

A top-down view of various construction tools including a yellow hard hat, a brass faucet, a brass cap, a yellow level, a yellow pencil, and orange-handled pliers, all arranged on a wooden surface over a blueprint. The text 'WELCOME TO THE 2024 COMMUNITY BLOCK GRANT SUMMIT' is centered in a reddish-brown font.

WELCOME TO THE 2024 COMMUNITY BLOCK GRANT SUMMIT

The logo for the Georgia Department of Community Affairs, featuring a stylized green city skyline and the text 'Georgia Department of Community Affairs' and 'COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM' below it.

Georgia[®] Department of
Community Affairs
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

Davis Bacon Conformance Process

CONFORM

What is a conformance?

When a contractor performs work on a Davis Bacon Act (DBA) covered contract and the applicable wage determination does not include a rate for a classification of work to be performed, the classification needed, and wage rate must be added in **conformance** to the contract wage determination.

This is the conformance process.

Davis Bacon Conformances

- A conformance is granted when the type of work needed for a project is not performed by a labor classification listed on the applicable wage determination.
- The purpose of a conformance is not to create new construction classification but to determine the prevailing wage for standard construction classifications.
- The proposed labor classification to be conformed must be used in the construction industry.
- The conformance process may not be used to split, subdivide, or avoid application of classifications listed in the wage determination.
- If Wage and Hour Division (WHD) grants a conformance, the wage rate selected will bear a “reasonable relationship” to the existing wage rates on the applicable wage determination. This is explained in U.S. Department of Labor MEMORANDUM NO. 213 (AAM No. 213)

Determining a Reasonable Relationship

- To determine a "reasonable relationship," the requested additional classification is compared to the classifications on the applicable wage determination within the same category.
- Classifications in wage determinations fall into four general categories: skilled crafts, laborers, power equipment operators, and truck drivers.
- To determine a "reasonable relationship," the requested additional classification is compared to the classifications on the applicable wage determination within the same category.
- WHD generally considers the entirety of the rates for the skilled classification on the applicable wage determination and considers where the proposed wage rate falls within the rates listed on that specific wage determination.
- Determine whether the majority of the rates in that category are union or non-union rates.
- Consider the entirety of the relatable rates and determine whether the proposed rate is reasonable. Do not automatically use the lowest rate in the category

Projects with Multiple types of Construction

- **DOL AGENCY MEMORANDUM NUMBER 244 (AAM 244)**

- The final rule clarifies that when a project involves work in more than one type of construction (e.g., building, heavy, highway, residential), the contracting agency must incorporate the applicable wage determination for each type of construction involved that is anticipated to include a substantial amount of construction. See 29 CFR 1.6(b)(1).



Application of Multiple Wage Decisions

- Arise when a project includes different categories of construction.
- Once it is been determined that a project has construction work in separate categories, the next point is to consider whether the cost of the work involved is substantial.
- Substantial items are defined by DOL in **All Agency Memorandum 236** as when the cost of construction exceeds either \$2.5 million or 20% of the total project cost.
- If the there is a substantial amount of construction in a separate category, multiple wage determinations are applicable.



When multiple wage determinations are included in a DBA covered contract, the contractor may **NOT** use the equivalent classification from one of the other wage determinations in that contract. An additional classification must be requested.

Get in Conformance

If a classification of work is not listed on the wage decision that is applicable to your project, a request must be made for an additional classification through Department of Labor's Wage and Hour Division (WHD). Your request must be sent through the Contracting Agency which is the Department of Community Affairs. DCA will submit the request on behalf of the contractor/subcontractor and the grantee. The WHD will make the final determination within 30 days.

| | | |
|---|---|---|
| Request For Authorization Of Additional Classification And Rate | Check Appropriate Box <input type="checkbox"/> Service Contract <input type="checkbox"/> Construction Contract | OMB Control Number: 9000-0066 Expiration Date: 5/31/2025 |
| Instructions: The Contractor shall complete items 3 through 16, keep a pending copy, and submit the request, in quadruplicate, to the Contracting Officer. | | |
| 1. To: Administrator, Wage And Hour Division U.S. Department Of Labor Washington, DC 20210 | 2. From: (Reporting Office) Department of Community Affairs 60 Executive Park South N.E. Atlanta, GA 30329-2231 | |

Standard Form 1444

- Block 5 The Contract Number, Project Number or HUD Identifying Number
- Block 6 The bid opening date (if advertised)
- Block 7 The award date of the contract
- Block 8 The date the contract work started (if started)
- Block 9 – N/A
- Block 10 – Subcontractor (if any)
- Block 11 – Project and Description of Work
- Block 12 – The project location: city, county, and state
- Block 13 – Wage Decision and publishing date
 - a. Proposed Classification – brief description of work
 - b. Requested Wage Rate
 - c. Fringe Benefits Payments
- Block 14 and 15 – Title and Signature of Prime Contractor, Subcontractor, and representatives (if any)



| | | | | | |
|---|-------------------------------------|--|---|---|--|
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| 1. To: Administrator, Wage And Hour Division U.S. Department Of Labor Washington, DC 20210 | | | 2. From: (Reporting Office) Department of Community Affairs 60 Executive Park South N.E. Atlanta, GA 30329-2231 | | |
| 3. Contractor | | | | 4. Date Of Request | |
| 5. Contract Number | 6. Date Bid Opened (Sealed Bidding) | 7. Date Of Award | 8. Date Contract Work Started | 9. Date Option Exercised (If Applicable) (Service Contract Only) | |
| 10. Subcontractor (If Any) | | | | | |
| 11. Project And Description Of Work (Attach Additional Sheet If Needed) | | | | | |
| 12. Location (City, County, And State) | | | | | |
| 13. In Order To Complete The Work Provided For Under The Above Contract, It Is Necessary To Establish The Following Rate(s) For The Indicated Classification(s) Not Included In The Department Of Labor Determination | | | | | |
| Number: | | | Dated: | | |
| a. List In Order: Proposed Classification Title(s); Job Description(s); Duties; And Rationale For Proposed Classifications (Service contracts only) (Use reverse or attach additional sheets, if necessary) | | | b. Wage Rate(s) | c. Fringe Benefits Payments | |
| 14. Signature And Title Of Subcontractor Representative (If Any) | | | 15. Signature And Title Of Prime Contractor Representative | | |
| Authorized For Local Reproduction Previous Edition Is Not Usable | | | STANDARD FORM 1444 (REV. 10/2023) Prescribed by GSA-FAR (48 CFR) 53.222(f) | | |

Standard Form 1444

- SF-1444: Block 16
Workers' or representative signature and Title

If the contractor is party to a collective bargaining agreement, the union representative may sign for the workers, or the collective bargaining agreement may be submitted.

- Signature of Contracting Officer
DCA Agency representative signature and recommendation

| | | |
|--|---------------------------------------|---|
| 16. Signature Of Employee Or Representative  | Title | Check Appropriate Box - Referencing Block 13. <input type="checkbox"/> Agree <input type="checkbox"/> Disagree |
| To Be Completed By Contracting Officer (Check As Appropriate - See FAR 22.1019 (Service Contract Labor Standards) Or FAR 22.406-3 (Construction Wage Rate Requirements)) | | |
| <input type="checkbox"/> The Interested Parties Agree And The Contracting Officer Recommends Approval By The Wage And Hour Division. Available Information And Recommendations Are Attached. | | |
| <input type="checkbox"/> The Interested Parties Cannot Agree On The Proposed Classification And Wage Rate. A Determination Of The Question By The Wage And Hour Division Is Therefore Requested. Available Information And Recommendations Are Attached. | | |
| (Send 3 copies to the Department of Labor) | | |
| Signature Of Contracting Officer Or Representative  | Title And Commercial Telephone Number | Date Submitted |

Paperwork Reduction Act Statement

This information collection meets the requirements of 44 U.S.C. § 3507, as amended by section 2 of the Paperwork Reduction Act of 1995. You do not need to answer these questions unless we display a valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 9000-0066. We estimate that it will take .5 hours to read the instructions, gather the facts, and answer the questions. Send only comments relating to our time estimate, including suggestions for reducing this burden, or any other aspects of this collection of information to: U.S. General Services Administration, Regulatory Secretariat Division (M1V1CB), 1800 F Street, NW, Washington, DC 20405.

APPRENTICES, HELPERS, AND WELDERS

- **Apprentices**

Additional classifications and wage rates are not needed for apprentices working on Davis-Bacon covered contracts. Apprentices are permitted to work at less than the wage rates listed in the contract wage determination for the classification of work they perform only if they meet the requirements of 29 CFR 5.5(a)(4), such as being registered or certified in an appropriate apprenticeship program. (See FAR at 48 CFR 22.401 Definitions, “Laborers or mechanics,” paragraphs (1) and (2), and 48 CFR 52.222-6.)

- **Welders**

Additional classifications are not generally needed for welders. Welding is commonly considered incidental to the work of workers for whom classifications are issued. Welders can be classified in the same classification as the workers who are performing the duties in which the welding work is incidental (for example, ironworkers, plumbers, sheet metal workers, etc.). However, welders may sometimes represent a separate sub-classification and in those cases, may be conformed.

Things to Remember

- Pre-bid/pre-award Look at the wage determination: Compare classifications on the wage determination with anticipated work to be performed to identify missing classes that may be needed.
- After contract award
Identify additional classes that may be needed:
Discuss the wage determination and conformance criteria in pre-construction conference.
- The classification must be appropriate for the contract work and must be a classification that is utilized in that locality by the construction industry.
- The contractor cannot propose a new classification by combining job duties from two or more existing classifications on the wage determination or propose a new classification that performs only part of the duties of an existing classification.
- Conformance requests should not be submitted for exempt classifications (project managers, full-time supervisors, professionals such as engineers), nor for classifications other than "laborers or mechanics" employed on the site of work, as covered by DBA.
- Wanting to pay a lower wage rate rather than the prevailing wage listed is not grounds for a conformance request.

Submitting Conformance Request

- Signed letter from Grantee regarding the request for additional classification(s).
- The applicable wage determination.
- Prime Contractor must complete the SF-Form 1444 and send a written letter with a description of the work to be performed by the requested classification; and
- Any related documentation and recommendation.
- Submit request to CDBG.Biz@dca.ga.gov



Lack of a DOL response within 30 days does not mean that the conformance request has been approved.

Once the determination has been received from DOL and the wage rate is higher than what was originally requested, restitution must be paid to the workers.

