Understanding Indiana's Common Construction Wage Act

A brief guide to Indiana’s prevailing wage law.
# Table of Contents

Background ........................................................................................................................................... 3  
Applicability of the Common Construction Wage Act ......................................................................... 3  
Exemptions ........................................................................................................................................... 3  
  
  Project Cost ....................................................................................................................................... 3  
  Federally Funded Projects .................................................................................................................. 3  
  Indiana Department of Transportation (INDOT) Projects ................................................................. 3  
  Operating Agreements ....................................................................................................................... 3  
The Role of the Indiana Department of Labor ......................................................................................... 4  
The Committee and Its Members ........................................................................................................... 5  
  Committee Composition .................................................................................................................... 5  
  The Committee's Duties ........................................................................................................................ 5  
Common Construction Wage Hearings ................................................................................................. 6  
  Scheduling a Hearing .......................................................................................................................... 6  
Once-a-Month Schedule ....................................................................................................................... 7  
Sample Hearing Request Letter .......................................................................................................... 8  
Hearing Etiquette and Robert's Rules of Order .................................................................................... 9  
Sample Hearing Agenda ...................................................................................................................... 10  
Classifications and Skill Levels .......................................................................................................... 11  
Computation of “Common Wage” ......................................................................................................... 12  
  Modal Calculation ............................................................................................................................. 12  
Fringe Benefits .................................................................................................................................... 12  
Additional Responsibilities of the Awarding Agency ......................................................................... 13  
  Advertising for the Contract .............................................................................................................. 13  
  Two-Week Wait Prior to Letting the Contract .................................................................................. 13  
  Common Construction Wage as a Condition of the Contract .......................................................... 13  
  Verification of the Contractor’s Schedule of Wages ........................................................................ 13  
Frequently Asked Questions ................................................................................................................ 14  
Contact Information and Helpful Links .............................................................................................. 18
Background

Since its adoption in 1935, Indiana’s prevailing wage law, now the Common Construction Wage Act, has established the wage rates paid to construction workers on Indiana’s public works projects.

Wages are adopted in public hearings of Common Construction Wage committees. Each committee is charged with determining the most commonly paid construction wages in the project county as required by the Indiana Common Construction Wage Act (Indiana Code 5-16-7-1 et seq.) and the applicable case law.

Applicability of the Common Construction Wage Act

The Common Construction Wage Act covers nearly all public works construction projects that are estimated to exceed $350,000 in construction costs, paid for using state or local funds and owned or leased with the option to purchase by the state or a political subdivision.

Exemptions

Project Cost

Indiana Code 5-16-7-1(m) exempts all projects with an actual construction cost of less than $350,000.

Federally Funded Projects

Absent a written agreement with the granting agency or a statute to the contrary, the Common Construction Wage Act does not apply to public projects in Indiana that are to be paid for in whole or in part with funds granted by the federal government.

Indiana Department of Transportation (INDOT) Projects

The Common Construction Wage Act does not apply to contracts let (awarded) by the Indiana Department of Transportation for the construction of highways, streets, and bridges. (IC 5-16-7-1(g))

Operating Agreements

Except as provided in Indiana Code 5-23, the Common Construction Wage Act does not apply to a person that has entered into an operating agreement with the state, a municipal corporation, or another political subdivision for the management or operation of a public facility under Indiana Code 5-23.
The Role of the Indiana Department of Labor

The Indiana Department of Labor is the executive agency charged with administering Indiana’s labor laws, including Indiana’s Common Construction Wage Act. In this capacity, the Indiana Department of Labor (IDOL) takes an active role in both the facilitation of Common Construction Wage committee hearings and the enforcement of wage determinations established by these committees.

To assist in facilitating these hearings, the IDOL employs a Common Construction Wage Hearing Officer. Upon an Awarding Agency’s request, the Hearing Officer will schedule a Common Construction Wage committee hearing. The IDOL works closely with representatives in all 92 counties to ensure that meeting rooms are available. The hearing officer also provides committee notices, publications and supplemental materials necessary to facilitate these hearings.

The Hearing Officer, commonly referred to as the Governor’s Representative, attends many of the Common Construction Wage hearings held across Indiana. The Hearing Officer serves as a resource to the committees and gathers data maintained by the IDOL. With changes in technology, the Hearing Officer now has the ability to participate in many of the hearings by teleconference. Teleconference participation allows the hearing officer to attend hearings in remote locations, or even on opposite ends of the state, without the logistical and financial constraints of travel.

The IDOL is also vested with the authority to enforce each committee’s wage determination. The department conducts audits of contractor payroll records to verify wage compliance with the applicable Common Construction Wage determinations.

For the most up-to-date information regarding IDOL policies and procedures, please visit www.in.gov/dol.
The Committee and Its Members

If an awarding government agency plans to perform a public works construction project that is:

1. Estimated to exceed $350,000 in construction costs,
2. Is paid for using state or local government funds,
3. Is owned or leased with the option to purchase by the state or a political subdivision,

the awarding agency must form a Common Construction Wage committee.

The committees themselves, however, are autonomous in nature; with four of the five committee members being appointed by separate appointing authorities as specified in Indiana Code 5-16-7-1(b).

Committee Composition

A Common Construction Wage Committee consists of:

1. An Industry Representative, appointed by the Awarding Agency (Awarding Agency Representative);
2. A Labor Representative, appointed by the president of the state federation of labor (presently the AFL-CIO);
3. A representative appointed by the Associated Builders and Contractors (ABC);
4. A Taxpayer appointed by the Awarding Agency (Awarding Agency Taxpayer Representative) who pays the tax that will be the funding source for the project and who lives in the county where the project will be constructed; and
5. A Taxpayer appointed by the County Legislative Body (County Legislative Body Taxpayer Representative) who pays the tax that will be the funding source for the project and who lives in the county where the project will be constructed.

The Committee's Duties

Upon convening, the committee is charged with considering county-specific wage data from the AFL-CIO, ABC and other interested parties to determine wage rates appropriate to the county where the project is located. (IC 5-16-7-4) However, the Act specifically states that the committee does not have to consider information not presented at the hearing. (IC 5-16-7-1(c))

After considering the wage data, the committee must then determine which classifications of the trades or crafts to be employed. These classifications are them divided into three levels of job skill: skilled, semiskilled and unskilled. (IC 5-16-7-1(c)(1)) The committee must then determine, "a scale of wages for each class of work... that is not less than the common construction wage of all wages being paid in the county..." (IC 5-16-7-4(1))
The Indiana Court of Appeals defined the Common Construction Wage to be the mathematical mode. The Court also ruled that the term "wages" also includes fringe benefits. Union Township School Corporation v. State ex. rel. Joyce, 706 N.E.2d 183, 187 (Ind. Ct. App. 1998)

If the committee is unable to reach a decision, the statute dictates that the Awarding Agency will decide what wages will be paid and this determination will be final. Upon discharging its statutory duties, the committee’s obligations are concluded.

Effective July 1, 2011, the wage scales adopted in accordance with the Common Construction Wage Act cover all construction projects that are let (awarded) by the awarding agency within three (3) months of the scale's adoption. (IC 5-16-7-1(d))

**Common Construction Wage Hearings**

**Scheduling a Hearing**

Indiana Code 5-16-7-1 requires that the committee meet county where the construction project is located and make a determination at least two weeks prior to the date fixed for the letting of the contract.

The committee must meet in accordance with the provisions of Indiana’s Open Door Law. (IC 5-14-1.5.) Public notice of the date, time, and place of the hearing must be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the hearing. The requirements of the Open Door law are fulfilled by: (1) posting a copy of the notice at the principal office of the public agency holding the hearing or, if no such office exists, at the building where the hearing is to be held; (2) and delivering notice to all news media which have requested such notices.

To facilitate the hearing process, the Indiana Department of Labor schedules hearings in accordance with a “Once-a-Month” schedule. This schedule allows hearings to be held in each of Indiana’s 92 counties on a regularly occurring day each month. Please refer to Page 7 for a copy of the Indiana Department of Labor’s “Once-a-Month” schedule and Page 8 for a copy of our Sample Hearing Request Letter.

Awarding agencies are free to schedule hearings on their own without the assistance of the Indiana Department of Labor. These hearings can be held on any day, at any time and in any location within the county that the awarding agency chooses. When the awarding agency schedules the hearing, the awarding agency is responsible for notifying all committee members and media outlets in accordance with Indiana’s Open Door law.
Common Construction Wage Hearing Schedule

<table>
<thead>
<tr>
<th>FIRST MONDAY</th>
<th>FIRST TUESDAY</th>
<th>FIRST WEDNESDAY</th>
<th>FIRST THURSDAY</th>
</tr>
</thead>
<tbody>
<tr>
<td>JASPER</td>
<td>GIBSON</td>
<td>LAPORTE</td>
<td>CRAWFORD</td>
</tr>
<tr>
<td>LAKE</td>
<td>KNOX</td>
<td>MARSHALL</td>
<td>DAVIESS</td>
</tr>
<tr>
<td>NEWTON</td>
<td>PIKE</td>
<td>PULASKI</td>
<td>DUBOIS</td>
</tr>
<tr>
<td>PORTER</td>
<td>POSEY</td>
<td>ST. JOSEPH</td>
<td>MARTIN</td>
</tr>
<tr>
<td></td>
<td>VANDERBURGH</td>
<td>STARKE</td>
<td>PERRY</td>
</tr>
<tr>
<td></td>
<td>WARRICK</td>
<td></td>
<td>SPENCER</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SECOND MONDAY</th>
<th>SECOND TUESDAY</th>
<th>SECOND WEDNESDAY</th>
<th>SECOND THURSDAY</th>
</tr>
</thead>
<tbody>
<tr>
<td>CLAY</td>
<td>ADAMS</td>
<td>CLARK</td>
<td>BENTON</td>
</tr>
<tr>
<td>HENDRICKS</td>
<td>ALLEN</td>
<td>FLOYD</td>
<td>CARROLL</td>
</tr>
<tr>
<td>PARKE</td>
<td>DEKALB</td>
<td>HARRISON</td>
<td>CLINTON</td>
</tr>
<tr>
<td>PUTNAM</td>
<td>HUNTINGTON</td>
<td>JEFFERSON</td>
<td>TIPPECANOE</td>
</tr>
<tr>
<td>VIGO</td>
<td>WELLS</td>
<td>SCOTT</td>
<td>WARREN</td>
</tr>
<tr>
<td></td>
<td>WHITLEY</td>
<td>WASHINGTON</td>
<td>WHITE</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>THIRD MONDAY</th>
<th>THIRD TUESDAY</th>
<th>THIRD WEDNESDAY</th>
<th>THIRD THURSDAY</th>
</tr>
</thead>
<tbody>
<tr>
<td>ELKHART</td>
<td>GREENE</td>
<td>CASS</td>
<td>BARTHOLOMEW</td>
</tr>
<tr>
<td>KOSCIUSKO</td>
<td>LAWRENCE</td>
<td>FULTON</td>
<td>BROWN</td>
</tr>
<tr>
<td>LAGRANGE</td>
<td>MONROE</td>
<td>HOWARD</td>
<td>JACKSON</td>
</tr>
<tr>
<td>NOBLE</td>
<td>MORGAN</td>
<td>MIAMI</td>
<td>JENNINGS</td>
</tr>
<tr>
<td>STEUBEN</td>
<td>ORANGE</td>
<td>TIPTON</td>
<td>JOHNSON</td>
</tr>
<tr>
<td></td>
<td>OWEN</td>
<td>WABASH</td>
<td>SHELBY</td>
</tr>
<tr>
<td></td>
<td>SULLIVAN</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FOURTH MONDAY</th>
<th>FOURTH TUESDAY</th>
<th>FOURTH WEDNESDAY</th>
<th>FOURTH THURSDAY</th>
</tr>
</thead>
<tbody>
<tr>
<td>FAYETTE</td>
<td>BOONE</td>
<td>DEARBORN</td>
<td>BLACKFORD</td>
</tr>
<tr>
<td>HANCOCK</td>
<td>FOUNTAIN</td>
<td>DECATOR</td>
<td>DELAWARE</td>
</tr>
<tr>
<td>HENRY</td>
<td>HAMILTON</td>
<td>FRANKLIN</td>
<td>GRANT</td>
</tr>
<tr>
<td>RUSH</td>
<td>MARION</td>
<td>OHIO</td>
<td>JAY</td>
</tr>
<tr>
<td>UNION</td>
<td>MONTGOMERY</td>
<td>RIPLEY</td>
<td>MADISON</td>
</tr>
<tr>
<td>WAYNE</td>
<td>VERMILLION</td>
<td>SWITZERLAND</td>
<td>RANDOLPH</td>
</tr>
</tbody>
</table>

* Should a regularly scheduled hearing date fall on a state or federal holiday, the hearing will be scheduled for the following business day.
NOTE: To ensure prompt notice to your committee members, please provide email addresses or fax numbers, if applicable. Please submit your completed request to us by email at ccw@dol.in.gov or by fax at (317) 234-4449.

Sample Request Letter
Please complete the fields underlined and highlighted below

DATE

Indiana Department of Labor
ATTN: Wage and Hour Division
402 West Washington Street, Room W195
Indianapolis, Indiana 46204

RE: Common Construction Wage Hearing
NAME OF THE AWARDING AGENCY
COUNTY WHERE CONSTRUCTION WILL BE PERFORMED

Dear IDOL Representative:

On behalf of the NAME OF AWARDING AGENCY, CITY, COUNTY WHERE THE CONSTRUCTION WILL BE PERFORMED, Indiana, and pursuant to IC 5-16-7-1, we request that a hearing be scheduled to determine Common Construction Wages for the above referenced projects.

The following representatives have been appointed and agree to serve on the committee:

Awarding Agency Representative:
NAME
ADDRESS
PHONE NUMBER
EMAIL and/or FAX

Awarding Agency Taxpayer Representative:
NAME
ADDRESS
PHONE NUMBER
EMAIL and/or FAX

County Legislative Body Taxpayer Representative:
NAME
ADDRESS
PHONE NUMBER
EMAIL and/or FAX

Please also include the NAMES, ADDRESSES, and EMAIL/FAX INFORMATION of any Open Door Law (Public Notice) requests that you have received for this meeting.

If you have any questions, please contact me by phone at YOUR PHONE NUMBER or by email at YOUR EMAIL ADDRESS.

Sincerely,

YOUR NAME
YOUR TITLE
Hearing Etiquette and Robert's Rules of Order

Common Construction Wage hearings are typically small hearings and typically only the five committee members are present in the meeting room. Committee members, depending on the layout of the meeting room, are usually seated around a table where they can address one another and pass wage data back and forth. These hearings are open to the public and may attract a small audience. Unless recorded by a committee member or a constituent in attendance, these hearings are rarely filmed or audio recorded.

Hearings are typically held in accordance with Robert's Rules of Order. Per Robert's Rules of Order, a quorum of the committee members must be present for the committee to take action. A quorum is defined by Robert's Rules of Order as "a majority of the entire membership." Robert's Rules of Order Newly Revised, Tenth Edition (2000). As Common Construction Wage committees are comprised of five members, a majority, or three committee members, must be present for the committee to take action. Committees traditionally elect a chairperson and often follow an organized agenda. A sample agenda recommended by the IDOL can be found on page 10.

When voting to adopt a scale of wages, typically a motion is made in favor of wages presented during the hearing. Once this motion is made and recognized by the chairperson, there will be an opportunity to "second" the motion. If the motion receives a second, the committee may vote on the motion. If no second is made, the motion fails.

When taking a vote, a motion passes when the majority of the votes cast are in favor of the motion. Committee members may abstain from voting. Abstentions are still recorded as part of the meeting record but, according to Robert's Rules of Order, are not to be considered as votes when determining the pass or fail of a motion. Abstaining from voting is essentially the same as if the committee member refused to cast a vote at all.

Once a scale of wages has been adopted, it is signed by all committee members present. Committee members may refuse to sign the wage scale. They may also choose to indicate how they voted and why. Often, five or more copies will be signed at the hearing so that each committee member leaves with a signed copy. The Indiana Department of Labor asks that a signed copy of the scale of wages and any minutes kept during the hearing be transmitted to our office by fax, e-mail or postal mail.

Adopted wage scales may be sent to:
Indiana Department of Labor
Wage and Hour Division
402 West Washington Street, Room W195
Indianapolis, Indiana 46204
Phone: (317) 232-2655
E-mail: ccw@dol.in.gov

Once the committee adjourns, the committee’s statutory duty is fulfilled and the committee's obligations are concluded.
Suggested Common Construction Wage
Hearing Agenda

1. Election of Committee Chair Person
2. Call to order by Committee Chair Person
3. Introduction of Committee Members
4. Verification of Open Door Compliance
5. Statement of Committee’s purpose
   a. Meet in accordance with Open Door Law
   b. Evaluate reports regarding wages paid in the county
   c. To determine the most common wage (including fringe benefits) for each classification and level of job skill required by the project
6. Overview of the Act
   a. Act covers most state and local public works projects
   b. Wages adopted in this hearing apply to all projects covered by the Common Construction Wage Act let within three (3) months of the date of this hearing
   c. Five (5) person committee. One from Awarding Agency, AFL-CIO, the Associated Builders and Contractors and two Taxpayers from the project county
   d. Union Township court case defined common as mathematical mode, not average. Mode is the number that appears the most often in any list of numbers.
7. Presentation of Data and Testimony
   a. Data from Awarding Agency
   b. Data from Public
   c. Data from AFL-CIO Representative
   d. Data from the Associated Builders and Contractors
8. Questions and Discussion
   a. Open to the Public
   b. If addressing committee, please state your name for the record
9. Determination and Adoption of Wage Scale
   a. Determination of Job Classifications needed for all projects
   b. Evaluation and Discussion of Data
   c. Close Floor to Public Discussion
10. Adoption of Wage Scale
    a. Motion to Adopt
    b. Second the Motion
    c. Open to Discussion
    d. Majority of Quorum carries the motion
11. Closing Comments
12. Adjournment
Classifications and Skill Levels

Since the adoption of the original prevailing wage law in 1935, “wage scales” have contained a scale of classifications and wages for each of the three skill classes. In the 1998 case Union Township School Corporation v. State ex. rel. Joyce, the Court of Appeals affirmed this structure, writing:

“…the Common Construction Wage statute prescribes a two-step process. First, the committee must classify the labor to be employed, that is, determine the trades or crafts to be utilized on the project. Then the committee must set wages for skilled, semiskilled, and unskilled workers within each classified trade or craft.” Union Township School Corporation v. State ex. rel. Joyce, 706 N.E.2d 183, 187 (Ind. Ct. App.1998).

Since wage scales now apply to all projects let (awarded) within three (3) months of the scale's adoption, the Indiana Department of Labor suggests that the committee adopt a scale containing as many classifications as possible. If a classification necessary to complete a construction project is not listed on the adopted wage scale, a new hearing should be held to determine the wages and fringes for the missing classification.

Example of the wage scale structure:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Skill Level</th>
<th>Hourly Wage</th>
<th>Hourly Fringe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bricklayer</td>
<td>Skilled</td>
<td>$20.00</td>
<td>$3.00</td>
</tr>
<tr>
<td></td>
<td>Semiskilled</td>
<td>$15.00</td>
<td>$3.00</td>
</tr>
<tr>
<td></td>
<td>Unskilled</td>
<td>$10.00</td>
<td>$3.00</td>
</tr>
<tr>
<td>Carpenter</td>
<td>Skilled</td>
<td>$22.00</td>
<td>$4.00</td>
</tr>
<tr>
<td></td>
<td>Semiskilled</td>
<td>$17.00</td>
<td>$4.00</td>
</tr>
<tr>
<td></td>
<td>Unskilled</td>
<td>$12.00</td>
<td>$4.00</td>
</tr>
<tr>
<td>Electrician</td>
<td>Skilled</td>
<td>$21.00</td>
<td>$4.50</td>
</tr>
<tr>
<td></td>
<td>Semiskilled</td>
<td>$16.00</td>
<td>$4.50</td>
</tr>
<tr>
<td></td>
<td>Unskilled</td>
<td>$11.00</td>
<td>$4.50</td>
</tr>
<tr>
<td>Operating Engineer</td>
<td>Skilled</td>
<td>$20.50</td>
<td>$2.85</td>
</tr>
<tr>
<td></td>
<td>Semiskilled</td>
<td>$15.50</td>
<td>$2.85</td>
</tr>
<tr>
<td></td>
<td>Unskilled</td>
<td>$10.50</td>
<td>$2.85</td>
</tr>
</tbody>
</table>
Computation of “Common Wage”

Modal Calculation

The Indiana Court of Appeals in Union Township defined “common” as “that which is customary, takes place daily, is widely used, or is generally known.” Union Township School Corporation v. State ex. rel. Joyce, 706 N.E.2d 183, 187 (Ind. Ct. App. 1998). The court noted, “[i]n mathematical terms, this constitutes the ‘mode.’” Id.

To put it simply, the "mode" is the most frequently occurring number in a range of numbers. Therefore, the Common Construction Wage should be the wage that is most often paid in each classification ad skill level required for the project(s).

Example:

A survey is conducted to determine the common hourly wage for an unskilled Carpenter. The survey garners the following ten responses:

$11, $11, $12, $12, $13, $13, $13, $13, $14, $15

To calculate the common wage, one would examine the list of the reported wages and determine which wage occurs most often in the survey set. In this example, the wage of $13 was reported more often than any other wage. Therefore, $13 is considered the mathematical mode and would be considered the common wage for an unskilled Carpenter.

Fringe Benefits

Although not specifically mentioned in the statute, the Indiana Court of Appeals in Union Township found that the term “wages” includes fringe benefits. Moreover, the court, citing a previous decision in Johnson v. Wiley, 613 N.E. 2d, 459 n.3 (Ind. Ct. App. 1993), found that Indiana’s broad common law definition of wages comports with the definition of “wages” found in Black’s Law Dictionary (6th ed.).

Thus, in computing the Common Construction Wage, one must also consider any fringe benefits paid to construction workers in the county. When evaluating a fringe benefit for purposes of the Indiana Common Construction Wage Act, the Indiana Department of Labor will often refer to the federal Davis-Bacon Act audit guidelines to determine whether the benefit meets the requirements of a bona fide fringe benefit articulated there. This helps maintain consistency for contractors who bid and work on state and federal contracts in Indiana. Wages and/or fringe benefits do not include those benefits and/or taxes that are legally mandated by state or federal law (e.g. Social Security, Unemployment Tax, Worker’s Compensation Insurance, etc).
Additional Responsibilities of the Awarding Agency

Advertising for the Contract

Before advertising or accepting bids for the contract, the awarding agency must establish the Common Construction Wage committee for purpose of establishing the wage scale for the project. (IC 5-16-7-1(b))

Two-Week Wait Prior to Letting the Contract

After the Common Construction Wage scale has been established for a project and filed with the awarding agency, the awarding agency must wait at least two (2) weeks before letting the contract. A copy of the wage scale must be furnished upon request to any person desiring to bid on the contract. The wage scale should also be open to inspection by the public. (IC 5-16-7-1(h))

Common Construction Wage as a Condition of the Contract

In accordance with Indiana Code 5-16-7-1(j), subsequent to establishing the Common Construction Wage scale for a project, the awarding agency must include as a condition of a contract awarded that the successful bidder and all subcontractors comply strictly with the established wage determination.

Verification of the Contractor’s Schedule of Wages

Additionally, Indiana Code 5-16-7-2 requires that the awarding agency verify compliance with the Common Construction Wage prior to the start of work by any contractor or subcontractor. Before any contractor or subcontractor performs work on a public works project, the awarding agency must require each contractor and/or subcontractor performing work to file a schedule of the wages that are to be paid to workers on the project.
Frequently Asked Questions

Q: Does the Common Construction Wage Act apply to my project?
A: If your project is valued at over $350,000, is being awarded by a state or local government entity and is paid for using state or local funding, Common Construction Wage would likely apply. To view the full Common Construction Wage Act, please visit http://www.in.gov/legislative/ic/code/title5/ar16/ch7.html.

If the project receives any federal funding and there is no expressly written agreement or statute that mandates that Common Construction Wage applies, the project would likely be covered by the federal Davis-Bacon Act and require use of the federal Davis-Bacon Scale. For more information about the Davis-Bacon Act, please visit http://www.dol.gov/whd/govcontracts/dbra.htm.

If you are ever uncertain as to the applicability of the Common Construction Wage Act, please consult with your agency's legal counsel and/or contact the Indiana Department of Labor by phone at (317) 232-2655 or by e-mail at ccw@dol.in.gov.

Q: How long is a wage scale valid after it has been adopted?
A: Wage scales are no longer set on a per-project basis. Instead, wage scales are valid for all applicable projects awarded by the Awarding Agency within three (3) consecutive months from the date of the scale's adoption. If a project is to be awarded after the scale is adopted, a new hearing should be convened and a new scale should be adopted.

Q: What if our project lasts longer than 3 months. Do we need to adopt a new wage scale?
A: Unless the project is being bid in phases or individual contracts, no. The wages adopted are valid for the entirety of a project that is awarded within three (3) months of the scale's adoption.

Q: My project is paid for by the federal government. Do I need to hold a Common Construction Wage hearing?
A: Absent a written agreement with the granting agency or a statute to the contrary, projects receiving federal money are not covered by the Common Construction Wage Act. These projects would likely be covered by the federal Davis-Bacon Act and require use of the federal Davis-Bacon Scale. For more information about the Davis-Bacon Act, please visit http://www.dol.gov/whd/govcontracts/dbra.htm.

Q: We have projects coming up that are valued at less than $350,000. Do they require a Common Construction Wage scale?
A: Typically, no. Only projects valued over $350,000 that are being awarded by a state or local government entity and are paid for using state or local funding are covered by the Common Construction Wage Act.
Q: We are setting Common Construction Wages for a project that crosses into multiple counties. How do we set up the hearing?
A: If a project crosses into multiple counties, a separate hearing must be held, and a scale must be adopted, in each county where construction will take place.

Q: How is a Common Construction Wage scale compiled?
A: By statute, a wage scale must list each classification of labor (occupation or craft) that would be necessary to complete a construction project. Since these scales are valid for all projects awarded within three months, a scale should have as many classifications of labor as possible to cover any projects that may come up. Wage rates for skilled, semiskilled and unskilled employees should be identified for each classification of labor. Later case law also defined that a fringe benefit amount for each skill level should be included as well. A basic scale should follow this sample format:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Skill Level</th>
<th>Hourly Wage</th>
<th>Hourly Fringe</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carpenter</td>
<td>Skilled</td>
<td>$20.00</td>
<td>$3.00</td>
</tr>
<tr>
<td></td>
<td>Semiskilled</td>
<td>$15.00</td>
<td>$3.00</td>
</tr>
<tr>
<td></td>
<td>Unskilled</td>
<td>$10.00</td>
<td>$3.00</td>
</tr>
</tbody>
</table>

The hourly wages and hourly fringes for each classification and level of job skill should be the "common" wage paid in the project county. "Common" was defined in the case of Union Township School Corp. v. State ex rel. Joyce, 706 N.E.2d 183, 191 (Ind.Ct.App.1998) as being the mathematical mode of the wages paid in the county. The mode is the number that appears most often in a sample set of numbers. In this instance, it would be the wage rate that is paid most frequently in the county. It is not an average of the county's wages.

Q: What is the "mathematical mode?"
A: "Mode" is a mathematical term for the number that appears most often in a list of numbers.

Q: What is an "Awarding Agency?"
A: The Awarding Agency is the government agency that is awarding the construction contract.

Q: Who can present wage scales and/or wage data at a Common Construction Wage hearing?
A: Anyone may present wage information at a Common Construction Wage hearing. Scales and data do not have to be presented by a committee member. These are public hearings where anyone may attend and offer information. Committees do not have to consider information that is not presented during the hearing.
Q: How do I schedule a Common Construction Wage Hearing?
A: The Indiana Department of Labor is happy to assist with setting up Common Construction Wage Hearings. As a courtesy, we will notify your agency's appointees to the committee as well as the AFL-CIO and Associated Builders and Contractors representatives. We will also notify any media outlets that have requested notice of hearings held by your agency. For more information and to download a copy of our Sample Request Letter, please visit http://www.in.gov/dol/2723.htm.

Q: How is the Awarding Agency/Industry Representative appointed?
A: The Awarding Agency/Industry Representative can be anyone that the Awarding Agency would like to send on their behalf to the hearing. The Indiana Department of Labor typically recommends that this person have some familiarity with the project(s) to be discussed.

Q: How is the Awarding Agency Taxpayer appointed?
A: This representative is appointed by the Awarding Agency, but must reside in the county where the project will be constructed. This appointee should also pay taxes that go toward the project(s) discussed. If the project crosses county lines, then two hearings will be required, one to be held in each county. Each county will need to have a separate Awarding Agency Taxpayer.

Q: Who appoints the County Legislative Body Representative?
A: The County Legislative Body Representative is appointed by the county legislative body of the county in which the project will be constructed. In most Hoosier counties, this is the County Commissioners. In St. Joseph County it is the County Council and in Marion County it is the City-County Council. This appointee must reside in the county where the project is being constructed and must pay the tax that will fund the project. The Indiana Department of Labor cannot make this appointment. It must be made by the County Legislative Body.

Q: How is the State Federation of Labor/AFL-CIO Representative appointed?
A: The State Federation of Labor/AFL-CIO Representative is appointed by the president of the State Federation of Labor.

Q: How is the Associated Builders and Contractors (ABC) representative appointed?
A: The Associated Builders and Contractors (ABC) representative is appointed by the president of the Associated Builders and Contractors.

Q: How much notice must committee members and the media receive when scheduling a Common Construction Wage Hearing?
A: Committee members, media outlets and the public must receive at least 48 hours notice of a Common Construction Wage hearing.
Q: I'm sending in a request for a Common Construction Wage hearing. When will my hearing be held?
A: The Indiana Department of Labor schedules all wage hearings in accordance with our "Once-a-Month" schedule. To view this schedule, please visit [http://www.in.gov/dol/2723.htm](http://www.in.gov/dol/2723.htm). The actual time of the hearing will be set approximately five (5) days prior to the date of the hearing.

Q: We are up against a tight deadline and cannot hold a hearing on the "Once-a-Month" schedule date. How do we proceed?
A: An Awarding Agency may set up its own hearing independent from the Indiana Department of Labor's "Once-a-Month" schedule. For more information on how to set up a hearing, please contact the Indiana Department of Labor, Wage and Hour Division by phone at (317) 232-2655 or by e-mail at ccw@dol.in.gov. If a hearing is held outside of our "Once-a-Month" schedule, the Indiana Department of Labor's Common Construction Wage Hearing Officer will likely not be able to attend.

Q: Our committee feels that none of the wage information we have received truly reflects the "common" wage in this county. What do we do?
A: If a committee is properly convened but fails to act (no wage scale adopted), the Awarding Agency may, by statute, determine the wages that will be paid on the project(s).

Q: How many committee members must be present to have a quorum?
A: Of the five-person Common Construction Wage committee, at least three members must be present to conduct business.

Q: Are we required to publish notices of Common Construction Wage Hearings in the newspaper?
A: The Common Construction Wage Act does not require notice of Common Construction Wage hearings to be published in the newspaper. However, Indiana’s Open Door Law requires the Awarding Agency to notify media outlets that have a standing request to receive notice of public meetings.
**Contact Information and Helpful Links**

*Federal Davis-Bacon Wage Rates:*
Office of Wage Determinations  
Wage and Hour Division  
U. S. Department of Labor  
200 Constitution Avenue Northwest  
Washington, D.C. 20210  
Phone: (202) 693-0062  
Website: [www.dol.gov/whd/govcontracts/dbra.htm](http://www.dol.gov/whd/govcontracts/dbra.htm)

*Common Construction Wage Hearings and Adoptions:*
Indiana Department of Labor  
Wage and Hour Division  
402 West Washington Street, Room W195  
Indianapolis, Indiana 46204  
Phone: (317) 232-2655  
Fax: (317) 233-3790  
E-mail: ccw@dol.in.gov  
Website: [www.in.gov/dol](http://www.in.gov/dol)

The Common Construction Wage Act may be found online at:  