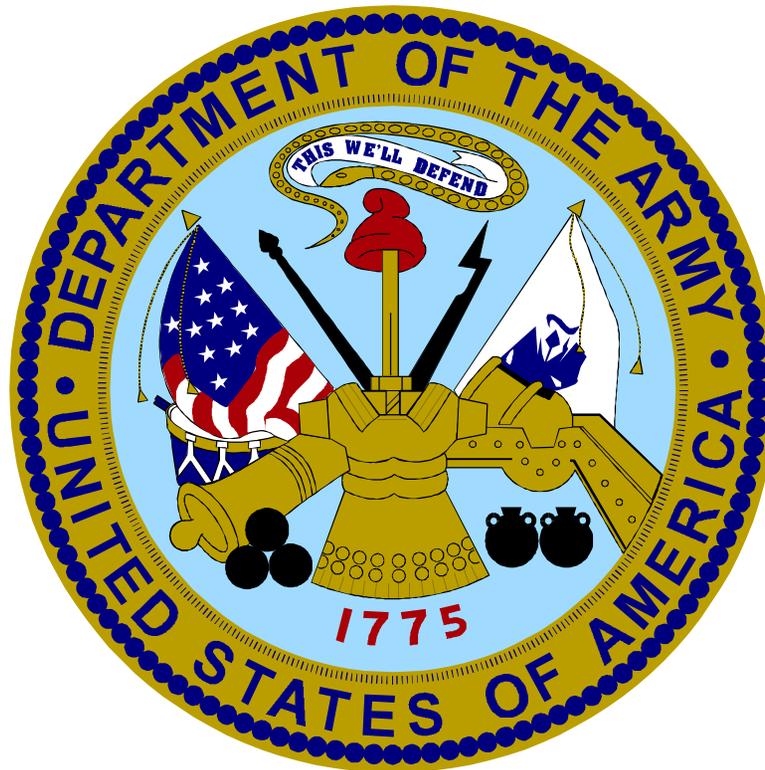
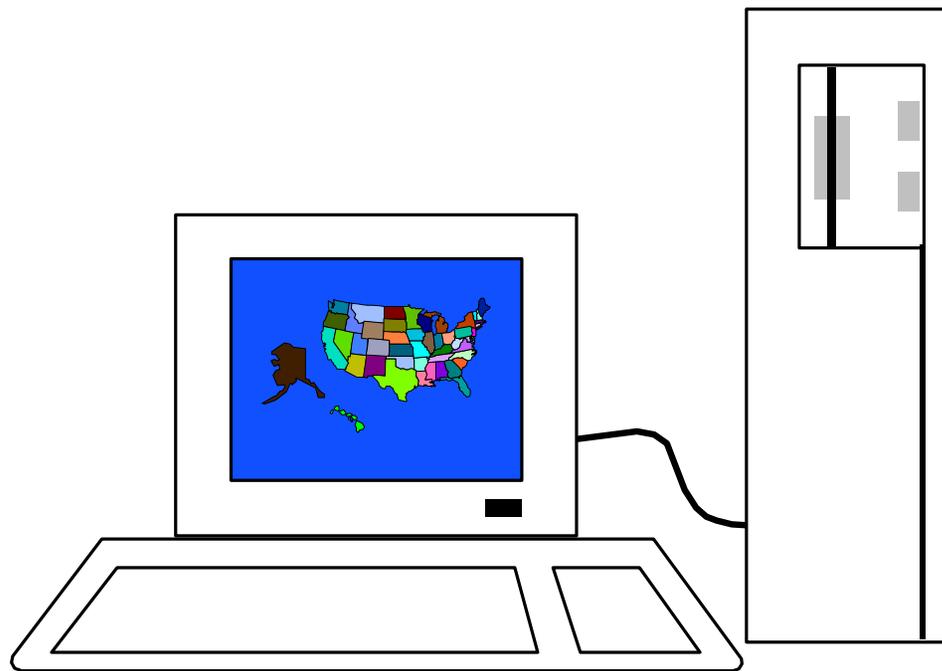

Contract Labor Standards Training



Wage Determinations On Line



WDOL Program

Outline

- Part I: Overview
- Part II: Implementing WDOL Program
- Part III: SF98/98a Preparation



Part I: Overview

Applicable SCA Regulations

- **McNamara-O'Hara Service Contracts Act, “SCA” - 41 USC 351-358**
- **Title 29, CFR Part 4: “Labor Standards for Federal Service Contracts**
- **Title 29, CFR Part 541, “Defining the Term: Executive, Administrative, & Professional”**
- **FAR Subpart 22.10- Service Contract Act of 1965, As Amended**
- **DFARS Subpart 222.100**

SCA Provisions

- SCA applies to all contracts the principal purpose of which is to provide services through the use of service employees
- Service contracts \$2,500 and under: SCA minimum wage same as Fair Labor Standards Act
- Service contracts over \$2,500: SCA minimum wages and benefits issued by Dept of Labor as **area wage determinations (WDs)**
- Contracts succeeding contracts containing union CBAs: SCA minimum is the CBA wages and monetary benefits (SCA Sec. 4(c))

Acquisition Reform and WD Process

- **The SF98 has not changed since 1973**
- **DOL receives approximately 60,000 SF98s each year**
- **WD staff has been reduced 50%**
- **Acquisition Reform moves procurement actions faster, and WD process is slowing down**
- **Increased service contracting adds to the problem**

Efforts to Improve WD Process

- **SCA Blanket WD Program**
- **Consolidated Area WDs
(minimized number of Area WDs
issued, and conformances required)**
- **DOL's EDI Program- an NPR
recommendation**
- **DOD's proposal: "WDOL Program"**

Three Types of SF98 WD Requests/Programs

- **Individual SF98s for each contract action:**
 - requesting Area or Locally Prevailing WDs, or
 - requesting SCA Sec 4(c) WDs reflecting CBAs

- **Blanket WD Program**

- **DOD/DOL Interim WDOL Program**



Individual SF 98 Requests for Area or Locally Prevailing WDs

Area WDs reflect wages and benefits which DOL determines to be prevailing for a given locality as a result of a survey performed by the Bureau of Labor Statistics (BLS) and/or other statistical data available.

Individual SF98 Requests for SCA **Sec4(c) WDs**

If the incumbent, or predecessor, contractor had a collective bargaining agreement (CBA) with a union...

and that CBA was applicable to employees performing work on the predecessor contract...

the wages and monetary benefits of that CBA will apply to the successor contractor employees for the next contract period cont'd..

SCA Sec. 4(c) WD Request (Cont'd)

- **The contracting agency will send the CBA to DOL, attached to an SF98, requesting a WD which reflects that CBA.**
- **The CBA must be received in a timely manner to be effective (FAR 22.1012), and would apply to the successor contractor even if DOL did not respond with a WD.**



Blanket WD Program Requests

- One **ANNUAL** SF 98 is submitted by a contracting activity for all one-time, recurring, or continuous, multi-year services for that activity
- DOL generally responds with an Area WD

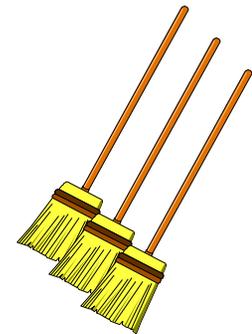
DOD / DOL Interim Wage Determinations on Line Program

- **MOU specifies terms by which contracting agencies may use on-line SCA WDs**
- **Contracting offices obtain effective WDs directly from DOD's on-line subscription with NTIS**
- **Contracting offices must be certified that WDOL Program Training has been provided (authorization will be granted upon certification)**

cont'd.

***DOD/DOL Interim
Wage Determinations On Line Program
(Cont'd)***

- **Individual SF98s will be submitted to DOL at each contract action, notifying DOL of the WD selected and implemented under the Program.**





Part II: Implementing WDOL Program

The WDOL Program: When Can You Use It?

- Each contracting office **MUST** receive WDOL Program Training prior using WDOL on SCA contract actions
- Agency Labor Advisor will certify to DOL that training has been provided
- At the time authorization is approved, the contracting activity will no longer be authorized to use the Blanket WD Program.

The WDOL Program: DO NOT Use it for Service Contracts If...

- **In the preceding contract period there was an effective union CBA**
- **The SCA Database does NOT contain an appropriate WD, or if the WD selected does not list a PRINCIPAL occupation required for performance of the contract**

Note: A few services, such as Elevator Maintenance, are covered by specific WDs not yet available through the WDOL Program

Obtaining WDs Using the WDOL Program

- **For all contract actions requiring new or revised SCA WDs, the contracting office shall obtain the appropriate WD by accessing the WDOL Program Database . .**
 - **No more than 15 days, nor less than 10 days, prior to the earlier of the following procurement actions..**
 - » **issuing an IFB or RFP; start of negotiations; modification to exercise an option or to extend, or to significantly change scope of work; or annual/biennial anniversary dates of multiyear contracts .**

When to Submit an SF98 to DOL Under the WDOL Program

- **On or before issuing the solicitation, or modification to exercise an option, extend, or significantly change scope of work:**
 - **Prepare and send to DOL an SF98 for that action**
 - **The SF98 must be completed in full, signed, and dated**

Monitoring the WDOL Program Database for WD Revisions

- ***Effective WDs*** are those WDs received timely by the contracting agency
- ***Effective*** WDs are required to be incorporated into contracts
- Under the WDOL Program, “receipt” date of a revised WD is the first date at which that WD appears on the WDOL Program Database

Monitoring the WDOL Program Database for WD Revisions (Cont'd)

- Each Tuesday, DOL will publish on the WDOL Program SCA Database all WD revisions
- Contracting Office must monitor the WDOL Program Database regularly to determine if a selected WD has been revised prior to the expiration of the “effective date” for that contract action

Timely Receipt of SCA WDs
FAR 22.1012

For contract actions Other than Sealed Bidding

- A revised WD shall be effective if it is received by the contracting agency before date of award (or date of modification if option or extension)
- If WD is received after award, it shall NOT be effective if performance starts less than 30 days from award date
- If WD is received after award and performance starts more than 30 days from award date, WD will be effective if received no later than 10 days prior to start of performance

Timely Receipt of SCA WDs
FAR 22.1012

For contract actions resulting from Sealed Bidding

- **A revised WD shall NOT be effective if received by the contracting agency not less than 10 days prior to opening of bids, unless there is sufficient time to amend the solicitation and use the late WD.**

Selecting the Correct WD

- Contracting Officer must determine the correct WD to use for every contract action!
- Identify locality where the services are to be performed
- For most localities, DOL issues **two Area WDs:**
 - Wages and most benefits are the same, except the **Health & Welfare (H&W)** rates--there are two:
 - the HIGH H&W rate is presently \$2.56/hour (8/96)
 - the LOW H&W rate is presently \$.90/hour (8/96)
- Select the correct WD using the following criteria

Guidelines for Selecting H&W Benefit Levels

I. Were the services previously performed under an SCA-covered contract?

- Use the same H&W level that was applicable to the previous contract, or in the prior contract period**
- If the WD in the previous contract appears to be incorrect, contact the Agency Labor Advisor**
- This selection criteria should cover the majority of contract actions**

Guidelines for Selecting H&W Benefit Levels (cont'd)

II. Were the services previously performed by Federal Civil Service Employees (In-House)?

- Use the WD with the *High H&W level***
- Note: If services were previously performed in-house exclusively by military personnel (not Federal Civil Service), use the *Low H&W level***

Guidelines for Selecting H&W Benefit Levels (cont'd)

- **IF** the contract services have NOT previously been performed under contract,
- and **IF** contract services have NOT previously been performed in-house,

THEN ...

III. Perform an analysis of the occupational groups (classifications) expected to be employed on the new contract.

Guidelines for Selecting H&W Benefit Levels cont'd.

- A. If work is to be performed almost exclusively by unskilled, low or semi-skilled workers,
use the Low H&W Level**

NOTE: “Unskilled, low, or semi-skilled workers are those in the *SCA Directory of Occupations* under the groupings of: Administrative Support and Clerical; Food Preparation and Service; Furniture Maintenance and Repair; General Services and Support; Laundry and Dry Cleaning, and Personal Needs.

- B. If work is to be performed by Air Traffic Controllers,
use the High H&W Level**

Guidelines for Selecting H&W Benefit Levels cont'd.

C. If the classifications will be Mixed Groups, select

H&W Levels according to contract size:

- 1. Contracts anticipated to be \$5 Million or more per year, select HIGH H&W Level (typically, large installations support service contracts)**
- 2. Contracts anticipated to be less than \$500,000 per year, select LOW H&W Level**
- 3. If contract value will be between \$500,000 and \$5 Million, contact the Agency Labor Advisor for guidance**

REMINDER:

- If the preceding contract services were performed by employees subject to a union collective bargaining agreement (CBA), **DO NOT USE THE WDOL PROGRAM Area WDs.**
- Area WDs and their H&W benefits are superseded by the wages and monetary benefits of an effective CBA under SCA Sec. 4(c).
- Send a separate, individual SF98 to DOL with that CBA requesting a WD

WDOL Program Reminders

- Prior to using the WDOL Program to obtain SCA WDs for specific contract actions, contracting offices must receive training and authorization from the Agency Labor Advisor
- The contracting officer must select the appropriate SCA WD carefully, and will be responsible for retroactive corrections if the selection is in error
- The contracting office will be required to submit to DOL a completed, signed SF98 Notice immediately upon incorporating the new/revised WD

The WDOL Program:

- If there is a question regarding the appropriate contract labor standards applicable to the solicitation, or the appropriate WD to select,contact the **AGENCY** Labor Specialist.



Davis-Bacon Act and the WDOL Program

- **Contracting offices may obtain current, official DBA General Wage Decisions from the WDOL Program immediately**
- **Revisions to DBA General WDs will be published on the WDOL Program Database effective each Friday**
- **Both DBA and SCA WD Databases will include a program to notify users of pending revisions (to be published the next publication date)**

Effective Dates for Revisions to DBA WDs

- As with SCA WDs, “receipt date” for DBA WD modifications will be the first date at which the DBA WD modification appears on the WDOL Program Database (generally on Friday)
- The **effective date** of a revised DBA WD is the same as previously applied under **FAR 22.404-6**
- The contracting office must monitor the WDOL Program Database regularly for **effective** revisions during the solicitation process

Effective Dates for Revisions to DBA WDs (cont'd) FAR 22.404-6

- **Modifications to DBA General Wage Decisions shall be effective if received (or published in the Federal Register or on WDOL Program Database):**
 - **prior to date of award, for contract actions other than sealed bidding; or**
 - **no less than 10 days prior to bid opening for sealed bid contracts**



Part III: Preparation of the SF98/98a

***Box 1 - Notice No.**

Print or type in bold the letters “MOU” on all SF98s submitted to DOL under the WDOL Program.

Note SF98 number on all accompanying pages.

***Box 2 - Estimated Solicitation Date**

The date on which the IFB or RFP will be issued.

***Box 3 - Estimated Date Bids or Proposals**

Are to be Opened or Negotiations Begun. Self-explanatory. (If other than solicitation, note “option” or “extension”)

***Box 4 - Date Contract Performance to Begin.**

Self-explanatory

**** Box 5 - Place(s) of Performance***

- **County and State (2-letter abbreviation) where services are to be performed (required entry)**
- **Installation or city name written below county and state**
- **If place of performance is unknown, list all possible or potential places based on bidders list**
- **For multiple locations, reference “Attachment A” in Box 5, and list all locations (by county and state) on a separate page. Show, for each locality, the WD applicable in the preceding contract period and the WD to be selected for the current contract period**

**** Box 6 - Services to be Performed***

- Use specific, generic terms. Do not use acronyms or technical jargon which may be unfamiliar to persons outside of the contracting agency.**
- Terms such as “construction”, “fabrication”, or “demolition” prompt further questions regarding possible application of other labor laws. Add sufficient information to anticipate and answer those questions.**
- If the contract results from a reconfiguration or consolidation of several other contracts, Box 6 (or an attachment) should contain a list of those previous contract services.**

**** Box 7 - Information About Performance***

A - Services Now Performed by a Contractor If this box is checked, then Box 8 must be completed as well

B - Services Now Performed by Federal Employees. Defined as Federal Civil Service Employees (not military personnel)

C - Services Not Presently Being Performed If the services performed by a predecessor contractor were interrupted temporarily for procurement purposes, for a short duration, Box 7A should be marked instead of this section.

** **Box 8 - Information about the predecessor contractor***

- a. **Name and address of incumbent (predecessor) contractor**
- b. **Wage determination number in incumbent contract**



*** *Box 8 - Information about the predecessor contractor (Cont'd)***

c. Name of Union(s)

- The contracting office must inquire, at each service contract action, if the predecessor or incumbent contractor employees were performing work while covered by a CBA.
- New or revised CBAs must be received by the contracting office within the timeliness set forth in FAR 22.1012-3 to be effective for the following contract period.
- If there is no CBA applicable to any employee performing work on the predecessor contract, enter **NONE** in Box c.

****Box 8 - Information about the predecessor contractor (Cont'd)***

c. Name of Union(s)

- DO NOT USE THE WDOL PROGRAM to obtain SCA WDs if incumbent (or predecessor) contract employees were subject to a CBA. Submit separate SF98, with the CBA attached to DOL (Ref: FAR 22.1008 and 22.1012)**
- For any questions regarding the applicability of a CBA to a particular contract action, contact the Agency Labor Advisor**

****Box 9 - Official Submitting Notice : Self-explanatory . Note: use commercial, not DSN telephone numbers.***

****Box 10 - Name and Title of Person to Whom Response is to be Sent: Self-explanatory. Note: Use complete address, and minimize acronyms.***

“Response to Notice”

- **This section to be completed ONLY if SF98 is being submitted under the WDOL Program**
- **Note the number, including revision number and date, of the SCA WD selected from the WDOL Program database in the lower right section, under item “A”.**
- **Authorized contracting personnel will sign and date the SF98 in the “Response to Notice” box (mark through the “US Department of Labor” line).**

Completing the SF98a

- **Box 11 - - Notice Number List the same number as noted on the SF98*



Completing the SF98a (Cont'd)

****Box 12- Classes of Service Employees:***

- **List each class of service employee expected to be employed on the contract**
- **Use the Service Contract Directory of Occupations (presently the 4th edition, Jan 1993, including w/Supps #1 and #2) include 5-digit identification number *i.e. #01011- Accounting Clerk I)**
- **If there is no classification listed in the Directory for a particular type of work required by the contract, establish a generic title for the classification and attach a position description to the SF98a.**

Completing the SF98a (Cont'd)

** Box 13 - Number of Employees in Each Class.*

- self-explanatory



Completing the SF98a (Cont'd)

**** Box 14 - Hourly Wage Rate That Would Be Paid If Federally Employed***

- The Fourth Edition of the Directory provides Federal Wage Grade Equivalents; therefore, this column may be left blank.**
- For classifications included on the SF98a, but which do not appear in the Directory, either General Wage Schedule or Wage Grade Schedule information must be obtained from the Civilian Personnel Office.**

Epilogue

- **USE YOUR RESOURCES: Contact your Agency Labor Advisor for WDOL Program Training and Assistance**
- **Navy has made a commitment to provide appropriate training and sincere, good faith efforts to comply with SCA and DBA, the various labor regulations and the WDOL Program MOU**
- **We welcome your suggestions for further improvements to the Contract Labor Standards Process**

***For Further Information
Contact Your Legal Office,
or...***

Major Natalie Griffin

DA Labor Advisor

2200 Army Pentagon

Wash. D.C. 20310-2200

TEL: (703) 693-4071

DSN: 223-4071

Email Address:

griffinn@otjag.army.mil

Other Contract Labor Training Available:

- Application of Contract Labor Standards (SCA, DBA, WHPCA, etc) Doing SCA Contract Price Adjustments**
- Responding to Contractor Labor Disputes: Strikes, Work Stoppages, Picketing, Labor Complaints, Union Access to Bases;**
- Conformances for Missing Classifications, Construction and Services;**
- Handling Inquiries from Unions, Congressionals, and Other Agencies.**

Other Contracting Labor Training Available:

Agency Responsibilities Under DBA:

- » **How to respond to complaints;**
- » **How to conduct the investigations;**
- » **Records review;**
- » **Interviews;**
- » **Conferences with Prime and Subcontractor Employers;**
- » **Withholding of Contract Monies;**
- » **Writing the Report;**
- » **Closing the Investigation and the Contract on Labor Issues.**
- » **Project Wage Determinations**

Welcome to the

WAGE DETERMINATIONS ON-LINE PROGRAM

USER'S GUIDE (August 1996)

A. OVERVIEW

1. WDOL Program - General:

a. Under a Memorandum of Understanding between the Department of Labor (DOL) and various services within the Department of Defense (DOD), you are now able to obtain current area wage determinations (WDs) via an on-line DOD-wide subscription service known as "WDOL Program". The WDOL Program provides both Service Contract Act (SCA) WDs and Davis-Bacon Act (DBA) general wage decisions to all authorized users for official use in federal contract actions. At present, the Departments of Air Force, Army, and Navy, and the Defense Logistics Agency, are participants in this program.

b. Under the terms of the MOU, the participating DOD agencies must ensure that its personnel are appropriately trained in the implementation of SCA WD database. The DBA WD database is available for use immediately, and DBA WDs will continue to be incorporated into DBA-covered contract actions in accordance with existing regulations. This "**User's Guide**" provides the basic, required training and guidance in the use of the SCA WD database on the WDOL Program.

c. **CAUTION:** Use of the SCA WD database for official contract actions is limited to personnel within the participating DOD agencies (those which are signature to the MOU with DOL). Contracting activities desiring to use the WDOL Program for SCA WDs must certify to their DOD Agency Labor Advisor that training has been completed. The DOD Labor Advisor will notify DOL that the training has been completed and will authorize the contracting activity to officially participate in the WDOL Program for SCA WDs. No notification is necessary for use of the DBA WDs.

B. REGULATIONS AND REQUIREMENTS

1. Applicable SCA Regulations: WDOL Program participants are reminded that the guidelines for application of all contract labor standards are found primarily in the following statutes and regulations:

- a. McNamara-O'Hara Service Contract Act ("SCA"), 41 USC 351-358
- b. Title 29, CFR Part 4: "Labor Standards for Federal Service Contracts"

c. Federal Acquisition Regulation(FAR), Part 22, Subpart 22.10, Service Contract Act of 1965, As Amended

d. Defense FAR Supplement(DFARS) Part 222, Subpart 222.100, Service Contract Act of 1965, As Amended

2. SCA Provides Minimum Wages and Benefits:

a. SCA provisions are applicable to all contracts the principal purpose of which is to provide services through the use of service employees.

b. For service contracts \$2,500 and under the minimum wage is that of the Fair Labor Standards Act (Reference FAR 22.1005).

c. For service contracts succeeding contracts containing union collective bargaining agreements (CBAs), the minimum becomes the CBA wages and monetary benefits (Reference SCA Sec. 4(c) and FAR 22.1002-3).

d. For service contracts (where no CBA applies) over \$2,500, the minimum wage and benefits are issued by DOL in the form of “area, or prevailing, wage determinations”.

3. The SF98/98a Requirement - General:

a. All SCA WDs are obtained by submitting an SF98/98a to DOL.

b. There are three types of SF98/98a Notices sent to DOL:

(1) Individual Requests for Area, or locally prevailing, WDs; Area WDs reflect wages and benefits which DOL determines to be prevailing for a specific locality (usually determined from Bureau of Labor Statistic surveys and other data). Individual requests are also submitted when the incumbent or predecessor contractor employees are subject to a CBA, and that CBA is forwarded to DOL requesting a WD reflecting the CBA rates and benefits.

(2) Blanket WD Program Requests One annual SF98 is submitted to DOL for all one-time or recurring, continuous or multi-year services for a specific contracting activity. DOL responds to this request with “Area WDs” (also known as “Blanket WDs”). If a contracting activity requests authorization to participate in the WDOL Program, they should no longer participate in DOL’s Blanket Program.

(3) WDOL Program Requests Under the new program, the contracting agency selects the appropriate Area WD for a contract action from an on-line subscription service, and then submits an SF98/98a Notice to DOL informing DOL of the contract action and selection. Unlike the Blanket Program, a separate SF98 Notice must be

submitted to DOL foreach contract action Proper use of the WDOL Program SF98 requirement satisfies the regulatory requirement under FAR 22.1008.

C. IMPLEMENTING THE WDOL PROGRAM

1. The WDOL Program SCA Database May Be Used When:

- a. The contracting office has received appropriate training;
- b. The Agency Labor Advisor has certified to DOL that the training has been received;
- c. Note: At the time authorization is approved, the contracting activity will no longer be authorized to use the SCA Blanket WD Program.

2. The WDOL Program SCA Database May NOT be Used When:

- a. In the preceding contract period there was an effective union CBA;
- b. The SCA Database does NOT contain an appropriate WD or if the WD deemed applicable omits a principal occupation to be employed on the contract (a few services -- such as Elevator Maintenance Services -- are covered by WDs not yet available through the WDOL Program);
- c. There is a question regarding the appropriate contract labor standards applicable to the solicitation (or contract action). Contact your Agency Labor Advisor for guidance on these questions.

3. Obtaining WDs Using the WDOL Program:

- a. For all contract actions requiring new or revised SCA WDs, the contracting office shall obtain the appropriate WD by accessing the WDOL Program SCA Database

- No more than 15 days, nor less than 10 days prior to the earlier of the following procurement actions

- issuing an invitation for bid or request for proposal; start of negotiations; modification to exercise an option or to extend, or to significantly change scope of work; or annual/biennial anniversary dates of multiyear contracts.

- b. Note that if the time involved in preparation and distribution of a solicitation precludes obtaining an SCA WD “no more than 15 days prior to” the issuance of a solicitation, the contracting office will be responsible for monitoring the WDOL Program SCA Database and incorporating any current WD revisions by amendment if published in a timely manner (see following sections).

4. When to submit an SF98 to DOL Under the WDOL Program:

a. On or before issuingthe solicitation, or modification to exercise an option, to extend, or significantly change scope of work :

Prepare and send (by regular mail) to DOL a complete, signed, and dated SF98 for each contract action. The SF98 will note in Box 1 the letters “MOU”; and will note in “Response to Notice” the SCA WD number (including revision) selected from the SCA Database.

b. Note the following section for guidance on preparing the SF98/98a.

5. Monitoring the WDOL Program for WD Revisions:

a. Effective WD Revisionsare those WDs consideredreceived timelyby the contracting agency.

b. Effective WDsare required to be incorporated into contracts.

c. Under the WDOL Program, “receipt” date of a revised WD is the first date at which that WD appears on the WDOL Program SCA Database.

d. Under the WDOL Program, DOL will publish all SCA WD revisions for a given week on the WDOL Program Databaseeach Tuesday.

e. The contracting office must monitor the WDOL Program SCA Database regularly to determine if a selected WD has been revised prior to the expiration of the “effective date” for that particular contract action.

6. Timely Receipt of SCA WD Revisions - FAR 22.1012

a. For contract actions other than Sealed Bidding

(1) A revised WD shall be effective is it is received by the contracting agency before date of award(or date of modification for option or extension).

(2) If a revised WD is received after award, it shall NOT be effective if contract performance startsless than 30 days from date of award or modification

(3) If a revised WD is received after award and performance starts more than 30 days from award date WD will be effective if received no later than 10 days prior to start of performance

(4) Reminder: Under the WDOL Program, “received” includes being published on the WDOL Program SCA Database.

b. For contract actions involving Sealed Bidding

(1) A revised WD shall NOT be effective if received by the contracting agency less than 10 days prior to opening of bids unless there is sufficient time to amend the solicitation and incorporate the late WD.

7. Selecting the Appropriate SCA WD:

a. Select the WD applicable to the locality (county) where the services are to be performed. Note: If place of performance is unknown, list all possible or potential places based on bidders list information (reference FAR 22.1009), and provide appropriate WDs for each locality listed.

b. For most localities, DOL issues two Area WDs; wages and most benefits are the same, except for the Health & Welfare (H&W) rate:

(1) the **High H&W** rate is presently (8/96) at \$2.56/hour;

(2) the **Low H&W** rate is presently (8/96) at \$.90/hour.

c. Contracting activities must determine the correct H&W rate to use for each contract action, at the time of selection of the WD from the WDOL Program Database.

8. Guidelines for Selecting H&W Benefit Levels

a. **First Criteria** Were the services previously performed under an SCA-covered contract?

(1) If yes, use the same H&W level that was applicable to the previous contract, or in the prior contract period.

(2) If the WD in the previous contract does not appear to be correct, contact the Activity Labor Specialist for assistance.

(3) This selection criteria should cover the vast majority of all contract actions.

b. **Second Criteria:** Were the services previously performed by Federal Civil Service Employees (In-House)?

(1) For the following contract, use the WD with the High H&W Level

(2) **Note:** If the services were previously performed in-house exclusively by military personnel (NOT federal civil service), the Low H&W Level will be applicable to the contract action.

c. **Third Criteria:** IF the contract services have NOT previously been performed under contract, NOR performed in-house, then determine the appropriate H&W level by performing an analysis of the occupational groups (classifications) expected to be employed on the new contract.

(1) If work is expected to be performed almost exclusively by unskilled, low, or semi-skilled workers use the Low H&W Level

NOTE: “Unskilled, low, or semi-skilled” classifications are defined as those under the following occupational groupings listed in the *Service Contract Act Directory of Occupations*: Administrative Support and Clerical; Food Preparation and Service; Furniture Maintenance and Repair; General Services and Support; Laundry and Dry Cleaning; and, Personal Needs.

(2) If work is expected to be performed almost exclusively by “Air Traffic Controllers”, use the High H&W Level

(3) If the classifications will be a Mixed Group of both low, or unskilled, and other SCA groupings not noted in paragraph (1) above, the appropriate H&W Level will be selected according to contract size:

(a) If the contract is anticipated to be \$5 Million or more per year, select the High H&W Level (typically, this will include large installation support services contracts).

(b) If the contract is anticipated to be less than \$500,000 per year, select the Low H&W Level

(c) If the contract value will be between \$500,000 and \$5 Million per year, contact the Activity Labor Advisor for guidance.

9. Reminders:

a. Prior to using the WDOL Program to obtain SCA WDs for specific contract actions, contracting offices must receive training and authorization from the Agency Labor Advisor.

b. The contracting office must select the appropriate SCA WD carefully, and will be responsible for retroactive corrections if the selection is in error.

c. If the preceding contract services were performed by employees subject to a union CBA, DO NOT USE THE WDOL PROGRAM to obtain SCA WDs.

d. Submit to DOL a separate, complete, signed and dated SF98/98a for each contract action for which a WDOL Program WD is selected

D. PREPARATION OF THE SF98/98a

Box 1 - Notice No. - Print or type in **bold letters** “MOU” on all SF98s submitted to DOL under the WDOL Program.

Box 2 - Estimated Solicitation Date - The date on which the invitation for bid or request for proposals will be issued.

Box 3 - Estimated Date Bids or Proposals Are to be Opened or Negotiations Begun - Self-explanatory. (If other than solicitation, note in this box “Option” or “Extension”).

Box 4 - Date Contract Performance to Begin- Self-explanatory.

Box 5 - Place(s) of Performance -

a. County and State (2-letter abbreviation) where services are to be performed. This is a required entry.

b. Installation or city name may be written below county and state.

c. If place of performance is unknown, list all possible or potential places based on bidders list (reference FAR 22.1009).

d. For multiple locations, note “Attachment A” in Box 5, and list all locations on a separate, attached sheet (include at the heading of that sheet and all other attachments the SF98 number and the “MOU” notation).

Box 6 - Services to be Performed-

a. Use specific, general terminology. Do not use acronyms.

b. Terms such as “construction”, “fabrication”, or “demolition” prompt further questions regarding possible application of other labor laws. Add sufficient information to anticipate and answer those questions (i.e. “demolition - NOT followed by construction activity”).

c. If the contract results from a reconfiguration or consolidation of several other contracts, Box 6 (or an attachment sheet) should contain a list of those previous contract services and applicable WDs.

Box 7 - Information About Contract Performance-

A. Services Now Performed by a Contractor If this box is checked, then Box 8 must be completed.

B. Services Now Performed by Federal Employees Check this box if work was previously performed by Federal Civil Service Employees. NOTE: If work was previously performed exclusively by military personnel, check Box C.

C. Services Not Presently Being Performed Self-explanatory. If there are no services presently being performed due to a temporary interruption due to procurement procedures or otherwise, mark Box A instead.

Box 8 - Information About the Predecessor Contractor-

a. Name and address of Incumbent or predecessor contractor

b. Wage Determination Number in previous contract.

c. Name of Union(s) -

(1) The contracting office must inquire, at each service contract action, if the predecessor or incumbent contractor employees were performing work while covered by an effective CBA (reference FAR 22.1010).

(2) New or revised CBAs must be received by the contracting office within the timeliness set forth in FAR 22.1012-3 to be effective.

(3) If there is no CBA applicable to any employee performing work on the predecessor contract, enter "NONE" in Box 8c.

(4) DO NOT USE THE WDOL PROGRAM to obtain SCA WDs if incumbent contractor employees were subject to a CBA. Submit a separate SF98 to DOL (reference FAR 22.1008 and 22.1012).

(5) Questions regarding the applicability of a CBA to a particular contract action should be referred to the Agency Labor Advisor.

Box 9 - Official Submitting Notice - Use commercial, not DSN telephone numbers.

Box 10 - Name and Title of Person to Whom Response is to be Sent Enter complete name, title, and address of contracting activity submitting Notice.

“Response to Notice” Box - Lower, right corner.

- a. Complete this Box only if the SF98 is being submitted to DOL under the WDOL Program.
- b. Note the number, including revision number and date, of the SCA WD selected from the WDOL Program SCA Database in the lower, right section, in Box A.
- c. Authorized contracting personnel will sign and date the SF98 in the “Response to Notice” Box (mark through the “US Dept of Labor” line).

Completing the SF98a -

Box 11 - Notice Number - List the same number as noted on the SF98, and add the notation of “MOU”.

Box 12 - Classes of Service Employees-

- a. List each class of service employee expected to be employed on the contract.
- b. Use the “*Service Contract Act Directory of Occupations*” presently the Fourth Edition, Jan 1993, including Supplements #1 and #2; include the *Directory*’s 5-digit identification number.
- c. For the rare situation where the *Directory* does not contain a classification required to perform contract work, list a generic classification title, and attach a brief position description of the duties and skills required by that classification. Note also, on the SF98a in Box 14, the Federal Wage Equivalent for that classification (information may be obtained from the agency personnel offices).

Box 13 - Number of Employees in Each Class- Self-explanatory.

Box 14 - Hourly Wage Rate That Would be Paid if Federally Employed Self-explanatory. The Fourth Edition of the *Directory* provides Federal Wage Equivalents; therefore, this column may be left blank.

E. DAVIS-BACON ACT AND THE WDOL PROGRAM

1. Contracting offices within the participating DOD services may obtain current, official DBA General Wage Decisions (WDs) from the WDOL Program immediately upon availability of access to the WDOL Program subscription.

2. Revisions (modifications) to DBA WDs will be published on the WDOL Program DBA Database effective each Friday
3. Both DBA and SCA WD Databases will include a program to notify users of pending revisions to be published on the next scheduled publishing date (Tuesdays for SCA; Fridays for DBA).
4. As with SCA WDs, “receipt date” for DBA WD modifications will be the first date at which the DBA WD modification appears on the WDOL Program.
5. The effective date of a DBA modification is the same as previously applied under FAR 22.404-6.
6. The participating contracting office must monitor the WDOL Program Database regularly for effective revisions issued during the solicitation process.
7. Effective Dates for Modifications to DBA WDs (Reference FAR 22.404-6):
 - a. Modifications to DBA WDs shall be effective if received (or if published in the Federal Register, or on the WDOL Program DBA Database):
 - (1) for contract actions other than sealed bidding **prior to date of award**
 - (2) for sealed bid contracts, **no less than 10 days prior to bid opening.**

F. WDOL PROGRAM - Improving Procurement Support Processes

1. **USE YOUR RESOURCES** Contact your Agency Labor Advisor for WDOL Program Training and Assistance. The Agency Labor Advisor can also provide in-depth training and assistance on all issues involving contract labor standards; DBA and other labor law enforcement responsibilities and techniques; contractor work stoppages, labor disputes, picketing; assistance with congressional inquiries, complaints, protests, and general information on contract labor standards.
2. DOD has made a commitment to provide appropriate training and sincere, good faith efforts to comply with SCA and DBA, the various labor regulations, and the WDOL Program MOU.
3. DOD Labor Advisors welcome your requests for assistance, and your suggestions for further improvements to the Contract Labor Standards Processes. You may locate your agency Labor Advisor via the WDOL Program listing.