




The Davis-Bacon Act


*Michael Elchinger
Research Analyst
Economics and Contracts Department
International Brotherhood of Teamsters*



Basics of Bacon

- (R) Senator Jim Davis
- (R) Rep. and Secretary of Labor Robert Bacon
- Signed by President Hoover March 3, 1931
- Establishes Prevailing Wages for Federal construction projects over \$2,000


The Davis-Bacon Act was co-sponsored by Senator Jim Davis and Representative Robert Bacon, and signed it into law in 1931 by President Hoover. The Act establishes prevailing wages and fringe benefits for federal construction projects whose funding exceeds \$2,000. Essentially, the act was designed to force the federal government to act as a model employer. It ensures that contractors who bid a federally subsidized project pay employees wages and benefits similar to workers employed in the vicinity by the private sector.



How Are Prevailing Wages Determined?

- Statewide Surveys
- WD-10 Forms
- Arranged by state, county, construction type, and job classification
- Construction types: Building, Heavy, Highway and Residential
- Three states at a time

The Wage and Hour Division of the Department of Labor first determines these prevailing wages by conducting a statewide survey. Regional Wage and Hour offices across the country send out WD-10 Forms to unions and contractors in the jurisdiction of the survey, and compile a listing of decisions based on their responses. Prevailing wages are then arranged by state, county, construction type and individual job classification. The four different types of construction are Building, Heavy, Highway, and Residential. Typically, surveys are conducted on three states at a time, and are a fairly lengthy undertaking. This means that a wage decision for a given state may stand for five to ten years. In some cases, wage decisions have been known to flirt with the minimum wage since surveys are so old.

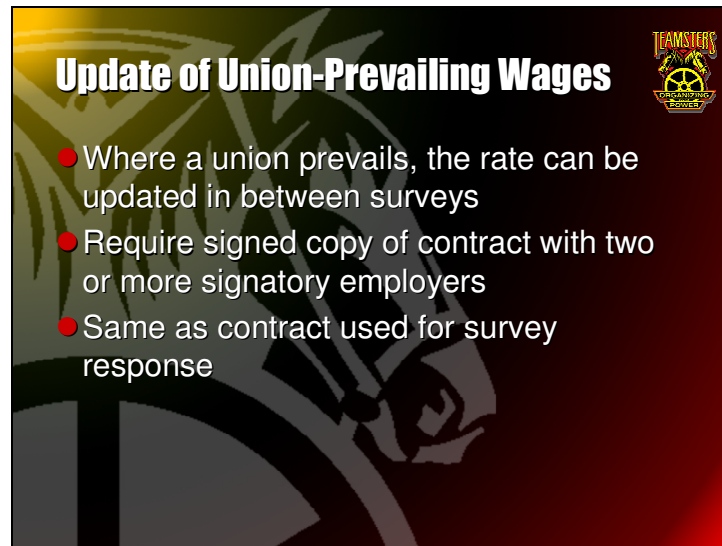


Prevailing Wage Calculations

- Union's rate prevails if it represents over 50% of workers in classification
- If 50% of workers in classification receive the same non-union rate
- Weighted average

The wages contained in the decisions are calculated three ways. First, if responses to the survey reveal that a union represents over 50% of the workers in a particular state, county,

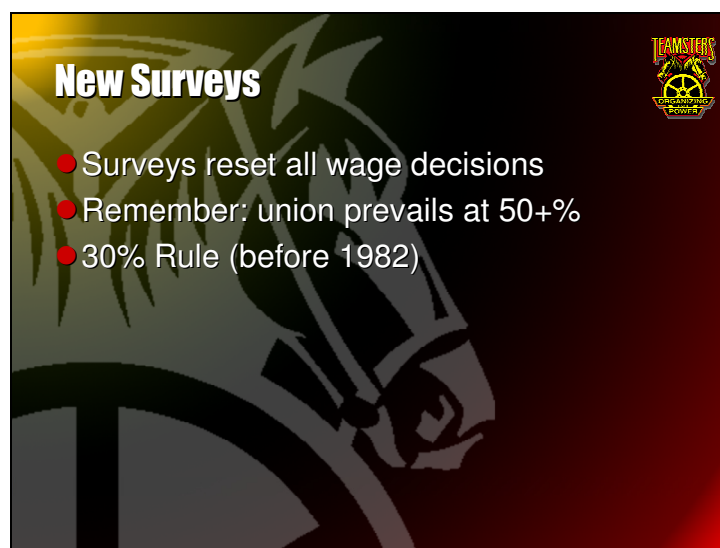
construction type and job classification, the union's wage will prevail. Second, if no union prevails, and there is one wage rate that is modal – that is, 50% of the workers are paid the same rate, that rate will prevail. Third, if there is no modal wage rate, a weighted average is taken of all responses.



Update of Union-Prevailing Wages

- Where a union prevails, the rate can be updated in between surveys
- Require signed copy of contract with two or more signatory employers
- Same as contract used for survey response

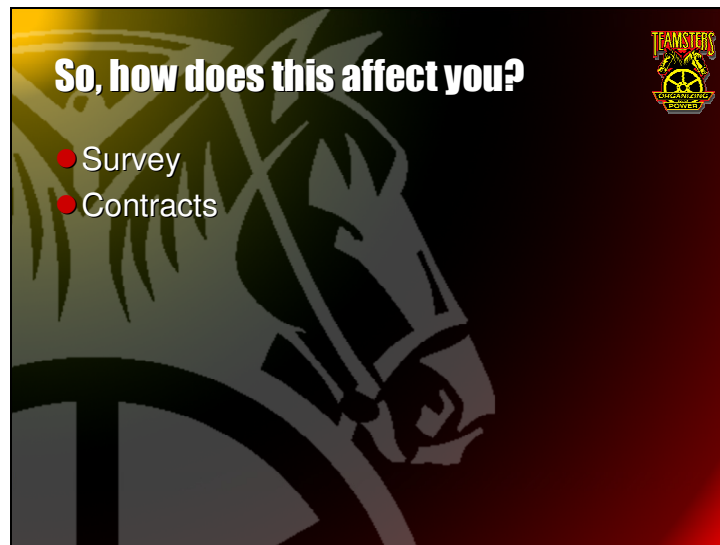
Whereas, a survey rate cannot be changed in between surveys, if a union's wage prevails, the rate can be updated without the need of a survey. For a rate to be updated, a signed copy of a collective bargaining agreement between a union and two or more employers must be sent in to the Department of Labor. The contract must also correspond to the one used to respond to the WD-10 Form from the survey. In other words, the contract you send in for the survey must be the same one you send to me to update the wage decisions.



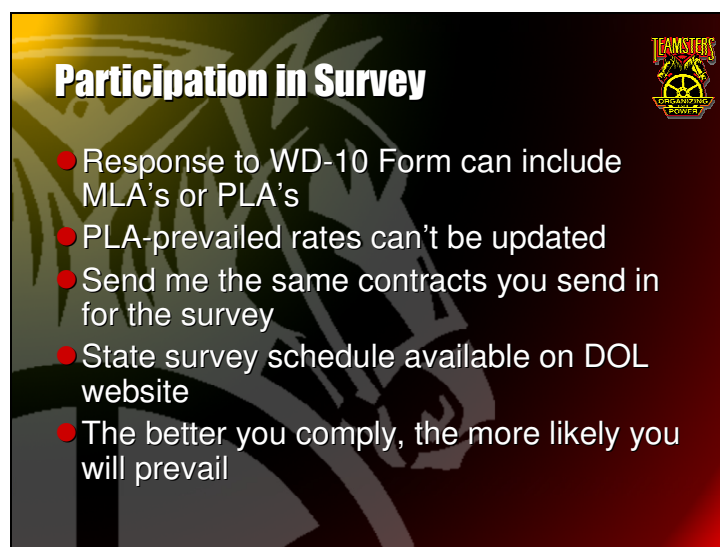
New Surveys

- Surveys reset all wage decisions
- Remember: union prevails at 50+%
- 30% Rule (before 1982)

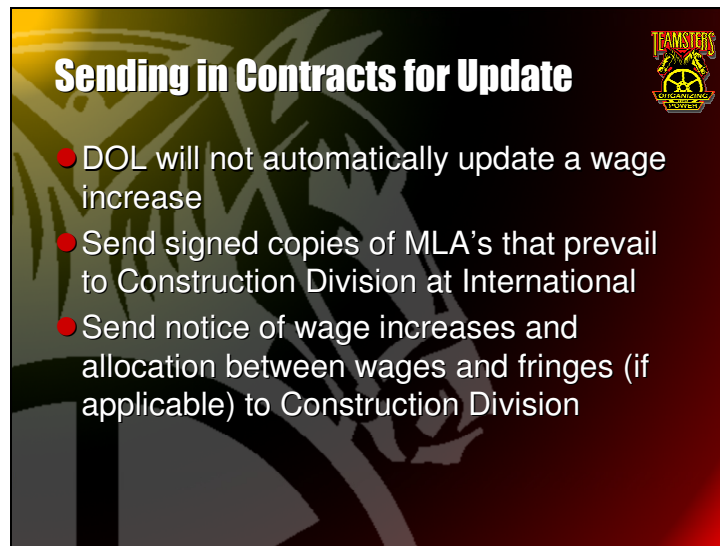
If a union has a prevailing wage, and a survey comes up for that state, there is no guarantee that the union's rate will prevail under the new survey. A survey will supersede any union rate that had previously prevailed provided union presence is not greater than 50% of the work present in that state, county and job classification. In the past, there only had to be a 30% union presence for our rates to prevail. This change (made in 1982) makes it that much more important for us to be alert and proactive about getting our rates into the Department of Labor.



So, where do you come in? You can have an impact on your prevailing wages in two ways: by participating fully with the survey process, and by submitting your contracts and updated rates to the International.



Since the Regional DOL offices will take any wage rate information during a survey, you should send in Master agreements, and/or Project Labor Agreements. If the survey finds that we prevail through a PLA, that just means it can't be updated unless a subsequent PLA with matching classifications and jurisdiction comes through. But, better to have your rate prevail and not be updated until the next survey then to have the survey rate. So send in all you have. As I mentioned before, the contracts you send in to the Regional Wage and Hour offices through the survey will have to be used when updating rates at the DOL. You can view the DOL's survey schedule and results by visiting the Davis-Bacon webpage on www.teamster.org under the Building Material and Construction Trades Division webpage. There are many helpful links including one directly to the survey page.



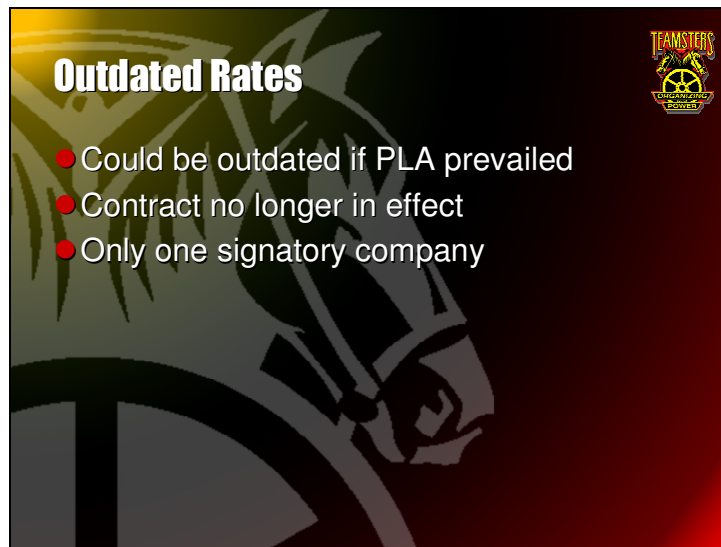
Sending in Contracts for Update

- DOL will not automatically update a wage increase
- Send signed copies of MLA's that prevail to Construction Division at International
- Send notice of wage increases and allocation between wages and fringes (if applicable) to Construction Division

Since we are able to update our prevailing wages throughout the life of the contract, it is our responsibility to provide the DOL with these increases. The analysts at the DOL do not take it upon themselves to automatically update the rates. I have to send them in. So, I am asking that local unions send current copies of all contracts that prevail under Davis-Bacon to the Construction Division at the International. Once I have your contracts I can alert the DOL of the contract's ratification or in advance of any wage increases to ensure that they are included in any upcoming projects or additions.

If the allocation of your increases is to be negotiated on an annual basis, I have to be aware of how they are divided between wages and fringes in order to submit them to the DOL. Some of you are very good about sending in updates to the IBT when these are negotiated, or even just sending a one-page reminder of an upcoming increase. There is a tremendous amount

of information out there for me to sift through, and I need all the help I can get. If I don't get a copy of a new or renegotiated contract, I have no way of knowing when to alert the DOL. The result is that in places where we are lucky enough to have union rates prevail, they are sometimes outdated and in many cases by a number of years and by as many dollars. You should also know that if rates are outdated and a contractor bids a project with them, there is no legal obligation for the employer to pay any higher than the prevailing wages posted during bidding. In essence, any rate over a year old must be updated if an increase exists.



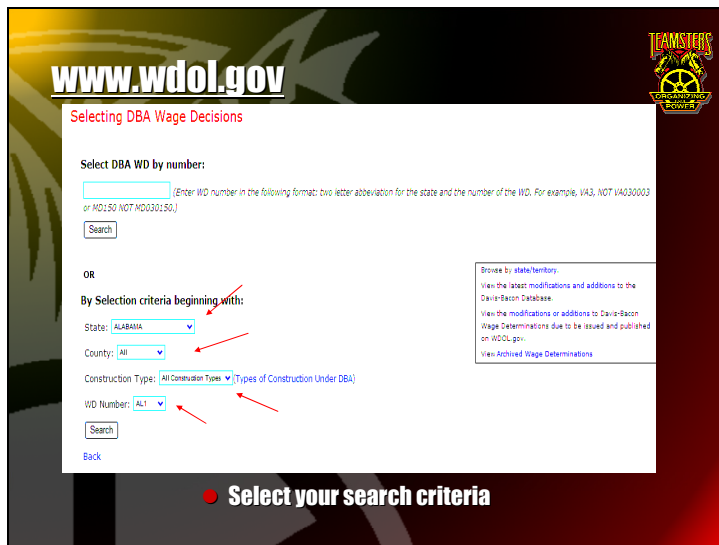
There are several currently prevailing wages that are well over a year old. If, after checking your rate, you find that it is outdated, this could be for several reasons. As I mentioned earlier, if a union rate prevails by submitting a PLA, there will be no rate to update in subsequent years. Also, if a contract is no longer in effect a rate may be more than a year old. Finally, if only one company is signatory to a contract, the DOL will not update it. Also, just because your rate prevails, that doesn't mean that you are guaranteed the work for that classification. If, however, you become aware that a contractor is hiring work for that classification below your prevailed rate, a complaint can be filed at the local wage and hour office for conformance issues.



If you would like to know exactly where your union stands on a particular wage decision, the most accurate and up-to-date method is to visit www.wdol.gov. From this site you can search for decisions by state and county, by decision number, and by the construction type. Unfortunately, there is no way to search by union decisions at the moment – though the DOL is planning to do so in the future.



The process for selecting wage decisions is fairly straight-forward. Once you open website you will select a link beneath the Davis-Bacon Act heading that says “Selecting DBA WD’s.”



This will take you to the search page. If you know the decision number already, it is easiest to enter it in the top portion of the search screen, which will take you directly to the desired decision. If you don't have the decision number, you can select the construction type and the state and county in which the work is or will be done and pull up the resulting decision.



Clicking "Search" will reveal a listing of decisions to choose from. The more information you enter, the fewer results you will have to search through.

The Wage Decision

General Decision Number: FA080005 02/22/2008 **FAS** Decision Number

Superseded General Decision Number: FA20070005

State: Pennsylvania

Construction Type: Building

Counties: Delaware, Montgomery and Philadelphia Counties in Pennsylvania.

BUILDING CONSTRUCTION PROJECTS (does not include residential construction consisting of single family homes and apartments up to and including 4 stories)

Modification Number	Publication Date
0	02/08/2008
1	02/22/2008

● **Top of Wage Decision**

Once you click on the applicable decision number, it will bring up the actual text of the decision. The very top of the decision contains identifying information. These include the Decision Number, State, County and Construction Type. It also has a listing of modifications that have been made to the decision along with their dates; as well as the full identifier code of the superseded decision in case your records show a different code. From here, you scroll down the page through an alphabetical listing of unions or surveys.

The Wage Decision

TEAM0470-001 05/01/2007

	Rates	Fringes
TRUCK DRIVER (BUILDING CONSTRUCTION)		
GROUP 1.....	\$ 23.35	11.3725+A+B
GROUP 2.....	\$ 22.45	11.3725+A+B
GROUP 3.....	\$ 22.70	11.3725+A+B
Truck drivers: (SITE PREPARATION, PAVING AND UTILITIES ON BUILDING CONSTRUCTION)		
GROUP 1.....	\$ 23.50	11.9225+A+B
GROUP 2.....	\$ 23.60	11.9225+A+B
GROUP 3.....	\$ 23.85	11.9225+A+B
TRUCK DRIVERS CLASSIFICATIONS (BUILDING CONSTRUCTION)		
GROUP 1 - Stake body truck (single axle), 11/2 ton and under vehicles		
GROUP 2 - Truck driver over 11/2 tons, dump trucks, tandem and batch trucks, semi-trailers, agitator mixer trucks and duncrete type vehicle, asphalt distributors, farm tractors when used for transportation, stake body truck (tandem)		

● **Teamster Prevailing Wage**

The code used for the Teamsters is TEAM and then the local union number behind it. Next to this you'll find the date of the most recent modification. In this case, you can see this is the decision for local 470, and was updated in May of 2007. Below this you'll see a listing of classifications with corresponding wages and fringe benefits. Fringe benefits constitute any

benefit that is offered by the employer that's not required by law, such as education, training, pension etc. These are expressed in per hour terms except where there needs further explanation, in which case footnotes are added (in this case A+B which have been cut off) but these may include a listing of holidays or paid vacation.

If there are many classifications with the same wage rate, the DOL may lump them together by "Groups" and provide a listing below of the specific classifications. If you see that your wages are outdated, or you recognize an upcoming increase that will need to be updated, send in a notice of the increase and a copy of the signed contract to the Construction Division at the International, and I can make sure the DOL updates your rates. Again, your help in submitting contracts can make all the difference in the world.

