

U.S. Department of Labor
Employment and Training Administration
Prevailing Wage Level FAQs
Round 2

*Interim Final Rule, Strengthening Wage Protections for the Temporary and Permanent
Employment of Certain Aliens in the United States*

October 29, 2020

1. Is the wage data used to calculate the prevailing wage levels under the Interim Final Rule (IFR), which took effect on October 8, 2020, the same as the wage data used to calculate the prior prevailing wage levels that the Office of Foreign Labor Certification (OFLC) published for the July 2020 wage year?

Yes, the wage data used to calculate the prevailing wage levels under the IFR is the same as the wage data used to calculate the prior prevailing wage levels that OFLC published for the July 2020 wage year. The underlying wage data did not change. Each year the Bureau of Labor Statistics (BLS) Occupational Employment Statistics (OES) program publishes its wage data in March, and OFLC publishes new wage data in July for the new wage year. On October 7, 2020, OFLC uploaded the prevailing wage data from the OES to implement the IFR. These new prevailing wages, published on the Foreign Labor Certification Data Center, are for the period from October 8, 2020 – June 30, 2021. The Foreign Labor Certification Data Center is the location of the Online Wage Library for prevailing wage determinations and accessible at <https://www.flcdatcenter.com>. Prevailing wage determinations issued from the National Prevailing Wage Center will now reflect the new wages.

2. How did the calculation of the prevailing wage levels change under this IFR?

Before the IFR, the Level I Wage was calculated as the mean of the lowest one-third of the wage distribution and the Level IV Wage was calculated as the mean of the upper two-thirds of the wage distribution for the occupational classification and geographic area. The IFR changed the calculations of the Level I Wage to the mean of the fifth decile and the Level IV Wage to the mean of the upper decile of the OES wage distributions. As a result, the portion of the wage distributions used to calculate the prevailing wage levels is different between the previous calculations and the new calculations.

3. Why are there some instances where the previous Level IV Wage is lower than the new Level I and II Wages?

Under the IFR, the wage distributions are based on the mean of the fifth decile and the mean of the upper decile of the OES wage distributions (*i.e.*, the new Level I Wage and Level IV Wage, respectively). Previously, the wage distributions were based on the mean of the lowest one-third and the mean of the upper two-thirds (*i.e.*, the old Level I Wage and Level IV Wage, respectively). Therefore, the wage distributions used to calculate the wage levels are different between the previous calculations and the new calculations

under the IFR. The OES survey values of the fifth decile, which is the new Level I Wage, are now contained in the upper two-thirds, which was used to set the previous Level IV Wage. As a result, there are some instances where the previous Level IV Wage may be lower than the new Level I and II Wages.

4. Why does the Online Wage Library and the Foreign Labor Application Gateway (FLAG) system display no leveled wages for some occupations in geographic areas?

There are two primary reasons why the Online Wage Library and FLAG system may display no leveled wages for some occupational classifications in a specific geographic area. The first reason is that in some cases the wage value differences between Level I and Level IV are less than thirty cents, meaning that calculating four levels of wages would be impractical as there would be no meaningful distinction between different levels. The second reason is that, in certain instances, OES cannot provide a wage estimate for either the Level IV wage value, or both the Levels I and IV wage values, because of its data collection and survey methodology. For example, the OES survey form allows respondents to provide the number of workers whose wages fall into each of the twelve (12) intervals or ranges. *See* Occupational Employment Report, OMB Control No. 1220-0042 (Mar. 2020), available at https://www.bls.gov/respondents/oes/pdf/forms/uuuuuu_fillable.pdf (OES survey form). Accordingly, if too many employers' responses to the survey form are in the highest, open-ended interval or range (*i.e.*, \$115.00 per hour and above), OES cannot provide a specific Level IV wage value and, as a result, no leveled wages will be displayed because there is no way for BLS to differentiate between the wages being reported. Consistent with standard practice, the prevailing wage for an occupation and/or geographic area may be notated with the standard OES footnote, reflecting "this wage is equal to or greater than \$100.00 per hour or \$208,000 per year." Although the circumstances where the Online Wage Library and FLAG system display no leveled wages for an occupation and/or geographic area constitute a very small proportion of all prevailing wage records calculated by BLS, these circumstances can arise in the estimation of wages for both the All Industries Wage Database and ACWIA Higher Education Wage Database.

5. Why are some occupations with a mean wage between \$20 and \$65 per hour now reflecting the default wage for highly compensated professionals?

Since the Level IV Wage is now calculated as the mean of the upper decile of the OES wage distribution for an occupation in a particular BLS geographic area, there are some highly paid workers in certain occupations that can cause the Level IV wages to exceed the threshold or range where the OES can provide a statistically valid estimated wage. For example, the BLS collection process may result in a combination of exact wage values and wages reported that are at least \$115.00 per hour. See item 7 in the OES survey form at https://www.bls.gov/respondents/oes/pdf/forms/uuuuuu_fillable.pdf.