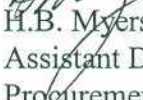




Washington, D.C. 20530

September 16, 2005

**MEMORANDUM FOR BUREAU PROCUREMENT CHIEFS**

**FROM:**   
H.B. Myers  
Assistant Director  
Procurement Policy and Review

**SUBJECT:** DOJ Procurement Guidance Document 05-06  
Proclamation by the President: To Suspend Subchapter IV of Chapter 31 of Title 40, United States Code (U.S.C.), Within a Limited Geographic Area in Response to the National Emergency Caused by Hurricane Katrina

Several areas of the Nation have been recently devastated by Hurricane Katrina. Due to the unprecedented property damage caused by the hurricane, and the need to restore the communities in the affected areas, the President, by proclamation, has suspended the provisions of the Davis-Bacon Act (Title 40, U. S. C. §3141-3148) as they apply to Federal contracts performed in the affected jurisdictions. Section 3147 of Title 40 allows the President to suspend the provisions of that Act in times of national emergency. A copy of the Presidential proclamation which lists the covered jurisdictions is attached.

Section 3142(a) of Title 40, U.S.C., requires that contracts in excess of \$2,000, for the construction, alteration or repair of public buildings shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics. Those minimum wages are based on determinations made by the Secretary of Labor based on prevailing wages for corresponding classes of laborers and mechanics employed on similar projects performed in the private sector.

Suspension of subchapter 31 of Title 40 U.S.C., and the operation of related acts to the extent that they depend on the Secretary of Labor's determinations under section 3142 of Title 40, will result in greater assistance to the communities and will permit the employment of thousands of additional individuals.

The proclamation suspends the provisions of the Davis-Bacon Act and the provisions of any Executive Order, proclamation, rule, regulation, or other directive providing for the payment of wages which are dependent upon determinations made by the Secretary of Labor under section

3142 of Title 40 U.S.C. for all contracts entered into on or after September 8, 2005, and will remain in effect until otherwise provided.

Please make this information immediately available to the appropriate people in your organization and add this document to your collection of DOJ Procurement Guidance Documents. Questions should be directed to me at 202/616-3758.

Attachment



**Proclamation by the President: To Suspend Subchapter IV of Chapter 31 of Title 40, United States Code, Within a Limited Geographic Area in Response to the National Emergency Caused by Hurricane Katrina**

A Proclamation by the President of the United States of America

1. Section 3142(a) of title 40, United States Code, provides that "every contract in excess of \$2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes or laborers and mechanics."

2. Section 3142(b) of title 40, United States Code, provides that such "minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed . . ."

3. Under various other related acts, the payment of wages is made dependent upon determinations by the Secretary of Labor under section 3142 of title 40, United States Code.

4. Section 3147 of title 40, United States Code, provides that "[t]he President may suspend the provisions of this subchapter during a national emergency."

5. Several areas of the Nation have been recently devastated by Hurricane Katrina. The devastation from the hurricane has resulted in the largest amount of property damage from a natural disaster in the history of the Nation. An enormous but undetermined number of lives have been lost, and hundreds of thousands of homes and business establishments either destroyed or severely damaged. Hundreds of thousands of individuals have lost their jobs and their livelihood. An unprecedented amount of Federal assistance will be needed to restore the communities that have been ravaged by the hurricane. Accordingly, I find that the conditions caused by Hurricane Katrina constitute a "national emergency" within the meaning of section 3147 of title 40, United States Code.

(a) Hurricane Katrina has resulted in unprecedented property damage.

(b) The wage rates imposed by section 3142 of title 40, United States Code, increase the cost to the Federal Government of providing Federal assistance to these areas.

(c) Suspension of the subchapter IV of chapter 31 of title 40, United States Code, 40 U.S.C. 3141-3148, and the operation of related acts to the extent they depend upon the Secretary of Labor's determinations under section 3142 of title 40, United States Code, will result in greater assistance to these devastated communities and will permit the employment of thousands of additional individuals.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do by this proclamation suspend, as to all contracts entered into on or after the date of this proclamation and until otherwise provided, the provisions of subchapter IV of chapter 31 of title 40, United States Code, 40 U.S.C. 3141-3148, and the provisions of all other acts providing for the payment of wages, which provisions are dependent upon determinations by the Secretary of Labor under section 3142 of title 40, United States Code, as they apply to contracts to be performed in the

following jurisdictions: the counties of Baldwin, Choctaw, Clarke, Mobile, Sumter, and Washington in the State of Alabama; the counties of Broward, Miami-Dade, and Monroe in the State of Florida; the parishes of Acadia, Allen, Ascension, Assumption, Avoyelles, Beauregard, Bienville, Bossier, Caddo, Calcasieu, Caldwell, Cameron, Catahoula, Claiborne, Concordia, De Soto, East Baton Rouge, East Carroll, East Feliciana, Evangeline, Franklin, Grant, Iberia, Iberville, Jackson, Jefferson, Jefferson Davis, La Salle, Lafayette, Lafourche, Lincoln, Livingston, Madison, Morehouse, Natchitoches, Orleans, Ouachita, Plaquemines, Pointe Coupee, Rapides, Red River, Richland, Sabine, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Tensas, Terrebonne, Union, Vermilion, Vernon, Washington, Webster, West Baton Rouge, West Carroll, West Feliciana, and Winn in the State of Louisiana; and the counties of Adams, Alcorn, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, DeSoto, Forrest, Franklin, George, Greene, Grenada, Hancock, Harrison, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jackson, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, Leflore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Stone, Sunflower, Tallahatchie, Tate, Tippah, Tishomingo, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo in the State of Mississippi.

And, as to such contracts to be performed in such jurisdictions, I do hereby suspend, until otherwise provided, the provisions of any Executive Order, proclamation, rule, regulation, or other directive providing for the payment of wages, which provisions are dependent upon determinations by the Secretary of Labor under section 3142 of title 40, United States Code;

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of September, in the year of our Lord two thousand five, and of the Independence of the United States of America the two hundred and thirtieth.

GEORGE W. BUSH