

APPEALS

REGARDING DAVIS-BACON

WAGE DETERMINATIONS AND CONFORMANCE ACTIONS

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REGULATIONS, 29 CFR PART 7, EXCERPTS

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1. Has DOL made an **initial decision** in the matter? This can be:

- ◇ An existing published wage determination
- ◇ A survey underlying a wage determination
- ◇ A letter stating a DOL position
- ◇ A conformance ruling

2. If the answer is **no**, then there is no appropriate action to appeal.

On survey-related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted. The Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in steps 3 and 4, below, should be followed.

3. If the answer is **yes**, then an interested party may request **review and reconsideration** from the WHD Administrator. 29 CFR 1.8 & 29 CFR 5.13. Write to:

U.S. Department of Labor
Wage & Hour Administrator
200 Constitution Avenue, N.W.
Washington, D.C. 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

4. If the decision of the Administrator is not favorable, an interested party may appeal directly to the Department's **Administrative Review Board**. See 29 CFR Part 7.

4. All decisions by the Administrative Review Board are final.

6. The Administrative Review Board's telephone number is (202) 693-6200, and their website is at <http://www.dol.gov/arb/>.

Decisions of the Administrative Review Board (and the former Wage Appeals Board) are available in the **OALJ Law Library's "DBA/SCA Collections"** at: <http://www.oalj.dol.gov/libdba.htm>.

REGULATIONS, 29 CFR PART 7, EXCERPTS

“Section 7.2 Who may file petitions for review [of wage determinations].

(a) Any interested person who is seeking a modification or other change in a wage determination under Part 1 ... and **who has requested the administrative officer authorized to make such modification or other change under Part 1** and the request has been denied, after appropriate reconsideration shall have a right to petition for review of the action taken by that officer.

(b) For purpose of this section, the term “**interested person**” is considered to include, without limitation:

(1) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any laborers or mechanic, or any labor organization which represents a laborer or mechanic, who is likely to be employed or seek employment under a contract containing a particular wage determination, and, (2) Any Federal, State, or local agency concerned with the administration of a proposed contract or contract containing a particular wage determination issued pursuant to the Davis-Bacon Act or any of its related statutes.”

“Section 7.9 Review of decisions in other proceedings.

(a) Any interested person who is seeking a modification or other change in a wage determination under Part 1 of this subtitle and **who has requested the administrative officer authorized to make such modification or other change under Part 1 and the request has been denied, after appropriate reconsideration** shall have a right to petition for review of the action taken by that officer.

(b) For purpose of this section, the term “**interested person**” is considered to include, without limitation:

(1) Any contractor, or an association representing a contractor, who is likely to seek or to work under a contract containing a particular wage determination, or any laborer or mechanic, or any labor organization which represents a laborer or mechanic, who is likely to be employed or seek employment under a contract containing a particular wage determination, and (2) Any Federal, State, or local agency concerned with the administration of a proposed contract or contract containing a particular wage determination issued pursuant to the Davis-Bacon Act or any of its related statutes.”

(Emphases added)