

prior to the beginning of the survey or the request for a wage determination, as appropriate) is unavailable to make a wage determination.

(b) If there has not been sufficient similar construction within the area in the past year to make a wage determination, wages paid on similar construction in surrounding counties may be considered, *Provided* That projects in metropolitan counties may not be used as a source of data for a wage determination in a rural county, and projects in rural counties may not be used as a source of data for a wage determination for a metropolitan county.

(c) If there has not been sufficient similar construction in surrounding counties or in the State in the past year, wages paid on projects completed more than one year prior to the beginning of the survey or the request for a wage determination, as appropriate, may be considered.

(d) The use of *helpers, apprentices and trainees* is permitted in accordance with part 5 of this subtitle. Wage rates for semi-skilled classifications of helpers will be issued when the classifications are prevailing in the area. In determining whether use of a particular helper classification prevails in the area, the Administrator will follow the criteria set forth in paragraphs (d)(1) and (d)(2) of this section.

(1) If the prevailing wage for a particular journeyman classification is a wage that is paid to the majority of the journeymen in the classification as defined in §1.2(a)(1) of this part, then the practice followed by those contractors whose rates are adopted as prevailing for the journeyman shall also be deemed the prevailing practice in determining whether to issue a helper classification. Any ambiguity with regard to such practice, will be resolved by following the rule in paragraph (d)(2) of this section with respect to those contractors.

(2) If the prevailing wage for a particular journeyman classification is the average of the wages paid to the journeymen, weighted by the total number of journeymen in the classification as defined in §1.2(a)(1) of this part, then the total number of workers in the classification employed by contractors utilizing helpers (journeymen

plus apprentices, trainees, and helpers as defined in §5.2(n)(4) of this chapter) on reported projects will be compared to the total number of workers in the classification employed by contractors not utilizing helpers (journeymen plus apprentices and trainees as defined in §5.2(n)(4) of this chapter), and the practice which covers the majority of such workers shall be deemed the prevailing practice in determining whether to issue a helper classification.

[48 FR 19533, Apr. 29, 1983, as amended at 50 FR 4507, Jan. 31, 1985; 55 FR 50149, Dec. 4, 1990]

EFFECTIVE DATE NOTE: At 58 FR 58955, Nov. 5, 1993, §1.7 was amended by suspending paragraph (d) indefinitely.

#### **§1.8 Reconsideration by the Administrator.**

Any interested person may seek reconsideration of a wage determination issued under this part or of a decision of the Administrator regarding application of a wage determination. Such a request for reconsideration shall be in writing accompanied by a full statement of the interested person's views and any supporting wage data or other pertinent information. The Administrator will respond within 30 days of receipt thereof, or will notify the requestor within the 30-day period that additional time is necessary.

#### **§1.9 Review by Administrative Review Board.**

Any interested person may appeal to the Administrative Review Board for a review of a wage determination or its application made under this part, after reconsideration by the Administrator has been sought pursuant to §1.8 and denied. Any such appeal may, in the discretion of the Administrative Review Board, be received, accepted, and decided in accordance with the provisions of 29 CFR part 7 and such other procedures as the Board may establish.

#### APPENDIX A TO PART 1

##### *Statutes Related to the Davis-Bacon Act Requiring Payment of Wages at Rates Predetermined by the Secretary of Labor*

1. The Davis-Bacon Act (secs. 1-7, 46 Stat. 1494, as amended; Pub. L. 74-403, 40 U.S.C. 276a-276a-7).