

CHAPTER 5 - THE WAGE DETERMINATION ON LINE (WDOL) PROGRAM

5-1. General. As a result of a collaborative e-Government initiative involving the Department of Labor (DOL), the Office of Management and Budget, the General Services Administration, the Department of Defense (DOD) and the National Technical Information Service, a single website (www.wdol.gov) has been established allowing for access to both SCA and DBA WDs. Based in large measure upon the success of the on line program managed by the Corps of Engineers Automated Legal System, the WDOL program provides even greater access to labor standards information while introducing a number of features that will facilitate contracting requirements while preserving labor standards protections.

5-2. Application. While the WDOL program is designed to be user-friendly in a menu-driven environment, it is strongly recommended that USACE personnel familiarize themselves with both the on line "User's Guide" as well as this Pamphlet to ensure the appropriate application of labor standards to USACE contracts. Neither the WDOL program nor the accompanying "User's Guide" relieve the CO or other program users of the requirement to carefully review the contract or solicitation, federal acquisition regulations, and/or DOL regulations related to these actions. Where the CO selects a SCA or DBA WD using the WDOL Program and DOL later determines, whether before or after contract award, that the appropriate SCA or DBA WD was not incorporated in a covered contract, the CO, within 30 days of notification by DOL, shall include in the contract the applicable WD issued by DOL (see Title 29 CFR Part 1, Section 1.6(f); Part 4, Sections 4.5(c) (2) and 4.101(b); and FAR Part 22, Subsection 22.404-9 and Section 22.1015).

5-3. WDOL Program Elements. While the number of WDOL program features available to USACE personnel tasked with labor standards responsibilities are quite extensive, the paragraphs below highlight the more significant elements.

a. Elimination of Standards Form 98, Notice of Intention to Make A Service Contract submission requirement. As a result of the increased emphasis upon e-Government, the WDOL program design specifically addressed the continued viability and utility of the Standard Form 98, Notice of Intention to Make A Service Contract. In particular, it was determined that the manual process of preparing and submitting a SF 98 was unable to provide the same level of benefit and responsiveness to contracting agency SCA WD requests as an automated process. Although the former WDOL.mil website managed by USACE allowed for more expeditious access to required WDs through automation, the 1996 Memorandum of Understanding which authorized its use required DoD contracting activities to continue to submit SF 98s to the DOL.

With the introduction of the WDOL.gov program, the requirement to submit an annotated SF 98 following the procurement of a required WD has been eliminated.

b. Introduction of e-98. While the procurement of SCA WDs under the WDOL program now more closely mirrors the process by which COs have traditionally obtained DBA WDs, COs may nonetheless elect to use the e98 request process for any SCA-covered contract action. The WDOL program contains a link to the DOL's website hosting the e98 module. It is also noted that if a CO cannot determine an appropriate SCA WD within the WDOL database, the CO will be directed to the e98 website. Most requests are processed immediately. Some requests owing to their unique nature may require research and DOL may need additional time to respond.

c. H & W Fringe Benefit Rates on Standard WDs. As noted in paragraph 4-3(a)(1) of this Pamphlet, the Standard WD selection process was designed to lead the WDOL program user to the appropriate WD.

d. Non-Standard WDs. These WDs are issued by DOL to reflect prevailing wages and benefits in specific service industries in designated localities. Non-Standard WDs may not be used in contracts for services other than those specified in the Non-Standard WD description; conversely, Standard WDs may not be used in contracts designated for Non-Standard WDs. In the WDOL program WD selection process, the user will be asked to determine if the contract services are "non-standard" as designated by DOL. The menu provides a drop-down listing of such designated Non-Standard services.

e. Contract-Specific or Special SCA WDs. There are a few, unique service contracts where DOL will issue contract-specific wage and benefit rates under SCA. An example of a contract-specific WD is a sole-source contract with a county, state or municipality where wages and benefits are already established. Examples within USACE are the law enforcement contracts under the Water Resources Development Act (see paragraph 3-22). The SCA WD applicable to such a contract will be the rates established by the sole-source contractor. (Not all sole-source contract actions are subject to a Contract-Specific WD; only those contracts awarded to contractors similar to government organizations.) If a CO has determined that neither a Standard WD nor a Non-Standard WD is appropriate for a particular contract action, the CO should request an appropriate contract specific or special WD from DOL using the e98 system. DOL has sole authority to determine the appropriate wage and benefit rates for each contract action and will issue a WD reflecting such rates.

f. **SCA WDs Based on CBAs** When a predecessor contractor's SCA-covered service employees are subject to the monetary provisions of a CBA signed by the contractor and a labor union, SCA Section 4(c) requires that the successor contractor pay its employees no less than the wage rates and fringe benefits, including accrued or prospective changes in wages and benefits, required by the predecessor's CBA. (Reference SCA Sec. 4(c), Title 29 CFR Part 4 Sections 4.50(b) and 4.53, and FAR 22.1002-3.). While the WDOL program will guide COs as to the development of a SCA WD based on a CBA, the following considerations are critical to this process.

(1) COs must inquire at each contract action if the predecessor contractor has a CBA applicable to the workers performing work on the contract. Contract actions include re-solicitations or modifications to exercise an option, extend or significantly change the scope of work.

(2) If the CBA has been timely received by the CO, the CO must prepare a CBA WD that references the CBA (by employer, union, contract number and effective dates) and incorporate into the successor contract action the CBA (complete copy of the CBA and all addenda) along with the CBA WD as a cover page. It is not necessary to send a copy of the CBA to DOL. The WDOL database will not contain a copy of the CBA itself; it will only retain copies of the cover CBA WDs. Contractors and other WDOL program users must review specific solicitations or contracts (or contact the CO) in order to determine if a particular CBA is applicable under SCA to that action.

(3) The WDOL program menu includes a form for the CO to complete in order to prepare the cover CBA WD for each specific contract action, as required by SCA. The CO must prepare a separate CBA WD for each SCA-covered CBA applicable to a contract action (including separate CBA WDs for prime contractor and for subcontractor(s)).

g. **Alert Service Option.** To ensure that the CO (or any other interested party) is aware of revisions made by DOL to SCA WDs (Standard WDs and Non-Standard WDs) selected for a specific contract action, the WDOL program user may register for automatic email notification of such revisions. Upon selection of an appropriate SCA Standard or Non-Standard WD, the user will be offered the opportunity to request email notice of future revisions for a specific period of time, or until a specific date. USACE COs are strongly encouraged to request this automatic notification process in order to be aware of timely revisions applicable to specific contract actions.

(1) At the Alert Service menu, the user will be asked to provide an email address for the WDOL program to use in providing notification of a revision to a WD. The user may also provide an "alert identifier" which will appear in the WDOL notification and will assist the user in relating the newly revised WD to a specific contract or solicitation, or other area of interest.

(2) Users requesting the Alert Service will receive an email notice each time the selected SCA WD is revised until the Alert Service request expires. The Alert Service does not relieve the CO of the obligation under SCA and its regulations to use timely received new or revised SCA WDs in contract actions.

h. Archived SCA WDs. Once DOL revises an SCA WD, the most current revision will be published on the WDOL database. Prior revisions, no longer current, will be maintained in the "Archived SCA WD" database for information purposes only. COs should not use an archived WD in a contract action without prior approval of DOL.

5-4. Timely Receipt of New or Revised SCA WDs. The determination as to whether a new SCA WD or a revised WD must be incorporated in a solicitation is guided by DOL's regulations (Title 29 CFR Part 4, Section 4.5) and FAR Section 22.1012. Under the WDOL program, "receipt" date of a new or revised SCA WD is the first date at which that WD appears on the WDOL Program SCA Database. The DOL publishes all SCA WD revisions for a given week on the WDOL program database each Tuesday.

a. For contract actions resulting from other than sealed bidding:

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

(2) If a revised WD is received after award, it shall NOT be effective if contract performance starts less 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 or modification date, the WD (or CBA) will be effective if received no later than 10 days prior to start of performance.

(4) With reference to SCA-covered CBAs, the CO must provide written notification to unions and contractors (in accordance with Title 29, CFR Part 4, Section 4.1b(b)(3), and FAR Section 22.1010) of the pending contract action and estimated date.

b. For contract actions resulting from sealed bidding:

(1) A revised SCA 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 revised WD.

5-5. Statement of Equivalent Rates for Federal Hires. Section 2(a)(5) of the Act and applicable regulations (29 CFR 4.6(k)(2) and FAR 22.1016) impose an obligation upon COs to incorporate a "Statement of Equivalent Rates for Federal Hires" in SCA covered contract solicitations. This Statement is incorporated for information purposes only and is not intended to serve as a statement of minimum wage rates that must be paid the contractor's employees. This information was formerly provided to the DOL by means of Standard Form 98a. In preparing this contract provision, COs should use the *Service Contract Act Directory of Occupations*, available at www.dol.gov/esa/regs/compliance/whd/wage/main.htm. The Directory includes Federal Wage Equivalents and should be used in conjunction with FAR 22.1016 (b).