

**Worley, Jordan P**

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**From:** Collins, Richard A [REDACTED] (b)(6)  
**Sent:** Monday, May 14, 2018 1:54 PM  
**To:** BEST\_H1BGuidance@sptaas.dhs.gov  
**Subject:** FW: Wage Level N/A & Private Survey Guidance

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**From:** Collins, Richard A  
**Sent:** Thursday, May 10, 2018 12:27 PM  
**To:** Boudreau, Lynn A; Martin, Evelyn M; Fierro, Joseph; Lussier, Marcy R; Marble, Michelle J; Nguyen, Carolyn Q; Chau, Stephanie; Mello, Amy E; Simon, Ronna J  
**Cc:** Doumani, Stephanie M; Nicklaw, Nicole C; McMahan, Matthew E  
**Subject:** Wage Level N/A & Private Survey Guidance

Hello,

There have been a number of questions and concerns regarding the treatment of wage level N/A and private wage survey cases. The working group is drafting more detailed guidance related to this issue.

However, there is a need for information and there are premium cases that are being held. Accordingly, please see the preliminary guidance below. This outlines the general approach for wage level N/A and private wage survey cases:

The general analysis required when evaluating a private wage survey is essentially the same analysis required when evaluating an OES based wage level designation. The officer should first look to see if the occupational classification corresponds to the particular position. Then, the officer will look to see what the corresponding wage level is for that survey and identify whether the wage level in the private wage survey is appropriate for the position.

In addition, the analysis of the private wage survey should include consideration of the area of intended employment. The area of intended employment means "the area within normal commuting distance of the worksite or physical location where the work of the H-1B nonimmigrant is or will be performed." There is no DOL requirement that the geographical divisions of a private wage survey exactly mirror the MSAs or other divisions identified in the Occupational Employment Statistics. As long as a private wage survey's geographical region covers an area within normal commuting distance of the beneficiary's worksite it would generally be acceptable (unless this area is egregiously small). However, a survey with a much larger geographic region, which is larger than the area within normal commuting distance of the beneficiary's worksite, would generally not be acceptable.

Again, more detailed guidance should be forthcoming. We hope that this is sufficient to address any premium cases that are being held.

Please let me know if you need any additional information or if you have any questions or concerns.

Thank you,

**Ricky Collins | Adjudications Officer (Detail)**  
**Business Employment Services Team (BEST) | SCOPS | USCIS**