

January 1999

DAVIS-BACON ACT

Labor Now Verifies Wage Data, but Verification Process Needs Improvement



**Health, Education, and
Human Services Division**

B-280302

January 11, 1999

Congressional Committees

The Davis-Bacon Act was enacted in 1931 to protect communities and workers from the economic disruption caused by contractors hiring workers from outside the local geographic area, where wages are lower, thus obtaining federal construction contracts by underbidding contractors who pay local wage rates. The act requires that employers pay locally prevailing wage rates, including fringe benefits, to laborers and mechanics employed on the more than \$40 billion of federal construction projects a year.¹ Since 1931, the Congress has enacted many statutes that extend Davis-Bacon's prevailing wage provisions to construction projects for which the federal government provides only partial funding, such as the construction of local schools. The Department of Labor, which administers the act, surveys construction contractors and other interested third parties to obtain information on wages paid to workers in each construction craft and uses the data submitted on these survey forms to determine local prevailing wage rates.²

In previous reports and testimony, we expressed concern that Labor's procedures for determining prevailing wage rates were vulnerable to the use of inaccurate or fraudulent data.³ The use of such data could lead to the payment of wages that are either lower than what workers should receive or higher than the actual prevailing wages, which would inflate federal construction costs at the taxpayers' expense. We also noted that basing wage determinations on old wage data raises questions about whether the wage results still reflect current conditions.⁴ In 1996, we recommended that Labor verify wage data it receives by obtaining

¹The \$40 billion dollar estimate does not include the cost of construction projects covered by the prevailing wage laws for which others such as state and local governments, rather than the federal government, are responsible for the contract costs.

²"Interested parties" may include the employers or contractors; contractor associations; construction workers; labor unions; and federal, state, and local agencies.

³For a list of selected reports and testimony we have issued on this topic, see Related GAO Products at the end of this report.

⁴Labor reported that in 1996 the average age of a wage determination was 7 years. In addition, when the wage determination is issued, it can be based on survey data that are already out of date. For example, in 1998 Labor was verifying some data for wages reported to have been paid in 1993 and had not yet issued a wage determination as of September 30, 1998.

appropriate documentation from a sample of participating employers or conducting a limited number of on-site reviews of employer wage data.⁵

The House Appropriations Committee has also expressed concerns about the accuracy and timeliness of Davis-Bacon wage determinations. The Committee's reports on appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for fiscal years 1998 and 1999 directed Labor to ensure that a portion of the funds appropriated for the wage survey program be used to randomly sample all data submissions to verify their accuracy.⁶ Moreover, the reports specified that Labor select a sample of all wage data submissions for on-site data verification against actual payroll records. In response to a request in the Committee reports, we reviewed these verification activities to determine

- what Labor has done in response to the Committee's directive that it verify a random sample of employers' wage data submissions and select a sample of submissions for on-site data verification and
- the likely effect of these efforts on the accuracy and timeliness of Davis-Bacon wage determinations.

We are sending this report to you because of your committees' oversight responsibilities for Labor (see list of addressees at the end of this letter). We conducted our review between June and October 1998 in accordance with generally accepted government auditing standards. For information on our methodology, see appendix I.

Results in Brief

In response to a Committee directive and our recommendation, Labor has implemented a program to verify wage survey data submitted on standardized wage data forms by construction contractors and interested third parties, such as contractor associations and trade unions. To verify these data, Labor has developed procedures to select samples of these forms for telephone verification that differ depending on whether the forms are submitted by contractors or third parties. In addition, Labor has hired a private accounting firm to conduct on-site verification reviews. As of September 30, 1998, the accounting firm had issued final reports for 9 of the 85 geographic area surveys scheduled for audit from April 1997 to

⁵Davis-Bacon Act: Process Changes Could Raise Confidence That Wage Rates Are Based on Accurate Data ([GAO/HEHS-96-130](#), May 31, 1996).

⁶U.S. Congress, House of Representatives, Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Bill, 1998, H. Rept. 105-205, 105th Cong., 1st sess., and U.S. Congress, House of Representatives, Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Bill, 1999, H. Rept. 105-635, 105th Cong., 2nd sess.

June 1998 and had identified errors in wages reported in about 70 percent of the wage data forms reviewed (see fig. 4). In both the telephone and on-site verification processes, all data—regardless of the entity that submitted them—are verified only with the contractors.

Even though Labor has identified and corrected numerous errors in the wage data submitted, its verification efforts will have limited impact on the accuracy of the wage determinations and will increase the time required to issue them. Specifically, errors the accounting firm identified and corrected in all nine area surveys averaged 76 cents per hour. But, because Labor was only able to correct the limited number of wage data forms verified, which contain a small portion of the wage rates submitted, on average, changes to these wage determinations will be an average of 10 cents per hour, according to Labor officials' estimates. The extent to which correcting the errors found through verification will improve the accuracy of wage determinations is limited by (1) the Committee directive to use a random sample of wage data forms for verification, given the characteristics of the wage data with respect to the universe being sampled, and (2) the procedures Labor uses to implement this directive. For example, in its procedures, Labor assumes that data from contractors that refuse access to supporting documentation are correct and includes the wages in calculating wage determinations. While the time needed for verification reduced the timeliness of wage determinations, telephone verification added less time to the process than did on-site verification—an estimated average of 2 weeks as compared with an average of 211 days for the 30 area surveys for which the auditor submitted preliminary reports. The verification efforts completed to date may, however, have a significant impact on improving the accuracy of future wage determinations by deterring the submission of fraudulent and inaccurate data, educating contractors on how to complete wage data forms, and providing Labor with information to use in its long-term reengineering efforts. We are recommending specific changes to Labor's verification procedures that should increase their impact on the accuracy of the wage determinations while reducing the time and the cost to collect this information.

Background

The Davis-Bacon Act and related legislation require employers on federally funded construction projects valued in excess of \$2,000 or federally assisted projects to pay their workers no less than the prevailing wage rate. According to its regulations, the Department of Labor determines the wages "prevailing for the corresponding classes of laborers and mechanics

employed on projects of a character similar to the contract work in the . . . city, town, village, or other civil subdivision of the State in which the work is to be performed.” The Department of Labor’s Wage and Hour Division (WHD) is responsible for making these wage determinations.

In addition to making these determinations, Labor is responsible for ensuring that employers covered by the law pay at least the mandated wage. While some of the same staff work on both responsibilities, Labor estimates that in fiscal year 1997, it used the equivalent of 51 full-time staff and spent about \$5.5 million on the process of determining Davis-Bacon prevailing wages at both its Washington, D.C., headquarters and five regional offices.⁷

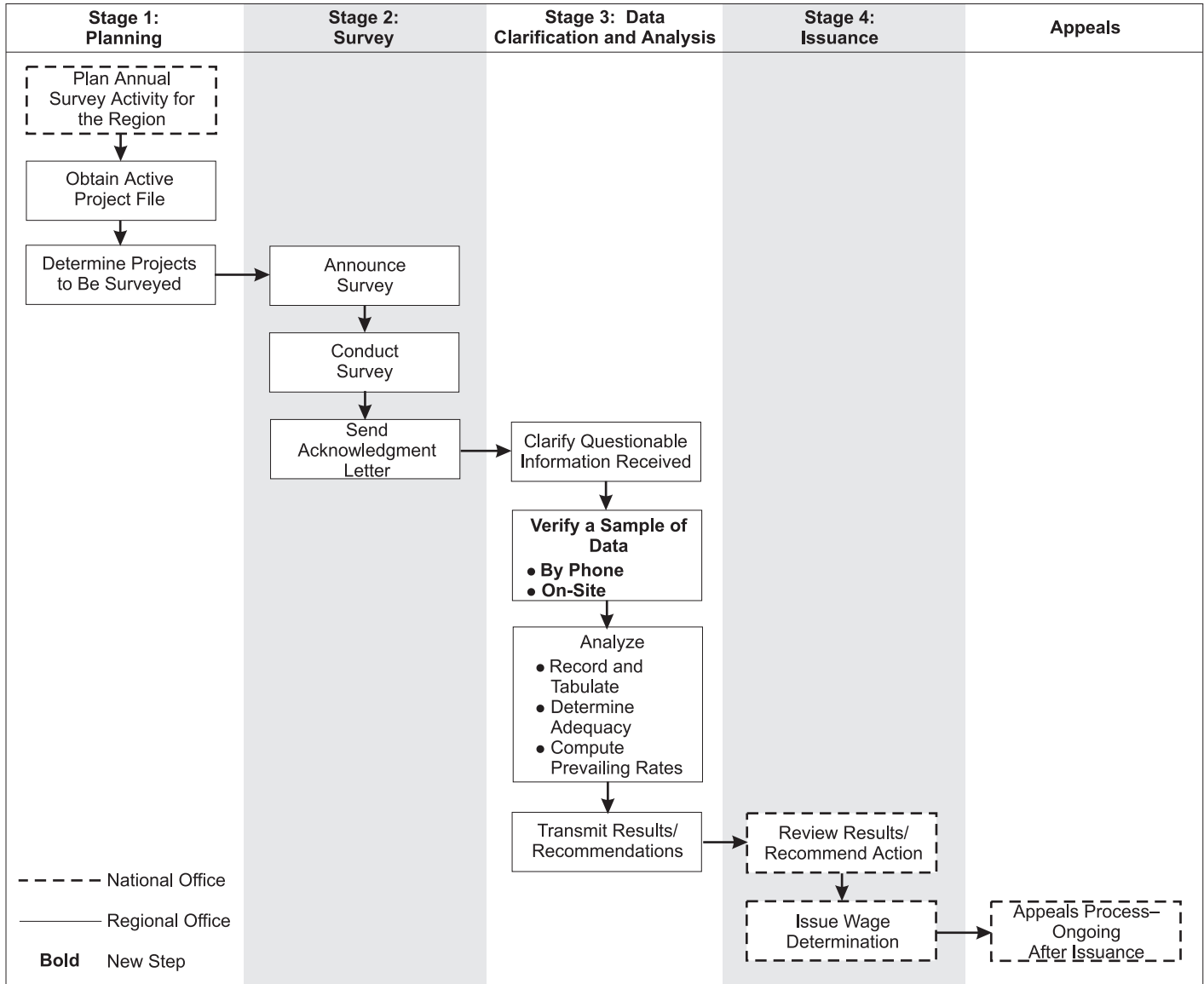
To determine the prevailing wage rates, Labor periodically conducts surveys, called “area surveys,” to collect data on wages and fringe benefits paid to workers in similar job classifications on comparable construction projects in a specific geographic area.⁸ The agency solicits information from employers and third parties, such as representatives of unions and contractor associations. As shown in figure 1, after receiving and analyzing the data, Labor issues wage determinations for a series of job classifications such as electricians, carpenters, and drywallers in specific geographic areas varying in size from a section of a county to an entire state.⁹ For example, the prevailing wage determination for the Washington, D.C., metropolitan area in 1996 included individual wage rates for 143 different construction crafts. For a more complete description of the wage determination process, see appendix II.

⁷This amount excludes \$3.75 million that the Congress appropriated specifically for Davis-Bacon program reengineering efforts in fiscal year 1997, as well as some costs incurred by states conducting area wage surveys.

⁸Fringe benefits considered in computing the prevailing wage rate include, but are not limited to, holiday and vacation pay, health insurance, and pension benefits.

⁹Labor conducts wage surveys and issues wage determinations for four basic types of construction—building, residential, heavy, and highway. For determining prevailing wage rates for highway construction, both the survey and its analysis are often done by individual state agencies. Labor also uses a contractor to complete both the survey and preliminary analysis for a limited number of area surveys. Labor includes both the state- and contractor-completed surveys among those sent to the accounting firm for on-site verification. The contractor-completed surveys are also subject to telephone verification, but the state-completed surveys are not.

Figure 1: Flowchart of Wage Determination Process



Labor relies on the voluntary participation of contractors and other interested parties in conducting the wage survey. While participation is voluntary, failure to supply truthful answers can have serious

consequences: it is a crime under federal law (18 U.S.C. 1001) to knowingly submit false data to the government, and it is a crime under federal law (18 U.S.C. 1341) to use the U.S. mail for fraudulent purposes.

Contractors and interested third parties generally submit data on wage survey forms, called WD-10s, which are supplied by WHD.¹⁰ As shown in the sample forms WD-10 in figure 2, regardless of whether data are submitted by contractors or third parties, a separate WD-10 is submitted for each construction project and for each contractor that employed workers on that project. Wage rate determinations are issued for different job classifications, such as drywallers and electricians. In fiscal year 1997, WHD issued 1,860 individual wage rate determinations, which were based on information obtained from 43 area wage surveys.¹¹

In accordance with its regulations, Labor determines an area's prevailing wage rate on the basis of the 50-percent rule, which states that the prevailing wage will be the wage paid to the majority of workers employed in a specific job classification. If the same rate is not paid to a majority of those workers in the classification, the prevailing wage will be the average of the wages paid, weighted by the total number of workers employed in the classification. See the prevailing wage formula in figure 2 for an example of this calculation using the two hypothetical forms WD-10.

¹⁰In an effort to obtain the greatest participation, Labor staff sometimes complete the WD-10 form with information provided over the telephone by employers.

¹¹This number does not include ongoing modifications to wage determinations when there are automatic or negotiated changes to the wage rate specified in the collective bargaining agreement or wage determinations limited to specific projects rather than for entire geographic areas.

Figure 2: Examples of Wage Data Forms (WD-10s) Submitted for an Area Survey

Wage Data Submission Form 1—Hypothetical

Report of Construction Contractor's Wage Rates U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

OMB No. 1218-0045
Supplies 05-01-05

NOTE: This form is used by the U.S. Department of Labor to determine the Davis-Bacon wage rates under the Davis-Bacon Act (Federal Acquisition Regulation). The submission of wage data is encouraged but is voluntary. This is an optional form provided to ensure compliance in submission of wage data. Respondents may use an alternate form if all the information requested is included. The identity of the Respondent will be kept confidential to the maximum extent possible under existing law.

Respondents are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Please see instructions on reverse side.

1. Contractor Name, Address, Telephone Jane Smith Construction Baltimore, MD				2. Project Name, Description, and Location (include County) XYZ Plaza Montgomery County Maryland			
3. Contract Type <input type="checkbox"/> General <input type="checkbox"/> Sub		4. Approximate value of Project Project # _____ Subcontract # _____		5. Starting Date _____		6. Completion Date _____	
7. Type of Construction <input type="checkbox"/> Building <input type="checkbox"/> Highway <input type="checkbox"/> Sewer <input type="checkbox"/> Water				8. Project's Location <input type="checkbox"/> Federal (Davis-Bacon) Wage Determination <input type="checkbox"/> Other		9. State Wage Determination <input type="checkbox"/> Federal <input type="checkbox"/> Other	
10. Classification of Employees (i.e., Carpenter, Electrician, Laborer, Carpenter's Helper, Apprentice Carpenters, Etc.)		11. Workweek Ending Date For Peak Number Employed Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		12. Peak Number Employees 80		13. Basic Hourly Rate \$16.00	
14. Fringe Benefits (See Instructions for Percentage of Basic Hourly Rate or Other Amount)		15. Health and Welfare 1.10		16. Holiday and Vacation 1.10		17. App. Training .35	
3 Drywall				80		\$16.00 1.10 1.10 .35 .16	
Total of \$18.71							
18. Remarks							
<small>Wage rates paid cannot be considered in the determination of Davis-Bacon prevailing wage rates unless such information is provided as requested above.</small>							
16. Submitted By International Union of Drywallers						17. Date Report Submitted	

Form WD-10
Rev. Sept. 1998

Wage Data Submission Form 2—Hypothetical

Report of Construction Contractor's Wage Rates

U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

OMB No. 1013-0046
Expires: 03/31/06

1. Contractor Name, Address, Telephone
1 Acme Construction
 Chicago, Illinois

2. Project Name, Description, and Location (include County)
 XYZ Plaza
 Montgomery County
 Maryland **2**

3. Employee Classification
3 Drywall

4. Number of Employees and Wage Information
4 2 \$16.00

5. Hourly Wages and Fringe Benefits
5 \$16.00

6. Company/Organization That Submitted WD-10
6 Acme Construction

3. Classification of Employees (e.g., Carpenters, Electricians, Laborers, Carpenters' Helpers, Apprentices, Electricians, etc.)	4. Number of Employees	5. Hourly Rate	6. Fringe Benefits (As a Percentage of Basic Hourly Rate or Other Amount)
Drywall	2	\$16.00	
Electricians	4	\$20.00	
Painters	10	\$9.53	

Total of \$16.00

16. Submitted By: Acme Construction
 17. Date Report Submitted:

Formula for Prevailing Wage Rate

$$\frac{\text{Sum of Wages Paid to All Workers Within a Job Classification}}{\text{Total Workers Within Job Classification}}$$

Example
 $(80 \times \$18.71) + (2 \times \$16.00) = \$18.64$
 $80 + 2$

- Legend**
- 1** Contractor
 - 2** Project Name and Location
 - 3** Employee Classification
 - 4** Number of Employees and Wage Information
 - 5** Hourly Wages and Fringe Benefits
 - 6** Company/Organization That Submitted WD-10

(Figure notes on next page)

Note: The hypothetical example chosen is simplified for ease of discussion. It illustrates a case in which the majority of workers employed in a specific job classification are paid the same wage rate. In many other cases, a majority does not exist and Labor calculates a weighted average.

We previously reported that Labor's wage determination process contained internal control weaknesses that contributed to a lack of confidence in the resulting wage determinations. These weaknesses included limitations in Labor's verification of the voluntarily submitted wage and fringe benefit data. We recognized, however, that accurately reported wage data are not sufficient to ensure the accuracy of the wage determinations. For example, in a previous report, we concluded that reporting bias resulting from the voluntary nature of the wage surveys may also reduce the accuracy of the wage determinations.

In 1995, a congressional committee heard specific allegations that inaccurate and fraudulent wage data were submitted and used to determine prevailing wage rates in Oklahoma City. Both GAO and Labor's Office of Inspector General (OIG) then received congressional requests to review Labor's wage determination process. Labor responded to the allegations by introducing a policy to verify a sample of wage data forms received from third parties, but it did not extend this verification process to forms submitted by contractors.¹² Before that, Labor had contacted both contractors and third parties to obtain clarification about data that were inconsistent or unclear, but it had not attempted to verify data that were not obviously inaccurate.

In May 1996, we recommended that Labor obtain appropriate documentation or conduct a limited number of on-site inspection reviews to verify a sample of wage data submissions. Our recommendation was intended to improve data reliability and increase confidence in the accuracy of wage data in the short term while Labor continued its longer-term efforts to address larger weaknesses in the wage determination process. We expected that verification would also increase the accuracy of future wage determinations by reducing errors through educating both contractors and third parties about how to complete wage data forms and deterring the submission of fraudulent data.

In March 1997, Labor's OIG issued a report on its audit of a judgmental sample of wage data collected for use in calculating prevailing wage rate

¹²Third parties generally provide about one-third of all wage survey forms.

determinations issued in calendar year 1995.¹³ The audit did not find evidence of fraud or deliberate misreporting of wage data. However, OIG determined that inaccurate data submitted by both employers and third parties were frequently used in prevailing wage determinations and that access to payroll records was the most important factor to successfully verifying wage data. OIG echoed our suggestion that verification efforts be viewed as temporary steps until more fundamental reforms in Labor's survey methodology could be made.

Labor Has Implemented a Program to Verify Wage Data

In response to the House Appropriations Committee's directive and our recommendation, Labor has implemented a program to verify wage survey data submitted by construction contractors and interested third parties, such as contractor associations and trade unions. To verify these data, Labor established procedures to select samples of wage data forms for telephone verification that differ depending on the entity that submitted the form. In addition, Labor has hired a private accounting firm to conduct on-site verification reviews. In both the telephone and on-site verification process, all data—regardless of which party submitted them—are verified only with the contractors.

Labor's Telephone Verification Procedures Differ Depending on Whether the Data Are Supplied by Contractors or Third Parties

In response to our recommendation, in June 1996 Labor expanded its telephone verification process begun the previous year from one of verifying wage data submitted by third parties to one that also verifies wage data submitted by contractors. However, Labor verifies a different percentage of wage data forms submitted by third parties than that for data forms submitted by contractors. In addition, regardless of who submitted the wage data form, Labor asks for supporting documentation only from contractors, not from third parties.

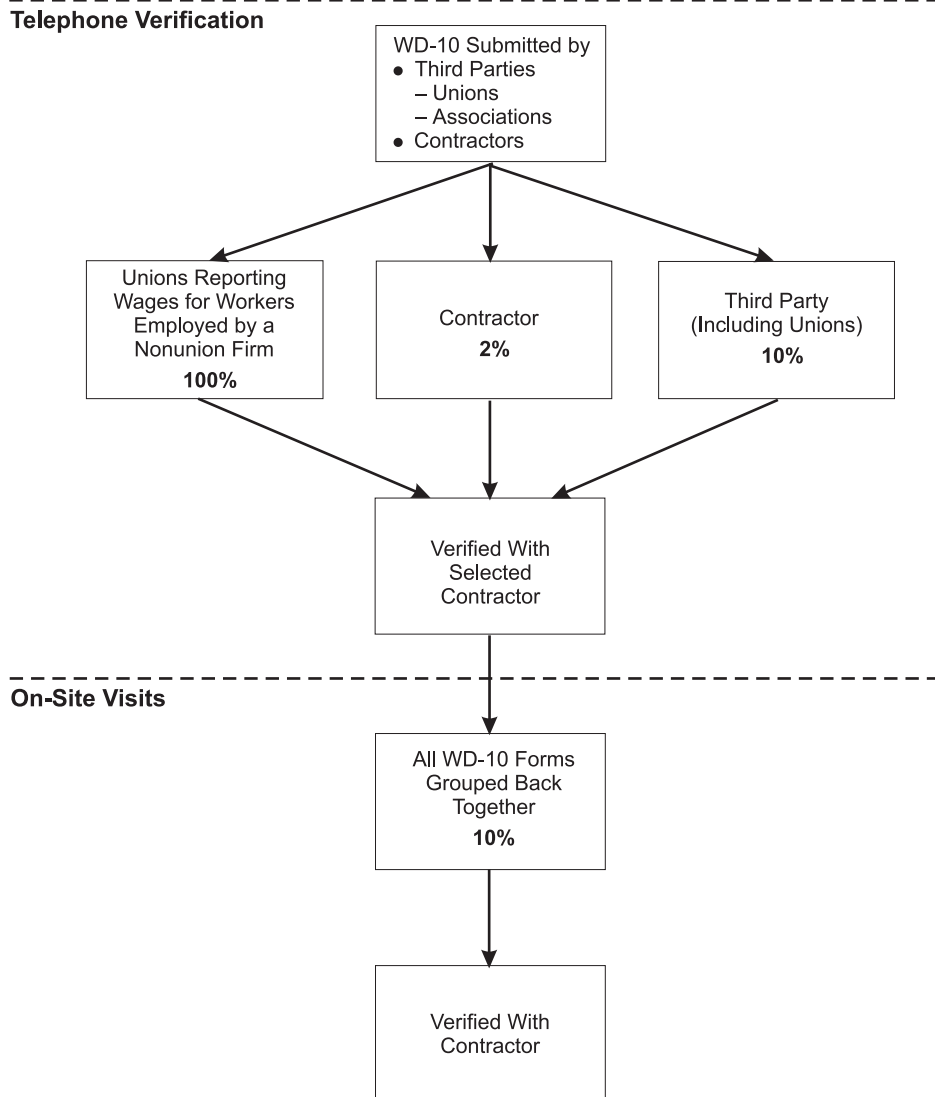
Labor verifies a larger percentage of wage data forms submitted by interested third parties than for those submitted by contractors, as shown in figure 3. For wage data submitted by third parties, wage analysts must select every tenth—10 percent—WD-10 wage data form submitted (and no fewer than two WD-10 forms) for verification with the contractor.¹⁴ In

¹³Department of Labor, OIG, Inaccurate Data Were Frequently Used in Wage Determinations Made Under the Davis-Bacon Act, Final Report #04-97-013-04-420 (Mar. 10, 1997).

¹⁴Labor also requires its wage analysts to verify with the contractor all third-party data submitted by a union that reports wages for workers employed by a nonunion firm. Labor's policy does not include any similar procedures to verify data submitted by third parties that are not unions, such as contractor associations and federal and state agencies. However, Labor's procedures require wage analysts to verify any wage data that on the surface are questionable, regardless of the source of the data.

contrast, for wage data submitted by contractors, Labor requires that regions select every fiftieth—2 percent—wage data form (but no fewer than five) for telephone verification. Regional wage officials told us that they always use the sample size required by Labor’s national office for contractors, but they exceed it for third parties. For example, wage analysts in one region told us that they verify 100 percent of wage data forms submitted by third parties by requiring that all such forms be signed by contractors who paid the wages that were reported. A senior wage analyst in another region told us that they conduct telephone verification of almost all third-party wage data forms.

Figure 3: Selecting Wage Data Forms for Verification



Labor’s procedures require that wage analysts verify data only with the contractors, not with third parties, even for data submitted by third parties. The procedures require the regional offices to send letters to the contractors selected for verification requesting that supporting payroll documents be mailed to Labor. (See app. III for a sample of the letter Labor sends to contractors.) Wage analysts contact the contractors

selected for verification by telephone to verify wage data regardless of whether the contractor has provided the requested documents. Wage analysts told us that they generally do not receive the documents requested from the contractor and, therefore, rely on the contractor's verbal assurance that the data are correct. When the wages reported by the contractor, either with documentation or with oral confirmation, are different from those originally submitted, Labor replaces the wage data submitted on the WD-10.¹⁵ When the information provided by the contractor does not agree with the data submitted by a third party, regional wage analysts told us that they always take the word of the contractor over the information supplied by the third party. Unlike the process Labor uses with contractors, Labor seldom notifies third parties that the wage data forms they submitted have been selected for verification and does not ask them for documentary evidence to support the data they provided.

Even though information from contractors who participate in the verification process sometimes leads to changes in the wage data, Labor includes in the prevailing wage calculation data reported by contractors who refuse to participate in the verification process, thereby assuming these data to be accurate. Labor does not keep records that would allow us to assess how often this occurs. One of Labor's regional offices, however, provided data showing that in the 18-month period from April 1, 1997, to September 30, 1998, wage analysts in that region were unable to verify data by telephone for 41—57 percent—of the 72 WD-10 forms submitted by contractors that were selected for verification. Labor's procedures allow it to assume that these data are correct and to include them in the wage calculation. However, this assumption is questionable because, of the remaining 31 forms that were verified by telephone, analysts found errors in data submitted in 9 of the forms, or 29 percent.

Labor Uses a Private Accounting Firm to Conduct On-Site Verification

In April 1997, Labor began a process of on-site wage data verification under a contract awarded to a private accounting firm. As of September 30, 1998, Labor had paid the firm a total of \$1 million for on-site verification for fiscal years 1997 and 1998, and had awarded a new contract to the same firm for \$500,000 in fiscal year 1999.¹⁶

¹⁵Labor does not keep records, however, that would show how often errors are found in telephone verification or how often changes are made.

¹⁶This \$1 million is in addition to the \$10 million Labor estimated it spent for fiscal years 1997 and 1998 wage determination activities other than verification.

The contract requires the accounting firm to review a sample of payroll records to verify wage survey data and interview employers to obtain information to assist in Labor's efforts to reengineer the wage determination process. Labor selects what it describes as a 10-percent sample of the wage data forms submitted by both contractors and interested third parties for a specific area wage survey. It reaches this percentage by selecting every tenth data form for verification. In fact, the percentage of WD-10s selected for on-site verification usually exceeds 10 percent. This is because, after selecting every tenth data form submitted, Labor adds to the set of forms the auditor will review all other usable WD-10s that could be examined at that contractor's office, such as the forms for other projects for which data were reported.¹⁷ As a result, 10 percent is the minimum sample size; the actual sample size varies from one survey to another.¹⁸ For example, for the 9 surveys for which final audit reports were completed, the actual percentage of WD-10s selected for on-site verification ranged from 10 to 56 percent.

As with the telephone verification conducted by WHD wage analysts, auditors verify the data on-site only with the contractor who employed the workers, even when the data were submitted by third parties. The WHD regional office mails the contractors selected for verification a letter notifying them that an auditor will contact them to request a visit to their establishments. (See app. III for a sample letter sent to contractors.) The contractor is asked to make payroll records available to the auditor to confirm that the data reported on the WD-10 are complete and correct. While the contractor's cooperation with the auditor is requested, it is voluntary for contractors whose wage data cover private construction projects, because Labor is not authorized to require contractors to provide records for such projects.¹⁹ In contrast, contractors on federal projects are required by law to grant access to payroll records related to the federal projects. Labor, however, does not specify this in its letters to these contractors. Labor is concerned that doing so might discourage contractors from participating in future Davis-Bacon surveys, which could reduce the number of survey respondents and thus affect the accuracy of wage determinations.

¹⁷The data are submitted on a separate WD-10 form for each contractor and project. Thus, a contractor who employed workers on more than one project will be identified as the contractor on more than one WD-10 form. (See #1 in fig. 2.)

¹⁸Multiple WD-10 forms may be submitted for the same contractor and project if data are submitted for the project by both contractors and third parties.

¹⁹Legislative proposals for providing such authority have been introduced in the Congress in recent years, but none has been enacted to date.

The auditor compares the data reported on the WD-10 with the payroll records for the reported project. Discrepancies between the original WD-10 submitted and the payroll records or contractor's testimony are recorded by the auditor. After completing the audit of the area wage survey data, the auditor submits a preliminary report to Labor, which includes a list of all discrepancies and a list of contractors that did not participate in the verification process.²⁰ Labor reviews the preliminary report and makes follow-up telephone calls with contractors as necessary. After Labor reviews the auditor's findings, the accounting firm submits a final report reflecting changes on which Labor and the firm have agreed. Regional wage analysts told us that only after Labor receives the final report do the analysts incorporate appropriate changes to wage data, recalculate wage data, and forward recommended wage rate determinations to Labor's national office for final review and issuance.

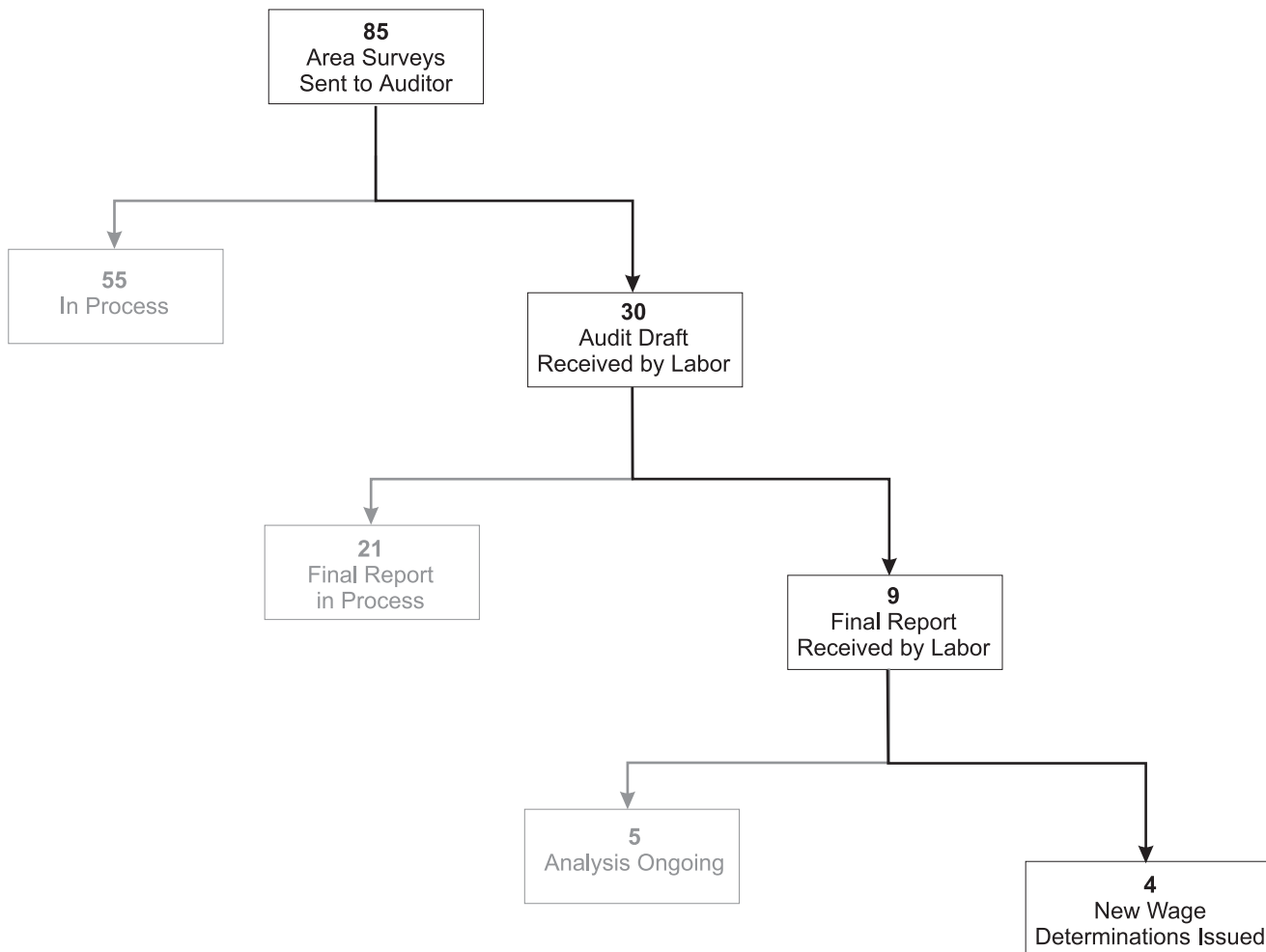
During the 15-month period from the beginning of the on-site verification process in April 1997 to June 30, 1998, Labor sent 85 surveys to the auditors for on-site verification.²¹ As of September 30, 1998, the auditors had completed audits for 30 of the 85 area surveys and had issued final reports for 9 of these.

The auditors reported finding errors in both the wages and the number of workers reported in the majority of wage data forms they reviewed. Specifically, for the nine surveys for which they had completed final reports, the auditors found errors in wage rates reported in about 70 percent of all wage data forms reviewed. Labor has issued new wage determinations based on four of these nine surveys (see fig. 4).

²⁰The report also describes the contractors' responses to five specific questions, including the contractors' experience using the WD-10 to submit wage data, and their interest in providing and ability to provide wage data electronically. This information is collected as part of the second purpose of the audit: to gather information to help Labor improve the wage determination process.

²¹This represented an unusually large number of surveys because it included 42 surveys that were begun before the beginning of the on-site verification process in April 1997 and 43 that were initiated in the following 15 months.

Figure 4: Status of 85 Area Surveys Subject to On-Site Verification, as of September 30, 1998



Verification Will Have Limited Impact on Accuracy of Prevailing Wage Determinations and Will Reduce Timeliness

Verification efforts conducted to date will have a limited impact on the accuracy of prevailing wage rate determinations and will increase the time required to issue them. The extent to which the verification process improves the accuracy of Labor's prevailing wage determinations will be limited by the congressional directive to use a random sample of wage data forms to select wage data for verification and the procedures Labor uses to implement the directive. In addition, on-site verification has added time to the wage determination process, increasing the likelihood that data used will be outdated. The on-site verification process has, however,

provided information that Labor is using as it tries to improve the process for future wage determinations.

Errors Identified, but Impact on Accuracy of Wage Determinations Is Limited

Although Labor has identified and corrected numerous errors in the wage data submitted, it has been able to correct only the limited number of wage data forms verified. Since this represents only a small portion of the total number of data forms submitted, these corrections have only a minimal impact on the accuracy of the data used to calculate wage determinations. As a result, even though we found that errors the auditors identified in all nine area surveys averaged 76 cents per hour, Labor officials estimate that the changes to wage determinations will amount to an average of 10 cents per hour.

Furthermore, both the Committee directive to use a random sample of wage data forms to select wage data for verification and the procedures Labor uses to implement the directive also limit the extent to which errors found will improve the accuracy of wage determinations. While a random sample is often assumed to be the most effective approach to selecting a sample, it is not the best approach for verification in this situation. It would be impractical to verify a large enough random sample of wage forms to ensure that verification would have an impact on the accuracy of the wage determination. Moreover, the procedure Labor uses to verify wage data (1) does not take into account whether the data it selects for verification are likely to be used in calculating wage determinations, (2) assumes that data from contractors that refuse access to supporting documentation are correct, and (3) does not attempt to verify data with third-party submitters when contractors are unable to provide or refuse access to supporting documentation.

Verification Sample Not Large Enough to Ensure Impact on Accuracy of Wage Determinations

Although the House Committee directed Labor to use a random sample to select wage data forms to verify the accuracy of wage data, Labor does not select a large enough number of data forms to ensure that the errors found will improve the accuracy of wage determinations, nor would it be feasible to do so.²² Although random sampling is sometimes the best approach to selecting data, in some circumstances other sampling strategies are more effective. A random sample would allow Labor to assume that data found to be in error were representative of all data submitted, and Labor could adjust the prevailing wage rate rather than adjusting the data on only the WD-10s selected for verification. However, the sample size needed for this

²²In addition, the sample Labor draws is systematic but does not meet the criteria to be considered random. See app. IV for more information.

approach would require Labor to verify most of the wage data submitted. Conversely, a carefully chosen judgmental sample would allow Labor to select wage data forms for which correcting errors found would have the greatest effect on the accuracy of the wage determinations.

To select a representative random sample that would ensure the accuracy of the data used to determine prevailing wage rates, Labor would have to sample workers within each job classification rather than wage data forms, which often combine job classifications, as it does now. Labor currently determines the amount of wage data to be verified by selecting a uniform percentage of WD-10s for each area survey, ranging from 2 percent to 10 percent. However, because Labor determines multiple prevailing wage rates, one for each job classification, it must select a sample of wage data from every job classification within a survey to ensure a representative sample for all prevailing wage rates. Since wage data forms often include data for multiple job classifications, sampling wage data forms alone does not ensure representativeness within specific job classifications.

Labor would also have to select a sufficient number of workers within each job class to meet the statistical criteria for appropriately projecting from sampled cases to all the wage data. However, data submitted on the number of workers within a job class can be small, often fewer than 10. As a result, Labor would need to select a sample size equal or close to the total number of workers. For example, we calculated that the sample size required for a statistically representative sample would require that Labor verify all data submitted for 40 of 45 job classifications in one fiscal year 1997 area survey in order to be within 50 cents per hour of the correct wage. For all job classifications, Labor would have had to verify the wages of more than 5 times the number of workers it verified, 439 rather than 78 of the 664 workers for whom wages were reported. (See app. IV.)

Labor Selects Wage Data for Verification That Will Have Little or No Impact on Accuracy of Wage Determinations

Using a random sample does not allow Labor to judgmentally select for verification wage data that will have the greatest potential impact on accuracy. For example, Labor verifies wage data that it does not expect to, and does not, use to calculate prevailing wage determinations. In addition, Labor does not consider the cost of travel and staff time in selecting wage data forms to verify.

Of the 30 area surveys for which on-site verification preliminary reports had been completed as of September 30, 1998, 29 included verification of wage data that would not be used in calculating prevailing wage rates. The

data verified would not be used for two reasons. First, in some instances, wage determinations would be based on wage rates included in collective bargaining agreements, not on the wage data reported—whether the data were accurate or not. In general, when the same wage is paid to 50 percent or more of the workers employed in a job classification, the wage rate is the same because it is specified in a collective bargaining agreement that covers the specified job classification.²³ When this occurs, Labor does not determine the prevailing wage rates on the basis of data reported on the WD-10s. Instead, it uses the collective bargaining rate as the prevailing wage rate. Second, in some instances, Labor knew it would not use the wage data because it had received insufficient data within the specific job classification to allow it to issue a wage determination. Labor's procedures require that it receive responses from a minimum of 25 percent of the contractors and third parties it contacts for data and wages covering a minimum of three workers from two contractors to determine the prevailing wage.²⁴ When Labor receives too few responses, it does not issue a new wage determination.

For example, for one of the four area surveys for which Labor has issued prevailing wage rate determinations, none of the verified wages were used to determine the prevailing wage rates. For this specific survey, the rate specified in the collective bargaining agreement was used for 34 of the 36 individual job classifications. Data for the remaining two job classifications were not used because Labor did not receive sufficient data for these two job classifications from the survey responses. Thus, although the on-site verification for this one survey cost about \$40,000, and it required 5 weeks to complete the preliminary report, none of the results were used.

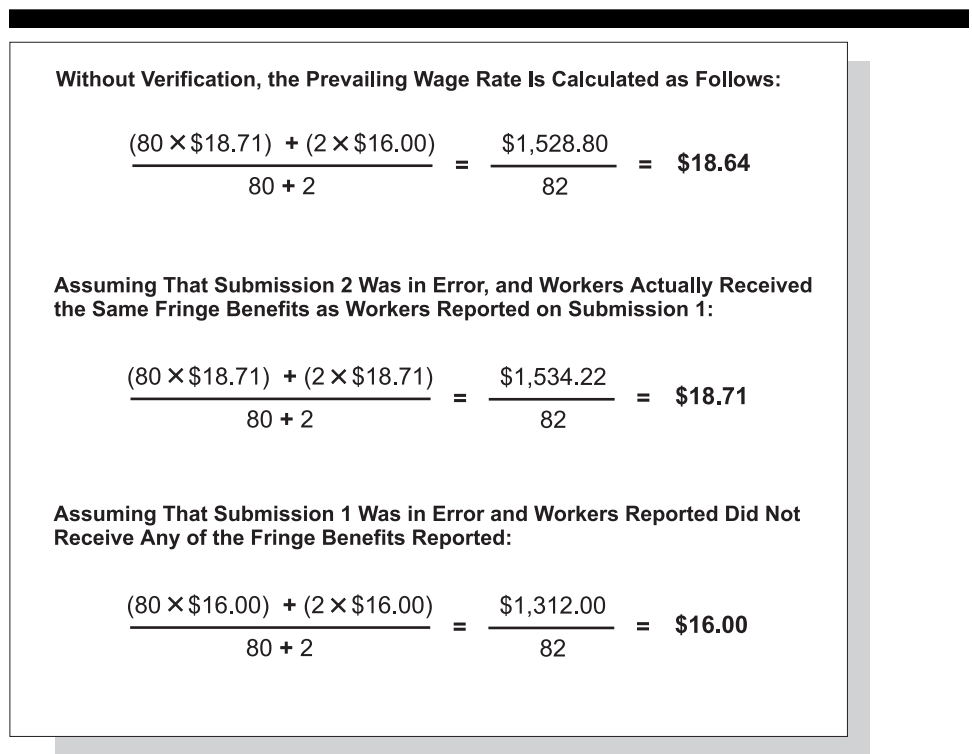
Labor also does not balance the benefits against the costs of verifying specific wage data forms when selecting its sample. For example, selecting wage data forms with wages reported for the greatest number of workers within a specific job classification has the potential for greater benefit in improving the accuracy of the wage determination than does selecting and verifying wages for a smaller number of workers. Using the sample WD-10s in figure 2, if Labor's random sample resulted in verifying submission 2, which includes data for only 2 of a total of 82 workers for whom wages were used in the calculation, correcting even large errors would have little impact on the prevailing wage determination because

²³Labor obtains data on the WD-10 about whether the workers are covered by a collective bargaining agreement (see #3 in fig. 2).

²⁴When Labor receives data from an entity it has not contacted, it counts these data in the response rate as though it had requested the data.

only these 2 wage rates could be adjusted. On the other hand, even a small error in wage rates reported for the 80 workers would have a direct effect on the wage determination. Using the hypothetical WD-10s in figure 2, if the fringe benefits reported on submission 1 were incorrectly omitted from submission 2, correcting the wages would increase the prevailing wage rate from \$18.64 to \$18.71, an increase of 7 cents. However, as figure 5 shows, if the workers did not receive the fringe benefits on submission 1, which includes data on 80 workers, correcting the error would reduce the prevailing wage rate from \$18.64 to \$16.00, a decrease of \$2.64.

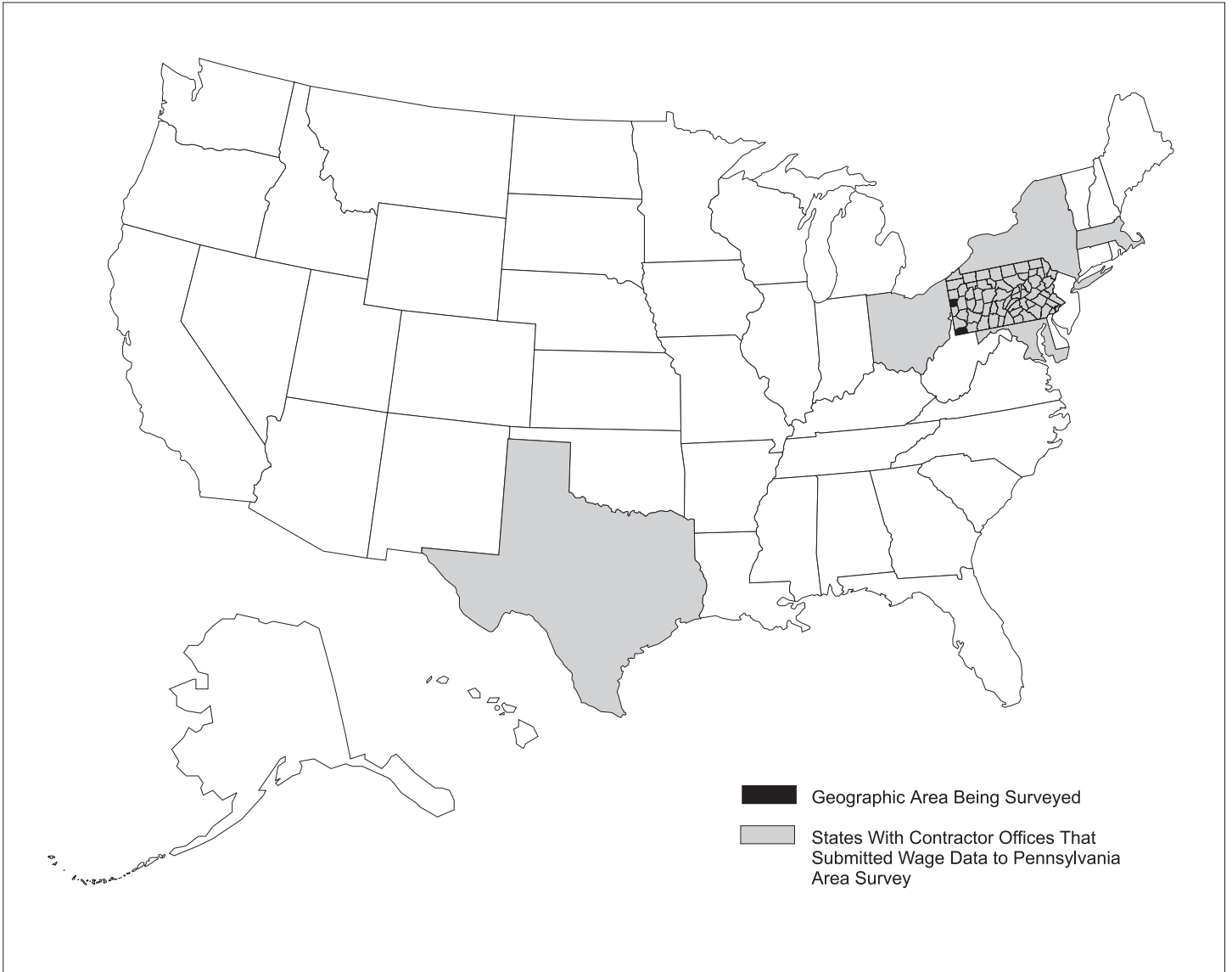
Figure 5: Calculation Comparing Effect of Correcting Errors on Simplified Hypothetical Wage Data Forms



Note: For the purpose of illustration, we use only two forms WD-10 with widely differing numbers of workers reported in the job classification. In actual practice, the 50-percent rule would apply; the prevailing wage rate would not be calculated but would be the rate paid to those on submission 1 because more than 50 percent of the workers are paid the same wage, to the penny.

Labor also does not consider the cost of accessing payroll records when selecting wage data forms for verification. To do on-site verification, the accounting firm's auditors must contact individual contractors and visit their administrative offices to review payroll records; these offices may be located far from one another. For example, as shown in figure 6, for the area wage survey covering Lawrence and Greene counties in Pennsylvania, contractors' offices were located in six states and were as far away as Texas and Massachusetts. Using Labor's systematic selection process, auditors would attempt to visit the contractor's administrative office for submission 1 in our example, regardless of the great distance from the other sites and the small number of drywallers whose reported wages were to be verified.

Figure 6: Geographic Dispersion of Contractors in Pennsylvania Area Survey



Labor Assumes Data Are Accurate When Contractors Refuse or Are Unable to Provide Supporting Documentation

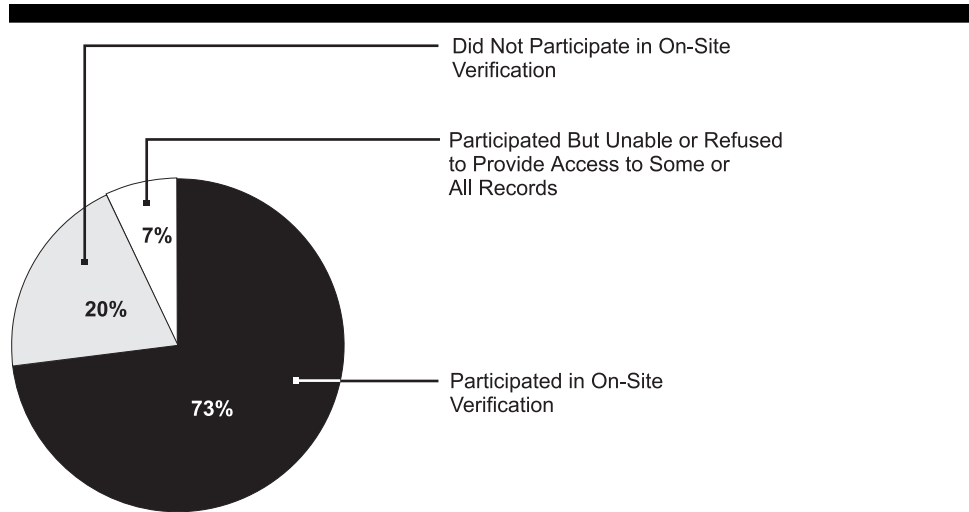
Labor assumes that data from contractors that are unable to provide or refuse access to supporting documentation are correct by including them in the wage rate calculations. A more reasonable assumption would be that data from contractors who refuse access have a greater chance of being inaccurate than data from contractors who provide access. Labor

did not have comprehensive data on the reasons contractors would not provide access to the payroll records necessary to verify reported wage data. Both Labor's wage analysts and the on-site accounting firm auditors reported that contractors had many reasons for not participating, such as not wanting to devote the necessary resources to access the records or that the records were no longer available. It is also possible, however, that wage data may be fraudulent or carelessly reported, because contractors who knowingly submit fraudulent data may be unlikely to voluntarily submit to an audit of their payroll records out of fear of prosecution for committing a federal crime.

As shown in figure 7, 27 percent of the contractors selected for verification either refused or were unable to provide on-site auditors access to some or all of the payroll records required for verification. For the 30 on-site audits for which Labor has received preliminary reports, auditors were unable to visit 20 percent, or 59, of the 293 contractors selected for on-site verification either because the contractors would not participate in on-site verification or the accounting firm was unable to schedule an acceptable time for auditors to visit. Another 7 percent of the contractors denied or were unable to provide access to some or all of the necessary payroll records after the auditors arrived at the contractors' offices.²⁵ Labor's OIG found in its verification review that access to payroll records was the most important factor in successfully verifying wage data.

²⁵Labor sometimes asks government contracting agencies to provide certified payroll records, but it reported limited success in obtaining these records.

Figure 7: Access Provided by Contractors to Payroll Records



While Labor does not have legal authority under the Davis-Bacon Act to access payroll records for workers involved in private construction, it does have authority to access such records for federally funded or assisted construction work covered by the act. Labor officials told us that they do not exercise this right because to do so might result in reduced accuracy of future wage determinations if it discouraged contractors from voluntarily providing wage data for future surveys.

Verifying Data Only With Contractors Limits Accuracy of Wage Determinations

Labor's procedure of verifying wage data only with contractors also limits the accuracy gains achievable from the verification process and could actually result in decreased accuracy. For example, our review of on-site verification reports found wage data, including fringe benefit data, submitted by third parties that auditors were unable to verify through the contractor. The contractor either did not have records on fringe benefits paid or refused the auditors access to any payroll records. In some cases in which the contractor did not verify the accuracy of the fringe benefits, the auditors recorded \$0 under the fringe benefits as though the reported data were inaccurate. These workers, however, were covered by a collective bargaining agreement. Especially for fringe benefits paid under collective bargaining agreements, unions often have documentation to verify amounts paid. In fact, regional wage analysts told us that, in some cases, unions may be the only source of data on fringe benefits. By not seeking documentation from the third party, the verification process may

have erroneously reduced the amount of wages and fringe benefits paid and thus contributed to a less accurate wage determination.

Verification Process Adds Time to Issuance of Wage Determinations

As would be expected, verification efforts have increased the time required to issue wage determinations after the area survey has been completed. Labor does not collect data on the amount of time required to complete telephone verification, but Labor officials who administer the wage determination process estimated that telephone verification added an average of 2 weeks to the process. Telephone verification can be accomplished relatively quickly because Labor can conduct telephone verification as wage data are being submitted. In addition, it does not require travel, which would add time and expense.

On-site verification, however, adds much more time—months rather than weeks—to the process because (1) it requires travel and (2) in order to identify all wage data forms related to a specific contractor and more efficiently manage travel, it does not begin until after the survey cutoff date for wage forms has passed. In fact, regional wage analysts told us that they do not send the surveys to the accounting firm for on-site verification until the telephone verification and all preliminary analysis have been completed such that wage determinations are ready to be forwarded to the national office for review and publication. Our analysis of the 30 area surveys for which the auditors submitted preliminary reports shows that the time between when Labor sent the area survey data to the accounting firm for verification and when Labor received the firm's preliminary report ranged from 36 to 408 days, with an average of 211 days. However, Labor officials told us they cannot begin final calculations until they receive the final report from the auditors, which incorporates the results of discussions with Labor. Other Labor activities, such as reviewing the results of on-site verification audits and making any necessary adjustments to wage determinations before issuance, also add time to the wage determination process, but Labor has no data to estimate the amount of time these activities take. Thus, while the impact verification is having on timeliness is greater than the time elapsed between when Labor forwards the surveys to the auditors and receives the preliminary report, the total time required is not available. WHD officials told us that they expect this delay will decrease over time, attributing some of it to the time required for WHD staff and accounting firm auditors to master the verification process.

Verification Process Facilitates Long-Term Efforts to Improve Wage Survey Process

While the effect of the verification process on the accuracy of data used in wage determinations has been minimal, these efforts may have a greater impact over the long term by deterring contractors and third parties from submitting inaccurate or fraudulent data, educating contractors about wage data form procedures, and assisting Labor in its reengineering efforts. Labor officials stated that they had focused their verification procedures on identifying and deterring fraud rather than on ensuring the accuracy of the wage determinations. But they also told us that the value of verification as a deterrent to the submission of fraudulent wage data must be balanced with its potential to deter voluntary participation in future Davis-Bacon Act surveys, which could, conversely, reduce the accuracy of the wage determinations.

Verification efforts may help educate contractors about how to complete wage survey forms properly. But Labor's procedure of not including third-party submitters in the verification process limits the potential for verification to improve the accuracy of future wage determinations. Third parties do not benefit from the potential educational value that verification has because they are not informed of any errors identified on the WD-10s they submitted, nor do they learn how to properly complete them.

Through its verification efforts, Labor has also obtained information that it is using in its long-term efforts to reengineer the wage determination process. Labor included in the on-site verification process questions to contractors about the wage survey form and its terms, such as whether the contractors had difficulty understanding and completing the survey form. Of those contractors who reported confusion or difficulty with the form, many identified the "peak week" and the number of workers employed during the peak week as major sources of confusion.²⁶ In addition, the accounting firm found in the course of its on-site payroll verification that contractors and third parties that submitted wage data had difficulty completing the form, including accurately identifying the job classification of workers. The auditors found that these difficulties affected the accuracy of the wage data reported. For example, for the nine area surveys for which the auditors completed final reports, they identified errors in wage data for 38 percent of all contractors visited caused by misidentification of the peak week. Labor is also redesigning its wage reporting form, which responds to concerns raised by contractors during on-site verification.

²⁶The "peak week" refers to the work week in which the contractor employed the largest number of workers in a particular craft or classification for work on a specific project.

Labor is also piloting a statewide survey using wage data for “total man-hours” in place of wage data for the peak week.²⁷

Conclusions

Without accurate and timely data, Labor cannot determine prevailing wage rates that correctly reflect the labor market. While obtaining accurate wage data through Labor’s voluntary surveys will not ensure that wage rate determinations are accurate, inaccurate data guarantee inaccurate wage determinations. We recognize that achieving 100-percent accuracy is not possible. However, inaccurate prevailing wage determinations could lead to the payment of wages that are either lower than what workers should receive or higher than the actual prevailing wages, which would inflate construction costs at the taxpayers’ expense. A system to verify wage data submitted by contractors and third parties is necessary to ensure that inaccurate data do not have a negative effect on the prevailing wage determination.

As directed by the House Appropriations Committee, Labor has implemented a process to verify wage data submitted by both contractors and third parties. This process allows it to identify and correct errors it finds in wage data reported. It may also have a positive impact on the accuracy of wage data obtained in future wage surveys by educating contractors on the proper completion of wage data forms. In addition, this process has helped Labor obtain information that will assist it in reengineering efforts. For example, errors in wages reported often occur because of confusion by contractors and third parties over how to report workers and wages for the peak week. Labor is exploring the alternative use of “man-hours” rather than peak week, which may be easier for contractors and third parties to report.

The process Labor is using, however, is unnecessarily costly, in terms of both money and time. On-site verification is a costly approach to verifying wage data, and it delays the issuance of wage rate determinations by months, especially when compared with telephone verification that is combined with supporting payroll records submitted upon request. On-site verification requires a cadre of auditors to travel to worksites around the country to review payroll records. While Labor’s OIG found that access to payroll records was essential to successfully verifying wage data, the process need not require that the contractor be contacted in person rather

²⁷Total man-hours differs from the peak week. Total man-hours does not count the number of workers, but the number of total hours worked within a specific job classification for the entire length of the project. In contrast, peak week counts the number of workers within a job classification for only one week, regardless of the number of hours worked and the wages paid them.

than by telephone. Obtaining copies of payroll records by mail as part of the telephone verification is significantly less costly and takes less time.

Relying on a random rather than a judgmental sample limits the accuracy gains achievable through verification. While a random sample is often assumed to be better than a judgmental sample, it is actually less effective in selecting wage data forms to verify that will have an impact on the accuracy of the wage determinations. Labor does not gain the most significant benefits of a random sample—that is, being able to assume that errors found in verified wage data forms are representative of all wage data forms and adjust wage rates accordingly—because it is not feasible to verify a sufficiently large number of wage data forms. In contrast, a carefully designed judgmental sample to select contractors for verification could consider the likelihood that the data will be used, the number of workers within a job classification, and the geographic dispersion of contractors.

The impact of Labor's verification procedures on the accuracy of the wage determinations is also limited by the action it takes when documentation cannot readily be obtained from a contractor. In our view, at least two aspects of Labor's verification procedures contribute to limiting accuracy. First, contractors may refuse access to supporting documentation for many legitimate reasons—such as the time required—but contractors who refuse to provide the supporting documentation are more likely than those who provide access to have submitted fraudulent or carelessly reported data. Labor, however, (1) accepts the data and uses it as if documentation had supported it and (2) allows federal contractors to deny access to the supporting documentation even though Labor has the legal authority to access their records. While discarding all such data might have negative consequences on Labor's ability to issue wage determinations, accepting all such data may contribute to inaccurate wage determinations. Labor's approach does not achieve the needed balance in deciding which data to include and exclude.

Second, Labor sometimes eliminates or revises data inappropriately when it does not seek supporting documentation from third parties that have submitted it. Wage data submitted for a project by a third party are generally verified against the payroll or oral testimony of the contractor associated with that project. The third party that submitted the original WD-10 is not provided the opportunity to validate the information it submitted; final corrections are generally provided only by the contractor. As a result, data supplied by third parties may be eliminated or revised

inaccurately, even though, in some cases, only the third party, not the contractor, can provide supporting documentation, for example, for benefits provided by a union. Supporting documentation provided by third parties could improve the completeness and thus the accuracy of the data used.

Recommendations

To reduce the cost of verification and increase the benefits, we recommend that the Secretary of Labor direct the WHD Administrator to revise verification procedures to maximize the expected value to be gained from verification. Specifically, Labor should

- increase the use of telephone verification—while decreasing on-site verification audits—and increase efforts to obtain payroll documentation from all selected submitters;
- change the procedures used to select wage data for verification, using a judgmental sample of wage data forms based on the potential impact of the data on prevailing wage rate determinations rather than using a random sample; and
- revise verification procedures to take more appropriate action when documentation cannot readily be obtained from a contractor, such as not using data when supporting documentation is requested but not provided, requiring documentation where possible, and giving third parties an opportunity to provide supporting documentation for data they submitted.

Agency Comments

We provided a draft of this report to the Department of Labor for its review and comment. It generally agreed with our recommendations and agreed to implement them by revising the verification process. Labor also stated that our report was generally helpful and that some of our recommendations would decrease costs and improve timeliness. However, the Department took issue with some of our conclusions concerning the accuracy of survey data submissions by contractors and the use of data from contractors who refuse auditors access to supporting payroll records. Labor also provided technical comments and corrections, and we have revised our report as necessary.

With regard to the accuracy of the survey data, Labor stated that despite the many errors found by both the on-site auditors and Labor's OIG, the limited revisions to wage determinations that resulted from correcting these errors demonstrated that the wage determinations closely approximated the accurate prevailing wage rate. We disagree, because the

small number of data submissions verified is not a valid representative sample of all data submissions used to calculate the revised wage determinations. Furthermore, the OIG's report does not support Labor's conclusion. It states that: "The errors we discovered did not materially change many of the wage decisions because the data we sampled often represented a small portion of the responses for an individual WH survey. . . . If we had conducted more payroll reviews, we believe more exceptions would have been identified and would have revealed more material errors in published wage decisions."

With regard to the use of data when contractors refuse access to the supporting payroll records, Labor disagreed with our conclusion that contractors unable or unwilling to provide auditors access to payroll records are more likely to have submitted fraudulent data than those who provide records. Labor based its conclusions that contractors try to provide accurate and complete information on the data verification that has been done to date by both Labor's OIG and WHD. Basing conclusions about contractors unwilling or unable to provide access to payroll records on verification of data from contractors that do provide access is not logical or convincing. We continue to believe that employers submitting fraudulent or unsubstantiated wage data forms are unlikely to voluntarily provide access to payroll records for review. Because all verification efforts conducted to date, including those of the OIG, have relied on voluntary access to payroll records, the absence of fraud in verified wage data submissions provides no evidence that contractors who denied access did not submit fraudulent data.

We have, however, clarified our conclusion on the use of data submitted by contractors or third parties that do not cooperate with verification efforts to allow Labor analysts to use judgment in deciding when to exclude such data from its wage determination calculations. For example, we agree that Labor should consider including data from contractors that routinely cooperated with data verification efforts in the past and whose data were determined to be generally accurate. Another factor to consider would be the possible adverse impact of discarding specific data on Labor's ability to issue a wage determination.

Finally, in agreeing to select data using a judgmental sample, Labor stated that it intends to continue selecting some data for verification using a systematic sample, albeit fewer than it does now. To the extent that data selected randomly represent a small segment of all data verified, Labor's proposed approach is consistent with our recommendation.

We are sending copies of this report to the Secretary of Labor, appropriate congressional committees, and other interested parties.

Please call me at (202) 512-7014 or Larry Horinko at (202) 512-7001 if you or your staffs have any questions about this report. Other major contributors were John Carney, Robert G. Crystal, Lise Levie, Ann P. McDermott, Elizabeth T. Morrison, and Ronni Schwartz.



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Contents

Letter		1
Appendix I Objectives, Scope, and Methodology		36
Appendix II Labor's Wage Determination Process Under the Davis-Bacon Act	Stage 1: Planning and Scheduling Survey Activity Stage 2: Conducting Surveys of Participants Stage 3: Clarifying and Analyzing Respondents' Data Stage 4: Issuing the Wage Determinations Labor's Appeals Process	38 38 41 42 45 45
Appendix III Sample Letters Sent to Contractors Selected for Verification		47
Appendix IV Methodological Issues in Labor's Sampling Procedures		49
Appendix V Comments From the Department of Labor		52
Related GAO Products		60
Table	Table IV.1: Sampling Sizes, by Job Classification, Required to Ensure a Representative Sample for Selected Area Survey	50
Figures	Figure 1: Flowchart of Wage Determination Process	5

Contents

Figure 2: Examples of Wage Data Forms Submitted for an Area Survey	8
Figure 3: Selecting Wage Data Forms for Verification	13
Figure 4: Status of 85 Area Surveys Subject to On-Site Verification, as of September 30, 1998	17
Figure 5: Calculation Comparing Effect of Correcting Errors on Simplified Hypothetical Wage Data Forms	21
Figure 6: Geographic Dispersion of Contractors in Pennsylvania Area Survey	23
Figure 7: Access Provided by Contractors to Payroll Records	25

Abbreviations

CBA	collective bargaining agreement
OIG	Office of Inspector General
RSPR	Regional Survey Planning Report
WHD	Wage and Hour Division

Objectives, Scope, and Methodology

The House Committee on Appropriations in its reports on appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for fiscal years 1998 and 1999 asked us to (1) review the Department of Labor's efforts to verify a random sample of employers' wage data submissions and select a sample of submissions for on-site data verification and (2) determine the likely effect of these efforts on the accuracy and timeliness of Davis-Bacon wage determinations.

To describe Labor's actions, we interviewed Department of Labor officials in the Wage and Hour Division (WHD) at both headquarters and the five regional offices responsible for determining prevailing wage rates. At the southeast regional office in Atlanta, Georgia, we interviewed WHD officials and reviewed the wage determination process in more detail, including reading relevant documentation and reviewing the process used to create a computerized database of wage data forms. We also obtained a draft of WHD's procedures for telephone and on-site verification and task orders for on-site verification. In addition, we interviewed representatives of the private accounting firm contracted to conduct on-site payroll verification, who provided time schedules, cost data, and other information about the firm's on-site reviews.

To determine the likely effect of Labor's verification efforts, we obtained and analyzed data from a number of different sources. These data include the following:

- all available WHD preliminary analyses (forms WD-22) for all wage surveys sent to the contractor for verification for the 18-month period from the beginning of on-site verification in April 1997 through September 1998;
- all preliminary and final reports completed by the accounting firm for on-site audits as of September 30, 1998; and
- electronic records of wage data forms (forms WD-10) maintained by WHD under contract with Computer Data Systems, Inc., concerning the area surveys for which the accounting firm had issued final reports for on-site verification.

Using these and other data provided by WHD, we conducted several analyses.

- To obtain the average error amount in wage rates and the percentage of wage data forms with errors for the nine area surveys for which the accounting firm issued final reports, we identified the dollar value of errors on each WD-10 by job classification. We determined the dollar value

of errors in wage rates by calculating the absolute value of the difference between the sum of the reported wages and fringe benefits and the sum of the verified wages and fringe benefits. We weighted the amount of error by the lower of the number of employees reported or the number of employees verified. Because the auditors were not consistent in their analysis and reporting, as necessary we made assumptions about individual wage rates, such as when an average wage rate was reported but individual wage rates were verified. We then calculated the average of the absolute value of error for all workers.

- To determine the percentage of contractors providing full and partial access to payroll records, we analyzed data in the 30 preliminary reports summarizing the results of on-site verification audits. Specifically, we counted the number of selected contractors the auditors reported as refusing access and those the auditors failed to access despite persistent efforts over a matter of weeks or months. For those contractors who allowed the auditors access to the workplace, we identified the number of contractors unable or unwilling to provide access to the payroll records necessary to verify the wage rates reported on the selected forms WD-10.
- To determine the amount of time between when Labor sent area survey data to the auditor for on-site verification and when Labor received the auditor's preliminary report, we relied on data provided by WHD for the 30 surveys with preliminary reports completed by the auditor. We computed the time elapsed between the date Labor sent the survey to the auditor for on-site verification and the date the regional office received the preliminary report.

In addressing the second objective, we recognize that while accurate wage data are necessary, they are not sufficient to ensure that wage determinations accurately reflect the prevailing wage that a contractor would have to pay to obtain construction workers from the local area at the market wage. Other issues must be considered to improve the wage determination process, such as the time lag between obtaining the wage surveys and issuing the wage determinations. Labor is exploring options to reengineer its wage determination process in the long term, which we will review at a later date. We did not attempt to assess the accuracy of the prevailing wage determinations that result from these surveys, which was outside the scope of this review. We also did not verify the results of on-site audit reviews; we focused on problems with procedures used rather than contract compliance.

Labor's Wage Determination Process Under the Davis-Bacon Act

The Davis-Bacon Act requires that workers employed on federal construction contracts valued in excess of \$2,000 be paid, at a minimum, wages and fringe benefits that the Secretary of Labor determines to be prevailing for corresponding classes of workers employed on projects that are similar in character to the contract work in the geographic area where the construction takes place.

To determine the prevailing wages and fringe benefits in various areas throughout the United States, Labor's WHD periodically surveys wages and fringe benefits paid to workers in four basic types of construction (building, residential, highway, and heavy).²⁸ Labor has designated the county as the basic geographic unit for data collection, although Labor also conducts some surveys setting prevailing wage rates for groups of counties. Wage rates are issued for a series of job classifications in the four basic types of construction, so each wage determination requires the calculation of prevailing wages for many different trades, such as electrician, plumber, and carpenter. For example, in 1996 the prevailing wage rates for the Washington, D.C., metropolitan area included wage rates for 143 different construction trade occupations. Because there are over 3,000 counties, more than 12,000 surveys could be conducted each year if every county in the United States was surveyed. In fiscal year 1997, Labor issued 1,860 individual wage rate determinations based on 43 area wage surveys. As shown in figure 1, Labor's wage determination process consists of four basic stages:

- planning and scheduling surveys of employer wages and fringe benefits in similar job classifications on comparable construction projects;
- conducting surveys of employers and third parties, such as representatives of unions or industry associations, on construction projects;
- clarifying and analyzing respondents' data; and
- issuing the wage determinations.²⁹

Stage 1: Planning and Scheduling Survey Activity

Labor annually identifies the geographic areas that it plans to survey. Because Labor has limited resources, a key task of Labor's staff is to identify those counties and types of construction most in need of a new

²⁸Heavy construction is a catch-all grouping that includes projects not properly classified under the other three types of construction: for example, dredging and sewer projects.

²⁹A wage determination is the listing of wage and fringe benefit rates for each classification of workers that the WHD administrator has determined to be prevailing in a given area for a type of construction. Each wage determination involves establishing prevailing wage rates for many occupations.

survey.³⁰ In selecting areas for inclusion in planned surveys, the regional offices establish priorities based on criteria that include

- the need for a new survey based on the volume of federal construction in the area;
- the age of the most recent survey; and
- requests or complaints from interested parties, such as state and county agencies, unions, and contractors' associations.

If a type of construction in a particular county is covered by a wage determination based on collective bargaining agreements (CBA) and Labor has no indication that the situation has changed such that a wage determination should now reflect nonunion rates, an updated wage determination may be based on updated CBAs. The unions submit their updated CBAs directly to the national office.

The Regional Survey Planning Report Shows Where Federally Financed Construction Is Concentrated

Planning begins in the third quarter of each fiscal year when the national office provides regional offices with the Regional Survey Planning Report (RSPR). The RSPR provides data, obtained under contract with the F.W. Dodge Division of McGraw-Hill Information Systems, showing the number and value of active construction projects by region, state, county, and type of construction and giving the percentage of total construction that is federally financed.³¹ Labor uses the F.W. Dodge data because they comprise the only continuous nationwide database on construction projects. Labor supplements the F.W. Dodge data with additional information provided to the national office by federal agencies regarding their planned construction projects. The RSPR also includes the date of the most recent survey for each county and whether the existing wage determinations for each county are union, nonunion, or a combination of both.

Using this information, the regional offices, in consultation with the national office, designate the counties and type of construction to be included in the upcoming regional surveys. Although Labor usually designates the county as the geographic unit for data collection, in some cases more than one county is included in a specific data-gathering effort.

³⁰In 1996, the average age of a wage survey was more than 7 years.

³¹The F.W. Dodge data consider a project to be active from the time on-site work begins (ground breaking) until it is released to and accepted by the owner.

The regional offices determine the resources required to conduct each of the priority surveys. When all available resources have been allocated, the regional offices transmit to the national office for review their schedules of the surveys they plan to do: the types of construction, geographic area, and time periods that define each survey.

When Labor's national office has approved all regional offices' preliminary survey schedules, it assembles them in a national survey schedule that it transmits to interested parties, such as major national contractor and labor organizations, for their review and comment. The national office transmits any comments or suggestions received from interested parties to its affected regional offices. Organizations proposing modifications of the schedule are asked to support their perceived need for alternative survey locations by providing sufficient evidence of the wages paid to workers in the type of construction in question in the area where they want a survey conducted.

Each Regional Office Obtains a File of Active Projects That Match Its Survey Objectives

The target date for establishing the final fiscal year survey schedule is September 15. Once the national office has established the final schedule, each regional office starts to obtain information it can use to generate lists of survey participants for each of the surveys it plans to conduct. Each regional office then contacts Construction Resources Analysis at the University of Tennessee, which applies a model to the F.W. Dodge data that identifies all construction projects in the start-up phase³² within the parameters specified in the regional office's request and produces a file of projects that were active during a given time period. The time period may be 3 months or longer, depending on whether the number of projects active during the period is adequate for a particular survey. F.W. Dodge provides information on each project directly to the regional offices. The F.W. Dodge reports for each project include the location, type of construction, and cost; the name and address of the contractor or other key firm³³ associated with the project; and, if available, the subcontractors.³⁴

³²F.W. Dodge defines the start-up phase as one in which the construction will commence within 60 days.

³³Other examples of key firms would be the owner or architect of the project.

³⁴A subcontractor is an employer that has a contractual agreement with the project's prime employer. On a typical construction project, most employees working on the job will be employees of subcontractors.

Analysts Screen Projects to Determine Those to Be Surveyed

When the F.W. Dodge reports are received by the regional offices, Labor analysts screen them to make sure the projects meet four basic criteria for each survey. The project must

- be of the correct construction type,
- be in the correct geographic area,
- fall within the survey time frame, and
- have a value of at least \$2,000.

In addition to obtaining files of active projects, Labor analysts are encouraged to research files of unsolicited information that may contain payment evidence submitted in the past that is within the scope of a current survey.

Stage 2: Conducting Surveys of Participants

When the regional offices are ready to conduct the new surveys, they send a WD-10 wage reporting form to each contractor (or employer) identified by the F.W. Dodge reports as being in charge of one of the projects to be surveyed, together with a transmittal letter that requests information on any additional applicable projects the contractor may have. Every WD-10 that goes out for a particular project has on it a unique project code, the location of the project, and a description of it. Data requested on the WD-10 include a description of the project and its location, in order to assure the regional office that each project for which it receives data is the same as the one it intended to have in the survey (see examples in fig. 2). The WD-10 also requests the contractor's name and address; the value of the project; the starting and completion dates; the wage rate, including fringe benefits, paid to each worker; and the number of workers employed in each classification during the week of peak activity for that classification. The week of peak or highest activity for each job classification is the week when the most workers were employed in that particular classification. The survey respondent is also asked to indicate which of four categories of construction the project belongs in.

In addition, about 2 weeks before a survey is scheduled to begin, regional offices send WD-10s and transmittal letters to a list of third parties, such as national and local unions and industry associations, to encourage participation. Labor encourages the submission of wage information from third parties, including unions and contractors' associations that are not the direct employers of the workers in question, in an effort to collect as

much data as possible.³⁵ Third parties that obtain wage data for their own purposes may share it with Labor without identifying specific workers. For example, union officials need wage information to correctly assess workers' contributions toward fringe benefits. Third-party data generally serve as a check on data submitted by contractors if both submit data on the same project. Regional offices also organize local meetings with members of interested organizations to explain the purpose of the surveys and how to fill out the WD-10.

Because the F.W. Dodge reports do not identify all the subcontractors, both the WD-10 and the transmittal letter ask for a list of subcontractors on each project. Subcontractors generally employ the largest portion of on-site workers, so their identification is considered critical to the success of the wage survey. Analysts send WD-10s and transmittal letters to subcontractors as subcontractor lists are received.

Transmittal letters also state that survey respondents will receive an acknowledgment of data submitted and that the respondent should contact the regional office if one is not received. Providing an acknowledgment is intended to reduce the number of complaints that data furnished were not considered in the survey. Labor analysts send contractors who do not respond to the survey a second WD-10 and a follow-up letter. If they still do not respond, analysts attempt to contact them by telephone to encourage them to participate.

Stage 3: Clarifying and Analyzing Respondents' Data

Analysts Review the Data Submitted as They Receive Them

As the Labor wage analysts receive the completed WD-10s in the regional offices, they review and analyze the data. Labor's training manual guides the analyst through each block of the WD-10, pointing out problems to look for in data received for each one. Analysts are instructed to write the information they received by telephone directly on the WD-10 in a contrasting color of ink, indicating the source and the date received. They

³⁵Labor officials said that third-party data submissions generally account for about one-third of all wage survey submissions. The percentage of survey respondents that are third parties can be substantial for surveys of metropolitan areas. Staff estimated that third-party participation may have been as high as 50 percent for one survey of metropolitan building construction. There is little or no third-party participation in surveys of rural areas, staff said.

are instructed to draw one line through the old information so it is still legible.

Labor's wage analysts review the WD-10s to identify missing information, ambiguities, and inconsistencies that they then attempt to clarify by telephone. For example, an analyst may call a contractor for a description of the work done on a project in order to confirm that a particular project has been classified according to the correct construction type. An analyst may also call a contractor to ask about the specific type of work that was performed by an employee in a classification that is reported in generic terms, such as a mechanic. In that situation, the analyst would specify on the WD-10 whether it is a plumber mechanic or some other type of mechanic to make sure that the wages reported are appropriately matched to the occupations that are paid those rates.

Similarly, because of variations in area practice, analysts may routinely call to find out what type of work the employees in certain classifications are doing. This is because in some areas of the country some contractors have established particular duties of traditional general crafts—for example, carpenters—as specialty crafts, which are usually paid at lower rates than the general craft.

Verifying Third-Party Data

See letter portion of this report for a description of the verification process.

Data Are Recorded and Tabulated

When an analyst is satisfied that any remaining issue with respect to the data on the forms WD-10 for a particular project have been resolved, the data are recorded and tabulated. The analyst enters them into a computer, which uses the data to generate a Project Wage Summary, form WD-22a, for reporting survey information on a project-by-project basis. The WD-22a has a section for reporting the name, location, and value of each project; the number of employees who were in each classification; and their hourly wage and fringe benefits. It also has a section for reporting the date of completion or percentage of the project completed, whichever is applicable.

Analysts Determine Whether Data Are Adequate

At least 2 weeks before the survey cutoff date, the response rate for the survey is calculated to allow time to take follow-up action if the response rate is determined to be inadequate. For example, WHD operational

procedures specify that if data gathered for building or residential surveys provide less than a 25-percent usable response rate or less than one-half of the required key classes of workers,³⁶ the analyst will need to obtain data from comparable federally financed projects in the same locality.³⁷

If an analyst has no data on occupations identified by Labor as key classifications of workers for the type of construction being surveyed, Labor's procedures require him or her to call all the subcontractors included in the survey who do that type of work and from whom data are missing, to try to get data. If the analyst still cannot obtain sufficient data on at least one-half of the required key classes, consideration must be given to expanding the scope of the survey geographically to get more crafts represented. If the overall usable response rate for the survey is 25 percent or more, data on three workers from two contractors are sufficient to establish a wage rate for a key occupation.

After the survey cutoff date, when all valid data have been recorded and tabulated, the final survey response rate is computer-generated. Typically, it takes a WHD analyst 4 months to conduct a survey.

Prevailing Wage Rates Are Computer-Generated

Once all the valid project data have been entered, the prevailing wage rate for each classification of worker can be generated by computer. If there is a majority of workers paid at a single rate in a job classification, that rate prevails for the classification. The wage rate needs to be the same, to the penny, to constitute a single rate. If there is no majority paid at the same rate for a particular classification, a weighted average wage rate for that occupation is calculated.

The prevailing wage rate for each occupation is compiled in a computer-generated comprehensive report for each survey, called the Wage Compilation Report, form WD-22. The WD-22 lists each occupation and the wage rate recommended for that occupation by the regional office. The form indicates whether the rate is based on a majority or a weighted average, and provides the number of workers for which data were used to compute each wage rate. The regional offices transmit survey results to the national office, which reviews the results and recommends further action if needed.

³⁶Labor defines key classes of workers as those determined necessary for each of the four types of construction surveys.

³⁷Since 1985, regulation has prohibited, to the extent practicable, the use of wages for federal construction in determining prevailing wages.

Stage 4: Issuing the Wage Determinations

When all its recommendations have been acted upon, the national office issues the wage determination. These determinations are final. There is no review or comment period provided to interested parties before they go into effect. Access to wage determinations is provided both in printed reports available from the U.S. Superintendent of Documents and on an electronic bulletin board. Modifications to general wage determinations are published in the Federal Register.

Labor's Appeals Process

An interested party may seek review and reconsideration of Labor's final wage determinations. The national office and the regional offices accept protests and inquiries relating to wage determinations at any time after a wage determination has been issued. The national office refers all the complaints it receives to the relevant regional offices for resolution. Most inquiries are received informally by telephone, although some are written complaints. Regional office staff said that a majority of those with concerns appear to have their problems resolved after examining the information (collected on a form WD-22a) for the survey at issue, because they do not pursue the matter further. If an examination of the forms does not satisfy the complainant's concerns, the complainant is required to provide information to support his or her claim that a wage determination needs to be revised. The national office modifies published wage determinations in cases in which regional offices, on the basis of evidence provided, recommend that it do so, such as when it has been shown that a wage determination was the result of an error by the regional office. However, some of those who seek to have wage rates revised are told that a new survey will be necessary to resolve the particular issue that they are concerned about. For example, if the wage rates of one segment of the construction industry were not adequately reflected in survey results because of a low rate of participation in the survey by that segment of the industry, a new survey would be necessary to resolve this issue.

An Interested Party May Appeal a Decision of Labor's WHD Administrator

Those who are not satisfied with the decision of the regional office may write to the national office to request a ruling by Labor's WHD Administrator. If the revision of a wage rate has been sought and denied by a ruling of Labor's WHD Administrator, an interested party has 30 days to appeal to the Administrative Review Board for review of the wage determination. The board consists of three members appointed by the Secretary of Labor. The Solicitor of Labor represents WHD in cases involving wage determinations before the Administrative Review Board. A

Appendix II
Labor's Wage Determination Process Under
the Davis-Bacon Act

petition to the board for review of a wage determination must be in writing and accompanied by supporting data, views, or arguments.

Sample Letters Sent to Contractors Selected for Verification

CONTRACTOR VERIFICATION LETTER

Dear Contractor:

Thank you for your recent submission of wage payment data for our (type) survey in county(ies) and State.

As part of our attempt to ensure accuracy in the wage determinations issued under the Davis-Bacon and related Acts, we randomly select a sample of data submitted and request a copy of the payroll showing the employees and wage rates reported. Enclosed is a copy of a Form WD-10 you submitted. Please submit a copy of the payroll or other supporting documentation for the employment and wage data shown. As with the data already submitted, this information will be kept confidential to the maximum extent under existing law.

The fact that we ask for this information does not, in any way, imply any suspicion of impropriety on your part. While we would appreciate any assistance you may provide, such response is entirely voluntary.

If there are any questions, please contact (Wage Analyst) at (phone no.) .

Sincerely,

**Appendix III
Sample Letters Sent to Contractors Selected
for Verification**

LETTER TO SEND TO CONTRACTOR

CONTRACTOR
xxx Main Street
Anywhere, XX XXXXX

Dear Sir/ Madam:

This office recently conducted a Davis-Bacon wage survey of type construction in the Pennsylvania Counties of Greene and Lawrence. The results of this survey will be used to determine the wage rates (including fringe benefits) that will be required to be paid to laborers and mechanics employed by contractors and subcontractors on construction projects subject to the Davis-Bacon and Related Acts.

To improve our survey process and to insure that the results of the survey accurately reflect the true prevailing wages in Greene and Lawrence Counties, we selected for on-site review a random sample of the survey forms (WD-10's) submitted. Among the sample are WD-10's which report workers who were employed by your firm. Either a representative of your firm or a third party (such as a labor union or contractor association) prepared the selected WD-10's. The selection of the sample does not suggest that the data reported on the forms are inaccurate. By gathering information during on-site visits, we hope to improve our process and form to make it more user friendly and accurate.

The Department of Labor selected a certified public accounting firm, Harper, Rains, Stokes & Knight, P.A., to carry out the on-site reviews. Within the next few days, a representative of that firm will contact you to arrange for a visit to your establishment. The firm's representative will ask to examine your firm's payroll records to confirm that the data on the WD-10's are complete and correct. Enclosed are copies of your firm's WD-10's selected for review. We request that you have your payroll records available for the period(s) during which your firm worked on the project(s) identified on the enclosed WD-10's and that you take the time to meet with the firm's representative and answer his/her questions. Depending on the size of the sample, we anticipate that the visits will last less than one day.

We appreciate your cooperation in this effort to improve the Davis-Bacon wage survey process. If you have any questions please contact me at _____ or Mr. James Knight with Harper, Rains, Stokes & Knight at 601-948-0784.

Sincerely,

Regional Wage Specialist

Enclosures

Methodological Issues in Labor's Sampling Procedures

In reviewing Labor's process of sampling wage data for verification, we identified problems with its sampling methodology that are primarily technical in nature. Specifically, although the Congress directed that Labor use a random sample in selecting wage data to verify, and Labor describes its sample as being "random," the selection method used does not meet the criteria for randomness. Randomness would require that each WD-10 have an equal opportunity for being selected. However, while Labor uses a systematic sample that does not target any specific wage data for verification, it fails to meet the criteria for randomness because not all wage submissions have an opportunity of being selected. Labor uses a systematic sample, organizing WD-10s by project and by contractor prior to selection and then selecting them based on a fixed interval. Labor does not require that the first WD-10 selected be based on a number chosen purely by chance. For example, to select a sample for telephone verification of data submitted by contractors, Labor procedures direct the wage analyst to select the 50th, then the 100th. However, because the data are organized prior to selection, the first 49 WD-10s are predetermined on the basis of the specific project and contractor involved. Therefore, the WD-10s for those projects and contractors do not have any chance of being selected for verification.

Labor officials in the national office told us that because of this, they do not know whether they have selected enough data for telephone and on-site verification to ensure the accuracy of the data used, or whether they have selected more data than needed and are wasting resources. As a result, they do not know the extent to which data used to calculate wage rates have been verified, if at all. For example, using the hypothetical wage data forms in figure 2, Labor would know the number of wage forms it had selected but would not know whether it was verifying wages for drywallers, electricians, or painters. If Labor had selected only one of the two wage data forms for verification, it would disregard the fact that one form reported wages for 80 drywallers and the other form reported wages for 2; it would merely report that it had verified 50 percent of the WD-10s. In one of the on-site audit reports we examined, although Labor sampled 42 percent of WD-10s, the on-site auditor reviewed 28 percent of workers' wages and fringe benefits out of all wage data submitted for workers employed in that geographic area (390 out of 1,369).³⁸ This resulted in a review of 100 percent of data used in calculating prevailing wage determinations for job classes such as stone masons, and no verification of data used in other job classes, such as painters.

³⁸To obtain these figures, for one area survey we calculated the number of workers with wages reported that were verified as a percentage of the total number of workers with wages reported that were used to calculate wage determinations.

**Appendix IV
Methodological Issues in Labor's Sampling
Procedures**

To select a random sample that would ensure the accuracy of the data used to determine prevailing wage rates, Labor would have to sample workers within each job classification rather than sample wage data forms as it does now, and it would have to select a sufficient number of workers within each classification. We calculated the sample size required for a statistically representative sample in order to be within 50 cents per hour of the correct wage for one area survey (see table IV.1). The table shows that Labor would need to select a sample size equal or close to the total number of workers, because data reported on the number of workers by job classification can be small.

Table IV.1: Sampling Sizes, by Job Classification, Required to Ensure a Representative Sample for Selected Area Survey

Job classification	Number of workers			Number of additional workers for whom data need to be verified
	Listed on form WD-22	Selected for on-site verification	Required for representative random sample ^a	
Accoustical Ceiling Mechanic	6	2	6	4
Backhoe Operator	3	0	3	3
Boilermaker	140	26	30	4
Brick Mason	11	5	11	6
Carpenter	37	6	30	24
Carpenter - Form	8	0	8	8
Carpenter Helper	12	5	12	7
Case and Cabinet Installer	3	0	3	3
Cement Mason	1	0	1	1
Crane Operator	1	0	1	1
Dozer	2	0	2	2
Drywall Finisher	5	0	5	5
Drywall Finisher Helper	1	0	1	1
Drywall Mechanic	9	0	9	9
Drywall Mechanic Helper	3	0	3	3
Electrician	33	3	30	27
Electrician Helper	25	3	25	22
Exterminator	2	0	2	2
Fence Erector	2	0	2	2
Front End Loader	2	0	2	2
Glazier	7	0	7	7

(continued)

**Appendix IV
Methodological Issues in Labor's Sampling
Procedures**

Job classification	Number of workers			Number of additional workers for whom data need to be verified
	Listed on form WD-22	Selected for on-site verification	Required for representative random sample ^a	
Glazier Helper	5	0	5	5
HVAC Helper	16	0	16	16
HVAC Mechanic	38	0	30	30
Ironworker, Structural	13	1	13	12
Laborer, Unskilled	127	22	30	8
Landscaper	4	0	4	4
Lather	2	0	2	2
Mason Tender	8	0	8	8
Metal Stud Framer	4	0	4	4
Millwright	2	0	2	2
Painter	20	0	20	20
Plasterer	13	0	13	13
Plumber	19	0	19	19
Plumber Helper	15	0	15	15
Roofer	9	0	9	9
Sheetmetal Worker	9	0	9	9
Sheetmetal Worker - Metal Bldg.	18	0	18	18
Sign Installer	2	0	2	2
Softfloor Layer	10	0	10	10
Softfloor Layer Helper	3	0	3	3
Sprinkler Fitter	4	4	4	0
Sprinkler Fitter Helper	2	1	2	1
Tile Setter	3	0	3	3
Truckdriver - Tri-Axle	5	0	5	5
	664	78	439	361

^aCalculations are based on a confidence interval of plus or minus 50 cents per hour.

Comments From the Department of Labor

U.S. Department of Labor

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



DEC 18 1999

The Honorable Carlotta C. Joyner
Director, Education and
Employment Issues
General Accounting Office
Washington, DC 20548

Dear Ms. Joyner:

Thank you for the opportunity to comment upon your draft report "DAVIS-BACON ACT: Labor Now Verifies Wage Data But Verification Process Needs Improvement."

In reviewing the draft report, we have several technical comments and corrections that we have noted in an attachment to this letter. In addition, while we believe that the findings of your review are generally quite helpful, we also believe that they may actually support somewhat different conclusions. We would like to focus our comments on those issues.

We agree with your conclusion that telephone verification is a less costly and less time consuming method for verifying data submissions. We also agree that judgement should be exercised in selecting data submissions for verification, and that it is appropriate to seek documentation for verification from third parties. With respect to these and other issues, we offer the following comments.

Accuracy of survey data submissions

As noted in your report, the Department of Labor has contracted with a private accounting firm to conduct on-site verification of a sample of the data submitted in the Davis-Bacon survey process. Based upon the few final reports issued so far by the accounting firm, errors in the wages reported were identified for about 70 percent of the survey forms subject to on-site verification of payroll records. These findings are roughly comparable to the findings of the Department's Office of Inspector General (OIG) when it conducted on-site data verification for a sample of Davis-Bacon surveys. The errors identified in the OIG's on-site reviews resulted in revised wage determination rates being issued for a total of 22 separate classifications (out of a "universe" of 170 classifications on the affected wage determinations); the average change in the rates for those 22 classifications was an increase of ten cents per hour. If these changes were averaged over all of the classifications listed on the affected determinations, the average change would have been even less. Thus, despite the many errors in the individual data submissions,

Appendix V
Comments From the Department of Labor

the end result of the on-site verification was to demonstrate that the wage determinations closely approximated the accurate rate – certainly well within the “margin of error” of most surveys.

As with any survey, the Davis-Bacon survey process can at best produce an “estimate” of the median or mean¹ prevailing rate because there are always sources of potential error and, thus, a “margin” of error. Although we make every effort to contact and survey the entire universe of relevant construction activity, we recognize that we do not (and should not expect to) get full participation, and the nonrespondents may have an impact on the accuracy of the resulting wage determination. Similarly, reporting errors such as those identified in the OIG review and by our current on-site verification may impact the resulting wage determination.

Although there are many reasons why survey participants may submit inaccurate data, our experience and many external reviews do not indicate any systematic effort to bias the survey by intentionally over-reporting or under-reporting actual rates and number of employees. As already noted, most errors have minimal impact on the resulting wage determination. Simply measuring the difference between the reported wage rate and the verified rate gives an inaccurate picture of the impact that the error has on the actual end product, the wage determination.

For example, an electrical contractor might report ten electricians employed during the peak week of employment on a particular project, and the contractor might report that all ten electricians were paid \$15 per hour. After verification, however, it might be determined that only five electricians were actually paid \$15 per hour. This contractor employed two new hires at \$13 per hour, one probationary employee at \$14 per hour and two senior electricians at \$16 and \$17 per hour, respectively. The actual weighted average wage rate for these ten employees would be \$14.80 per hour (see Table 1) rather than the reported \$15 per hour, a difference of only \$.20 per hour. When factored in with the other electrician wage rates reported by other contractors in the survey, this difference would likely be minimized even more. However, if one were to compute the average difference between the reported wage rate and the actual wage rate, that difference would appear to be \$.80 per hour.

If the wage determinations are essentially accurate, an assumption supported by the on-site verification efforts to date, then the basic purpose of on-site verification should be geared toward detecting and deterring possible fraudulent or systemically biased data submissions that could have a substantial impact on the resulting wage determinations.

Use of data when contractors refuse access to supporting payroll information

¹ When 50 percent or more of the employees in a particular classification are paid the same rate, then that rate (i.e., the median rate) becomes the prevailing rate. If a majority of the workers in a classification are not paid the same rate, then the prevailing rate is the mean or average rate.

Appendix V
Comments From the Department of Labor

Your report recommends that the Department of Labor “should, at a minimum, not use in its calculations data provided by contractors that refuse to provide supporting documentation.” The general thrust of this recommendation is to assume that these data are especially suspect unless they are verified. This assumption, however, is not supported by any of the reviews that have taken place to date. The review conducted by the Department’s OIG did not find any evidence of fraudulent data submissions. Similarly, the data verifications conducted by Wage and Hour and our data verification contractor have not revealed any indication of fraudulent data submissions. Obviously, no one can say for sure whether the data submitted by a contractor which refuses to supply supporting documentation is less accurate than the data provided by a contractor which does cooperate. However, the data verification which has been done supports the conclusion that contractors try to provide accurate and complete information.

While most construction contractors do cooperate, there are many reasons – as your report notes – why they may not want to provide supporting information or accommodate on-site verification by examination of their payroll records. There is simply no foundation for suggesting – then implying it to be “probably more likely” – that contractors which choose to not cooperate have submitted bad data. This is effectively a “guilty until proven innocent” perspective.

Many construction contractors are small business without large administrative staffs to participate in the survey process. It is often difficult to get these contractors to participate in the survey process in the first place. Rejecting data from these contractors simply because they were busy and could not take the time or devote the resources to participate in on-site verification could actually make the resulting wage determination less rather than more accurate. For example, we may know that a contractor worked on a particular project not only because the contractor supplied information, but also because the general contractor identified the contractor as one of its subcontractors on the project. If data from this contractor is necessary to meet minimum data sufficiency requirements to issue a wage determination for the classification in question, then rejecting these data would result in no wage determination, a result that cannot be viewed as more accurate.

Although we do not agree that data submissions from contractors which refuse to provide supporting documentation or accommodate on-site verification should be summarily rejected, we agree that such data should be closely examined and rejected if the veracity of the data are otherwise called into question. For example, if the number of reported workers is inconsistent with the dollar value of the project, then the accuracy of the data may be suspect. Similarly, if a particular contractor repeatedly refuses to cooperate with data verification efforts, then it may indeed be more reasonable to suspect the veracity of the data from that contractor. On the other hand, if a contractor routinely cooperated with data verification efforts in the past, and those data verification efforts indicated that the data provided by that contractor were generally accurate, then we do not believe that data from that contractor should be summarily rejected simply because the contractor was unable to cooperate this time.

Use of a judgmental sample rather than a systematic or a random sample

We agree with your recommendation that data submissions should be selected for on-site verification by using a judgmental sampling process. However, we do not believe that judgmental sampling should be used exclusively, but should be used in parallel with a more limited systematic sampling process.

By using a judgmental sample, data submissions that might have a significant impact on the resulting wage determination could be selected for on-site verification. For example, if the data submissions for a particular occupation show a close count of workers paid at a single rate and those paid at other rates, then a minor correction in one data submission could have a significant impact, especially if there is a substantial difference between the median and mean rates.

Judgment might also be utilized in deciding to exclude some data submissions from on-site verification. For example, if a contractor's data had recently been verified in conjunction with a different survey and no significant errors were found, a judgment could be made to exclude that contractor from on-site verification. Also, as you have indicated, if a contractor is not located in the same geographic area as the other contractors to be verified, or if the data submission selected would have no bearing on the wage determination regardless of the results of on-site verification, then we agree that a prudent use of resources would exclude these data submissions from the verification process.

At the same time, we believe that there are benefits to continuing some use of a systematic sample². As noted earlier, a basic purpose of on-site verification should be geared toward detecting and deterring possible fraudulent or systematically biased survey data submissions that could have a substantial impact on the resulting wage determination. Secondary benefits of on-site verification, as you have recognized in your report, are educating contractors so that their future data submissions are more accurate and identifying process improvements that may facilitate more accurate and complete data submissions in the future. With these goals in mind, we believe that a systematic sample remains an appropriate method for initially identifying some contractors for on-site verification. To obtain the benefits of both sampling procedures – judgmental and systematic – we believe that the two methods should be used in parallel to complement each other.

² We acknowledge that our current sampling process is not truly random in a statistical sense; however, it is random in that we are not attempting to target any one contractor or group of contractors

Comments on Recommendations

Although we do not completely concur with all of the underlying reasons for the recommendations, we generally agree with your recommendations. The following responds to each of the recommendations:

- Increase the use of telephone verification -- while decreasing on-site verification audits -- and increase efforts to obtain payroll documentation from all selected submitters.

We agree that increasing telephone verification while decreasing on-site verification audits will help reduce cost while improving the timeliness and efficiency of the verification process. We will revise our current process to implement this recommendation. However, past experience would indicate -- as does this draft report -- that a large percentage of data are difficult to fully verify by telephone. For example, the amount of data necessary to document that the contractor correctly identified the peak week may be voluminous, and contractors will be much less likely to send copies of many weeks of payroll records to Labor compared to those who would make their payroll records available to an on-site auditor.

- Change the procedures used to select wage data for verification, using a judgmental sample of wage data forms based on the potential impact of the data on prevailing wage rate determinations rather than using a random sample.

Labor believes that both judgmental and systematic samples are important methodologies for the verification process. Therefore, we intend to utilize both methodologies to identify data submissions for on-site verification. We intend to implement a process where a smaller systematic sample is used to initially identify data submissions for verification. This sample will be supplemented with a judgmental sample to add all data submissions where a minor change could have a substantial impact upon the resulting wage determination. Finally, judgement may be used to exclude certain data submissions from the systematic sample (e.g., data submissions that clearly would not impact the resulting wage determination or where the contractor is not located in geographic proximity to the other contractors). We agree with your assessment that on-site verification is a costly and time-consuming process, and the exercise of more judgement should reduce cost and improve timeliness and efficiency.

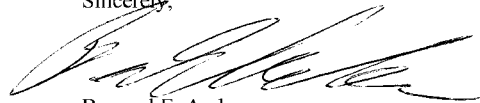
- Revise verification procedures to take more appropriate action when documentation cannot readily be obtained from a contractor, such as not using data when supporting documentation is requested but not provided, requiring documentation where possible, and providing third parties an opportunity to provide supporting documentation for data they submitted.

Appendix V
Comments From the Department of Labor

Although we do not agree that data submissions from contractors which refuse to provide supporting documentation should be summarily rejected, we agree that such data should be closely examined and rejected if the veracity of the data are otherwise called into question. We also agree to revise our procedures to request supporting documentation when needed, and provide third parties an opportunity to provide supporting documentation.

Again I would like to thank you for the opportunity to comment upon your draft report. We believe that your recommendations are quite helpful and they will improve the wage survey process.

Sincerely,



Bernard E. Anderson

Attachments

Related GAO Products

Davis-Bacon Act: Process Changes Could Address Vulnerability to Use of Inaccurate Data in Setting Prevailing Wage Rates ([GAO/T-HEHS-96-166](#), June 20, 1996).

Davis-Bacon Job Targeting ([GAO/HEHS-96-151R](#), June 3, 1996).

Davis-Bacon Act: Process Changes Could Raise Confidence That Wage Rates Are Based on Accurate Data ([GAO/HEHS-96-130](#), May 31, 1996).

Addressing the Deficit: Budgetary Implications of Selected GAO Work for Fiscal Year 1996 ([GAO/OCG-95-2](#), Mar. 15, 1995).

Davis-Bacon Act ([GAO/HEHS-94-95R](#), Feb. 7, 1994).

The Davis-Bacon Act Should Be Repealed ([GAO/HRD-79-18](#), Apr. 17, 1979).

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