



MAR 10 1993

MEMORANDUM NO. 171

TO: ALL CONTRACTING AGENCIES OF THE FEDERAL GOVERNMENT
AND THE DISTRICT OF COLUMBIA

FROM: CHARLES E. PUGH *Charles E. Pugh*
Acting Administrator

SUBJECT: Revocation of Proclamation No. 6491 Suspending the
Davis-Bacon and Related Acts Provisions

By Proclamation No. 6491 of October 14, 1992, former President Bush suspended the provisions of the Davis-Bacon and related Acts in areas affected by Hurricanes Andrew and Iniki. See All Agency Memoranda 167 and 168. On March 6, 1993, President Clinton revoked Proclamation No. 6491 and reinstated the protections of the Davis-Bacon and related Acts in these areas.

AFFECTED CONTRACTS AND SOLICITATIONS

The March Proclamation (copy attached) revokes Proclamation No. 6491 of October 14, 1992,

. . . as to all construction contracts for which bids are opened or negotiations concluded on or after fifteen (15) days after the date of this Proclamation, whether direct Federal construction or federally assisted construction subject to Proclamation No. 6491.

Contracts awarded without Davis-Bacon provisions during the period beginning October 14, 1992, and ending March 20, 1993, are unaffected, and any subcontracts awarded thereunder should not contain prevailing wage determinations regardless of the date the subcontracts are entered into or the period in which they are performed. Contracts for which bids are opened or negotiations are concluded on or after March 21, 1993, including any procurement actions that are resolicited or postponed so that the bid opening occurs on or after March 21, 1993, must incorporate the Davis-Bacon provisions and applicable wage determinations under governing procurement laws and regulations.

For projects assisted under the National Housing Act, the date of the initial endorsement of the mortgage or the start of construction, whichever occurs first, is the date governing application of the Davis-Bacon provisions. Where the earliest of these events (initial endorsement of the mortgage or the start of construction) occurs on or after March 21, 1993, Davis-Bacon provisions are applicable to the project. Similarly, projects receiving housing assistance payments under section 8 of the U.S. Housing Act of 1937, are subject to the Davis-Bacon labor standards where the agreement to enter into a housing assistance payment contract is executed or construction is started, whichever occurs first, on or after March 21, 1993.

WAGE DETERMINATIONS

Every solicitation that is modified to incorporate the Davis-Bacon provisions as a result of the reinstatement must include the appropriate current Davis-Bacon wage determination(s), and each resolicitation must incorporate the appropriate wage determination(s) in effect on the date the new solicitation is issued. General wage determinations for the affected geographic areas have been revised, and the current prevailing wage rates are reflected in the 1993 edition of the Government Printing Office publication entitled General Wage Determinations Issued Under the Davis-Bacon and Related Acts. This publication contains general wage determinations issued pursuant to section 1.5 of Regulations, 29 CFR Part 1. Agencies may use such general wage determinations without notifying the Department of Labor provided that any questions concerning their use are referred to the Department of Labor in accordance with section 1.6(b) of Regulations, Part 1. See All Agency Memorandum No. 169 dated February 18, 1993.

Any solicitation issued prior to the October 1992 suspension of the Davis-Bacon provisions which was not modified to delete the Davis-Bacon provisions and a previously applicable general wage determination, and was not awarded during the period of the suspension, must include the appropriate current general wage determination pursuant to section 1.6(c)(3)(iv) of Regulations, Part 1, unless the agency obtains an extension of the original wage determination in accordance with that same section of the Regulations. Unexpired project wage determinations that were issued prior to the suspension may be incorporated in any solicitations for which the wage determinations were originally issued. Agencies need not request a new project determination if an existing project wage determination has not expired unless the contract specifications are substantially changed from those established at the time the initial project wage determination was issued. Such changes warrant the issuance of a new wage

determination. Expired project wage determinations may not be utilized unless extended in accordance with section 1.6(a)(1) of Regulations, Part 1.

Requests for project wage determinations will be handled pursuant to previously established procedures. Every effort will be made to respond to requests for wage determinations as expeditiously as possible. To request special handling of needed project wage determinations, contracting agency officials may contact the Branch of Construction Wage Determinations at (202) 219-7443.

CONTRACT CLAUSES

Pursuant to Department of Labor Regulations, 29 CFR Part 5, contracting officers are required to incorporate the labor standards clauses set forth in section 5.5 of Regulations, Part 5, in full into any covered solicitation or contract for construction. See also the Federal Acquisition Regulations at 48 CFR 22.407. Pursuant to Regulations, Part 5, and All Agency Memorandum No. 168, the Department of Labor authorized the modification of those contract clauses to omit certain labor standards requirements deemed unnecessary during the suspension of the Davis-Bacon and related Acts. That authority is hereby rescinded. Contracting agencies should incorporate the pertinent clauses as set forth in Regulations, Part 5, in their entirety into any contracts which, as a result of the revocation of the suspension, now require the payment of prevailing wage rates in accordance with the Davis-Bacon Act.

Attachment

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

March 8, 1993

TO REVOKE PROCLAMATION NO. 6491 OF OCTOBER 14, 1992

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

WHEREAS, the provisions of the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494, as amended), and the provisions of all other acts, Executive orders, proclamations, rules, regulations, or other directives providing for the payment of locally prevailing wages, which provisions are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act, were suspended by Proclamation No. 6491 of October 14, 1992, within specified geographic areas affected by Hurricanes Andrew and Iniki until otherwise provided;

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, do by this Proclamation revoke Proclamation No. 6491 of October 14, 1992, as to all construction contracts for which bids are opened or negotiations concluded on or after fifteen (15) days after the date of this Proclamation, whether direct Federal construction or federally assisted construction subject to Proclamation No. 6491.

IN WITNESS WHEREOF, I have hereunto set my hand this sixth day of March, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.

WILLIAM J. CLINTON

###