appreciate you joining us today for this presentation.