

As of January 1, 2010, the Prevailing Wage Determination (PWD) Policy Change was effective. The following information is provided to serve as some guidance to assist you in preparing and submitting PWD. I have put together a few items including Frequently Asked Questions, the correct form (ETA 9141), website addresses, and the address where the forms should be sent.

If you need further assistance or have any additional questions, please contact Ann Armijo at (505) 383 – 2721.

The publication of the H-2B regulation in December 2008 and the corresponding changes to PERM, H-1B, H-1B1, H-1C and E-3 regulations governing temporary professional, nonagricultural or registered nursing programs changed the roles of the SWAs and NPCs in the prevailing wage determination process and necessitated the issuance of policy and procedural guidance to be used by the National Prevailing Wage and Helpdesk Center (NPWHC).

The H-2B regulation became effective on January 19, 2009. Pursuant to that Final Rule, the transition of the prevailing wage function from the State Workforce Agencies will be completed by December 31, 2009. As of January 1, 2010, the NPWHC will receive and make prevailing wage determinations for all nonagricultural temporary and permanent programs.

The major changes affecting prevailing wage determinations that became effective as a result of the H2B Final Rule include:

1. Federalizing PWDs. Employers will now file requests and obtain PWDs directly with NPWHC.
2. Use of standard Prevailing Wage Request Form 9141 for all nonagricultural prevailing wage requests.

The preceding was an excerpt from the ***ETA Prevailing Wage Determination Policy Guidance Nonagricultural Immigration Programs which*** can be found at http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf.

Additional information about the Foreign Labor Certification program can be found at <http://www.foreignlaborcert.doleta.gov/>.

To request a Prevailing Wage Determination, an employer must mail a completed ETA Form 9141 to the NPWHC at the following address:

U.S. Department of Labor
Employment and Training Administration
National Prevailing Wage and Helpdesk Center
Attn: PWD Request
1341 G Street, NW
Suite 201
Washington, DC 20005-3142

**National Prevailing Wage and Helpdesk Center
Prevailing Wage Frequently Asked Questions
March 2010**

OFLC issued FAQs in December prior to the opening of the National Prevailing Wage and Helpdesk Center (NPWHC) to assist employers with Prevailing Wage (PW) questions, especially during the transition. These FAQs have been updated to provide responses to the most common processing questions and submission errors. While most of these FAQs are not substantively different from the December 2009 FAQs, further clarifications and additional FAQs have been provided. These March 2010 FAQs are meant to replace the December 2009 FAQs.

Question: What labor certification programs are affected by the new prevailing wage process administered by the NPWHC?

Answer: As described in the Department's December 4, 2009 Federal Register Notice (74 FR 63796), the National Prevailing Wage and Helpdesk Center (NPWHC) will process Prevailing Wage Determination (PWD) requests for H-1B, H-1B1 (Chile/Singapore), H-1C (if reauthorized by Congress), H-2B, E-3 (Australia) programs, and the permanent labor certification program (PERM).

Question: What form should I use to request a Prevailing Wage Determination?

Answer: An employer must use ETA Form 9141 to request a PWD from the NPWHC. This form is available in the Forms and Instructions section of the OFLC website: <http://www.foreignlaborcert.doleta.gov/form.cfm>

Question: I want to mail in a request for a PWD, where do I send it? What is the correct address and zip code?

Answer: To mail a request for a PWD, an employer must send a completed ETA Form 9141 to the NPWHC. The complete address and zip code for the NPWHC is:

U.S. Department of Labor
Employment and Training Administration
Office of Foreign Labor Certification
National Prevailing Wage and Helpdesk Center
Attn: PWD Request
1341 G Street, NW
Suite 201
Washington, DC 20005-3105

Question: Will the NPWHC accept PWD requests via electronic means?

Answer: Yes. Electronic filing is strongly recommended. The Department's iCert Portal has been updated to allow users to electronically submit ETA Form 9141, requests for PWDs, to the NPWHC. To access the iCert Portal go to: <http://icert.doleta.gov/>.

Question: My office is located in Washington, DC. Can I bring my PWD request to the NPWHC?

Answer: No. The NPWHC is not set up to receive walk-in applications from the public. Requests for PWDs should be filed either electronically using the iCERT system or mailed to the NPWHC.

Question: How can I obtain assistance in preparing a PWD request?

Answer: Persons with questions regarding the preparation of PWD should consult the OFLC website: www.foreignlaborcert.doleta.gov. Information is located in the Prevailing Wage section of the FAQs and the iCERT Portal System.

Question: Once the NPWHC makes a PWD, how will I receive it?

Answer: The Department's strong preference is for the electronic transmittal of PWDs. Therefore, we encourage all requestors to include their e-mail addresses on the ETA Form 9141, under item B15. Once a determination is made, the NPWHC will e-mail the requestor an electronic copy of the PWD. In order to receive e-mails from the NPWHC, requestors should ensure that the domain @dol.gov is not blocked by their internet e-mail provider.

If the requestor does not provide an e-mail address on its ETA Form 9141, item B15, the NPWHC will send the PWD to the requestor's mailing address by regular mail.

Question: Once I submit a PWD request, how long will it take to receive a determination?

Answer: The NPWHC is working to provide Prevailing Wage Determinations as quickly as possible, in a first-in, first-out order. However, determination times may fluctuate as the Department works to centralize processing of PWD requests at the NPWHC. Therefore, we continue to encourage requestors to submit their ETA Forms 9141 at least 60 days in advance of the employers' initial recruitment efforts.

Question: Will the issued PWD include hourly or annual wages?

Answer: For the H-2B program, determinations with hourly wages will be issued. For the H-1B (including the H-1B1 and E-3) and PERM programs, determinations with annual wages will be issued.

Question: What do I do once I receive my PWD?

Answer: Once an employer receives a PWD, the employer may begin recruitment or file an application for foreign labor certification, depending on the program. The employer must follow program-specific rules and regulations for filing foreign labor certification applications. In addition, employers may refer to OFLC's website: www.foreignlaborcert.doleta.gov for more information on labor certification programs.

Question: What do I do if I have a problem or issue with a PWD request I submitted to the NPWHC prior to receiving a determination?

Answer: For issues with PWD requests prior to determinations being issued, please e-mail the NPWHC at FLC.PWD@dol.gov.

Question: I received a PWD from the NPWHC, but I misplaced it. How can I get a duplicate copy of the PWD?

Answer: To request a duplicate PWD, send an e-mail to FLC.PWD@dol.gov. The NPWHC will send an exact duplicate of the PWD to the requestor named on the ETA Form 9141.

Question: How do I request a PWD based upon a source other than OES?

Answer: On the ETA Form 9141 item D.a.6 (Job Duties), after the description of job duties, the employer should include a sentence surrounded by asterisks (***) requesting the use of a specific source, with the name, edition, revision and publication date as appropriate. Additionally, the employer may also need to provide supporting documentation, as explained in the questions and answers immediately following.

In addition, after entering the employers' job title in item D.a.1, enter the title or occupation name and code, as appropriate in square brackets.

Example

D.a.6: *** Request SCA WD 950221 (Rev.-23) Emergency Incident/Fire Safety Services ***

D.a.1: Site Sample Technician [30210 Laboratory Technician]

Question: What supporting documentation should I submit with my ETA Form 9141 to request the use of a McNamara-O'Hara Service Contract Act (SCA) or Davis-Bacon Act (DBA) wage?

Answer: No supporting documentation is required to request the use of a SCA or DBA wage. If we need additional information to make a PWD, we will send a letter to the requestor asking for specific information.

Question: What documentation should I submit in addition to ETA Form 9141 when the job opportunity is covered by a collective bargaining agreement (CBA)?

Answer: When a job opportunity is covered by a collective bargaining agreement, the employer must submit the following at the time it submits the ETA Form 9141:

- a. A copy of the relevant portion of the CBA;
- b. A letter, on letterhead, from the employer, stating the relevant section of the CBA, the CBA job title, and the appropriate wage; and
- c. A letter, on letterhead, from the collective bargaining unit's (union) authorized representative, stating the relevant section of the CBA, the CBA job title, and the appropriate wage.

Question: What documents do I need to send with a request to use an employer provided/published or employer conducted/commissioned survey?

Answer: The NPWHC will consider wage information provided by the employer in making a PWD. An employer must provide the following information pertaining to the survey:

- a. The full name of the published survey (acronyms are not acceptable);
- b. The publication schedule for the survey. This should include the publication date of the requested survey, the date of the previous version of the survey and the date of the next anticipated release of the survey;
- c. When the data was collected;
- d. A description of the job duties or activities used in the survey; and
- e. The methodology used in the survey:
 - i. How the universe was defined;
 - ii. How the sample size was determined
 - iii. How the participants were selected; and
 - a. The number of employers surveyed for the occupation in the area;
 - b. The number of wage value responses (employees) for the occupation in the area;
 - iv. A list of employer participants or explanation of how the cross industry nature of the survey was maintained;

- v. How the presented wage was determined and if it is the “mean” or “median”;
- vi. Any other appropriate information on the survey’s methodology;
- vii. The area covered by the survey or relevant portion thereof and an explanation of any expansion of the area beyond normal commuting distance, when applicable.

Question: How do I request that a Higher Education American Competitiveness and Workforce Improvement Act (ACWIA) wage be used?

Answer: ACWIA wages which provide a prevailing wage based on a sample of similar institutions apply to occupations in institutions of higher education, related or affiliated nonprofit entities, nonprofit research organizations, or governmental research agencies. On the ETA Form 9141 item D.a.6 (Job Duties), after the description of job duties, include the following statement surrounded by asterisks: “***This employer is an institution of higher education or a research entity under 20 CFR 656.40(e). ***” If this statement is not included on the ETA 9141, a non-ACWIA wage will be used to determine the wage.

Question: Will employers seeking H-2A labor certifications be sending our wage requests to your new National Prevailing Wage and Helpdesk Center (NPWHC)?

Answer: No. The 2010 Final Rule does not require that employers participating in the H-2A program obtain a wage rate from the NPWHC, but rather that employers obtain their wage rates by completing and submitting a job order to the SWA.

Question: How do I indicate on ETA Form 9141 that I want to use any applicable H-2B special procedures for itineraries?

Answer: On the ETA Form 9141 item D.a.6 (Job Duties), after the description of job duties include the following statement surrounded by asterisks: “***This position is for H-2B temporary employment in the <particular H-2B special procedure industry>. An itinerary is attached. ***”

Question: What information should I include to get PWDs for the various locations under the H-2B special procedures for itineraries?

Answer: The itinerary must include the following:

- a. The place of employment with full address if available; use the name of the area covered if there is no street address such as George Washington National Forest;
- b. The county or equivalent for that address;
- c. Any additional work sites in that area;
- d. The begin and end dates for each work site; and

- e. Each page must include, as entered on the ETA Form 9141 on page one:
 - i. the Employer's Name
 - ii. the trade (DBA) Name
 - iii. the Employer's Job Title
 - iv. the date of the request

Question: I want to include alternative job requirements on the ETA Form 9141. Is there a section on the 9141 where I can list alternative job requirements?

Answer: No. Prevailing Wage Determinations will be made based on the initial requirements submitted on the 9141. Alternative requirements will not be considered for prevailing wage purposes.

Question: I submitted an ETA Form 9141 to the NPWHC, but it was returned with a letter stating that the form was incomplete. Should I submit a new ETA Form 9141?

Answer: Yes. The employer should complete a new ETA Form 9141 with all of the fields filled in completely and submit it to the NPWHC. It is recommended that the employer submit the request via the iCERT Portal: <http://icert.doleta.gov/>.

Question: I submitted an ETA Form 9141 to the NPWHC, but it was returned with a letter stating that the job duties on the 9141 (item D.a.6) were not specific enough to assign an occupation and wage. When I submit a new 9141 can I use the same wording from a job description I found on O*Net for the job duties on the 9141?

Answer: Yes, assuming that the O*Net job description accurately reflects the offered job. Employers may use the O*NET (Occupational Information Network) system when preparing the job duties on the ETA Form 9141 (item D.a.6). Since the NPWHC uses the O*NET description that corresponds to the employer's offered job to identify the appropriate SOC (Standard Occupational Classification), it is acceptable for the employer to use the O*NET language for the job duties (ETA Form 9141, item D.a.6). The O*NET system can be found at: <http://online.onetcenter.org/>. For more information on the determination process, please refer to the Prevailing Wage Determination Policy Guidance: http://www.foreignlaborcert.doleta.gov/pdf/NPWHC_Guidance_Revised_11_2009.pdf.

Question: I submitted a request for a PWD via the iCERT portal, but I received a response that my request was voided due to missing information. What can I do to correct my request?

Answer: All fields on the ETA Form 9141 must be completed prior to submitting a request for a PWD via iCERT. When a request is processed, if any fields are missing the request is returned to the requestor and is voided in iCERT. The requestor should complete a new ETA Form 9141 and submit it via iCERT.

In addition, PWD requests submitted via mail to the NPWHC will be returned to the requestor as unprocessed if there is missing information on the ETA Form 9141.

Question: Will suggestions for changes to the ETA Form 9141 be considered?

Answer: The current ETA Form 9141 was approved by OMB through November 30, 2011. Any modifications to the form would be subject to the procedures mandated by the Paperwork Reduction Act (PRA), which provides for notice and comment on such modifications. Any changes to the form would not go into effect until after the PRA process was complete.

Question: Will suggestions for changes to the PWD module on the iCERT portal be considered?

Answer: We are documenting requests for enhancements to the iCERT PWD module. The Department will entertain the implementation of enhancement based upon program priorities and resources.

Issue on Lack of OES wage for certain occupations

Question: Does the NPWHC provide Prevailing Wage Determinations for high paying professional occupations, e.g. physicians?

Answer: Yes. However, some prevailing wages are higher than what the Occupational Employment Statistics (OES) accommodates because of its methods of data analysis. In some occupations and areas, OES provides a footnote that "This wage is equal to or greater than \$70.00 per hour or \$145,600 per year. In other situations, the OES footnote states "this wage is equal to or greater than \$80.00 per hour or \$166,400 per year. This means the actual wage for the occupation is an amount equal to or above the stated hourly wage. Thus, some locations and occupations do not have specific wages listed in the Online Wage Library (OWL) that the NPWHC uses to determine prevailing wages. This includes some physicians, dentists, and Chief Executives. Where the NPWHC does not have the information from OES to determine the actual prevailing wage for certain high paying occupations in the area of employment, the NPWHC will issue the prevailing wage as either \$70.00 or \$80.00 per hour as indicated in the OES data and will include the OES note in the Additional Notes on Prevailing Wage.

Application for Prevailing Wage Determination
ETA Form 9141
U.S. Department of Labor



Please read and review the instructions carefully before completing this form and print legibly. A copy of the instructions can be found at <http://www.foreignlaborcert.doleta.gov/>.

A. Employment-Based Visa Information

1. Indicate the type of visa classification supported by this application (<i>Write classification symbol</i>): *	
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B. Requestor Point-of-Contact Information

1. Contact's last (family) name *	2. First (given) name *	3. Middle name(s) *
4. Contact's job title *		
5. Address 1 *		
6. Address 2		
7. City *	8. State *	9. Postal code *
10. Country *	11. Province	
12. Telephone number *	13. Extension	14. Fax Number
15. E-Mail Address		

C. Employer Information

1. Legal business name *		
2. Trade name/Doing Business As (DBA), if applicable §		
3. Address 1 *		
4. Address 2		
5. City *	6. State *	7. Postal code *
8. Country *	9. Province	
10. Telephone number *	11. Extension	
12. Federal Employer Identification Number (FEIN from IRS) *	13. NAICS code (must be at least 4-digits) *	

D. Job Offer Information

a. Job Description:

1. Job Title *	
2. Suggested SOC (ONET/OES) code *	2a. Suggested SOC (ONET/OES) occupation title *

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a. Job Description *(continued)*

3. Number of hours of work per week * Basic: _____ Overtime*: _____	3a. Hourly Work Schedule * A.M. (h:mm): ____ : ____ P.M. (h:mm): ____ : ____
4. Job Title of Supervisor for the Workers (if applicable) §	
5. Does this position supervise the work of other employees? * <input type="checkbox"/> Yes <input type="checkbox"/> No	5a. If yes, number of employees worker § will supervise (if applicable) _____
6. Job duties – A description of the job duties to be performed MUST begin in this space. If necessary, add attachment to <u>continue and complete</u> description. *	
7. Will travel be required in order to perform the job duties? * <input type="checkbox"/> Yes <input type="checkbox"/> No	7a. If "Yes", please explain the travel requirements: §
8. Are there any other working conditions that affect the rate of pay? * <input type="checkbox"/> Yes <input type="checkbox"/> No	8a. If "Yes", please specify the working conditions. §

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b. Minimum Job Requirements:

1. Education: minimum U.S. diploma/degree required *	
<input type="checkbox"/> None <input type="checkbox"/> High School/GED <input type="checkbox"/> Associate's <input type="checkbox"/> Bachelor's <input type="checkbox"/> Master's <input type="checkbox"/> Doctorate (PhD) <input type="checkbox"/> Other degree (JD, MD, etc.)	
1a. If "Other degree" in question 1, specify the diploma/degree required §	1b. Indicate the major(s) and/or field(s) of study required § (May list more than one related major and more than one field)
2. Does the employer require a second U.S. diploma/degree? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
2a. If "Yes" in question 2, indicate the second U.S. diploma/degree and the major(s) and/or field(s) of study required §	
3. Is training for the job opportunity required? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
3a. If "Yes" in question 3, specify the number of <u>months</u> of training required §	3b. Indicate the field(s)/name(s) of training required § (May list more than one related field and more than one type)
4. Is employment experience required? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
4a. If "Yes" in question 4, specify the number of <u>months</u> of experience required §	4b. Indicate the occupation required §
5. Special Requirements - List specific skills, licenses/certificates/certifications, and requirements of the job opportunity. *	

c. Place of Employment Information:

1. Worksite address 1 *	
2. Address 2	
3. City *	4. County *
5. State/District/Territory *	6. Postal code *
7. Will work be performed in multiple worksites within an area of intended employment or a location(s) other than the address listed above? *	
<input type="checkbox"/> Yes <input type="checkbox"/> No	
7a. If Yes in question 7, identify the geographic place(s) of employment with as much specificity as possible. If necessary, submit an attachment to <u>continue and complete</u> a listing of all anticipated worksites. §	

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E. Prevailing Wage Determination

FOR OFFICIAL GOVERNMENT USE ONLY	
1. PW tracking number	2. Date PW request received
3. SOC (ONET/OES) code	3a. SOC (ONET/OES) occupation title
4. Prevailing wage \$ _____ . _____	4a. Wage level <input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III <input type="checkbox"/> IV <input type="checkbox"/> N/A
5. Per: (Choose only one) <input type="checkbox"/> Hour <input type="checkbox"/> Week <input type="checkbox"/> Bi-Weekly <input type="checkbox"/> Month <input type="checkbox"/> Year <input type="checkbox"/> Piece Rate	
5a. If Piece Rate is indicated in question 2, specify the wage offer requirements :*	
6. Prevailing wage source (Choose only one) <input type="checkbox"/> OES <input type="checkbox"/> CBA <input type="checkbox"/> DBA <input type="checkbox"/> SCA <input type="checkbox"/> Other/Alternate Survey	
6a. If "Other/Alternate Survey" in question 6, specify	
7. Additional Notes Regarding Wage Determination	
8. Determination date	9. Expiration date

F. OMB Paperwork Reduction Act (1205-0466)

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Respondent's reply to these reporting requirements is mandatory to obtain the benefits of temporary employment certification (Immigration and Nationality Act, Section 101). Public reporting burden for this collection of information is estimated to average 55 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate to the Office of Foreign Labor Certification * U.S. Department of Labor * Room C4312 * 200 Constitution Ave., NW * Washington, DC * 20210. **Do NOT send the completed application to this address.**