



MAY 17 2005

MEMORANDUM TO: State Workforce Agency Administrators

FROM: Emily Stover DeRocco *Emily Stover DeRocco*

SUBJECT: Revised Prevailing Wage Determination Guidance

The implementation of the H-1B Visa Reform Act and publication of the Labor Certification for the Permanent Employment of Aliens in the United States, or PERM, regulation required several changes to the process of making prevailing wage determinations; therefore the **Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs** was released under cover of a memorandum dated March 07, 2005. Since the release of the policy guidance, there have been numerous inquiries regarding the implementation of the step-by-step process for determining the correct OES wage level that is described in the guidance document. To insure consistency in the implementation of the process, we are issuing a revised guidance package (attached) in an effort to clarify the intent of the process and avoid any misinterpretation.

The attached revised guidance, **Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs revised May 9, 2005**, is effective immediately. The changes and clarifications are mainly in Section II. B., "Making Determinations," and the related Appendices. There are also minor wording changes to the sections regarding employer-provided surveys to clarify employer rights and responsibilities.

The initial prevailing wage policy guidance and step-by-step process, released March 07, 2005, represented a significant shift in the way in which State Workforce Agencies should consider an employer's prevailing wage request. All requests for a prevailing wage determination must now begin with a level one or entry level wage regardless of the inherent skill level of the occupation for which a wage is requested. Consideration of the employer's requirements for experience, education or training, or skills beyond or above that which is generally required of an entry level worker in the occupation determines whether a higher level wage is appropriate.

The process of making prevailing wage determinations requires sound judgment in making the comparison between the employer's requirements and all the factors that encompass the specific vocational preparation required for a worker to be proficient in an occupation. The step-by-step process is not intended to be an automated process. The wage level assigned to any prevailing wage request should be commensurate with the complexity of tasks, degree independent judgment is required, and amount of close supervision received as described in the employer's job opportunity.

The major changes to the guidance are indicated below. Please review these changes carefully and share them with appropriate Alien Labor Certification and Prevailing Wage Determination staff within your organization.

- The step-by-step process described in Section II. B. represents a new approach for determining the appropriate prevailing wage.
- Reworded paragraph 2 of section II. B. 2, "Process for Determining Wage Level," to clarify that the O\*NET Job Zone (not just the SVP) should be used in the process for determining the general education, experience, and training needed for non-professional occupations.
- Clarified that experience at or below the level of experience described in O\*NET does not warrant the addition of a point in Step 3 of the process.
- Clarified that education at or below the levels described in O\*NET (or the Professional Occupations Education and Training Category) does not warrant the addition of a point in Step 3 of the process.
- Highlighted that experience and education or training requirements are considered separately. Education required for the occupation is addressed in Step 3 of the worksheet, and therefore the years of education required should not be considered in Step 2. However, if education is considered as an equivalent amount of experience in Step 2, it should not also be considered in Step 3.
- Combined and re-worded Steps 4 and 5 of the original process to provide guidance on how to evaluate an employer's requirement for special skills, knowledge, work activity, tasks, licensure, or certification as indicators that the offer of employment is for an experienced or competent worker indicating the need to add points.
- Made changes to Appendices A, B, and C to reflect changes in the step-by-step procedure.
- Appendix E – clarifies that methodology must be submitted with employer-provided surveys. Clarifies that employer-provided published surveys must have been published within 24 months of the date of submission of the survey in order to be considered.

Thank you for your continued support and cooperation. Please contact Mr. Greg Wilson in the Division of Foreign Labor Certification at (202) 693-3010 if you have any questions.

Enclosure

## **I. Policy Guidance**

### **A. Background**

The Department of Labor, Bureau of Labor Statistics (BLS) has provided wage data collected under the Occupational Employment Statistics (OES) Program for use in the Foreign Labor Certification process since 1998. Occupational wage data collected under that program is now available at the four levels required by the H-1B Visa Reform Act for state and sub-state geographic areas for the purpose of making prevailing wage determinations. The wage data is now available on the Foreign Labor Certification Data Center On-Line Wage Library (OWL), found on the Division's website at <http://www.flcdatacenter.com/>.

Since September 1999, the Standard Occupational Classification (SOC) has been used by the OES program to classify occupational wage information. The SOC provides a common language for categorizing occupations. The SOC also serves as the framework for information being gathered through the Department of Labor's Occupational Information Network (O\*NET®) which supersedes the Dictionary of Occupational Titles (DOT) as the resource to be consulted for occupational information for the Foreign Labor Certification process. Developed by the Department of Labor, the O\*NET system provides the general public information on skills, abilities, knowledge, tasks, work activities, and the specific vocational preparation levels associated with occupations. The O\*NET information can be found at <http://online.onetcenter.org>. Wage data from the OES survey and occupational information in O\*NET are both classified by the SOC, reducing the need to use crosswalks to connect wages to occupational requirements.

### **B. Prevailing Wage Factors**

The regulatory scheme at 20 CFR 656.40, effective March 28, 2005, must be followed in determining the prevailing wage. The same policies and procedures shall be followed for the permanent labor certification program, the nonimmigrant program pertaining to H-1B or H-1B1 professionals in specialty occupations or as fashion models, and the H-2B temporary nonagricultural labor certification program.

The step-by-step process described in Section II. B. represents a new approach for determining the appropriate prevailing wage. All prevailing wage determinations shall start with an entry level wage and progress to a wage that is commensurate with that of a qualified, experienced, or fully competent worker only after considering the experience, education, and skill requirements of an employer's job description (opportunity).

Under § 656.40, the relevant factors in determining a prevailing wage rate are the nature of the job offer, the area of intended employment, and jobs duties for workers that are similarly employed.

*"Nature of the Job Offer"*

In determining the *nature of the job offer*, the first order is to review the requirements of the employer's job offer and determine the appropriate occupational classification. The O\*NET description that corresponds to the employer's job offer shall be used to identify the appropriate occupational classification. SWAs can identify the appropriate O\*NET occupation using O\*NET OnLine (<http://online.onetcenter.org/>) and entering the employer's job title to search for the appropriate O\*NET-SOC occupation and code.

If the employer's prevailing wage request contains only a code from the Dictionary of Occupational Titles (DOT) rather than a job title, the DOT to O\*NET-SOC crosswalk found on the On-Line Wage Library shall be used to identify the related O\*NET-SOC code.

If the employer's job opportunity has worker requirements described in a combination of O\*NET occupations, the SWA should default directly to the relevant O\*NET-SOC occupational code for the highest paying occupation. For example, if the employer's job offer is for an engineer-pilot, the SWA shall use the education, skill and experience levels for the higher paying occupation when making the wage level determination.

*"Area of Intended Employment"*

The definition of "area of intended employment" at 20 CFR 656.3 states: *Area of intended employment* means the area within normal commuting distance of the place (address) of intended employment. The On-Line Wage Library has been developed to account for these requirements. A more detailed explanation is provided in section II C. 2. for use in making prevailing wage determinations that are based on employer-provided surveys.

*"Similarly Employed"*

Section 656.40 defines "*similarly employed*" as having:

- substantially comparable jobs in the occupational category in the area of intended employment, except that if no such workers are employed by employers other than the employer applicant in the area of intended employment, it means:
- jobs requiring a substantially similar level of skill within the area of intended employment; or

- substantially comparable jobs in the occupational category as employers outside of the area of intended employment if there are no substantially comparable jobs in the area of intended employment.

In computing the prevailing wage for a job opportunity in an occupational classification in an area of intended employment for an employee of:

- an institution of higher education;
- an affiliated or related nonprofit entity;
- a nonprofit research organization; or
- a governmental research organization;

the prevailing wage level should take into account the wage levels of employees only at such institutions and organizations found in the area of intended employment (see General Administration Letter No. 1-00).

## II. Making Determinations

The SWA shall make prevailing wage determinations as follows:

- A. If the SWA determines the job opportunity is covered by a collective bargaining agreement negotiated at arm's length and a wage rate has been negotiated under the agreement as evidenced by information provided by the employer, that wage rate shall be controlling.
- B. In the absence of a wage determined under a collective bargaining agreement, SWAs are to determine prevailing wage rates using wage surveys conducted under the wage component of the OES program.
- C. If in the absence of a wage rate determined under a collective bargaining agreement, the employer provides the SWA with a survey, whether public or private, which meets the requirements of the regulations, that rate shall be used by the SWA as the prevailing wage determination in response to that particular request. In addition, an employer can elect to use a current wage rate in the area of intended employment under the Davis-Bacon or the McNamara Service Contract Acts.

The SWA shall specify the validity period of the prevailing wage which shall not be **less than 90 days or more than 1 year** from the determination date (see Federal Register Vol. 65 No. 245 Page 80196). Under no circumstances may the SWA charge a fee for making or reviewing a prevailing wage determination.

## **A. Wage Rates Covered by Collective Bargaining Agreements**

If the job opportunity is in an occupation covered by a collective bargaining agreement (CBA) negotiated between a union and the employer, the wage rate in the agreement shall be considered the prevailing wage in making prevailing wage determinations.

If the job opportunity is for a professional athlete and is covered by a sports league's rules or regulations, the wage rate set forth in those rules or regulations including union agreements shall be considered the prevailing wage.

## **B. Wage Determinations Using BLS OES Wage Data**

If the job offer is for an occupation not covered by a collective bargaining agreement and the employer does not choose to provide a survey or request use of a current wage determination in the area under the Davis-Bacon or McNamara-O'Hara Service Contract Acts, the wage component of the BLS OES survey shall be used to determine the prevailing wage for an employer's job offer. The OES survey is a national survey managed by the Bureau of Labor Statistics which provides a large enough sample to allow BLS to determine a prevailing wage for most occupations in every area of intended employment in the United States.

The OES wage data is made available at the state and sub-state areas so the SWA can select the geographic area of intended employment. The On-Line Wage Library has been developed to account for these requirements. The SWA should select the state and sub-state area that represents the area for the employer's job offer.

### **1. OES Wage Levels**

The new requirements specify that determinations using a government survey shall be made available for each occupation at 4 levels of wages commensurate with experience, education, and the level of supervision. The SWA shall make a prevailing wage determination selecting one of the four wage levels for an occupation based on a comparison of the employer's job requirements to the occupational requirements: tasks, knowledge, skills, and specific vocational preparation (education, training, and experience) generally required for acceptable performance in that occupation.

It is important to remember that wage levels are determined only after selecting the most relevant O\*NET-SOC occupational code classification. The selection of the O\*NET-SOC code should not be based solely on the title of the employer's job offer. The SWA should consider the particulars of the employer's job offer and compare the full description to the tasks, knowledge, and work activities

generally associated with an O\*NET-SOC occupation to insure the most relevant occupational code has been selected.

**Level I** (entry) wage rates are assigned to job offers for beginning level employees who have only a basic understanding of the occupation. These employees perform routine tasks that require limited, if any, exercise of judgment. The tasks provide experience and familiarization with the employer's methods, practices, and programs. The employees may perform higher level work for training and developmental purposes. These employees work under close supervision and receive specific instructions on required tasks and results expected. Their work is closely monitored and reviewed for accuracy. Statements that the job offer is for a research fellow, a worker in training, or an internship are indicators that a Level I wage should be considered.

**Level II** (qualified) wage rates are assigned to job offers for qualified employees who have attained, either through education or experience, a good understanding of the occupation. They perform moderately complex tasks that require limited judgment. An indicator that the job request warrants a wage determination at Level II would be a requirement for years of education and/or experience that are generally required as described in the O\*NET Job Zones.

**Level III** (experienced) wage rates are assigned to job offers for experienced employees who have a sound understanding of the occupation and have attained, either through education or experience, special skills or knowledge. They perform tasks that require exercising judgment and may coordinate the activities of other staff. They may have supervisory authority over those staff. A requirement for years of experience or educational degrees that are at the higher ranges indicated in the O\*NET Job Zones would be indicators that a Level III wage should be considered.

Frequently, key words in the job title can be used as indicators that an employer's job offer is for an experienced worker. Words such as 'lead' (lead analyst), 'senior' (senior programmer), 'head' (head nurse), 'chief' (crew chief), or 'journeyman' (journeyman plumber) would be indicators that a Level III wage should be considered.

**Level IV** (fully competent) wage rates are assigned to job offers for competent employees who have sufficient experience in the occupation to plan and conduct work requiring judgment and the independent evaluation, selection, modification, and application of standard procedures and techniques. Such employees use advanced skills and diversified knowledge to solve unusual and complex problems. These employees receive only technical guidance and their work is reviewed only for application of sound judgment and effectiveness in meeting the establishment's procedures and expectations. They generally have management and/or supervisory responsibilities.

## **2. Process for Determining Wage Level**

The SWAs shall use O\*NET information to identify the tasks, work activities, knowledge, and skills generally required for performance in an occupation. A comparison between the particulars of the employer's job offer to the requirements for similar (O\*NET) occupations shall be used to determine the appropriate wage level. It is important, therefore, that the job description included in an employer's request for a prevailing wage determination include sufficient information to determine the complexity of the job duties, the level of judgment, the amount and level of supervision, and the level of understanding required to perform the job duties. SWAs may need to contact employers for additional information to obtain this information, if needed.

Information contained in the O\*NET Job Zones provides guidance in determining whether the job offer is for an entry level, qualified, experienced, or fully competent employee for making the determination of wage level. Employer requirements in a job offer that are at the upper range of the requirements and preparation generally required for performance in an occupation are indicators that a prevailing wage determination at a higher level should be considered. The O\*NET Job Zones were developed to transition from the Specific Vocational Preparation (SVP), as shown in the Dictionary of Occupational Titles (DOT), to measures of experience, education, and job training included in the O\*NET database. A listing of SVPs and their definitions can be found in Appendix E of this document.

A step-by-step process for arriving at the appropriate wage level is described below. Points are awarded based on the comparison of an employer's job offer requirements to the general requirements for similar occupations. The points are entered on a worksheet then added to arrive at the wage level. SWAs should follow the step-by-step process while completing the worksheet.

The appendices section of this document provides several guides that can be used for reference during the process:

Appendix A: OES Prevailing Wage Guidance repeats the step-by-step process and can be used as a reference guide.

Appendix B: Check Sheet for Use in Determining OES Wage Level has been provided to track the process.

Appendix C: Worksheet for Use in Determining OES Wage Level provides an example of a worksheet that SWAs might use for determining the appropriate wage level.

All employer applications for a prevailing wage determination shall initially be considered an entry level or Level I wage. The employer's requirements for



experience, education, training, and special skills shall be compared to those generally required for an occupation as described in O\*NET and shall be used as indicators that the job opportunity is for an experienced (Level II), qualified (Level III), or fully competent (Level IV) worker and warrants a prevailing wage determination at a higher wage level.

All prevailing wage determinations start with a Level I determination; therefore, the check sheet and worksheet have a 1 entered in the Wage Level Column.

**Step 1 – Enter the O\*NET Requirements on the Worksheet**

- Use the O\*NET OnLine 'Find Occupations' feature (<http://online.onetcenter.org>) to determine the appropriate O\*NET-SOC code based on the job title provided on the prevailing wage determination request form.
- Enter the job title from the employer's job offer into the Quick Search box and click on Go.
- Select the O\*NET occupation that most closely matches the employer's request from the resulting list of occupations.
- Review the Tasks, Knowledge, Work Activities, and Job Zone information contained in the O\*NET summary report to gain an understanding of what is generally required for vocational preparation and performance in that occupation.

Enter the O\*NET education and experience requirements on the Worksheet.

**Step 2 – Complete the Experience Section of the Worksheet**

Compare the overall experience described in the O\*NET Job Zone to the years of experience required by the employer on the prevailing wage determination request form.

For occupations contained in Job Zone 1, if the employer's experience requirement is equivalent to that described in an:

- SVP of 1 (experience requirement of a short duration), enter a 0 in the Wage Level Column.
- SVP of 2 (experience requirement of anything beyond short duration and up to 1 month), enter a 1 in the Wage Level Column.

- SVP of 3 (experience requirement of over 1 month up to and including 3 months), enter a 2 in the Wage Level Column.
- SVP of 4 (experience requirement of over 3 months up to and including 6 months), enter a 3 in the Wage Level Column.

Refer to Appendix E: Specific Vocational Preparation (SVP) for an explanation of the experience requirements related to an SVP level.

For occupations in Job Zones 2 through 5, if the employer's experience requirement is:

- At or below the level of experience and SVP range, make no entry in the Wage Level Column.
- In the low end of the experience and SVP range, enter a 1 in the Wage Level Column.
- In the high end of the experience and SVP range, enter a 2 in the Wage Level Column.
- Greater than the experience and SVP range, enter a 3 in the Wage Level Column.

Points should be added for the amount of experience only if the required work experience is above the starting point of the O\*NET job zone range. ***Education required for the job is addressed in Step 3 of the worksheet, and therefore the years of education required should not be considered in Step 2. However, if education is considered as an equivalent amount of experience in Step 2, it should not also be considered in Step 3.***

### **Step 3 – Complete the Education Section of the Worksheet**

Compare the education requirement generally required for an occupation to the education requirement in the employer's job offer.

Determine if the level required by the employer's job offer is greater than what is generally required.

Professional Occupations by O\*NET-SOC category and the related education and training category code are listed in Appendix A to the Preamble of the PERM regulations. The education and training categories assigned to those occupations shall be considered the usual education and training required when considering the education level for prevailing wage determinations. A listing of occupations designated as professional occupations and the related education and training category can be found in Appendix D of this document.

For professional occupations:

- If the education required on the prevailing wage determination request form is equal to or less than the usual education contained in Appendix D, make no entry in the Wage Level Column.
- If the education required on the prevailing wage determination request form is more than the usual education contained in Appendix D by one category, enter a 1 on the worksheet in the Wage Level Column.
- If the education required is more than the usual education contained in Appendix D by more than one category, enter a 2 on the worksheet in the Wage Level Column.

Example: If the occupation generally requires a Bachelor's degree and the employer's job offer requires a Master's degree, enter a 1; if the job offer requires a Ph.D., enter a 2.

For all other occupations, use the education level for what 'most of these occupations' require or 'these occupations usually require' described in the O\*NET Job Zone for that occupation.

- If the education or training is equal to or less than what 'most occupations require' or the level that these occupations 'usually' require, make no entry in the Wage Level Column.
- If the education or training is more than what 'most occupations require' or the level that these occupations 'usually' require, enter a 1 on the worksheet in the Wage Level Column.
- If the education or training required on the prevailing wage determination request form is more than the level described by what 'some may require,' enter a 2 on the worksheet in the Wage Column.

***Experience required for the job is addressed in Step 2 of the worksheet, and therefore the years of experience required should not be considered in Step 3.***

**Step 4 – Complete the Special Skills and Other Requirements Section of the Worksheet**

- Review the job title, job description (duties), and special requirements on the prevailing wage determination request form to identify the tasks, work activities, knowledge, and skills required. An employer's requirement for an occupational license and/or certification should be evaluated to determine if they are indicators of a requirement for special skills

warranting the award of a point or points on the worksheet. They may not necessarily be such an indicator.

- Make note of machines, equipment, tools, or computer software used. Consider how the employer's requirements compare to the O\*NET Tasks, Work Activities, Knowledge, and Job Zone Examples. Consider whether the employer's requirements indicate the need for skills beyond those of an entry-level worker.
- In situations where the employer's requirements are not listed in the O\*NET Tasks, Work Activities, Knowledge, and Job Zone Examples for the selected occupation, then the requirements should be evaluated to determine if they represent special skills. The requirement of a specific skill not listed in the O\*NET does not necessitate that a point be added. If the specific skills required for the job are generally encompassed by the O\*NET description for the position, no point should be added. However, if it is determined that the requirements are indicators of skills that are beyond those of an entry level worker, consider whether a point should be entered on the worksheet in the Wage Level Column.

**Note:** A language requirement other than English in an employer's job offer shall generally be considered a special skill for all occupations, with the exception of Foreign Language Teachers and Instructors, Interpreters, and Caption Writers, and a point should be entered on the worksheet.

It is recognized, however, that there may be circumstances where a foreign language is required for the job, but that requirement does not sufficiently increase the seniority and complexity of the position such that a point must be added for the foreign language requirement (e.g. Specialty Cooks).

- If the employer's job opportunity requires the possession of a license or certification, the SWA must give careful consideration to the occupation in question and the education, training, and experience requirements of the license or certification to evaluate whether possession of a license or certification is an indicator that the offer of employment is for an experienced worker.
- An employer's requirement for the possession of an occupational license or certification does not constitute a situation where a point must automatically be awarded. The SWA should look at the employer's job description and stated requirements to evaluate, along with other factors, whether the position is closely supervised, involves only moderately complex duties, and allows limited exercise of independent judgment. If the license or certification is a normal requirement to perform the job duties as an entry level worker, no point should be added on the worksheet in the Wage Column, e.g., attorney, teacher, registered nurse.

- Some occupations have more than one license and the requirements of the license provide an indicator of the level of independent judgment and complexity of tasks required of the licensee, e.g., Journeyman Plumber or Master Plumber. The SWA must consider the education, training, and experience requirements of the license or certification to determine when points should be entered on the worksheet in the Wage Column.

If a substantial amount of work experience, education, or training is required to obtain a license or certification and this results in the total amount of necessary work experience being on the high end of the O\*NET job zone range, **a point could be added either in Step 2 for the work experience, or in Step 3 for the education or training, or in Step 4 for the license. A point or points should not be added in every step.**

#### **Step 5 – Complete the Supervisory Duties Section of the Worksheet**

- Review the prevailing wage determination request form to determine the number or range of people to be supervised to determine if there is a supervisory requirement; and
- If the number is greater than 0, then enter a 1 on the worksheet in the Wage Level Column.

Exception: If supervision is a customary duty for the O\*NET occupation (e.g., First-line Supervisors/Managers occupations), do not enter a 1 on the worksheet in the Wage Level Column.

**Note:** Previous guidance suggested that an employer's job offer that included supervisory duties should be assigned the higher of the two previous wage levels. In this new guidance, an employer's job requirement for supervisory duties will not automatically warrant a determination of the highest wage level because the wages for supervisory occupations already account for the supervision of employees. The guidance contained above for evaluating education, experience, and skills required in an employer's job offer should be used to determine the appropriate wage level for supervisory occupations.

Determine the wage level by summing the numbers in the Wage Level Column of the worksheet. The sum total shall equal the wage for the prevailing wage determination. If the sum total is greater than 4, then the wage level shall be Level 4.

The process described above should not be implemented in an automated fashion. The SWA must exercise judgment when making prevailing wage determinations. The wage level should be commensurate with the complexity of

tasks, independent judgment required, and amount of close supervision received as described in the employer's job opportunity.

### **3. Foreign Labor Certification Data Center On-line Wage Library**

Use the On-line Wage Library (OWL) found on the Foreign Labor Certification Data Center website (<http://www.flcdatacenter.com/>) to select the prevailing wage for the occupation.

Use the OES Search Wizard to:

- Select the state and geographic area from the drop-down lists.
- Select the occupation using the first 6 digits of the O\*NET-SOC code, OR
- Select the occupation from the drop-down list or enter the title in the key word search box.
- Select a data year.
- Select a data source.
- Click on search.

### **C. Wage Determinations Using Employer-Provided Wage Surveys**

If the job opportunity is in an occupation not covered by a collective bargaining agreement, the SWA shall also consider wage data that has been furnished by the employer; i.e., wage data contained in a published wage survey that has been provided by the employer, or wage data contained in a survey that has been conducted or funded by the employer. The employer can elect to use a current wage determination in the area of intended employment under the Davis-Bacon or McNamara-O'Hara Service Contract Acts. An employer survey can be submitted either initially or after the SWA issues a prevailing wage determination. If the employer provides a wage survey after the SWA makes a prevailing wage determination, the new wage data from the employer-provided survey shall be considered a new prevailing wage request.

The use of such employer-provided wage data is an employer option. However, in each case where the employer submits wage data for consideration, it will be incumbent upon the employer to make a written showing that the survey or other wage data meet the criteria outlined below. The employer must provide the SWA with enough information about the survey methodology (e.g., sample size and source, sample selection procedures, survey job descriptions) to allow the SWA to make a determination with regard to the adequacy of the data provided and the validity of the statistical methodology used in conducting the survey.

## Criteria for Employer-Provided Surveys

(1) The survey must be recent.

If the employer submits a published survey, that survey must:

- have been published within 24 months of the date of submission of the prevailing wage request;
- be the most current edition of the survey; and
- be based on data collected within 24 months of the date of the publication of the survey.

If the employer submits a survey conducted by the employer, the survey must be based on data collected within 24 months of the date of submission of the prevailing wage request.

(2) The wage data submitted by the employer must reflect the area of intended employment.

*Area of intended employment* means the area within normal commuting distance of the place (address) of intended employment.

- If the place of intended employment is within a Metropolitan Statistical Area (MSA) or Primary Metropolitan Statistical Area (PMSA), any place within the MSA or PMSA is deemed to be within the normal commuting distance of the place of intended employment.
- All locations within a Consolidated Metropolitan Statistical Area (CMSA) will not automatically be deemed to be within normal commuting distances for prevailing wage purposes.
- The borders of PMSAs, MSAs, or CMSAs are not controlling in the identification of the normal commuting area; an employer location just outside of the PMSA, MSA, or CMSA boundary may still be considered within normal commuting distance.

The terminology CMSAs and PMSAs are being replaced by the Office of Management and Budget (OMB); however, ETA will continue to recognize the use of these area concepts as well as their replacements.

(3) The job description applicable to wage data submitted by the employer must be adequate to determine that the data represents workers who are similarly employed. *Similarly employed* means jobs requiring substantially similar levels of skills.

(4) The wage data must have been collected across industries that employ workers in the occupation.

(5) The prevailing wage determination should be based on the arithmetic mean (weighted average) of wages for workers that are similarly employed in the area of intended employment. If the survey provides a median wage of workers similarly employed in the area of intended employment and does not provide an arithmetic mean, the median wage shall be used as the basis for making a prevailing wage determination.

(6) In all cases where an employer provides the SWA with wage data for which it seeks acceptance, the employer must include the methodology used for the survey to show that it is reasonable and consistent with recognized statistical standards and principles in producing a prevailing wage (e.g., contains a representative sample), including its adherence to these standards for the acceptability of employer-provided wage data. It is important to note that a prevailing wage determination based upon the acceptance of employer-provided wage data for the specific job opportunity at issue does not supersede the OES wage rate for subsequent requests for prevailing wage data in that occupation.

Information from employers that consists merely of speculation, subjective impressions, or pleas that it cannot afford to pay the prevailing wage rate determined by the SWA will not be taken into consideration in making a wage determination. If the SWA does not find the employer-provided wage survey acceptable, the SWA must notify the employer in writing and include the reasons the survey was not found to be acceptable. Upon receiving this determination, the employer may provide supplemental information, file a new request, or appeal the determination.

In issuing wage determinations, the SWAs may be required to convert an hourly rate to a weekly, monthly, or annual rate, or to convert a weekly, monthly, or annual rate to an hourly rate. As a matter of policy, such conversions shall be based on 2,080 hours of work in a year.

Factors relating to the nature of the employer, such as whether the employer is public or private, for profit or nonprofit, large or small, charitable, a religious institution, a job contractor, or a struggling or prosperous firm, do not bear in a significant way on the skills and knowledge levels required and, therefore, are not relevant to determining the prevailing wage for an occupation under the regulations at 20 CFR 656.40. As noted above, the relevant factors are the job, the geographic locality of the job, and the level of skill required to perform independently on the job.



### **III. Procedures**

#### **A. Filing**

Employers must request and receive the determination of the prevailing wage from the SWA having jurisdiction over the geographic area of intended employment. The SWA shall enter its wage determination on the form it uses and return the form to the employer. To enable SWAs to provide employers or their representatives accurate wage determinations that take into account the employer's particular job and its requirements, all requests for and responses to wage determinations will be in writing. If the employer does not present sufficient information with its request – the particulars of the job offer or sufficient information about employer-provided wage data – the SWA shall request such additional information from the employer as may be necessary to make the determination.

Section 656.40 states: "The SWA must enter its wage determination on the form it uses and return the form with its endorsement to the employer." To provide consistency and to facilitate accurate wage level determinations, SWA prevailing wage forms should request sufficient information about the employer's job offer, including: the employer's title for the job; a brief description of the job duties; the education, training, and experience requirements; special skills, licenses, or certifications required; supervisory duties; and any other information deemed necessary by the SWA for case processing or tracking. The name and address of the employer, contact person and telephone number, and the city or county of intended employment, if different from the employer's address, should be indicated. Appendix G: Request for Prevailing Wage Determination – Terms and Definitions includes additional details and provides a checklist for SWA use.

656.10(f) requires that "supporting documentation must be retained by the employer for 5 years from the date of filing the Application for Permanent Employment Certification." Therefore, SWAs should include language on the Prevailing Wage Request Form such as: "The information provided is to be used to complete the Application for Permanent Employment Certification, Form ETA 9089, as appropriate. The employer is not required to submit this form with the application but is required to retain this document for a period of five years from the date of filing." If the state chooses to provide electronic copies, then it should add language to the effect that: "It is recommended that a copy of this Prevailing Wage Determination form be printed and placed in the application file."

#### **B. SWA Response**

The SWA's responses shall state the specific wage rate applicable to the employer's job opportunity and indicate the source of such information. The response shall also specify in bold letters that the rate is valid for filing

applications and attestations for at least 90 days and not more than one year from the date of the determination.

Responses to requests for a prevailing wage determination should be sent to the employer or its representative in writing in a timely manner, preferably within 14 working days of receipt of the request. If the employer provides to the SWA its own published or privately-funded survey and requests SWA acceptance of the survey's use for prevailing wage purposes, responses to such requests should be sent to the employer or its representative in writing in a timely manner, preferably within 30 working days of the receipt of the request.

Lastly, it is important to note that §656.40(i) provides that a prevailing wage determination for labor certification purposes shall not permit an employer to pay a wage lower than that required under any other Federal, state, or local law. For example, if the wage rate in the OES or employer-provided survey is lower than the Federal, state, or local minimum wage, the response to the employer's request should indicate that the employer must offer and pay at least the minimum wage provided by Federal, state, or local law, whichever is higher. Since the OES wage data or data in an employer-provided survey are collected in the year or years prior to the data being available to the SWA, this may occur in some instances.

### **C. SWA Responsibilities**

It is incumbent upon SWAs to organize the prevailing wage function and establish controls that will enable them to provide information regarding a particular prevailing wage determination, to answer questions if it is required in an enforcement action conducted by the Department of Labor, and to provide information to the certifying officer to be used before the Board of Alien Labor Certification Appeals. Requests from employers for wage determinations shall be filed in writing with the organizational subcomponent of the SWA responsible for alien labor certification prevailing wage determinations. Only that component should respond to requests for wage information for immigration purposes. A dated copy of the prevailing wage determination provided to the employer should be maintained by the SWA for two years. The relevant portions of an employer-provided survey must also be maintained with the determination for the requisite period.

## **IV. Challenges to Prevailing Wage Determinations**

Employers who wish to challenge prevailing wage determinations must request a review of the determination in writing and within 30 days of the date of the determination. The request must be sent to the SWA that made the determination.

The employer's request for review must:

- clearly identify the prevailing wage determination for which review is sought;
- state the grounds for the request; and
- include all the materials submitted to the SWA up to the date that the determination was made.

Upon receipt of a request for review the SWA must:

- review the employer's request and accompanying documentation;
- add material that the employer may have omitted; and
- send a copy of the employer's appeal to the appropriate national processing center, e.g. Atlanta or Chicago.

The director of the national processing center will determine which certifying officer (CO) will review the employer's appeal. The CO will review the appeal solely on the basis of the information upon which the prevailing wage determination was made. The CO may:

- affirm the prevailing wage determination;
- modify the prevailing wage determination; or
- remand the matter to the SWA for further action.

If an employer desires further review after a CO's prevailing wage determination, a request for review by the Board of Alien Labor Certification Appeals must be made to the CO and in writing within 30 days of the date of the CO determination.

## **Appendix A: OES Prevailing Wage Guidance**

All employer applications for a prevailing wage determination shall initially be considered an entry level or Level I wage. The employer's requirements for experience, education, training, and special skills shall be compared to those generally required for an occupation as described in O\*NET and shall be used as indicators that the job opportunity is for an experienced (Level II), qualified (Level III), or fully competent (Level IV) worker and warrants a prevailing wage determination at a higher wage level.

All prevailing wage determinations start with a Level I determination; therefore, the check sheet and worksheet have a 1 entered in the Wage Level Column.

### **Step 1 – Enter the O\*NET Requirements on the Worksheet**

- Use the O\*NET OnLine 'Find Occupations' feature (<http://online.onetcenter.org>) to determine the appropriate O\*NET-SOC code based on the job title provided on the prevailing wage determination request form.
- Enter the job title from the employer's job offer into the Quick Search box and click on Go.
- Select the O\*NET occupation that most closely matches the employer's request from the resulting list of occupations.
- Review the Tasks, Knowledge, Work Activities, and Job Zone information contained in the O\*NET summary report to gain an understanding of what is generally required for vocational preparation and performance in that occupation.

Enter the O\*NET education and experience requirements on the Worksheet.

### **Step 2 – Complete the Experience Section of the Worksheet**

Compare the overall experience described in the O\*NET Job Zone to the years of experience required by the employer on the prevailing wage determination request form.

For occupations contained in Job Zone 1, if the employer's experience requirement is equivalent to that described in an:

- SVP of 1 (experience requirement of a short duration), enter a 0 in the Wage Level Column.

- SVP of 2 (experience requirement of anything beyond short duration and up to 1 month), enter a 1 in the Wage Level Column.
- SVP of 3 (experience requirement of over 1 month up to and including 3 months), enter a 2 in the Wage Level Column.
- SVP of 4 (experience requirement of over 3 months up to and including 6 months), enter a 3 in the Wage Level Column.

Refer to Appendix E: Specific Vocational Preparation (SVP) for an explanation of the experience requirements related to an SVP level.

For occupations in Job Zones 2 through 5, if the employer's experience requirement is:

- At or below the level of experience and SVP range, make no entry in the Wage Level Column.
- In the low end of the experience and SVP range, enter a 1 in the Wage Level Column.
- In the high end of the experience and SVP range, enter a 2 in the Wage Level Column.
- Greater than the experience and SVP range, enter a 3 in the Wage Level Column.

Points should be added for the amount of experience only if the required work experience is above the starting point of the O\*NET job zone range. ***Education required for the job is addressed in Step 3 of the worksheet, and therefore the years of education required should not be considered in Step 2. However, if education is considered as an equivalent amount of experience in Step 2, it should not also be considered in Step 3.***

### **Step 3 – Complete the Education Section of the Worksheet**

Compare the education requirement generally required for an occupation to the education requirement in the employer's job offer.

Determine if the level required by the employer's job offer is greater than what is generally required.

Professional Occupations by O\*NET-SOC category and the related education and training category code are listed in Appendix A to the Preamble of the PERM regulations. The education and training categories assigned to those occupations shall be considered the usual education and training required when considering the education level for prevailing wage determinations. A listing of

occupations designated as professional occupations and the related education and training category can be found in Appendix D of this document.

For professional occupations:

- If the education required on the prevailing wage determination request form is equal to or less than the usual education contained in Appendix D, make no entry in the Wage Level Column.
- If the education required on the prevailing wage determination request form is more than the usual education contained in Appendix D by one category, enter a 1 on the worksheet in the Wage Level Column.
- If the education required is more than the usual education contained in Appendix D by more than one category, enter a 2 on the worksheet in the Wage Level Column.

Example: If the occupation generally requires a Bachelor's degree and the employer's job offer requires a Master's degree, enter a 1; if the job offer requires a Ph.D., enter a 2.

For all other occupations, use the education level for what 'most of these occupations' require or 'these occupations usually require' described in the O\*NET Job Zone for that occupation.

- If the education or training is equal to or less than what 'most occupations require' or the level that these occupations 'usually' require, make no entry in the Wage Level Column.
- If the education or training is more than what 'most occupations require' or the level that these occupations 'usually' require, enter a 1 on the worksheet in the Wage Level Column.
- If the education or training required on the prevailing wage determination request form is more than the level described by what 'some may require,' enter a 2 on the worksheet in the Wage Column.

***Experience required for the job is addressed in Step 2 of the worksheet, and therefore the years of experience required should not be considered in Step 3.***

**Step 4 – Complete the Special Skills and Other Requirements Section of the Worksheet**

- Review the job title, job description (duties), and special requirements on the prevailing wage determination request form to identify the tasks, work activities, knowledge, and skills required. An employer's requirement for an occupational license and/or certification should be evaluated to

determine if they are indicators of a requirement for special skills warranting the award of a point or points on the worksheet. They may not necessarily be such an indicator.

- Make note of machines, equipment, tools, or computer software used. Consider how the employer's requirements compare to the O\*NET Tasks, Work Activities, Knowledge, and Job Zone Examples. Consider whether the employer's requirements indicate the need for skills beyond those of an entry-level worker.
- In situations where the employer's requirements are not listed in the O\*NET Tasks, Work Activities, Knowledge, and Job Zone Examples for the selected occupation, then the requirements should be evaluated to determine if they represent special skills. The requirement of a specific skill not listed in the O\*NET does not necessitate that a point be added. If the specific skills required for the job are generally encompassed by the O\*NET description for the position, no point should be added. However, if it is determined that the requirements are indicators of skills that are beyond those of an entry level worker, consider whether a point should be entered on the worksheet in the Wage Level Column.

**Note:** A language requirement other than English in an employer's job offer shall generally be considered a special skill for all occupations, with the exception of Foreign Language Teachers and Instructors, Interpreters, and Caption Writers, and a point should be entered on the worksheet.

It is recognized, however, that there may be circumstances where a foreign language is required for the job, but that requirement does not sufficiently increase the seniority and complexity of the position such that a point must be added for the foreign language requirement (e.g. Specialty Cooks).

- If the employer's job opportunity requires the possession of a license or certification, the SWA must give careful consideration to the occupation in question and the education, training, and experience requirements of the license or certification to evaluate whether possession of a license or certification is an indicator that the offer of employment is for an experienced worker.
- An employer's requirement for the possession of an occupational license or certification does not constitute a situation where a point must automatically be awarded. The SWA should look at the employer's job description and stated requirements to evaluate, along with other factors, whether the position is closely supervised, involves only moderately complex duties, and allows limited exercise of independent judgment. If the license or certification is a normal requirement to perform the job duties as an entry level worker, no point should be added on the worksheet in the Wage Column, e.g., attorney, teacher, registered nurse.

- Some occupations have more than one license and the requirements of the license provide an indicator of the level of independent judgment and complexity of tasks required of the licensee, e.g. Journeyman Plumber or Master Plumber. The SWA must consider the education, training and experience requirements of the license or certification to determine when points should be entered on the worksheet in the Wage Column.

If a substantial amount of work experience, education or training is required to obtain a license or certification and this results in the total amount of necessary work experience being on the high end of the O\*NET job zone range, **a point could be added either in Step 2 for the work experience, or Step 3 for the education or training, or in Step 4 for the license. A point or points should not be added in every step.**

#### **Step 5 – Complete the Supervisory Duties Section of the Worksheet**

- Review the prevailing wage determination request form to determine the number or range of people to be supervised to determine if there is a supervisory requirement; and
- If the number is greater than 0, then enter a 1 on the worksheet in the Wage Level Column.

Exception: If supervision is a customary duty for the O\*NET occupation (e.g., First-line Supervisors/Managers occupations), do not enter a 1 on the worksheet in the Wage Level Column.

**Note:** Previous guidance suggested that an employer's job offer that included supervisory duties should be assigned the higher of the two previous wage levels. In this new guidance, an employer's job requirement for supervisory duties will not automatically warrant a determination of the highest wage level because the wages for supervisory occupations already account for the supervision of employees. The guidance contained above for evaluating education, experience, and skills required in an employer's job offer should be used to determine the appropriate wage level for supervisory occupations.

Determine the wage level by summing the numbers in the Wage Level Column of the worksheet. The sum total shall equal the wage for the prevailing wage determination. If the sum total is greater than 4, then the wage level shall be Level 4.

The process described above should not be implemented in an automated fashion. The SWA must exercise judgment when making prevailing wage determinations. The wage level should be commensurate with the complexity of tasks, independent judgment required, and amount of close supervision received as described in the employer's job opportunity.



## Appendix B: Check Sheet for Use in Determining OES Wage Level

Indicator	Job Offer Requirements	O*NET-Usual Requirements	Instruction	Wage Level Result
Step 1. Requirements				1
Step 2. Experience	Enter the years of experience required by the employer.	Job Zone (overall experience, job training)	If the years of required experience in the job order are greater than O*NET usual requirements, enter 1,2, or 3.	
Step 3. Education	Enter the education or training required by the employer.	Professional Occupations Appendix D  Other occupations - Job Zone (overall experience, job training, education)	If the years of required education in the job order are greater than the Categories for Professional Occupations OR O*NET usual requirements for non-professional occupations, enter 1 or 2.	
Step 4. Special Skills (Y/N)	Note special requirements from the job description or other special requirements including licensure or certification.	O*NET Tasks, Knowledge, and Work Activities.  National or state licensing/certification requirements.	Consider if skills, knowledge, work activities, tasks, licensure or certification requirements indicate a higher level of complexity or decision-making. Enter 1 or 2 as appropriate.	
Step 5. Supervisory duties (Y/N)	Note any supervisory duties indicated in the job duties or description.		If Yes, enter a 1 – UNLESS supervision is generally required by the O*NET occupation.	
			<b>Sum:</b>	

**Appendix C: Worksheet for Use in Determining OES Wage Level**

**Employer's Job Title:**

**O\*NET Title:**

**Date:**

**O\*NET Code:**

**Reviewer:**

Indicator	Job Offer Requirements	O*NET-Usual Requirements	Comments	Wage Level Result
Step 1. Requirements				1
Step 2. Experience				
Step 3. Education				
Step 4. Special Skills and Other Requirements? (Y/N)				
Step 5. Supervisory duties (Y/N)				
			<b>Sum:</b>	

## Appendix D: Professional Occupations Education and Training Categories

Code	Definition
1	First professional degree. Completion of the academic program usually requires at least 6 years of full-time equivalent academic study, including college study prior to entering the professional degree program.
2	Doctoral degree. Completion of the degree program usually requires at least 3 years of full-time equivalent academic work beyond the bachelor's degree.
3	Master's degree. Completion of the degree program usually requires 1 or 2 years of full-time equivalent study beyond the bachelor's degree.
4	Work experience, plus a bachelor's or higher degree. Most occupations in this category are managerial occupations that require experience in a related non-managerial position.
5	Bachelor's degree. Completion of the degree program generally requires at least 4 years but not more than 5 years of full-time equivalent academic work.

O*NET-SOC Code	O*NET-SOC Title	Education & Training Category Code
21-2011.00	Clergy	1
23-1011.00	Lawyers	1
29-1011.00	Chiropractors	1
29-1021.00	Dentists, General	1
29-1022.00	Oral and Maxillofacial Surgeons	1
29-1023.00	Orthodontists	1
29-1024.00	Prosthodontists	1
29-1041.00	Optometrists	1
29-1051.00	Pharmacists	1
29-1061.00	Anesthesiologists	1
29-1062.00	Family and General Practitioners	1
29-1063.00	Internists, General	1
29-1064.00	Obstetricians and Gynecologists	1
29-1065.00	Pediatricians, General	1
29-1066.00	Psychiatrists	1

O*NET-SOC Code	O*NET-SOC Title	Education & Training Category Code
29-1067.00	Surgeons	1
29-1081.00	Podiatrists	1
29-1131.00	Veterinarians	1
15-1011.00	Computer and Information Scientists, Research	2
19-1021.01	Biochemists	2
19-1021.02	Biophysicists	2
19-1022.00	Microbiologists	2
19-1042.00	Medical Scientists, Except Epidemiologists	2
19-2011.00	Astronomers	2
19-2012.00	Physicists	2
19-3031.00	Clinical, counseling, and school psychologists	2
19-3031.01	Educational Psychologists	2
19-3031.02	Clinical Psychologists	2
19-3031.03	Counseling Psychologists	2
25-1021.00	Computer Science Teachers, Postsecondary	2
25-1022.00	Mathematical Science Teachers, Postsecondary	2
25-1032.00	Engineering Teachers, Postsecondary	2
25-1041.00	Agricultural Sciences Teachers, Postsecondary	2
25-1042.00	Biological Science Teachers, Postsecondary	2
25-1043.00	Forestry and Conservation Science Teachers, Postsecondary	2
25-1052.00	Chemistry Teachers, Postsecondary	2
25-1054.00	Physics Teachers, Postsecondary	2
25-1071.00	Health Specialties Teachers, Postsecondary	2
25-1072.00	Nursing Instructors and Teachers, Postsecondary	2
25-1121.00	Art, Drama, and Music Teachers, Postsecondary	2
25-1191.00	Graduate Teaching Assistants	2
15-2021.00	Mathematicians	3
15-2031.00	Operations Research Analysts	3
15-2041.00	Statisticians	3
19-1041.00	Epidemiologists	3
19-2041.00	Environmental Scientists and Specialists, Including Health	3
19-2042.00	Geoscientists, Except Hydrologists and Geographers	3
19-2042.01	Geologists	3
19-2043.00	Hydrologists	3
19-3011.00	Economists	3
19-3021.00	Market Research Analysts	3
19-3022.00	Survey Researchers	3
19-3032.00	Industrial-Organizational Psychologists	3
19-3041.00	Sociologists	3
19-3051.00	Urban and Regional Planners	3

O*NET-SOC Code	O*NET-SOC Title	Education & Training Category Code
19-3091.01	Anthropologists	3
19-3091.02	Archeologists	3
19-3092.00	Geographers	3
19-3093.00	Historians	3
19-3094.00	Political Scientists	3
21-1011.00	Substance Abuse and Behavioral Disorder Counselors	3
21-1012.00	Educational, Vocational, and School Counselors	3
21-1013.00	Marriage and Family Therapists	3
21-1014.00	Mental Health Counselors	3
21-1015.00	Rehabilitation Counselors	3
21-1023.00	Mental Health and Substance Abuse Social Workers	3
21-1091.00	Health Educators	3
25-4011.00	Archivists	3
25-4012.00	Curators	3
25-4021.00	Librarians	3
25-9031.00	Instructional Coordinators	3
29-1121.00	Audiologists	3
29-1123.00	Physical Therapists	3
29-1127.00	Speech-Language Pathologists	3
11-1011.00	Chief Executives	4
11-1011.01	Government Service Executives	4
11-1011.02	Private Sector Executives	4
11-1021.00	General and Operations Managers	4
11-2011.00	Advertising and Promotions Managers	4
11-2021.00	Marketing Managers	4
11-2022.00	Sales Managers	4
11-2031.00	Public Relations Managers	4
11-3011.00	Administrative Services Managers	4
11-3021.00	Computer and Information Systems Managers	4
11-3031.00	Financial Managers	4
11-3031.01	Treasurers, Controllers, and Chief Financial Officers	4
11-3031.02	Financial Managers, Branch or Department	4
11-3040.00	Human Resources Managers	4
11-3041.00	Compensation and Benefits Managers	4
11-3042.00	Training and Development Managers	4
11-3061.00	Purchasing Managers	4
11-9011.00	Farm, Ranch, and Other Agricultural Managers	4
11-9011.01	Nursery and Greenhouse Managers	4
11-9011.02	Agricultural Crop Farm Managers	4
11-9011.03	Fish Hatchery Managers	4
11-9031.00	Education Administrators, Preschool and Child	4

O*NET-SOC Code	O*NET-SOC Title	Education & Training Category Code
11-9032.00	Care Center/Program Education Administrators, Elementary and Secondary School	4
11-9033.00	Education Administrators, Postsecondary	4
11-9041.00	Engineering Managers	4
11-9111.00	Medical and Health Services Managers	4
11-9121.00	Natural Sciences Managers	4
13-1011.00	Agents and Business Managers of Artists, Performers, and Athletes	4
13-1111.00	Management Analysts	4
15-2011.00	Actuaries	4
23-1021.00	Administrative Law Judges, Adjudicators, and Hearing Officers	4
23-1022.00	Arbitrators, Mediators, and Conciliators	4
23-1023.00	Judges, Magistrate Judges, and Magistrates	4
25-2023.00	Vocational Education Teachers, Middle School	4
25-2032.00	Vocational Education Teachers, Secondary School	4
27-1011.00	Art Directors	4
27-2012.00	Producers and Directors	4
27-2012.01	Producers	4
27-2012.02	Directors - Stage, Motion Pictures, Television, and Radio	4
27-2012.03	Program Directors	4
27-2012.04	Talent Directors	4
27-2012.05	Technical Directors/Managers	4
27-2041.00	Music Directors and Composers	4
27-2041.01	Music Directors	4
27-2041.02	Music Arrangers and Orchestrators	4
27-2041.03	Composers	4
27-3020.00	News Analysts, Reporters and Correspondents	4
27-3021.00	Broadcast News Analysts	4
27-3022.00	Reporters and Correspondents	4
11-3051.00	Industrial Production Managers	5
11-9021.00	Construction Managers	5
11-9141.00	Property, Real Estate, and Community Association Managers	5
11-9151.00	Social and Community Service Managers	5
13-1071.00	Employment, Recruitment, and Placement Specialists	5
13-1071.01	Employment Interviewers, Private or Public Employment Service	5
13-1071.02	Personnel Recruiters	5
13-1072.00	Compensation, Benefits, and Job Analysis	5

O*NET-SOC Code	O*NET-SOC Title	Education & Training Category Code
	Specialists	
13-1073.00	Training and Development Specialists	5
13-1121.00	Meeting and Convention Planners	5
13-2011.01	Accountants	5
13-2011.02	Auditors	5
13-2031.00	Budget Analysts	5
13-2041.00	Credit Analysts	5
13-2051.00	Financial Analysts	5
13-2052.00	Personal Financial Advisors	5
13-2053.00	Insurance Underwriters	5
13-2061.00	Financial Examiners	5
13-2071.00	Loan Counselors	5
13-2072.00	Loan Officers	5
13-2081.00	Tax Examiners, Collectors, and Revenue Agents	5
15-1021.00	Computer Programmers	5
15-1031.00	Computer Software Engineers, Applications	5
15-1032.00	Computer Software Engineers, Systems Software	5
15-1051.00	Computer Systems Analysts	5
15-1061.00	Database Administrators	5
15-1071.00	Network and Computer Systems Administrators	5
15-1071.01	Computer Security Specialists	5
15-1081.00	Network Systems and Data Communications Analysts	5
17-1011.00	Architects, Except Landscape and Naval	5
17-1012.00	Landscape Architects	5
17-1021.00	Cartographers and Photogrammetrists	5
17-1022.00	Surveyors	5
17-2011.00	Aerospace Engineers	5
17-2021.00	Agricultural Engineers	5
17-2031.00	Biomedical Engineers	5
17-2041.00	Chemical Engineers	5
17-2051.00	Civil Engineers	5
17-2061.00	Computer Hardware Engineers	5
17-2071.00	Electrical Engineers	5
17-2072.00	Electronics Engineers, Except Computer	5
17-2081.00	Environmental Engineers	5
17-2111.00	Health and Safety Engineers, Except Mining Safety Engineers and Inspectors	5
17-2111.01	Industrial Safety and Health Engineers	5
17-2111.02	Fire-Prevention and Protection Engineers	5
17-2111.03	Product Safety Engineers	5
17-2112.00	Industrial Engineers	5
17-2121.00	Marine Engineers and Naval Architects	5

17-2121.01	Marine Engineers	5
17-2121.02	Marine Architects	5
17-2131.00	Materials Engineers	5
17-2141.00	Mechanical Engineers	5
<b>O*NET-SOC Code</b>	<b>O*NET-SOC Title</b>	<b>Education &amp; Training Category Code</b>
17-2151.00	Mining and Geological Engineers, Including Mining Safety Engineers	5
17-2161.00	Nuclear Engineers	5
17-2171.00	Petroleum Engineers	5
19-1010.00	Agricultural and Food Scientists	5
19-1011.00	Animal Scientists	5
19-1012.00	Food Scientists and Technologists	5
19-1013.01	Plant Scientists	5
19-1013.02	Soil Scientists	5
19-1020.00	Biological Scientists	5
19-1020.01	Biologists	5
19-1023.00	Zoologists and Wildlife Biologists	5
19-1031.00	Conservation Scientists	5
19-1031.01	Soil Conservationists	5
19-1031.02	Range Managers	5
19-1031.03	Park Naturalists	5
19-1032.00	Foresters	5
19-2021.00	Atmospheric and Space Scientists	5
19-2031.00	Chemists	5
19-2032.00	Materials Scientists	5
21-1021.00	Child, Family, and School Social Workers	5
21-1022.00	Medical and Public Health Social Workers	5
21-1092.00	Probation Officers and Correctional Treatment Sp	5
21-2021.00	Directors, Religious Activities and Education	5
23-2092.00	Law Clerks	5
25-2012.00	Kindergarten Teachers, Except Special Education	5
25-2021.00	Elementary School Teachers, Except Special Education	5
25-2022.00	Middle School Teachers, Except Special and Vocational Education	5
25-2031.00	Secondary School Teachers, Except Special and Vocational Education	5
25-2041.00	Special Education Teachers, Preschool, Kindergarten and Elementary	5
25-2042.00	Special Education Teachers, Middle School	5
25-2043.00	Special Education Teachers, Secondary School	5
25-3011.00	Adult Literacy, Remedial Education, and GED	5



<b>O*NET-SOC Code</b>	<b>O*NET-SOC Title</b>	<b>Education &amp; Training Category Code</b>
25-4013.00	Teachers and Instructors	5
25-9021.00	Museum Technicians and Conservators	5
27-1014.00	Farm and Home Management Advisors	5
27-1021.00	Multi-Media Artists and Animators	5
27-1022.00	Commercial and Industrial Designers	5
	Fashion Designers	5
27-1024.00	Graphic Designers	5
27-1025.00	Interior Designers	5
27-1027.00	Set and Exhibit Designers	5
27-1027.01	Set Designers	5
27-1027.02	Exhibit Designers	5
27-3031.00	Public Relations Specialists	5
27-3041.00	Editors	5
27-3042.00	Technical Writers	5
27-3043.00	Writers and Authors	5
27-4032.00	Film and Video Editors	5
29-1031.00	Dietitians and Nutritionists	5
29-1071.00	Physician Assistants	5
29-1122.00	Occupational Therapists	5
29-1125.00	Recreational Therapists	5
29-2011.00	Medical and Clinical Laboratory Technologists	5
29-2091.00	Orthotists and Prosthetists	5
29-9010.00	Occupational Health and Safety Specialists and Technicians	5
29-9091.00	Athletic Trainers	5
33-3021.03	Criminal Investigators and Special Agents	5
39-9032.00	Recreation Workers	5
41-3021.00	Insurance Sales Agents	5
41-3031.01	Sales Agents, Securities and Commodities	5
41-3031.02	Sales Agents, Financial Services	5
41-9031.00	Sales Engineers	5
53-2011.00	Airline Pilots, Copilots, and Flight Engineers	5

## Appendix E: SPECIFIC VOCATIONAL PREPARATION (SVP)

Specific Vocational Preparation is defined as the amount of lapsed time required by a typical worker to learn the techniques, acquire the information, and develop the facility needed for average performance in a specific job-worker situation.

This training may be acquired in a school, work, military, institutional, or vocational environment. It does not include the orientation time required of a fully qualified worker to become accustomed to the special conditions of any new job. Specific vocational training includes: vocational education, apprenticeship training, in-plant training, on-the-job training, and essential experience in other jobs.

Specific vocational training includes training given in any of the following circumstances:

- a. Vocational education (high school; commercial or shop training; technical school; art school; and that part of college training which is organized around a specific vocational objective);
- b. Apprenticeship training (for apprenticeable jobs only);
- c. In-plant training (organized classroom study provided by an employer);
- d. On-the-job training (serving as learner or trainee on the job under the instruction of a qualified worker);
- e. Essential experience in other jobs (serving in less responsible jobs which lead to the higher grade job or serving in other jobs which qualify).

The following is an explanation of the various levels of specific vocational preparation:

<i>Level</i>	<i>Time</i>
1	Short demonstration only
2	Anything beyond short demonstration up to and including 1 month
3	Over 1 month up to and including 3 months
4	Over 3 months up to and including 6 months
5	Over 6 months up to and including 1 year
6	Over 1 year up to and including 2 years
7	Over 2 years up to and including 4 years
8	Over 4 years up to and including 10 years
9	Over 10 years

*Note: The levels of this scale are mutually exclusive and do not overlap.*

**Source:** *DICTIONARY OF OCCUPATIONAL TITLES (4th Ed., Rev. 1991) -- APPENDIX C*

## **Appendix F: Check Sheet for Employer-Provided Wage Surveys**

Employer-provided surveys cannot be considered if a union agreement covers the wage rates for the job opportunity where the worker will be employed.

Current wage determination in the area under the Davis-Bacon or McNamara-O'Hara Service Contract Acts can be submitted.

Published surveys or surveys conducted by employers can be submitted.

Written documentation on the methodology of how the survey was conducted and the validity of the statistical methodology used to determine the wage must be made available when submitting a survey for consideration.

### **Surveys Must Meet the Following Criteria**

- Data on which the wage is based must have been collected within 24 months of the publication date of the survey or, if the employer itself conducted the survey, within 24 months of the date the employer submits the survey to the SWA.
- A published survey must have been published within 24 months of the date of submission and it must be the most current edition of the survey with wage data that meet the criteria under this section.
- The survey data must represent similar jobs in the area of intended employment - the area within normal commuting distance of the place (address) of intended employment. The area surveyed can be expanded if the employer can show that there are an insufficient number of workers in the original area.
  - If the place of intended employment is within a Metropolitan Statistical Area (MSA) or Primary Metropolitan Statistical Area (PMSA), any place within the MSA or PMSA is deemed to be within the normal commuting distance of the place of intended employment.
  - All locations within a Consolidated Metropolitan Statistical Area (CMSA) will not automatically be deemed to be within normal commuting distances for prevailing wage purposes.
  - The borders of PMSAs, MSAs, or CMSAs are not controlling in the identification of the normal commuting area; an employer location just outside of the PMSA, MSA, or CMSA boundary may still be considered within normal commuting distance.
- The survey's job description must match the job description contained in the employer's request for acceptance to use the survey or other wage data for prevailing wage purposes.

- The job description submitted on the request for acceptance of an employer-provided survey or other wage data will be used in determining the appropriate level of skill to be applied.
- Cross Industry Wage Data - The wage data must have been collected across industries that employ workers in the occupation.
- The survey should produce an arithmetic mean (weighted average) of wages for workers in the appropriate occupational classification in the area of intended employment. If a mean is not available, the median can be used.
- The survey must identify a statistically valid methodology that was used to collect the data.

### **Suggested Survey Methodology**

The following are suggested actions that should be taken to conduct a valid wage survey:

Obtain a valid directory of employers in the area of intended employment (or expanded area) that would most likely employ the occupation to be surveyed.

Identify the industries in which the occupation is likely to be found. Use the industry/occupation matrix available from the state's labor market information agency.

Count (or estimate) the number of employers in the applicable area.

Decide how many employers must be contacted to produce usable wage results from at least three employers and at least 30 workers. Results for 30 workers is the minimum acceptable sample; for most occupations there should be wage data for many more workers.

Divide the number of employers to be contacted (the sample) by the number of employers in the applicable industry (the universe).

Use the number calculated in this last step to methodically select a random sample of employers to contact. For example, if the number is one-tenth, select every tenth employer in the universe or listing of employers in the industry.

Design a survey form which includes: the definition of the particular occupation (see Appendix G for Terms and Definitions), the number of workers in the occupation, and the wage rate.

Contact all the employers in the sample (call, write, or fax) to obtain the wage rate and employment data for the occupation surveyed.

Prepare a summary table of the data collected. There should be columns for: the employer, number of workers, the wage rate, and the product of multiplying the number of workers times the wage rate. There should be a row for each employer that responded to the survey. Add the data in the column showing the number of workers to get the total number of workers. Add the data in the column showing the product of workers times wage rate.

Calculate the weighed mean by dividing the total product by the total number of workers.

### **Survey Documentation**

Provide documentation to include the:

- Sample frame size and source, sample selection procedures, survey job descriptions, and related information to allow a determination with regard to the adequacy of the data provided and its adherence to the criteria; and
- Methodology used for the survey to show that it is reasonable and consistent with recognized statistical standards and principles in producing a prevailing wage (e.g., contains a representative sample).

## Appendix G: Prevailing Wage Determination Request Form Suggested Items to Include and Definitions

In addition to information deemed necessary by the SWA for case processing or tracking, SWA prevailing wage forms should request sufficient information about the employer's job offer to describe the job duties, the area of intended employment and the work experience, education, and skills required of the worker. The chart below offers suggestions for the terms to include on the form.

<b>Term</b>	<b>Definition</b>
Job Title	Title of the job in the offer of employment
Job description or duties	A description of the actual work to be performed in the job offered. The description should be written in non-technical terms and should include the machines, equipment, tools, or computer software used. The description should also include any supervisory duties to be performed.
Education and Training Level	The minimum diploma, degree, or training required for a worker to satisfactorily perform the job described.
Field of Study	The field of study for the training or education required.
Length of Education or Training	The minimum number of months or years of education or training required.
Experience	The minimum number of months or years of experience necessary for the worker to carry out the duties of the job offered.
Field of Experience	The type of experience necessary for the worker to carry out the duties of the job offered.
Special Skills or other requirements	A description of any job-related skills or other requirements needed to perform the job offered. Examples of specific skills include: type 45 words per minute, lift over 40 pounds, or proficiency in computer program languages and/or platforms. Examples of other requirements might be: live on premises, proficiency in a language other than English, Federal or state licenses, certifications such as MCSE or permits.
Supervision	The number of workers supervised by the worker in the job offered and the level of supervision that supervises the worker in the job offered.