

GAO

Report to the Subcommittee on Labor,
Health and Human Services, Education
and Related Agencies, Committee on
Appropriations, U.S. Senate

December 2005

SERVICE CONTRACT ACT

Wage Determination
Process Could Benefit
from Greater
Transparency, and
Better Use of Violation
Data Could Improve
Enforcement



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Highlights

Highlights of [GAO-06-27](#), a report to the Subcommittee on Labor, Health and Human Services, Education and Related Agencies, Committee on Appropriations, U.S. Senate

Why GAO Did This Study

Recipients of federal government contracts for services are subject to wage, hour, benefits, and safety and health standards under the McNamara-O'Hara Service Contract Act (SCA) of 1965, as amended, which specifies wage rates and other labor standards for employees of contractors. SCA requires the Department of Labor (DOL) to set locally prevailing wage rates and other labor standards for employees of contractors furnishing services to the federal government. DOL's Employment Standards Administration's Wage and Hour Division (WHD) administers the SCA and each year determines prevailing wage and fringe benefit rates for over 300 standard service occupations in 205 metropolitan areas. SCA also authorizes DOL to enforce contractor compliance with SCA provisions. This report describes how DOL (1) establishes locally prevailing wages and fringe benefits and (2) enforces SCA.

What GAO Recommends

To improve the transparency of its wage determination process and its SCA strategic enforcement planning efforts, GAO recommends that WHD, among other things, make publicly available the basic methodology it uses to issue wage determinations and consider analyzing its historical SCA contractor violation data to help plan its compliance assistance and investigative efforts. In its written comments, DOL agreed with all of the report's recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-06-27.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Robert Robertson at (202) 512-7215 or robertsonr@gao.gov.

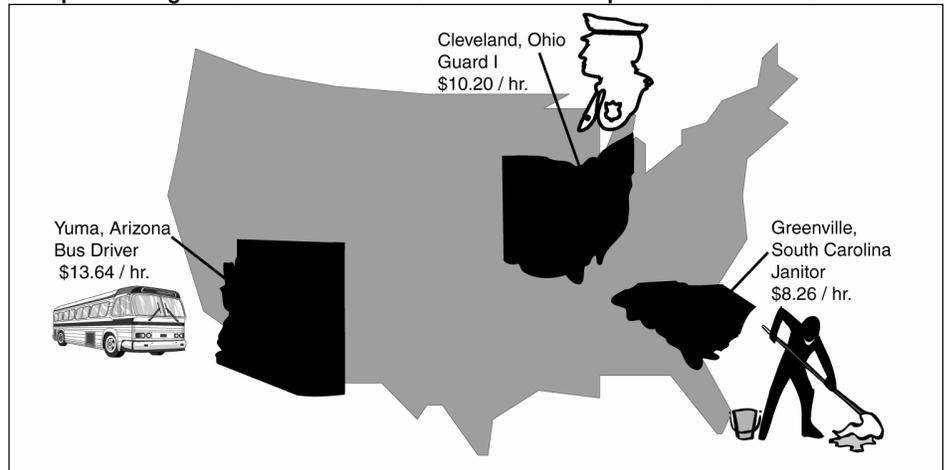
SERVICE CONTRACT ACT

Wage Determination Process Could Benefit from Greater Transparency, and Better Use of Violation Data Could Improve Enforcement

What GAO Found

When making a wage determination, WHD analysts consult several sources of information, such as its SCA directory of occupations and data collected through two Bureau of Labor Statistics national wage surveys, for wage data on occupations. Relying on these tools and their own expertise, analysts calculate prevailing wages and fringe benefit amounts for specific geographic locations. The wage determination process produces a wealth of nationwide wage data for service occupations that WHD makes available online and strives to update annually. However, stakeholders (e.g., unions, contractors, employees, and others) contend that the wage determination process is not transparent and that the resulting wages do not necessarily reflect local wage conditions. For example, WHD does not include a description of the methodology used to derive the wage rates in its wage determinations, such as wage data sources used or the procedures analysts' follow. As a result, analysts spend considerable time responding to inquiries about the methodology used to determine wages.

Examples of Wages Paid to Selected Service Contract Occupations in Selected Localities



Source: GAO analysis and Art Explosion.

WHD enforces SCA by conducting investigations, ensuring contractor payments, and providing compliance assistance to stakeholders. WHD investigates complaints from service contract employees, federal agencies, unions, and others who allege that contractors have failed to pay either the wages or fringe benefits, or both, specified in SCA contracts. WHD collects violation data, but it does not fully use these data to plan compliance assistance, target specific service industries or geographic locations for SCA investigation, or set strategic enforcement goals. As a result, WHD may be overlooking some SCA violators and industries that need further enforcement. A review of prior SCA violation data could provide WHD assurance that it is using the most effective mix of available compliance assistance and investigative efforts.

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Abbreviations

BLS	Bureau of Labor Statistics
DOD	Department of Defense
DOL	Department of Labor
ECEC	Employer Cost for Employee Compensation
ESA	Employment Standards Administration
FGE	federal grade equivalency
FLSA	Fair Labor Standards Act
FPDS	Federal Procurement Data System
GS	general schedule
H&W	health and welfare
NAF	Non-Appropriated Fund
NCS	National Compensation Survey
OES	Occupational Employment Statistics
OSHA	Occupational Safety and Health Administration
SCA	Service Contract Act
WG	wage grade
WHD	Wage and Hour Division
WHISARD	Wage and Hour Investigative Support and Reporting Database

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United States Government Accountability Office
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December 7, 2005

The Honorable Arlen Specter
Chairman
The Honorable Tom Harkin
Ranking Member
Subcommittee on Labor, Health and Human Services,
Education and Related Agencies
Committee on Appropriations
United States Senate

Recipients of federal government contracts for services are subject to wage, hour, benefits, and safety and health standards under the McNamara-O'Hara Service Contract Act (SCA) of 1965, as amended, which specifies wage rate and other labor standards for employees of contractors. In fiscal year 2003, federal agencies spent over \$45 billion on contract services covered under SCA, an increase of about \$13 billion from fiscal year 2000.¹ In 2002, the Department of Labor (DOL) estimated there were about 60,000 federal service contracts. SCA requires DOL to set locally prevailing wage rates and other labor standards for employees of contractors furnishing services to the federal government. DOL's Employment Standards Administration's (ESA) Wage and Hour Division (WHD) administers the SCA and each year determines prevailing wage and fringe benefit rates for approximately 300 standard service occupations, such as janitor and cafeteria worker, in 205 metropolitan areas. SCA also authorizes DOL to conduct investigations to enforce contractor compliance with SCA provisions.

SCA requires federal contracting agencies to include a wage determination from WHD in their advertisement for a service contract with the private sector.² Over the years, contractors, employees, and others have raised

¹This information comes from agency data submitted to the Federal Procurement Data System (FPDS), the federal repository for contracting data.

²A wage determination sets forth the minimum monetary wage rates to be paid and the minimum fringe benefits to be furnished for the various classes of service employees to be employed in furnishing services during the periods when they are engaged in the performance of such contracts. Each wage determination is locality specific, i.e., the wage and fringe benefit information therein would pertain to the specific occupations listed only in the geographic location specified, and should reflect local labor market conditions.

concerns to us that WHD-determined wage and benefit rates are either too high or too low, and do not reflect current employment conditions in their vicinity. In addition, they contend that the way in which WHD arrives at its determinations is unclear. In this context, you asked us to describe how DOL (1) establishes locally prevailing wages and fringe benefits and (2) enforces SCA. You also asked that we identify potential areas of improvement found in the course of our work.

To respond to your request, we reviewed literature on SCA and its corresponding regulations. We interviewed officials in DOL headquarters and field offices, the Bureau of Labor Statistics (BLS), and the two federal contracting agencies with the largest proportion of service contract activity—the Department of Defense (DOD) and the General Services Administration. In addition, we interviewed representatives from several service industry unions and key trade associations. We analyzed data obtained from DOL, including data on WHD investigations; national, regional and district office training and outreach efforts; and file data on debarments. We also reviewed BLS national wage survey data in order to better understand the wage determination process. In addition, we contacted state and private sector groups who also produce wage and benefit rates to better understand DOL's method of arriving at wage determinations. See appendix I for detailed information on the scope and methodology of our work.

We performed our work in accordance with generally accepted government auditing standards between November 2004 and September 2005.

Results in Brief

WHD consults multiple wage data sources and relies on analysts' professional judgment when issuing wage determinations, but the process lacks transparency and leaves wage determinations prone to criticism. When issuing a wage determination, WHD analysts look to match the occupations listed in agency contracts with its SCA directory of occupations. If the occupation is listed, the analysts will consult several sources of information, such as data collected through two BLS national wage surveys, for wage data on that occupation. The analysts will calculate a prevailing wage and fringe benefit amount for a specific geographic location in a way that ensures a generally consistent wage rate from year to year within the occupation and across similar occupations. If the BLS surveys do not have specific data for the occupation or if analysts find that the occupation is not listed in the directory, they will apply professional judgment to select a comparable listed occupation upon

which they base the new wage rate. For example, an analyst may use the wage data for a computer operator to derive a wage rate for a peripheral equipment operator, knowing that the job duties for both occupations are rated the same by the federal government under the system it uses to categorize federal employees. The wage determination process produces a wealth of nationwide wage data for service occupations that WHD makes available online and strives to update annually. However, stakeholders (e.g., contract employees, federal contracting agencies, unions, trade associations, and others) contend that the process is not transparent and that the wage determinations do not necessarily reflect local wage conditions. For example, WHD does not include a description of the methodology used to derive its wage rates in its wage determinations, such as wage data sources used or the procedures analysts follow. As a result, WHD analysts spend considerable time responding to inquiries about the methodology used to determine wages. In addition, WHD has not issued a comprehensive edition of its SCA directory of occupations since 1993 and has no systematic process in place for doing so. As a result, the directory does not include a broad range of emerging occupations that are covered under SCA.

WHD enforces SCA by conducting investigations, ensuring contractor payments, and providing compliance assistance to federal contracting agencies, contractors, and others. All SCA investigations stem from stakeholder complaints that contractors are not providing service employees with the requisite wages and benefits. WHD may, on its own initiative, expand the scope of the investigation beyond the original complaint to include additional employees, contracts or locations. In fiscal year 2004, DOL conducted 654 SCA investigations, 13 percent of which were expanded investigations. Over 80 percent of those 654 investigations found that employers operating under SCA failed to pay the wages or the fringe benefits or both specified in the applicable SCA wage determination issued for the contracts. As a result of its investigations, WHD uncovered 20,347 individual SCA violations—each instance of failure to pay a contract employee the proper wage counts as a separate violation of the act. Additionally, in fiscal year 2004, as a result of WHD's investigations, contractors agreed to pay \$16.4 million in unpaid back wages and fringe benefits to over 14,000 service contract employees. DOL also debarred from future federal government contract work 17 SCA contractors who failed to provide the requisite back wages and fringe benefits or otherwise met SCA and WHD conditions for debarment. WHD does not use available investigations data, however, to examine the extent to which specific service industries or geographic locations may warrant more SCA investigations. As a result, WHD has limited assurance it is using the most

effective mix of available compliance assistance and investigative efforts. The data on repeat SCA violators could be analyzed with a minimal investment of additional resources. To improve compliance with SCA, WHD conducts outreach efforts. For example, WHD provides training to federal contracting agencies and contractors on when contracts should be SCA-designated and how to comply with the act's requirements.

This report contains recommendations for improving the transparency of the wage determination process and for improving SCA strategic enforcement planning. In its written comments on our report, ESA agreed with the report's recommendations. ESA provided us with written comments, suggesting several technical corrections, as did BLS, that we incorporated throughout the report, as appropriate.

Background

SCA was enacted to give labor standards protection to employees of contractors and subcontractors providing services to federal agencies in the United States. SCA requires that, for contracts exceeding \$2,500, contractors pay their employees, at a minimum, the wage rates and fringe benefits that have been determined by DOL to be prevailing in the locality where the contracted work is performed. The types of service jobs covered by the act include, for example, security guard services, food service, maintenance, janitorial services, clerical workers, and certain health and technical occupations.

Until recently, DOL regulations required that federal contracting agencies complete and submit a form to DOL indicating their intention to offer a service contract and requesting current wage and benefit determinations for the occupational class(es) and geographic area(s) involved in the contract. Since the mid-1990s, however, some contracting agencies have been able to obtain wage determinations through a DOL online wage determination database, rather than requesting one from DOL. Many of their covered service contracts were renewals and the applicable SCA wage determinations for these contracts were already well established and posted online for information purposes. For these reasons, DOL entered into memoranda of understanding with several agencies to allow them to use posted standard wage determinations without first formally requesting a new one. On August 26, 2005, DOL issued regulations that allow all federal contracting agencies to use its www.wdol.gov Web site to meet their obligation to obtain SCA wage determinations from DOL. This final rule eliminates the required paper form when requesting a wage determination.

Under SCA, WHD establishes wage rates that apply to the United States, including the District of Columbia, and certain territories. WHD issues SCA wage determinations that are location-specific, listing nearly all standard occupations on each wage determination. These wage determinations are generally referred to as “consolidated” wage determinations.³ WHD strives to update its list of consolidated wage determinations annually, issuing 410 consolidated wage determinations covering almost 300 standard occupations in 205 geographic locations.⁴ These consolidated wage determinations altogether, contain approximately 61,500 individual wage determinations. In addition, between August 1, 2004, and July 31, 2005, WHD issued at least 15,786 other wage determinations upon request, including those for non-standard occupations and conformance requests.⁵ See appendix II for an example of

³Consolidated wage determinations are those that are most frequently used for SCA-covered contracts, for which job descriptions are provided by the SCA directory of occupations. There are wage rates for 298 occupations listed in each consolidated wage determination. Non-standard wage determinations are issued for unique occupations. Contracting agencies attach job descriptions for these occupations to the specific request for a wage determination that is sent directly to WHD. WHD equates these job descriptions with similar occupations surveyed by BLS through use of the comparable federal grade level associated with each. WHD analysts annually update only those non-standard wage determinations that have widespread application, i.e., non-standard occupations very common to a specific area or common to only a few areas across the country.

⁴WHD issues two wage determinations for each locality, reflecting identical wages and rates for health and welfare fringe benefits. However, the requirements for contractor compliance are different. One determination reflects health and welfare benefits that are required to be furnished on a fixed payment per hour on behalf of each service employee; the other requires employer contributions to cost an average of the amount specified on the basis of all hours worked by service employees employed on the contract. The average cost method is used only for those SCA covered contracts where this method of calculating health and welfare fringe benefits has been used in the past. No new SCA contract requiring a prevailing wage determination is allowed to have the average cost health and welfare fringe benefit.

⁵In addition to contracting agencies requesting formal wage determinations, contractors may obtain specific occupational wage determinations, through the SCA conformance process. When wage determinations do not include an occupation in which covered workers will be employed, the conformance process allows contractors to propose the use of workers in an occupation at a wage rate that is reasonable when compared with other occupational wage rates in the applicable wage determination (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. To prevent the possibility of any workers performing work and not receiving the proper wages, the contractor initiates the conforming procedure before the unlisted class of employee performs any work. The contractor submits the conformance request to the contracting officer, who reviews and forwards it to WHD. The final determination of the conformance action by WHD is transmitted to the contracting officer who notifies the contractor of the action taken. Each affected employee is provided with a written copy of the determination or it is posted as part of the wage determination.

Steps for Obtaining a Wage Determination

a consolidated and a nonstandard wage determination for a specific geographic locality.

The initial responsibility for determining SCA coverage and the need for a wage determination rests with the federal contracting agency.⁶ An agency initiates the wage determination process when it determines that it has a need for a particular service and that the anticipated contract falls under the auspices of SCA. Wage provisions for construction or manufacturing and furnishing goods are covered under other acts.⁷ In its request for a wage determination from WHD, the contracting agency must provide a description of the services to be performed under the contract and specify the dates and location where the services are to be performed.⁸ In addition, the agency must provide information on incumbent contractors, the previous wage determination for the needed occupations, and any collective bargaining agreements that may apply.⁹ It also must identify the occupational titles (e.g., secretary) and classes (e.g., secretary I, II, and III) and the number of service employees needed to perform the work on the contract, and the hourly wage rates that would be paid if such workers were federally employed. The contracting agency uses DOL's SCA directory of occupations when listing the occupational titles of workers to be employed under the contracts. Use of the directory allows the federal

⁶If a federal agency is unsure as to whether or not SCA should apply to a particular contract, WHD will make the final determination of coverage.

⁷The Davis-Bacon Act requires payment of prevailing wages and benefits to employees of contractors engaged in federal government construction projects in excess of \$2,000, and the Walsh-Healey Public Contracts Act requires payment of minimum wages and other labor standards by contractors providing materials and supplies to the federal government under contracts valued in excess of \$10,000.

⁸When the location of work under a contract is unknown at the time of solicitation, the contracting agency is supposed to contact WHD for guidance. The contracting agency will issue an initial solicitation with no wage determination, from which it identifies potentially interested bidders and the possible performance locations and then transmits this information to WHD. WHD will issue separate wage determinations for the various localities identified in the first step that are incorporated in the solicitation prior to the submission of final bids. The appropriate wage determination applicable to the geographic location of the successful bidder must be incorporated in the resultant contract and must be observed, regardless of whether the contractor subsequently changes the place(s) of contract performances.

⁹For certain contracts, when a union collective bargaining agreement covers service employees, SCA requires that these wage and fringe benefit rates in the agreement supplant any that may otherwise prevail in the locality for other employees. The SCA also requires that, except in rare circumstances, successor contractors honor earlier contractors' wage and fringe benefits arrived at through collective bargaining agreements.

contracting agency, WHD staff, and ultimately the contractor to match standard job descriptions with these titles. The directory contains 360 job classifications.

DOL's SCA directory of occupations contains information on the federal civil service grade levels most likely to correspond to the listed occupations. For example, the directory lists the occupation of janitor as a wage grade (WG) 2, indicating the rate at which a janitor would be paid if performing the work as a federal employee. WHD staff have the option to use such information to develop prevailing wages for occupations with no available survey data. Contractors and federal agency staff may utilize this federal grade equivalency (FGE) data¹⁰ to guide wage rate proposals for occupations to be "conformed" (i.e., the derivation of a wage rate for an additional occupational class not originally included in the wage determination). These comparable pay rates or grade levels are used to apply the principles of "due consideration" required by the SCA.¹¹

The contracting agency may also attempt to obtain a wage determination through DOL's online wage determination database. The Web site provides guidance on, among other things: selecting the appropriate wage determination for each contract action, access to the most current wage determinations, as well as an alert service for notification of future revisions to particular wage determinations. Contracting agencies can use the Web site to identify a wage determination from the online database or to submit an electronic request for a wage determination when one is not listed or if the contracting official is unsure about the applicability of the online selections.

Each year DOL issues wage determinations that are specific to a selected geographical area—sometimes for an entire state—and provide the minimum wages and benefits that contractors in that area must pay to

¹⁰FGE rates are divided into the following three classifications for purposes of SCA administration: (1) GS (general schedule) refers to grade rates utilized for non-supervisory appropriated fund "white-collar" positions; (2) WG (wage grade) refers to grade rates utilized for non-supervisory appropriated fund "blue-collar" positions; and (3) NAF (Non-Appropriated Fund schedule) refers to rates utilized for non-supervisory non-appropriated fund positions.

¹¹"Due consideration" must be given to federal wage rates when issuing SCA wage determinations, i.e., the rates applicable to service employees if directly hired by the federal government.

WHD Conducts Enforcement Efforts

service employees. The wage determination becomes a part of the solicitation and, later, part of the awarded contract.

WHD enforces and administers laws governing legally-mandated wages and working conditions.¹² Its responsibilities include enforcing SCA and related WHD enforcement policies. When WHD finds through its enforcement efforts that workers have been underpaid, SCA requires that the contractor pay the unpaid wages and benefits. WHD may also sue to recover wage and benefit payments or ask the federal agency to either withhold contract payments or terminate a contract. Although WHD has no legal authority to assess civil monetary penalties against contractors, contractors violating SCA may be debarred for 3 years from obtaining future government contracts.¹³ WHD tracks investigations, violations, and findings in its investigations database—the Wage and Hour Investigative Support and Reporting Database (WHISARD). Contractors and subcontractors may challenge determinations of violations and debarment before an administrative law judge. Contractors and subcontractors may appeal decisions of administrative law judges to the Administrative Review Board. Final Board determinations on violations and debarment may be appealed to and are enforceable through the federal courts.

WHD staff are located in 5 regional and 72 district, area, and field offices throughout the country. Regional Administrators plan, schedule, and target enforcement efforts in their respective regions. Regions are comprised of district and area offices, each of which operates under a district director (see fig. 1). The district directors oversee investigators, who play a key role in carrying out WHD’s enforcement policies. There were approximately 800 investigators in district and area offices in fiscal year 2004. Investigators are trained to investigate a wide variety of workplace conditions and complaints and enforce a variety of labor laws

¹²In addition to SCA, WHD also enforces the Davis-Bacon Act, the Employee Polygraph Protection Act, the Family and Medical Leave Act of 1993, the Walsh-Healey Public Contracts Act, the Copeland Act, the Contract Work Hours and Safety Standards Act, the Migrant and Seasonal Agricultural Workers Protection Act, the Fair Labor Standards Act, certain employment standards and worker protections under the Immigration and Nationality Act, and the wage garnishment provisions of the Consumer Credit Protection Act.

¹³For more information about federal debarment processes, see GAO, *Federal Procurement: Additional Data Reporting Could Improve the Suspension and Debarment Process*, [GAO-05-479](#) (Washington, D.C.: July 29, 2005).

in addition to SCA.¹⁴ Each region also has a regional wage specialist who can provide advice on SCA matters.¹⁵

¹⁴Complaints are a key component of DOL enforcement activities. DOL enforcement efforts under many federal labor laws and programs generally rely on two types of information to identify potential violations: (1) complaints from individuals who believe they may have suffered a violation and (2) analysis of data to specifically target problematic industries or worksites. Complaints and targeting occur, for example, as part of DOL workforce and worksite protection activities under the Occupational Safety and Health Act, child labor, day laborer, and wage protection activities under the Fair Labor Standards Act, and prevailing wage enforcement under the Davis-Bacon Act.

¹⁵WHD enforces five federal laws that are generally referred to as contract labor standards statutes: the Davis-Bacon Act (construction), the Walsh-Healey Public Contracts Act (goods), the SCA (services), the Copeland Act (Davis-Bacon payroll compliance), and the Contract Work Hours and Safety Standards Act (overtime provisions for certain workers employed on Davis-Bacon and SCA covered contracts).

Figure 1: Location of ESA's Offices



Source: GAO.

FPDS statistics indicate that federal service contracts continue to increase in number and total dollar volume each year. According to ESA's fiscal year 2003 Annual Performance Plan, federal contractors and subcontractors employed nearly 25 percent of the civilian workforce—about 26 million workers—in the U.S. economy. Although the exact number of workers in the subset covered by SCA is unknown, it has been

estimated that hundreds of thousands of federal service contract workers are employed annually under such contracts.¹⁶

Wage Determination Process Relies on Multiple Data Sources and Professional Judgment but Lacks Transparency

WHD consults multiple wage data sources and relies on analysts' professional judgment when making wage determinations, but the process lacks transparency and leaves wage determinations prone to criticism. When making a wage determination, WHD analysts consult several sources of information, such as its SCA directory of occupations and data collected through two BLS national wage surveys, for wage data on occupations. Relying on these tools and their own expertise, analysts calculate prevailing wages and fringe benefit amounts for specific geographic locations. Stakeholders contend that the wage determination process is not transparent and that the resulting wages do not always reflect local wage conditions. As a result, analysts spend considerable time responding to inquiries about the methodology used to determine wages. Stakeholders with these concerns, such as unions and contractors, told us that they might have fewer questions about the process if WHD made more information available. In addition, WHD last issued a comprehensive edition of its SCA directory of occupations in 1993 and has no systematic process in place for updating it. As a result, the directory does not include a broad range of emerging occupations that are covered under SCA.

WHD Relies on Multiple Data Sources and Staff's Professional Judgment When Making Wage Determinations

WHD analysts consult the SCA directory of occupations as a first step in the process of determining wages. They then consult a number of different sources of data when calculating wage rates. Finally, analysts must also include the fringe benefit rate for the specific locality in each wage determination.

Directory of Occupations

WHD analysts use the SCA directory of occupations, a reference tool that describes standard service occupations typically utilized in the

¹⁶FPDS does not report the number of service contract workers and WHD does not have or maintain such numbers. We found an estimate of 700,000 as the number of service contract employees working on covered contracts in 1986. In 1995, WHD's Administrator testified before Congress that SCA protected "roughly a million workers a year." In addition, a February 2001 Congressional Budget Office document stated that the SCA in 2000 covered approximately 27,000 contracts valued at \$33 billion, but did not comment on the number of service contract employees.

performance of SCA-covered contracts, to develop wage determinations.¹⁷ The directory is not just an information document—it is a critical part of the wage determination process throughout the federal contracting system. However, the process that WHD uses to update its SCA directory of occupations is not written down and is essentially ad hoc. There are neither written procedures that describe how or when WHD updates the directory, nor a required or standard time interval for how often the directory should be updated.

DOL has no systematic process for updating its SCA directory of occupations, but instead, updates it periodically. The current edition of the directory was issued in 1993. Since then, there have been three supplements to the directory.¹⁸ According to WHD officials, when there is a sufficient volume of smaller-scale changes proposed by stakeholders, they will issue a supplement to the directory. Stakeholders usually bring the need for supplements to WHD's attention. Supplements can involve adding some classes of jobs as well as editing or removing others. WHD can make these changes to job classes either with or without getting stakeholder approval. A recent effort to update and release a new edition of the directory, begun in 2002, was initiated after federal contracting agencies, contractors, trade associations, and unions raised concerns that the existing directory did not meet their needs. In fact, stakeholders independently drafted an update to the directory and presented it to WHD. While WHD is not legally required to include outside parties in the update process, WHD has encouraged stakeholders to participate, allowing them to review all suggested changes. According to WHD officials, the update has been long in the making, due in part to the number of suggested changes received from and deliberated by the stakeholders.

Some stakeholders, however, have expressed frustration with the length of time the update has taken. In response, one senior WHD official we spoke to explained that, in some cases, directory changes could have significant cost implications for both wages and fringe benefits at the local level and that careful consideration is necessary to make proper adjustments. Stakeholders, the official contended, may not realize the implications of

¹⁷If an occupation is not listed in the directory, it is considered a non-standard job and an analyst would proceed in a different manner to calculate a wage determination for that occupation.

¹⁸These supplements were issued on December 15, 1993; August 1, 1995; and March 10, 1997.

the changes or additions that have been proposed. For example, an issue was raised of whether it was more appropriate to classify the occupation “truck dispatcher” as an administrative, clerical, technical, or professional position, when each category brings with it a different level of wages and benefits.

Throughout the update process, several job categories and occupational classes have been added to, or deleted from, the directory. WHD analysts responded to stakeholder needs for job classifications that were not available in the directory. For example, WHD added a job classification in response to a DOD need for an “unexploded ordnance technician.” WHD worked with DOD to develop an accurate description for placement in the directory. Similarly, the job category of “detention officer” was added at the request of U.S. Citizenship and Immigration Services because of the volume of hiring and the uniqueness of the duties performed. In these cases, WHD did not involve additional agencies in the process of changing the directory. Ultimately, WHD has the authority to decide which jobs are included in the directory.

Despite recent efforts to update the directory, some common service occupations are still missing. Specifically, the directory does not contain the occupations “customer service representative” or “telemarketer.” Contracting agencies that need such services performed cannot acquire the wage rate from DOL’s online wage determination system and must request a separate wage determination from a WHD analyst. In addition, WHD officials told us that analysts sometimes receive multiple wage determination requests for the same unlisted occupations, thereby increasing their workload. The directory also does not list an occupational title for “call center representative.” A contractor told us that as a result, wage determinations for call center contracts with federal agencies generally listed these occupations as “general clerk I, II, and III.” According to this contractor, the wage determination for a general clerk is usually lower than the market rate for a call center representative. The contractor pointed out that federal agencies will likely have an increased need for call center representatives in the years ahead. Some contractors told us that, while they often must pay additional amounts to meet the market rate to be able to recruit qualified workers, they cannot submit the higher rates in their bid without risking the loss of the contract to a competitor. Contractors warned that, in cases like these where they lose a contract to a lower bidder, federal agencies may be at risk of contracting with employers who will provide a lower quality of services. According to these contractors, the difference in wage rates paid to workers on SCA-covered contracts and those not working on SCA-covered contracts can

lead to some workers feeling demoralized. WHD officials told us that after the current update is issued, which is expected to occur in October 2005, no plans are underway for the next update.

Process for Determining Wages

WHD analysts rely on professional judgment when calculating wage rates. WHD provides analysts with methodology worksheets that assist them in determining a wage. These worksheets provide an outline of how an analyst should proceed when certain conditions exist (such as, when survey data are not available for a specific occupation). The worksheets are intended to guide analysts without dictating the exact determination process.

More specifically, to determine a wage rate, analysts review the available wage data sources as well as previously issued wage determinations. Analysts base most wage determinations on nationwide survey data collected by BLS under the National Compensation Survey (NCS)¹⁹ and the Occupational Employment Statistics (OES) survey,²⁰ or other data showing the rates that prevail in a specific locality.²¹ Analysts also take into account previously issued wage determinations when setting a new or revised wage rate. For example, to maintain general consistency from year to year, WHD instructs its analysts to not issue a rate lower than or more than 10 percent above the previously issued wage rate. In addition, when wages have been set by a collective bargaining agreement, analysts are required by SCA to carry over those negotiated wages to contractors who take over

¹⁹The National Compensation Survey (NCS) provides comprehensive measures of occupational earnings, compensation cost trends, benefits incidence, and detailed plan provisions. Detailed occupational earnings are available for metropolitan and non-metropolitan areas, broad geographic regions, and on a national basis. The July 2004 NCS sample consisted of 152 metropolitan areas and nonmetropolitan areas that represent the nation's 326 metropolitan statistical areas (as defined by the Office of Management and Budget) and the remaining portions of the 50 states. It included establishments representing nearly 81 million workers within the scope of the survey.

²⁰The Occupational Employment Statistics (OES) survey produces employment and wage estimates for about 800 occupations. These are estimates of the number of people employed in certain occupations, and estimates of the wages paid to them. Self-employed persons are not included in the estimates. These estimates are available for the nation as a whole, for individual states, and for metropolitan areas. BLS produces occupational employment and wage estimates for about 350 industry classifications at the national level. The OES program surveys approximately 200,000 establishments every 6 months, taking 3 years to fully collect the sample of 1.2 million establishments.

²¹In addition, some occupational rates on the wage determination may be taken directly from the Non-Appropriated Fund schedule, Federal Wage System schedule, or the General Schedule "white collar" pay scales.

ongoing contracts. Finally, analysts use the union dominant rate, when applicable.²²

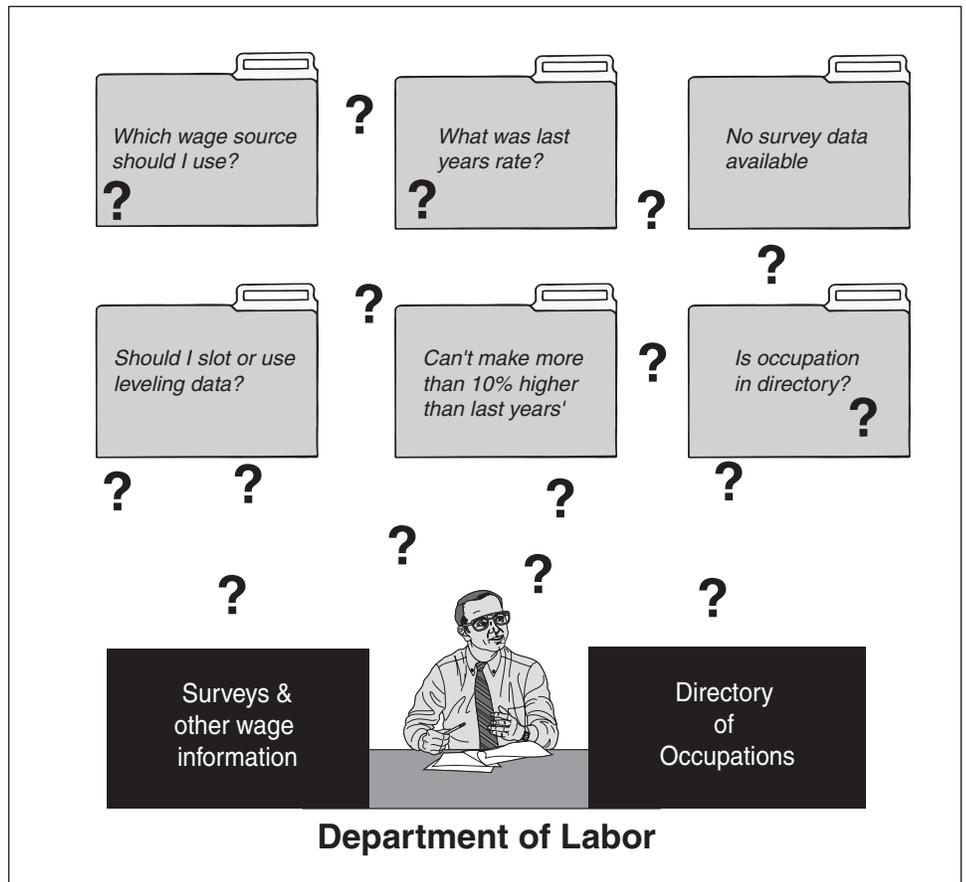
After selecting a data source, analysts review the wage information for different classes of the same occupation (e.g., the different classes, I, II, and III, of the occupation “secretary” require successively more advanced skills) and the pay relationships that exist between these job classes (i.e., the different classes of secretary are paid successively more for their advanced skills), and make adjustments as needed to address data abnormalities or inconsistencies. For example, an analyst would make an adjustment if the data showed lower wages for a secretary III than for a secretary I or II. Analysts also review occupations in the same broad job category (e.g., administrative support and clerical occupations) to ensure that different occupations performing commensurate duties receive similar pay.

When data for an occupation are not included in existing wage surveys, analysts can establish a prevailing wage rate through a procedure called “slotting,” which involves comparing equivalent or similar job duties and skills between surveyed classifications and other classifications for which no survey data are available. For example, analysts may adopt the rate for a “computer operator” and use it for a “peripheral equipment operator” (whose duties include taking corrective actions to return equipment that directly supports computer operations, such as printers, to proper working order) because the job duties and skills required for both classifications are rated at the same level under the grading system for federal employees.²³ Further, when the survey lists varying wage rates for several similar occupations, such as the “general maintenance trades,” analysts will determine the average wage and use that rate as the prevailing wage for the entire group of occupations. See figure 2 for a graphic illustration of some of the factors an analyst may consider when determining a wage rate.

²²A union dominant rate is considered to prevail when the rate is paid to a majority (more than 50 percent) of the union workers engaged in similar work in a particular locality.

²³Analysts using NCS can also use “leveling” data to determine a rate for an occupation for which no survey data are available. For example, if no data were available for the occupational classification of “secretary,” analysts could use data from the next broader category of “administrative support and clerical,” or use data from the even broader category of “white collar, excluding sales,” to calculate a wage rate.

Figure 2: Factors Considered in SCA Wage Determination Process



Source: GAO analysis.

An additional reason why analysts must rely on professional judgment when determining wage rates is that BLS's wage surveys were not designed for the purpose of determining wages and fringe benefit rates. While the BLS surveys may provide the most comprehensive wage data available, WHD analysts must perform some manipulation of BLS's data when calculating wage rates. As a result, WHD's reliance upon these data may not ensure that the wage rates it sets reflect labor market conditions. For example, because the survey responses may include the wage rates for some SCA service contract workers whose rates are set by a wage determination, analysts may not be using data that fully reflect the local labor market conditions. In other words, WHD, in trying to determine the market rate for certain occupations, may be referencing survey responses of its own derived rates. However, we did not attempt to determine the

extent to which BLS data includes such information. In addition, one BLS survey used by WHD excludes smaller employers with fewer than 50 employees from its sample population. As a result, the survey results could inflate or deflate actual wages for the types of occupations typically employed by smaller employers. Another reason that BLS survey data may affect WHD's ability to set rates that reflect market conditions is that the occupational classifications in DOL's SCA directory of occupations do not always match OES occupational classifications, making it difficult for WHD analysts to match the OES wage data to the SCA occupation without significant analysis. Because OES does not collect data for each classification for every locality surveyed, WHD must sometimes use the "slotting" procedure to derive a wage determination.²⁴

Process for Determining Fringe Benefit Rates

In addition to a wage rate, each SCA wage determination also includes the fringe benefit rate for the specific locality. Analysts generally set a universal fringe benefit rate that employers must pay to all workers in a specific geographic area regardless of their occupational class. The fringe benefit amount typically includes health and life insurance coverage, sick leave, retirement plans—items that are typically referred to as health and welfare (H&W) benefits²⁵—as well as vacations and holidays. WHD analysts arrive at the H&W rate used in wage determinations by consulting nationwide data from BLS's Employer Cost for Employee Compensation (ECEC) survey. In contracts awarded since new regulations became effective in June 1997, the fringe benefit rate has most often been calculated on a "fixed cost per employee" basis, where each employee

²⁴According to BLS officials, OES allows respondents to report occupational information for every detailed non-military occupational title in the Standard Occupation Classification. If survey respondents do not provide any data on a particular occupation, then BLS is unable to publish wage data for that occupation. In addition, BLS will not publish some estimates for some occupations in some areas to protect confidential responses.

²⁵The term "health and welfare" fringe benefits refers to all benefits provided to workers that are not otherwise required by law *except* vacation and holiday benefits, which are determined separately under SCA. The SCA H&W rate is based on employer costs per hour worked for all benefits. However, holidays, vacations, and benefits otherwise required by law, such as social security, unemployment insurance, and workers' compensation payments are excluded from these determinations. Holidays and vacations are determined separately and benefits otherwise required by law are reported annually by the BLS Employment Cost Index study of employer costs for employee compensation in the private sector (i.e., all workers, all industries, all establishment sizes, and all occupations).

receives the same benefit amount.²⁶ Employers may meet their fringe benefit obligations by paying the employee the cash equivalent of the specified fringe benefits. In June 2005, the “fixed cost per employee” SCA health and welfare benefit rate was increased to \$2.87 per hour, which equates to about \$497 per month.

**Lack of Transparency
Leaves Wage
Determinations Prone to
Criticism**

The wage determination process requires analysts to apply professional judgment in selecting both the appropriate source and method for calculating the prevailing wage rate. Contractors and other stakeholders contend that the process that analysts follow when determining a wage is not transparent and that determinations do not necessarily reflect local wage conditions. In fact, WHD does not include a description of the methodology used to derive the wage rates in its wage determinations, such as the wage data source used or the procedures analysts’ follow. As a result, analysts spend considerable time responding to inquiries from contractors, employees, union representatives, and others regarding how they determine wages. According to WHD officials, analysts received about 23,000 telephone inquiries in a recent 12-month period, mostly from service contract employees who want to know how their wage rate was calculated or why their rate differed from a similar rate in a neighboring locality.²⁷ Congress, unions, and others also contact WHD staff to inquire on behalf of their constituents or members. WHD assigns these inquiries to analysts as they are received. WHD officials told us that the specific methodology of calculating a wage rate for a certain occupation in a certain geographic location can change from year to year based on a series of elements, such as the availability of survey data or an analysts’ professional judgment. While analysts do provide details to those who inquire, WHD does not provide individual methodology worksheets in writing, stating that doing so would result in additional inquiries as to why rates are not calculated by the same method as in the previous year and take analysts away from their primary task of issuing new and revised

²⁶Previously, contracts could contain a fringe benefit rate based on the contractor’s average fringe benefit cost for all service employees working on the contract. Under the “average cost method,” providing benefits must, at a minimum, cost the employer an average of \$2.87 per hour computed on the basis of all hours worked by service employees employed on the contract. Under this method, workers receive varying levels of benefits, i.e., a worker with no dependents may receive less in benefits than one with dependents, but the average cost to the employer must be at least the specified rate.

²⁷In addition, between October 2004 and August 2005, WHD received 301 pieces of correspondence with this nature of inquiry.

wage determinations. Stakeholders with concerns told us, however, that it would be helpful to them if more information about the process was made available.

WHD receives criticism that its wage determination rates do not reflect market conditions. Some contractors say that private-sector wage data provide a more accurate measure of local labor market conditions than BLS survey data that were not designed for the purpose of determining wages and fringe benefit rates.²⁸ However, WHD officials told us that to the extent its wage rates are perceived as not reflective of the market rate, one possible reason could be that WHD sets internal parameters for wage determinations (e.g., not issuing a wage rate lower than or more than 10 percent above the previously issued rate) to ensure consistency from year to year. As a result, while BLS survey data may be lower or higher than the resulting wage determination, analysts manipulate wage rates to ensure a consistent wage structure.

DOL Enforces SCA by Conducting Investigations, Ensuring Contractor Payments, and Providing Compliance Assistance, but WHD Could Make Better Use of Violation Data

WHD enforces SCA by conducting contractor investigations, ensuring contractor payments to employees, and providing compliance assistance to stakeholders. WHD investigates complaints from service contract employees, contractors, federal agencies, unions, and others who allege that contractors have failed to pay either the wages or fringe benefits, or both, specified in service contracts. WHD collects violation data, but it does not fully use these data to plan compliance assistance, target specific service industries or geographic locations for SCA investigation, or set strategic enforcement goals. When investigations find that contractors have failed to pay in accordance with contract wages or benefits, WHD acts to ensure that contractor payments are made to employees. WHD also provides compliance assistance to contractors, federal agencies, unions, and others to help them comply with SCA requirements and avoid SCA violations.

WHD Conducts Complaint-Driven Investigations

SCA investigations originate when contract employees, federal agencies, competitor contractors, or employee representatives complain to WHD that a contractor has failed to comply with the wage or benefit

²⁸We did not attempt to verify current labor market conditions through a survey of our own.

requirements in a contract.²⁹ WHD investigators then consult and interview contractor officials, inspect the contract and contractor payroll records, and interview service contract employees. WHD records investigation data, such as the name of the contractor, geographic location, industry, and the type of violation, in its WHISARD database.

When responding to complaints, WHD investigators review WHISARD data for prior contractor violations. WHD uses violation data on a case-by-case basis to determine whether an individual complaint warrants expansion to a more comprehensive “directed” investigation. For example, WHD may decide to expand the scope of an initial complaint to encompass other employees under the same contract, additional contractor locations, or other service contracts involving the same contractor. WHD records all alleged SCA violations in its WHISARD database and classifies investigations as either complaint or directed. WHD generates violation reports from WHISARD that summarize investigation findings.

SCA violation reports for fiscal years 2003 and 2004 show that about 87 percent of all investigations during this period were classified as complaint and about 14 percent were classified as directed. Table 1 shows the number and percentage of complaint investigations and directed investigations for fiscal years 2003 and 2004.

Table 1: Number and Percentage of SCA Investigations by Category, Fiscal Years 2003 and 2004

	Number of investigations		Percentage of investigations		Average
	FY 2003	FY 2004	FY 2003	FY 2004	
Complaint	597	570	86	87	86
WHD directed	101	84	14	13	14
Total	698	654	100	100	100

Source: GAO analysis of WHD data.

²⁹DOL’s fiscal year 2004 Performance and Accountability Report noted that approximately 75 percent of WHD’s resources are devoted to complaint investigations and resolution for all program acts it enforces. Some investigations are performed in response to allegations that a federal agency should have, but did not classify the work being performed under a federal contract as subject to SCA.

WHD headquarters and regional enforcement officials told us that a complaint-based enforcement strategy offers an efficient approach to enforcing multiple labor laws. Consequently, WHD does not analyze or use violations data from WHISARD to (a) examine the extent to which specific service industries or geographic locations may warrant increased compliance assistance or directed investigations under SCA or (b) develop SCA-specific strategic goals. Concerning the latter, while ESA's 1999–2004 strategic plan contains specific outcome or performance goals for some labor acts, such as the Davis-Bacon Act and the Fair Labor Standards Act (FLSA), there are none for SCA. WHD has overall strategic enforcement goals that cut across all labor laws it enforces, such as improving timeliness in response to complaints and reducing the number of violators who have repeat or recurring violations. Moreover, ESA's strategic plan uses violation data in WHISARD to focus enforcement efforts on low-wage industries reflective of employers that have previously violated labor laws, such as FLSA, minimum wage and child labor laws, and others.³⁰ While the focus on low-wage industries may detect violations in some service contract industries, it does not assure that all service contract industries with serious or frequent SCA violations are identified.

WHD Enforcement Efforts Result in Payment of Back Wages and Fringe Benefits and Debarment of Some Violators from Future Contract Work

When a WHD investigation determines that a contractor has failed to pay wages or fringe benefits to contract employees, WHD attempts to reach agreement with the contractor regarding the amount of back wages and fringe benefits owed employees. WHD also monitors contractor activity to ensure that the amounts owed to employees are eventually paid to them.³¹ In fiscal year 2004, WHD initially investigated 654 reportable cases—cases with possible SCA violations—and ultimately found 493 cases with SCA violations that began as an SCA investigation. In addition, 44 other cases,

³⁰Strategic planning includes developing strategic goals, outcome goals, performance goals, and baseline measures for certain problem industries. WHD develops outcome and performance goals for those industries and develops baseline measures as criteria against which to measure its performance in accomplishing those goals only after selecting specific industries that warrant attention. ESA's strategic plan and annual performance plan are incorporated into DOL's overall plans. DOL's 2004 Performance and Accountability Report stated that WHD had reached its performance goals for increasing compliance with FLSA, in what WHD refers to as "industries with chronic violations," such as the garment manufacturing, long-term health care, and agricultural commodities industries, but had not reached its target to reduce the number of employers who had prior violations of the act.

³¹WHD maintains a system—the Back Wage Collection and Disbursement System—to monitor the collection process, amounts, payments to employees, etc.

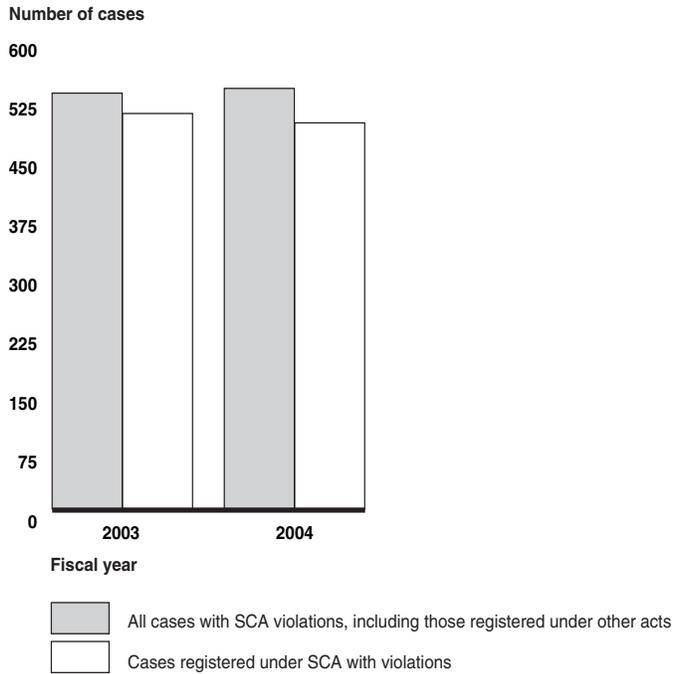
registered by WHD under other labor acts it enforces, had SCA violations.³² These 537 cases, more than 80 percent of the total number of SCA investigations, uncovered \$18.7 million in contractor back wages and fringe benefits that were owed to employees. WHD obtained contractor agreements to pay \$16.4 million to employees.³³ Once a contractor has reached agreement with WHD on the amount of wages and benefits owed, WHD monitors contractor payments and does not conclude the case until the contractor has made full payment.

WHD treats each instance of failure to pay a contract employee the proper wage to be a separate violation of the act. Likewise, WHD considers the failure to pay that same employee the proper fringe benefit as a separate violation. Thus, a contractor who fails to pay the proper wage and the proper fringe benefit would be cited for two separate SCA violations. Figure 3 shows the total number of cases found to have SCA violations in fiscal years 2003 and 2004, differentiating those cases that were registered under other WHD acts from those that were initiated as an SCA investigation.

³²In addition to complaints of alleged SCA violations, WHD may initially register a complaint as a possible violation of other acts such as the Contract Work Hours and Safety Standards Act, the Davis-Bacon Act, or FLSA, and then later determine that the act violated was the Service Contract Act. WHD's WHISARD database contains information on cases with SCA violations and the registration act under which the case was initiated. As shown in figure 3, most cases with SCA violations are registered under SCA.

³³WHD may allow some contractors to pay less than what WHD initially determines is owed if the contractor negotiates with WHD and provides adequate justification for a lesser amount.

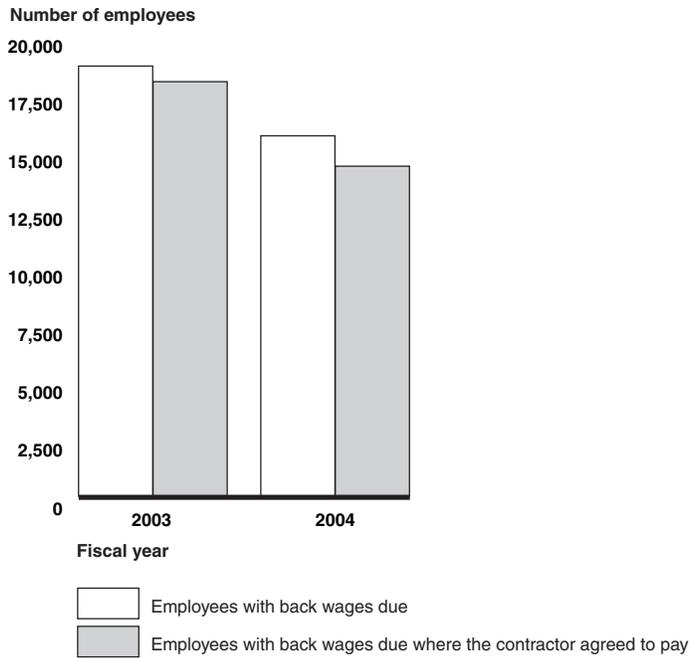
Figure 3: Cases with SCA Violations, Including Those Registered under Other Acts



Source: GAO analysis of WHD data.

WHD’s SCA investigations have a generally high success rate when judged by one key measure of enforcement success—the percentage of back wages and benefits that contractors agreed to pay—compared to the wages and benefits that contractors owed. WHD’s overall rate of back wages recouped has also been high. Figure 4 shows the number of employees with back wages owed them, and the number of employees whom contractors agreed to pay for fiscal years 2003 and 2004. For these two periods, contractors agreed to pay about 89 percent of unpaid wages that they were found to owe for SCA violations.

Figure 4: Employees with Back Wages Due, and Employees Whom Contractors Agreed to Pay, Fiscal Years 2003 and 2004



Source: GAO analysis of WHD data.

WHD may debar contractors who refuse to pay back wages and fringe benefits owed to service contract employees or otherwise meet SCA and WHD conditions for debarment.³⁴ WHD may also arrange with federal agencies to permit debarred contractors to complete the contract under which violations occurred, but debarred contractors may not bid on or be

³⁴Conditions include a history of monetary and recordkeeping violations; willfulness of past violations as determined by their nature, extent, and seriousness; falsification or concealment of records; intentional employee misclassification; or large amounts of back wages due where there exists no reasonable excuse for the violations. According to WHD officials, a firm's past compliance history, which is maintained in WHISARD, is used to refute claims from contractors facing debarment who say that they did not repeatedly or seriously violate the act. The WHISARD database, however, does not provide a comprehensive source of debarred contractors. WHD headquarters officials told us that they maintain manual files with information on debarred contractors and produce internal WHD reports on debarments. There are lists of debarred contractors, however, that are maintained by the General Services Administration, called the Lists of Parties Excluded from Federal Procurement and Non-procurement Programs, that identify those parties excluded throughout the federal government from, among other things, receiving federal contracts. Contracting agencies are required to check this list before awarding a contract.

awarded any other federal contracts during the standard 3-year debarment period. WHD debarred 17 contractors in fiscal year 2004, in contrast with approximately 450 contractors that it investigated. Table 2 shows the number of debarments for fiscal years 2000 through 2004 by region.

Table 2: Number of SCA Debarments, Fiscal Years 2000 through 2004

Region	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	Total
Northeast	3	4	4	5	4	20
Southeast	2	4	0	1	2	9
Midwest	2	0	5	3	5	15
Southwest	4	2	5	6	4	21
West	2	8	1	4	2	17
Total	13	18	15	19	17	82

Source: WHD.

Training and Outreach Efforts Aim to Improve SCA Compliance

WHD provides compliance assistance to federal contracting agencies and contractors to help improve SCA compliance. One of WHD's basic missions is to provide employers and workers with clear and easy-to-access information on how to comply with federal employment laws—information and guidance that are often referred to as compliance assistance. Compliance assistance includes brochures and pamphlets, workplace posters, telephone consultations, on-site consultations, training sessions or seminars for individuals or groups, and Web-based information. WHD's Web site, for example, contains an Employment Law Guide with details about SCA coverage, requirements, employee rights, penalties, and sanctions.

In fiscal year 2004, WHD provided SCA compliance assistance at national, regional, and local levels to federal agencies, contractors, and service contract employee groups. National-level training and outreach efforts included presentations, speeches and seminars for the National Industries for the Blind and the U.S. Patent and Trademark Office, and panel discussions with the National Star Route Mail Contractors' Association. Regional offices provided similar outreach and training to officials from such federal agencies as the Office of Federal Contract Compliance Programs, Small Business Administration, Social Security Administration, and the U.S. Army Corps of Engineers. Local-level training and outreach included presentations to the Directorate of Contracting at Fort Riley, Kansas, and to employers that have SCA low-wage industry contracts under a Small Business Administration program. In fiscal year 2004, WHD provided training to federal agency contracting officials in the Department

of Defense through an arrangement with the Contract Services Association of America, an organization that promotes the use of private contractors for all federal government services.

One of the most universal forms of day-to-day compliance assistance that WHD provides is its workplace poster. SCA requires contractors to post the poster at work sites unless the contractor has notified individual employees of their wages and benefits.³⁵ WHD regulations issued to implement SCA state that the WHD poster (Publication WH 1313), when applicable, shall be posted in a prominent and accessible place at the worksite, and failure to comply with this requirement is a violation of the act and of the contract.³⁶

WHD's SCA workplace poster serves a dual purpose of both assistance and enforcement. As an assistance tool, the poster informs service contract employees of their wages, benefits, and other entitlements (overtime and safety and health conditions) under the contract with the federal government. As an enforcement tool, the poster provides evidence that the contractor is subject to SCA and DOL regulations governing service contracts as they relate to employee notification. WHD has designed the poster to be used for both SCA and the Walsh-Healey Act. WHD's Web site makes this Service Contract Act/Walsh-Healey Poster readily available to the public.

While WHD relies heavily on complaints from employees and others to enforce SCA, WHD's worksite poster does not provide a telephone number for employees or others to call to register complaints. Instead, the poster directs inquiries for information to the Wage and Hour Division offices located in "principal cities." The poster also directs potential complainants to check their telephone directory under U.S. Government, Department of Labor, Wage and Hour Division. WHD last revised the poster in 1996.

A workplace poster that does not provide service contract employees and others with a clear and easy-to-access method of filing a complaint may hamper their reporting of such complaints. In the absence of a telephone

³⁵ 41 U.S.C. 351(a)(4) requires that every service contract contain a provision that the contractor either (1) deliver to the contract employee a notice of wage and fringe benefit compensation under the contract or (2) post a notice of the required compensation in a prominent place at the worksite.

³⁶ 29 C.F.R. 4.6(e).

point of contact at WHD, service contract employees may not have the opportunity to report possible or suspected violations of the act and therefore may not receive the full benefit of protection authorized under the act.

We reported in 2004 that DOL's Occupational Safety and Health Administration (OSHA) relies heavily on complaints to enforce the Occupational Safety and Health Act.³⁷ OSHA, in general, responds to complaints according to the seriousness of alleged hazards, a policy that OSHA credits with conserving agency resources. Like WHD, OSHA uses workplace posters as part of its overall compliance assistance enforcement efforts.³⁸ OSHA's workplace posters display a universal national telephone number, telephone numbers for each of OSHA's 10 regional offices, a national number accessible to the hearing impaired, and instructions on how to file a complaint online through OSHA's Web site.

Conclusions

Determining locally prevailing wages for service employees working in hundreds of occupations throughout the nation is a tremendous undertaking and one that WHD is committed to performing with diligence. It is the only organization producing such a vast number of locally prevailing wage rates on a national scale. For their part, WHD analysts have the support of their agency in applying their professional judgment when setting the wage and benefit rates. However, WHD could benefit from greater transparency of its wage determination process. WHD provides limited information on the methodology used to determine SCA wage rates, resulting in analysts receiving numerous inquiries about how they determined wages. Responding to individual requests for explanation diverts analysts from their primary duties of revising and issuing new wage determinations. WHD expressed concerns that providing additional information on its methodology may trigger additional inquiries. However, we believe that additional information could inform some stakeholders, especially those that represent contractors and employees, who could in turn educate their members. As a result, some individuals who otherwise would contact WHD for an explanation on how wages are determined

³⁷GAO, *OSHA's Complaint Response Policies: OSHA Credits Its Complaint System with Conserving Agency Resources, but the System Still Warrants Improvement*, [GAO-04-658](#) (Washington, D.C.: June 18, 2004).

³⁸See OSHA Publication 3165, Job Safety & Health Protection Poster (English) and OSHA Publication 3167, Job Safety & Health Protection Poster (Spanish). OSHA's poster Web site notes that all covered employers are required to display and keep displayed a poster prepared by WHD informing employees of OSHA protections.

might not see the need to contact WHD. A general description of the methods used in the wage determination process could give SCA stakeholders greater confidence in the determined wage rates and possibly improve the quality of service that WHD provides to those who do inquire.

WHD strives to update its list of consolidated wage determinations on an annual basis and provides this information online for the convenience of the contracting agencies. However, the job titles and descriptions included in its SCA directory of occupations have not been regularly updated to include emerging service occupations. WHD has been working closely with various stakeholders over the past 3 years to make changes to the directory, although its ad hoc process of updating the directory calls into question the ongoing currency of the occupations listed in the directory used for wage determinations.

WHD's reliance on complaints as the primary means to identify potential SCA violations is a reasonable strategy to pursue, given WHD's multiple enforcement responsibilities under numerous federal labor laws. However, that strategy currently does not examine the extent to which other information could be used to improve enforcement nationwide. Without further analysis of prior SCA violation data, WHD cannot ensure that it is using the most effective mix of compliance assistance, complaint-driven investigations, and directed investigations. WHD has readily available data on repeat SCA violators, the analysis of which we believe could be performed with minimal investment of additional resources. Furthermore, by taking extra steps to review prior SCA violation data, WHD may find that its existing complaint-driven approach to SCA enforcement is sound.

Finally, because the SCA workplace poster does not provide an easy method for employees to report complaints, WHD may be missing opportunities to get the most use from its complaint process. Improving the workplace poster would reinforce WHD's complaint-based strategy and would help further protect the wages and benefits of service contract workers.

Recommendations for Executive Action

In an effort to provide stakeholders with a general understanding of how WHD determines wage rates, we recommend that the Secretary of Labor:

- direct WHD to make publicly available the basic methodology WHD uses to issue wage determinations.

To better support WHD and federal contracting agencies in their implementation of SCA, we recommend that the Secretary of Labor:

- direct WHD to develop a procedure for updating the SCA directory of occupations at regular intervals and include criteria for listing and removing occupations as the need emerges.

To further WHD's efforts to obtain better information concerning the presence of and potential for violations involving SCA contracts, we recommend that the Secretary of Labor:

- direct WHD to analyze its historical SCA contractor violation data in WHISARD, as well as debarment information not included in WHISARD, and to the extent appropriate, use this information to help plan its compliance assistance and investigative efforts, and to identify additional industries, if any, that WHD should establish enforcement goals similar to those it currently has for repeat violators and industries with chronic violations.

To facilitate the reporting of SCA complaints, we recommend that the Secretary of Labor:

- direct WHD to update and revise the 1996 Service Contract Act/Walsh-Healey worksite poster, to include national and regional office telephone numbers and a Web site address that complainants may use to report alleged SCA violations.

Agency Comments

DOL's ESA provided us with written comments on a draft of this report, which are reproduced in appendix III. The agency agreed with all of the report's recommendations. ESA noted that WHD will provide a general description of the methods used in the wage determination process on its Web site and through other avenues. The agency also commented that WHD will develop a plan for implementing our recommendation concerning its SCA directory of occupations. However, the agency cautioned that any plan to do so must take into account the potential for creating confusion when multiple versions of the directory are applicable to various contracts. ESA acknowledged that this problem already exists but believes it would be exacerbated if the directory were updated more frequently.

ESA further noted that WHD's leadership will include an analysis of its SCA enforcement data in establishing its annual priorities at the national

level and to specific local and regional initiatives. Finally, ESA noted that WHD will develop and implement a plan to revise the SCA worksite poster by adding WHD's toll-free telephone number and the agency's Web site address.

ESA noted several technical corrections to the report, as did BLS, which we incorporated as appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this report. At that time, we will send copies of this report to the Secretary of Labor and the Assistant Secretary of Labor for Employment Standards. We will also make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-7215 or robertsonr@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who have made major contributions to this report are listed in appendix IV.



Robert E. Robertson
Director, Education, Workforce, and
Income Security Issues

Appendix I: Objectives, Scope, and Methodology

For this report, we described how the Department of Labor (DOL) (1) establishes locally prevailing wages and fringe benefits and (2) enforces the Service Contract Act (SCA). We also identified potential areas of improvement found in the course of our work. To address these objectives, we:

- reviewed literature on SCA and its corresponding regulations, and analyzed DOL documents and data;
- interviewed officials in the Wage and Hour Division’s (WHD) headquarters and field offices, the Bureau of Labor Statistics (BLS), and the two federal contracting agencies with the largest proportion of service contract activity—the Department of Defense (DOD) and the General Services Administration. At DOD, we interviewed the agency labor advisors and officials from each of the four branches of service that oversee the military’s SCA activities. In addition, we interviewed representatives from several service industry unions and key trade associations;
- analyzed data obtained from DOL, including data on WHD investigations from DOL’s Wage Hour Investigator Support and Reporting Database (WHISARD) database; national, regional and district office training and outreach efforts; file data on debarments; and data from the Federal Procurement Data System (FPDS), including information on the number and total dollar amount of SCA contract actions for fiscal years 2000 through 2003; and
- interviewed state officials and representatives from private-sector groups who also produce wage and benefit rates in an effort to better understand the relative merits of DOL’s wage determination process.

Reliability of WHD’s Data on Investigations and Debarments

We obtained current and background data from DOL’s WHISARD database for fiscal years 2003 and 2004. Data included the number of SCA investigations, the number of investigations that led to one or more SCA violations, the number of act violations, amounts of back wages and fringe benefits due from contractors, amounts of unpaid wages and benefits that contractors agreed to pay service contract employees, and the number of employees with unpaid wages and benefits. We also obtained file data from WHD on debarred contractors, including the number of debarred contractors, by year and region.

We assessed the reliability of the WHISARD data by (1) interviewing agency and contractor officials knowledgeable about the data, and

(2) reviewing existing information about the data and the system that produced them, such as the WHISARD User Guide and Procedure Manual; WHISARD data dictionary of tables; and the DOL Inspector General's fiscal year 2004 Performance and Accountability Review of WHD, which includes WHISARD. We assessed the reliability of the debarment data by interviewing agency officials about the debarment process and the methods used to produce the debarment summary report provided to us. We determined that the required WHISARD data elements and debarment summary data were sufficiently reliable for the purposes of this report.

Reliability of FPDS Data

FPDS has been the federal government's central database of information on federal procurement actions since 1978. It contains detailed information on contract actions over \$25,000 and summary data on procurements of less than \$25,000. We found in December 2003 that FPDS data were inaccurate and incomplete, and that sufficient problems existed with the system to warrant concern about the reliability of FPDS information.¹ However, in this report, we are using the FPDS data only to provide aggregate information about SCA and to provide context for the report. Although we have determined that the data may be incomplete and certain data elements unreliable, for this report we found that it was sufficiently reliable for estimating a minimum number of federal contracts and federal SCA dollars expended. A newer system, the FPDS-NG (Next Generation), became operational on October 1, 2003. In December 2003, we stated that the reliability of FPDS data was expected to improve with the implementation of the new system. We recently issued a correspondence to the Office of Management and Budget regarding the upgraded system.²

¹GAO, *Reliability of Federal Procurement Data*, [GAO-04-295R](#) (Washington, D.C.: Dec. 30, 2003).

²GAO, *Improvements Needed to the Federal Procurement Data System-Next Generation*, [GAO-05-960R](#) (Washington, D.C.: Sept. 27, 2005).

Appendix II: Examples of Standard and Non-standard Wage Determinations

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT

By direction of the Secretary of Labor

William W. Gross
Director

Division of Wage
Determinations

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON, D.C. 20210

Wage Determination No.: 1994-2103
Revision No.: 34
Date of Last Revision: 05/23/2005

States: District of Columbia, Maryland, Virginia

Area: District of Columbia Statewide

Maryland Counties of Calvert, Charles, Frederick, Montgomery, Prince George's, St Mary's
Virginia Counties of Alexandria, Arlington, Fairfax, Falls Church, Fauquier, King George, Loudoun, Prince William,
Stafford

****Fringe Benefits Required Follow the Occupational Listing****

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
01000 - Administrative Support and Clerical Occupations	
01011 - Accounting Clerk I	12 .16
01012 - Accounting Clerk II	12 .86
01013 - Accounting Clerk III	14 .89
01014 - Accounting Clerk IV	16 .65
01030 - Court Reporter	17 .02
01050 - Dispatcher, Motor Vehicle	16 .50
01060 - Document Preparation Clerk	12 .75
01070 - Messenger (Courier)	10 .23
01090 - Duplicating Machine Operator	12 .75
01110 - Film/Tape Librarian	15 .10
01115 - General Clerk I	11 .68
01116 - General Clerk II	13 .72
01117 - General Clerk III	15 .32
01118 - General Clerk IV	18 .74
01120 - Housing Referral Assistant	19 .30
01131 - Key Entry Operator I	12 .67
01132 - Key Entry Operator II	13 .82
01191 - Order Clerk I	14 .74
01192 - Order Clerk II	16 .29
01261 - Personnel Assistant (Employment) I	13 .05
01262 - Personnel Assistant (Employment) II	15 .10
01263 - Personnel Assistant (Employment) III	17 .02
01264 - Personnel Assistant (Employment) IV	19 .60
01270 - Production Control Clerk	18 .89

Appendix II: Examples of Standard and Non-standard Wage Determinations

01290 - Rental Clerk	15 .42
01300 - Scheduler, Maintenance	15 .26
01311 - Secretary I	16 .11
01312 - Secretary II	17 .31
01313 - Secretary III	19 .30
01314 - Secretary IV	21 .45
01315 - Secretary V	23 .75
01320 - Service Order Dispatcher	15 .82
01341 - Stenographer I	15 .15
01342 - Stenographer II	16 .47
01400 - Supply Technician	21 .45
01420 - Survey Worker (Interviewer)	16 .43
01460 - Switchboard Operator-Receptionist	12 .06
01510 - Test Examiner	17 .31
01520 - Test Proctor	17 .31
01531 - Travel Clerk I	11 .63
01532 - Travel Clerk II	12 .49
01533 - Travel Clerk III	13 .41
01611 - Word Processor I	12 .75
01612 - Word Processor II	15 .10
01613 - Word Processor III	17 .02
03000 - Automatic Data Processing Occupations	
03010 - Computer Data Librarian	15 .10
03041 - Computer Operator I	15 .10
03042 - Computer Operator II	17 .02
03043 - Computer Operator III	18 .89
03044 - Computer Operator IV	21 .09
03045 - Computer Operator V	23 .35
03071 - Computer Programmer I (1)	19 .64
03072 - Computer Programmer II (1)	23 .33
03073 - Computer Programmer III (1)	27 .62
03074 - Computer Programmer IV (1)	27 .62
03101 - Computer Systems Analyst I (1)	27 .62
03102 - Computer Systems Analyst II (1)	27 .62
03103 - Computer Systems Analyst III (1)	27 .62
03160 - Peripheral Equipment Operator	15 .10
05000 - Automotive Service Occupations	
05005 - Automotive Body Repairer, Fiberglass	22 .73
05010 - Automotive Glass Installer	17 .88
05040 - Automotive Worker	17 .88
05070 - Electrician, Automotive	18 .95

Appendix II: Examples of Standard and Non-standard Wage Determinations

05100 - Mobile Equipment Servicer	15 .69
05130 - Motor Equipment Metal Mechanic	19 .98
05160 - Motor Equipment Metal Worker	17 .88
05190 - Motor Vehicle Mechanic	20 .07
05220 - Motor Vehicle Mechanic Helper	16 .81
05250 - Motor Vehicle Upholstery Worker	17 .88
05280 - Motor Vehicle Wrecker	17 .88
05310 - Painter, Automotive	18 .95
05340 - Radiator Repair Specialist	17 .88
05370 - Tire Repairer	14 .43
05400 - Transmission Repair Specialist	19 .98
07000 - Food Preparation and Service Occupations	
(not set) - Food Service Worker	9 .91
07010 - Baker	12 .25
07041 - Cook I	11 .53
07042 - Cook II	12 .79
07070 - Dishwasher	9 .76
07130 - Meat Cutter	16 .07
07250 - Waiter/Waitress	8 .59
09000 - Furniture Maintenance and Repair Occupations	
09010 - Electrostatic Spray Painter	18 .05
09040 - Furniture Handler	12 .55
09070 - Furniture Refinisher	18 .05
09100 - Furniture Refinisher Helper	13 .85
09110 - Furniture Repairer, Minor	16 .01
09130 - Upholsterer	18 .05
11030 - General Services and Support Occupations	
11030 - Cleaner, Vehicles	9 .67
11060 - Elevator Operator	9 .79
11090 - Gardener	14 .27
11121 - House Keeping Aid I	9 .97
11122 - House Keeping Aid II	10 .77
11150 - Janitor	10 .12
11210 - Laborer, Grounds Maintenance	11 .65
11240 - Maid or Houseman	9 .97
11270 - Pest Controller	12 .49
11300 - Refuse Collector	11 .69
11330 - Tractor Operator	14 .00
11360 - Window Cleaner	10 .51

Appendix II: Examples of Standard and Non-standard Wage Determinations

12000 - Health Occupations	
12020 - Dental Assistant	16 .90
12040 - Emergency Medical Technician (EMT)/Paramedic/Ambulance Driver	15 .83
12071 - Licensed Practical Nurse I	15 .86
12072 - Licensed Practical Nurse II	17 .79
12073 - Licensed Practical Nurse III	19 .92
12100 - Medical Assistant	12 .94
12130 - Medical Laboratory Technician	16 .32
12160 - Medical Record Clerk	14 .96
12190 - Medical Record Technician	16 .47
12221 - Nursing Assistant I	9 .32
12222 - Nursing Assistant II	10 .48
12223 - Nursing Assistant III	11 .94
12224 - Nursing Assistant IV	13 .40
12250 - Pharmacy Technician	13 .02
12280 - Phlebotomist	13 .40
12311 - Registered Nurse I	24 .92
12312 - Registered Nurse II	29 .47
12313 - Registered Nurse II, Specialist	29 .47
12314 - Registered Nurse III	35 .65
12315 - Registered Nurse III, Anesthetist	35 .65
12316 - Registered Nurse IV	42 .73
13000 - Information and Arts Occupations	
13002 - Audiovisual Librarian	20 .85
13011 - Exhibits Specialist I	17 .98
13012 - Exhibits Specialist II	23 .33
13013 - Exhibits Specialist III	28 .07
13041 - Illustrator I	18 .73
13042 - Illustrator II	23 .42
13043 - Illustrator III	28 .82
13047 - Librarian	24 .54
13050 - Library Technician	17 .18
13071 - Photographer I	14 .67
13072 - Photographer II	17 .18
13073 - Photographer III	21 .52
13074 - Photographer IV	26 .05
13075 - Photographer V	29 .15
15000 - Laundry, Dry Cleaning, Pressing and Related Occupations	
15010 - Assembler	8 .71
15030 - Counter Attendant	8 .71
15040 - Dry Cleaner	10 .94

**Appendix II: Examples of Standard and Non-
standard Wage Determinations**

15070 - Finisher, Flatwork, Machine	8 .71
15090 - Presser, Hand	8 .71
15100 - Presser, Machine, Drycleaning	8 .71
15130 - Presser, Machine, Shirts	8 .71
15160 - Presser, Machine, Wearing Apparel, Laundry	8 .71
15190 - Sewing Machine Operator	11 .73
15220 - Tailor	12 .43
15250 - Washer, Machine	9 .31
19000 - Machine Tool Operation and Repair Occupations	
19010 - Machine-Tool Operator (Toolroom)	18 .95
19040 - Tool and Die Maker	23 .05
21000 - Material Handling and Packing Occupations	
21010 - Fuel Distribution System Operator	19 .38
21020 - Material Coordinator	19 .05
21030 - Material Expediter	19 .05
21040 - Material Handling Laborer	11 .50
21050 - Order Filler	13 .21
21071 - Forklift Operator	16 .04
21080 - Production Line Worker (Food Processing)	15 .93
21100 - Shipping/Receiving Clerk	13 .15
21130 - Shipping Packer	13 .15
21140 - Store Worker I	9 .06
21150 - Stock Clerk (Shelf Stocker; Store Worker II)	13 .05
21210 - Tools and Parts Attendant	16 .99
21400 - Warehouse Specialist	16 .04
23000 - Mechanics and Maintenance and Repair Occupations	
23010 - Aircraft Mechanic	22 .24
23040 - Aircraft Mechanic Helper	14 .71
23050 - Aircraft Quality Control Inspector	23 .43
23060 - Aircraft Servicer	17 .82
23070 - Aircraft Worker	18 .09
23100 - Appliance Mechanic	18 .95
23120 - Bicycle Repairer	14 .43
23125 - Cable Splicer	24 .68
23130 - Carpenter, Maintenance	18 .95
23140 - Carpet Layer	17 .80
23160 - Electrician, Maintenance	22 .59
23181 - Electronics Technician, Maintenance I	19 .42
23182 - Electronics Technician, Maintenance II	21 .92
23183 - Electronics Technician, Maintenance III	23 .87

Appendix II: Examples of Standard and Non-standard Wage Determinations

23260 - Fabric Worker	16 .61
23290 - Fire Alarm System Mechanic	19 .98
23310 - Fire Extinguisher Repairer	15 .69
23340 - Fuel Distribution System Mechanic	21 .05
23370 - General Maintenance Worker	17 .28
23400 - Heating, Refrigeration and Air Conditioning Mechanic	20 .87
23430 - Heavy Equipment Mechanic	19 .98
23440 - Heavy Equipment Operator	20 .76
23460 - Instrument Mechanic	19 .98
23470 - Laborer	14 .27
23500 - Locksmith	18 .95
23530 - Machinery Maintenance Mechanic	20 .51
23550 - Machinist, Maintenance	21 .52
23580 - Maintenance Trades Helper	14 .54
23640 - Millwright	21 .85
23700 - Office Appliance Repairer	18 .95
23740 - Painter, Aircraft	21 .29
23760 - Painter, Maintenance	18 .95
23790 - Pipefitter, Maintenance	22 .76
23800 - Plumber, Maintenance	20 .99
23820 - Pneudraulic Systems Mechanic	19 .98
23850 - Rigger	19 .98
23870 - Scale Mechanic	17 .88
23890 - Shect-Metal Worker, Maintenance	19 .98
23910 - Small Engine Mechanic	20 .05
23930 - Telecommunication Mechanic I	22 .21
23931 - Telecommunication Mechanic II	23 .41
23950 - Telephone Lineman	22 .21
23960 - Welder, Combination, Maintenance	19 .98
23965 - Well Driller	19 .98
23970 - Woodcraft Worker	19 .98
23980 - Woodworker	15 .32
24000 - Personal Needs Occupations	
24570 - Child Care Attendant	11 .58
24580 - Child Care Center Clerk	16 .15
24600 - Chore Aid	9 .29
24630 - Homemaker	16 .75
25000 - Plant and System Operation Occupations	
25010 - Boiler Tender	22 .57
25040 - Sewage Plant Operator	19 .52
25070 - Stationary Engineer	22 .57

Appendix II: Examples of Standard and Non-standard Wage Determinations

25190 - Ventilation Equipment Tender	15 .24
25210 - Water Treatment Plant Operator	19 .72
27000 - Protective Service Occupations	
(not set) - Police Officer	23 .19
27004 - Alarm Monitor	16 .79
27006 - Corrections Officer	18 .10
27010 - Court Security Officer	20 .72
27040 - Detention Officer	18 .29
27070 - Firefighter	20 .97
27101 - Guard I	11 .51
27102 - Guard II	15 .16
28000 - Stevedoring/Longshoremen Occupations	
28010 - Blocker and Bracer	19 .89
28020 - Hatch Tender	19 .89
28030 - Line Handler	19 .89
28040 - Stevedore I	18 .71
28050 - Stevedore II	21 .11
29000 - Technical Occupations	
21150 - Graphic Artist	22 .81
29010 - Air Traffic Control Specialist, Center (2)	32 .70
29011 - Air Traffic Control Specialist, Station (2)	22 .54
29012 - Air Traffic Control Specialist, Terminal (2)	24 .82
29023 - Archeological Technician I	15 .78
29024 - Archeological Technician II	17 .58
29025 - Archeological Technician III	21 .94
29030 - Cartographic Technician	23 .33
29035 - Computer Based Training (CBT) Specialist/ Instructor	31 .26
29040 - Civil Engineering Technician	22 .19
29061 - Drafter I	14 .31
29062 - Drafter II	16 .57
29063 - Drafter III	18 .53
29064 - Drafter IV	23 .33
29081 - Engineering Technician I	17 .67
29082 - Engineering Technician II	19 .84
29083 - Engineering Technician III	22 .54
29084 - Engineering Technician IV	27 .49
29085 - Engineering Technician V	33 .62
29086 - Engineering Technician VI	40 .67
29090 - Environmental Technician	21 .22
29100 - Flight Simulator/Instructor (Pilot)	36 .95

Appendix II: Examples of Standard and Non-standard Wage Determinations

29160 - Instructor	26 .54
29210 - Laboratory Technician	18 .56
29240 - Mathematical Technician	23 .70
29361 - Paralegal/Legal Assistant I	20 .03
29362 - Paralegal/Legal Assistant II	24 .82
29363 - Paralegal/Legal Assistant III	30 .35
29364 - Paralegal/Legal Assistant IV	36 .73
29390 - Photooptics Technician	23 .33
29480 - Technical Writer	28 .55
29491 - Unexploded Ordnance (UXO) Technician I	20 .78
29492 - Unexploded Ordnance (UXO) Technician II	25 .14
29493 - Unexploded Ordnance (UXO) Technician III	30 .13
29494 - Unexploded (UXO) Safety Escort	20 .78
29495 - Unexploded (UXO) Sweep Personnel	20 .78
29620 - Weather Observer, Senior (3)	21 .32
29621 - Weather Observer, Combined Upper Air and Surface Programs (3)	18 .30
29622 - Weather Observer, Upper Air (3)	18 .30
31000 - Transportation/ Mobile Equipment Operation Occupations	
31030 - Bus Driver	15 .95
31260 - Parking and Lot Attendant	8 .62
31290 - Shuttle Bus Driver	13 .45
31300 - Taxi Driver	12 .71
31361 - Truckdriver, Light Truck	13 .89
31362 - Truckdriver, Medium Truck	17 .09
31363 - Truckdriver, Heavy Truck	18 .40
31364 - Truckdriver, Tractor-Trailer	18 .40
99000 - Miscellaneous Occupations	
99020 - Animal Caretaker	10 .47
99030 - Cashier	9 .82
99041 - Carnival Equipment Operator	12 .35
99042 - Carnival Equipment Repairer	13 .30
99043 - Carnival Worker	8 .31
99050 - Desk Clerk	9 .78
99095 - Embalmer	19 .79
99300 - Lifeguard	10 .92
99310 - Mortician	24 .77
99350 - Park Attendant (Aide)	13 .71
99400 - Photofinishing Worker (Photo Lab Tech., Darkroom Tech)	11 .12
99500 - Recreation Specialist	16 .99
99510 - Recycling Worker	15 .47
99610 - Sales Clerk	11 .08

**Appendix II: Examples of Standard and Non-
standard Wage Determinations**

99620 - School Crossing Guard (Crosswalk Attendant)	11 .37
99630 - Sport Official	11 .24
99658 - Survey Party Chief (Chief of Party)	18 .39
99659 - Surveying Technician (Instr. Person/Surveyor Asst./Instr.)	17 .48
99660 - Surveying Aide	11 .43
99690 - Swimming Pool Operator	13 .93
99720 - Vending Machine Attendant	10 .73
99730 - Vending Machine Repairer	13 .93
99740 - Vending Machine Repairer Helper	11 .34

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$2.87 an hour or \$114.80 a week or \$497.47 a month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Does not apply to employees employed in a bona fide executive, administrative, or professional capacity as defined and delineated in 29 CFR 541. (See CFR 4.156)

2) **APPLICABLE TO AIR TRAFFIC CONTROLLERS ONLY - NIGHT DIFFERENTIAL:** An employee is entitled to pay for all work performed between the hours of 6:00 P.M. and 6:00 A.M. at the rate of basic pay plus a night pay differential amounting to 10 percent of the rate of basic pay.

3) **WEATHER OBSERVERS - NIGHT PAY & SUNDAY PAY:** If you work at night as part of a regular tour of duty, you will earn a night differential and receive an additional 10% of basic pay for any hours worked between 6pm and 6am. If you are a full-time employed (40 hours a week) and Sunday is part of your regularly scheduled workweek, you are paid at your rate of basic pay plus a Sunday premium of 25% of your basic rate for each hour of Sunday work which is not overtime (i.e. occasional work on Sunday outside the normal tour of duty is considered overtime work).

HAZARDOUS PAY DIFFERENTIAL: An 8 percent differential is applicable to employees employed in a position that represents a high degree of hazard when working with or in close proximity to ordnance, explosives, and incendiary materials. This includes work such as screening, blending, dying, mixing, and pressing of sensitive ordnance, explosives, and pyrotechnic compositions such as lead azide, black powder and photoflash powder. All dry-house activities involving propellants or explosives. Demilitarization, modification, renovation, demolition, and maintenance operations on sensitive ordnance, explosives and incendiary materials. All operations involving regrading and cleaning of artillery ranges.

A 4 percent differential is applicable to employees employed in a position that represents a low degree of hazard when working with, or in close proximity to ordnance, (or employees possibly adjacent to) explosives and incendiary materials which involves potential injury such as laceration of hands, face, or arms of the employee engaged in the operation, irritation of the skin, minor burns and the like; minimal damage to immediate or adjacent work area or equipment being used. All operations involving, unloading, storage, and hauling of ordnance, explosive, and incendiary ordnance material other than

**Appendix II: Examples of Standard and Non-
standard Wage Determinations**

small arms ammunition. These differentials are only applicable to work that has been specifically designated by the agency for ordnance, explosives, and incendiary material differential pay.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**** NOTES APPLYING TO THIS WAGE DETERMINATION ****

Under the policy and guidance contained in All Agency Memorandum No. 159, the Wage and Hour Division does not recognize, for section 4(c) purposes, prospective wage rates and fringe benefit provisions that are effective only upon such contingencies as "approval of Wage and Hour, issuance of a wage determination, incorporation of the wage determination in the contract, adjusting the contract price, etc." (The relevant CBA section) in the collective bargaining agreement between (the parties) contains contingency language that Wage and Hour does not recognize as reflecting "arm's length negotiation" under section 4(c) of the Act and 29 C.F.R. 5.11(a) of the regulations. This wage determination therefore reflects the actual CBA wage rates and fringe benefits paid under the predecessor contract.

Source of Occupational Title and Descriptions:

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the Third Supplement, dated March 1997, unless otherwise indicated. This publication may be obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

Appendix II: Examples of Standard and Non-standard Wage Determinations

2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

Appendix II: Examples of Standard and Non-standard Wage Determinations

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

William W.Gross Division of Wage
Director Determinations

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON, D.C. 20210

Wage Determination No.: 1995-0819
Revision No.: 18
Date of Last Revision: 08/05/2005

States: District of Columbia, Maryland, Virginia

Area: District of Columbia Statewide
Maryland Counties of Calvert, Charles, Frederick, Montgomery, Prince George's, St Mary's
Virginia Counties of Alexandria, Arlington, Fairfax, Falls Church, Fauquier, King George, Loudoun, Prince William, Stafford

Fringe Benefits Required Follow the Occupational Listing

OCCUPATION CODE - TITLE	MINIMUM WAGE RATE
Food & Lodging:	
(not set) - Food Service Worker	8 .51
07041 - Cook I	10 .93
07042 - Cook II	13 .14
07070 - Dishwasher	7 .78
07250 - Waiter/Waitress	7 .78
11060 - Elevator Operator	7 .78
11210 - Laborer, Grounds Maintenance	8 .51
11240 - Maid or Houseman	8 .51
99030 - Cashier	8 .51
99050 - Desk Clerk (1)	8 .51
Halfway House & Residential Community Treatment:	
(not set) - Food Service Worker	8 .51
(not set) - Secretary	12 .13
01011 - Accounting Clerk I	10 .48
01012 - Accounting Clerk II	11 .29
01115 - General Clerk I	9 .72
01611 - Word Processor I	9 .72
07041 - Cook I	10 .93
07042 - Cook II	13 .14
07070 - Dishwasher	7 .78
11150 - Janitor	8 .51
11210 - Laborer, Grounds Maintenance	8 .51
11240 - Maid or Houseman	8 .51

Appendix II: Examples of Standard and Non-standard Wage Determinations

23370 - General Maintenance Worker	11 .73
27101 - Guard I	9 .58
27102 - Guard II	10 .24
99050 - Desk Clerk (1)	9 .72

Moving & Storage:

21040 - Material Handling Laborer	9 .33
21071 - Forklift Operator	10 .93
21130 - Shipping Packer	10 .93
21400 - Warehouse Specialist	10 .93
31361 - Truckdriver, Light Truck	10 .93
31362 - Truckdriver, Medium Truck	11 .73
31363 - Truckdriver, Heavy Truck	12 .43
31364 - Truckdriver, Tractor-Trailer	13 .14

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: \$2.87 an hour or \$114.80 a week or \$497.47 a month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (Sec 29 CFR 4.174)

THE OCCUPATIONS WHICH HAVE PARENTHESES AFTER THEM RECEIVE THE FOLLOWING BENEFITS (as numbered):

1) Rates are applicable only under the appropriate occupational category.

**** UNIFORM ALLOWANCE ****

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of \$3.35 per week (or \$.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government

Appendix II: Examples of Standard and Non-standard Wage Determinations

contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

**** NOTES APPLYING TO THIS WAGE DETERMINATION ****

Under the policy and guidance contained in All Agency Memorandum No. 159, the Wage and Hour Division does not recognize, for section 4(c) purposes, prospective wage rates and fringe benefit provisions that are effective only upon such contingencies as "approval of Wage and Hour, issuance of a wage determination, incorporation of the wage determination in the contract, adjusting the contract price, etc." (The relevant CBA section) in the collective bargaining agreement between (the parties) contains contingency language that Wage and Hour does not recognize as reflecting "arm's length negotiation" under section 4(c) of the Act and 29 C.F.R. 5.11(a) of the regulations. This wage determination therefore reflects the actual CBA wage rates and fringe benefits paid under the predecessor contract.

Source of Occupational Title and Descriptions:

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations," Fourth Edition, January 1993, as amended by the Third Supplement, dated March 1997, unless otherwise indicated. This publication may be obtained from the Superintendent of Documents, at 202-783-3238, or by writing to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Copies of specific job descriptions may also be obtained from the appropriate contracting officer.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE (Standard Form 1444 (SF 1444))

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. (See Section 4.6 (C)(vi)) When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

- 1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).
- 2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.
- 3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).
- 4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.
- 5) The contracting officer transmits the Wage and Hour decision to the contractor.
- 6) The contractor informs the affected employees.

Appendix II: Examples of Standard and Non-standard Wage Determinations

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

Appendix III: Comments from the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employment Standards
Washington, D.C. 20210



OCT 28 2005

Mr. Robert E. Robertson
Director, Education, Workforce, and
Income Security Issues
United States Government Accountability Office
Washington, D.C. 20548

Dear Mr. Robertson:

Thank you for the opportunity to comment on the draft report entitled "*Service Contract Act: Wage Determination Process Could Benefit From Greater Transparency, and Better Use of Violation Data Could Improve Enforcement*" (GAO-06-27).

The report contains four recommendations to make the wage determination process more transparent and to better plan compliance assistance and enforcement initiatives. These recommendations, which are in bold print, request the Secretary of Labor to direct the Wage and Hour Division (WHD) to:

1. **"make publicly available the basic methodology WHD uses to issue wage determinations"**

WHD supports the recommendation for greater transparency by showing the underlying basis for how wage determinations are issued. WHD will provide "a general description of the methods used in the wage determination process" on its Web site and through other compliance assistance avenues.

2. **"develop procedures for updating the SCA directory of occupations at regular intervals and include criteria for listing and removing occupations as the need emerges."**

WHD also supports the recommendation for more regular updates to the Service Contract Act "Directory of Occupations" (Directory) and it will develop a plan for implementing the recommendation. Any plan for updating the Directory, including the frequency of updates, must, however, take into account the potential for creating confusion among the Federal contracting community, contractors, and employees when multiple versions of the Directory are applicable to various contracts. For example, if the Directory is revised annually, a contractor might be faced with several different contracts operating under multiple versions of the Directory. Although this problem exists every time the Directory is changed, the problem is exacerbated if the Directory is frequently updated.

3. **“analyze its historical SCA contractor violation data in WHISARD, as well as debarment information not included in WHISARD, and to the extent appropriate, use this information to help plan its compliance assistance and investigative efforts, and to identify additional industries, if any, that WHD should establish enforcement goals similar to those it currently has for repeat violators and industries with chronic violations.”**

WHD concurs with this recommendation. WHD has established enforcement priorities in three key areas: greater compliance in low-wage industries that employ vulnerable workers (including young and immigrant workers); reducing the number of employers with repeat violations; and the strategic use of complaint investigations as a way of increasing labor standards outcomes for the greatest number of workers. As the report notes, WHD has overall strategic enforcement goals that “cut across all labor laws it enforces.” Consistent with the President’s Management Agenda, these goals are integrated within the agency’s budget. To achieve these objectives, WHD develops an annual performance plan that establishes outcomes, targets and measures. In turn, each year, the agency’s regional and district offices develop local initiatives and strategies to meet annual targets and to further the broader strategic goals and mission of the agency. The annual performance plan is developed by WHD’s Executive Leadership Team pursuant to a nine-step strategic planning model, one step of which is to review and consider data related to its past performance in developing future objectives. As suggested by GAO, WHD leadership will include an analysis of its SCA enforcement data in establishing its annual priorities at the national levels and specific to local and regional initiatives.

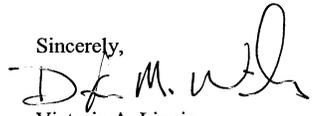
4. **“update and revise the 1996 Service Contract Act/Walsh Healey worksite poster, to include national and regional office telephone numbers and a Web site address that complainants may use to report alleged SCA violations.”**

WHD concurs with this recommendation and will develop and implement a plan to revise the worksite poster to add the WHD’s toll-free number, 1-866-4US-WAGE (1-866-487-9243). This number is widely disseminated through a variety of compliance assistance materials. The toll-free help line provides compliance information to employers and employees. Calls to the number are handled by call center staff who can screen information, provide general guidance to employees, and refer complainants to the appropriate WHD office. The call center currently has 15 Spanish-speaking customer service representatives (CSR) and an interpreter service that supports 150 languages. WHD will also add the agency’s Web site address, which has an email notification system that also provides the public with assistance.

**Appendix III: Comments from the Department
of Labor**

This concludes our review and comments. We appreciate the opportunity to provide comments in advance of the publication of the final report. If you should have any questions, please do not hesitate to contact us.

Sincerely,

 For

Victoria A. Lipnic

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

Robert E. Robertson (202) 512-7215 or robertsonr@gao.gov

Staff Acknowledgments

In addition to the contact named above, Brett S. Fallavollita, Assistant Director, Monika R. Gomez, and Dennis M. Gehley made significant contributions to this report in all aspects of the work throughout the review. In addition, Linda L. Siegel helped to develop our overall design and methodology; Margaret L. Armen and Richard P. Burkard provided legal support; Avrum I. Ashery and Jeremy D. Sebest designed our graphics; Shana B. Wallace provided technical assistance; and Jonathan S. McMurray assisted in report and message development.

Related GAO Products

Department of Labor, Wage and Hour Division, Employment Standards Administration: Service Contract Act; Labor Standards for Federal Service Contracts. OGC-97-14. Washington, D.C.: January 16, 1997.

Navy Contracting: Military Sealift Command's Contract for Operating Oceanographic Ships. NSIAD-90-151. Washington, D.C.: April 18, 1990.

Department of Labor: Assessment of the Accuracy of Wage Rates Under the Service Contract Act. HRD-87-87BR. Washington, D.C.: May 28, 1987.

Decision of the Comptroller General of the United States, B-218427.2, May 15, 1985, Crowley Towing & Transportation Company.

Congress Should Consider Repeal of the Service Contract Act. HRD-83-4. Washington, D.C.: January 31, 1983.

Assessment of Federal Agency Compliance with the Service Contract Act. HRD-82-59. Washington, D.C.: July 21, 1982.

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies—A Supplement. HRD-80-102 (A). Washington, D.C.: March 25, 1981.

Service Contract Act Should Not Apply to Service Employees of ADP and High-Technology Companies. HRD-80-102. Washington, D.C.: September 16, 1980.

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