



March 2007

Davis-Bacon Facts and Talking Points

- The Davis-Bacon Act was signed into law in 1931, during the “Great Depression,” to inflate labor rates for workers on government projects.
- Specifically, the Davis-Bacon Act requires that each federal government contract worth over \$2,000 for the construction, alteration, or repair of public buildings or public works (including airports and public housing) set the minimum wages to be paid to laborers and mechanics employed under the contract at no less than the **locally prevailing wages** paid on projects of a similar character (as determined by the Secretary of Labor).
- By “locally,” the Act refers to the “city, town, village, or other civil subdivision of the State in which the work is to be performed.”
- Included in “wages” are the basic rates of hourly pay and **all fringe benefits** (when not otherwise required by other federal, state, or local law), such as pensions, health care benefits, compensation for occupational injury, unemployment insurance, life insurance, disability or sickness insurance, accident insurance, vacation pay, and defrayments of apprenticeship costs.
- These prevailing wage requirements **override** “any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics....”
- Davis-Bacon authorizes a federal government contracting officer to **withhold accrued payments** due the contractor in order to directly pay laborers and mechanics for any shortfall in wages paid to them by the contractor.
- The federal government is also authorized to **terminate an entire contract** if a contractor fails to pay the prevailing wages to its employees and subcontractors on the project.
- If laborers and mechanics accept less-than-prevailing wages, such acceptance does **not** exempt a contractor from Davis-Bacon requirements.

- Once the Comptroller General puts a person or firm on a list of persons and firms that have disregarded their prevailing-wage obligations, no government contract can be awarded to such person or firm for **three years** after an appearance on the list.
 - In the event of a **national emergency**, the President can suspend Davis-Bacon requirements.
 - According to the Department of Labor, **18 states do not have prevailing wage laws**: Alabama, Arizona, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Mississippi, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Utah, and Virginia. Of these states, 10 either **repealed** previously existing prevailing wage laws or had them **invalidated** by a court decision.
<http://www.dol.gov/esa/programs/whd/state/dollar.htm>
 - Furthermore, **20 other states** have prevailing wage laws with threshold amounts **higher** than the \$2,000 threshold for federal construction contracts:
 - Arkansas (\$75,000)
 - Connecticut (\$400,000 for new construction/ \$100,000 for remodeling)
 - Delaware (\$100,000 for new construction/ \$15,000 for remodeling)
 - Indiana (\$150,000)
 - Kentucky (\$250,000)
 - Maine (\$50,000)
 - Maryland (\$500,000)
 - Minnesota (\$25,000 where more than one trade is involved/ \$2,500 where a single trade is involved)
 - Montana (\$25,000)
 - Nevada (\$100,000)
 - New Mexico (\$60,000)
 - Ohio (\$67,853 for new construction, / \$20,955 for remodeling, both figures subject to inflation adjustments)
 - Oregon (\$25,000)
 - Pennsylvania (\$25,000)
 - Tennessee (\$50,000)
 - Vermont (\$100,000)
 - Washington (\$25,000 for state college/university construction)
 - West Virginia (\$50,000 for projects of the West Virginia Infrastructure and Jobs Development Council)
 - Wisconsin (\$216,000 where more than one trade is involved/ \$38,000 where a single trade is involved; no threshold for state highway contracts)
 - Wyoming (\$25,000)<http://www.dol.gov/esa/programs/whd/state/dollar.htm>
-

Talking Points:

- Davis-Bacon violates core capitalist values of free competition and market labor.
- Prevailing wages are often based upon union-negotiated wages and generally exceed the average wage in the area.¹
- Repealing Davis-Bacon would reduce construction industry wages for workers on government contracts down to the market levels enjoyed on private-sector projects.
- By inflating labor rates, Davis-Bacon wages usually increase the costs of federal projects by as much as 15%²—costs which get passed on to the taxpayers.
- Davis-Bacon forces private companies to do hundreds of millions of dollars of excess administrative work each year.³
- The costly and time-consuming requirements of Davis-Bacon bias government contracting against small (often minority-, women-, or locally-owned) businesses who don't have the resources to comply. As a result, large, unionized companies are more often awarded government contracts—even for small projects.⁴
- Davis-Bacon has racist beginnings. In 1927, Rep. Robert Bacon of Long Island began pushing for federal prevailing wage law after an Alabama firm (using black—and hence at the time cheaper—workers) won a federal contract in 1926 to build a veterans' hospital in Bacon's district.⁵

To read the text of the Davis-Bacon Act as it has been amended since 1931, go to this website:
<http://www.dol.gov/esa/regs/statutes/whd/dbra.htm>.

Sources:

¹ Associated Equipment Distributors, Oak Brook, Illinois.

² Apollo Construction Company, Wisconsin.

³ Apollo Construction Company, Wisconsin.

⁴ Institute for Justice (Testimony of Litigation Director before Congress on June 20, 1996)

⁵ Institute for Justice (Testimony of Litigation Director before Congress on June 20, 1996)