

§ 1.1

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(l) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(n) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(p) The prohibition against political activities in subchapter III of chapter 73 of title 5 U.S.C. and 18 U.S.C. 602, 603, 607, and 608.

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

Sec.

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APPENDIX A TO PART 1

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AUTHORITY: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 29 U.S.C. 259; 40 U.S.C. 276a–276a-7; 40 U.S.C. 276c; and the laws listed in appendix A of this part.

SOURCE: 48 FR 19533, Apr. 29, 1983, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to Part 1 appear at 61 FR 19984, May 3, 1996.

§ 1.1 Purpose and scope.

(a) The procedural rules in this part apply under the Davis-Bacon Act (946 Stat. 1494, as amended; 40 U.S.C. 276a–276a-7) and other statutes listed in appendix A to this part which provide for the payment of minimum wages, in-

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cluding fringe benefits, to laborers and mechanics engaged in construction activity under contracts entered into or financed by or with the assistance of agencies of the United States or the District of Columbia, based on determinations by the Secretary of Labor of the wage rates and fringe benefits prevailing for the corresponding classes of laborers and mechanics employed on projects similar to the contract work in the local areas where such work is to be performed. Functions of the Secretary of Labor under these statutes and under Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 U.S.C. appendix), except those assigned to the Administrative Review Board (see 29 CFR part 7), have been delegated to the Deputy Under Secretary of Labor for Employment Standards who in turn has delegated the functions to the Administrator of the Wage and Hour Division, and authorized representatives.

(b) The regulations in this part set forth the procedures for making and applying such determinations of prevailing wage rates and fringe benefits pursuant to the Davis-Bacon Act, each of the other statutes listed in appendix A, and any other Federal statute providing for determinations of such wages by the Secretary of Labor in accordance with the provisions of the Davis-Bacon Act.

(c) Procedures set forth in this part are applicable, unless otherwise indicated, both to general wage determinations for contracts in specified localities, and to project wage determinations for use on contract work to be performed on a specific project.

[48 FR 19533, Apr. 29, 1983, as amended at 50 FR 49823, Dec. 4, 1985]

§ 1.2 Definitions.¹

(a)(1) The *prevailing wage* shall be the wage paid to the majority (more than 50 percent) of the laborers or mechanics in the classification on similar projects in the area during the period in question. If the same wage is not paid to a majority of those employed in the classification, the *prevailing wage* shall be the average of the wages paid,

¹These definitions are not intended to restrict the meaning of the terms as used in the applicable statutes.

weighted by the total employed in the classification.

(2) In determining the *prevailing wages* at the time of issuance of a wage determination, the Administrator will be guided by paragraph (a)(1) of this section and will consider the types of information listed in §1.3 of this part.

(b) The term *area* in determining wage rates under the Davis-Bacon Act and the prevailing wage provisions of the other statutes listed in appendix A shall mean the city, town, village, county or other civil subdivision of the State in which the work is to be performed.

(c) The term *Administrator* shall mean the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative.

(d) The term *agency* shall mean the Federal agency, State highway department under 23 U.S.C. 113, or recipient State or local government under title 1 of the State and Local Fiscal Assistance Act of 1972.

[48 FR 19533, Apr. 29, 1983, as amended at 48 FR 50313, Nov. 1, 1983]

§1.3 Obtaining and compiling wage rate information.

For the purpose of making wage determinations, the Administrator will conduct a continuing program for the obtaining and compiling of wage rate information.

(a) 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. The Administrator may also obtain data from agencies on wage rates paid on construction projects under their jurisdiction. 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 Davis-Bacon prevailing wage requirements.

(b) The following types of information may be considered in making wage rate determinations:

(1) *Statements showing wage rates paid on projects.* Such statements should include the names and addresses of contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, whether or not the projects are Federal or federally assisted projects subject to Davis-Bacon prevailing wage requirements, the number of workers employed in each classification on each project, and the respective wage rates paid such workers.

(2) *Signed collective bargaining agreements.* The Administrator may request the parties to an agreement to submit statements certifying to its scope and application.

(3) Wage rates determined for public construction by State and local officials pursuant to State and local prevailing wage legislation.

(4) In making wage rate determinations pursuant to 23 U.S.C. 113, the highway department of the State in which a project in the Federal-Aid highway system is to be performed shall be consulted. Before making a determination of wage rates for such a project the Administrator shall give due regard to the information thus obtained.

(5) Wage rate data submitted to the Department of Labor by contracting agencies pursuant to 29 CFR 5.5(a)(1)(ii).

(6) Any other information pertinent to the determination of prevailing wage rates.

(c) The Administrator may initially obtain or supplement such information obtained on a voluntary basis by such means, including the holding of hearings, and from any sources determined to be necessary. All information of the types described in §1.3(b) of this part, pertinent to the determination of the wages prevailing at the time of issuance of the wage determination, will be evaluated in the light of §1.2(a) of this part.

(d) In compiling wage rate data for building and residential wage determinations, the Administrator will not use data from Federal or federally assisted projects subject to Davis-Bacon