




JUL 19 1990

MEMORANDUM NO. 152

MEMORANDUM FOR ALL CONTRACTING AGENCIES OF THE FEDERAL  
GOVERNMENT AND THE DISTRICT OF COLUMBIA

FROM:

  
SAMUEL D. WALKER  
Acting Administrator

SUBJECT:

Submission, Review and Retention of Certified  
Payroll Records for Construction Projects  
Subject to the Davis-Bacon Labor Standards  
Provisions

For your information and guidance, I am attaching a copy of a recent letter concerning the responsibilities of the Federal contracting agencies for the submission, review and retention of certified payroll records for construction projects subject to the Davis-Bacon labor standards provisions.

Please review your agency's guidelines and procedures to ensure that they comport with Regulations, 29 CFR Part 5, and Department of Labor policy.

Attachment



**FEB 22 1980**

Kathleen Markman, Esquire  
Assistant Chief Counsel  
For General Law  
Office of Chief Counsel HCC-50.6  
Federal Highway Administration  
Washington, D.C. 20590

Dear Ms. Markman:

Enclosed is correspondence from Mr. G. W. Morris, Prevailing Wage Officer, International Union of Operating Engineers, Kansas City, Missouri, concerning the submission, review and retention of certified payroll records for construction projects subject to the Davis-Bacon (DB) labor standards provisions.


Section 5.5 of Department of Labor Regulations, 29 CFR Part 5, contains the labor standards provisions which Federal contracting agencies are required to insert in full in all contracts subject to the DB requirements. Subsection 5.5(a)(ii)(A) states that "the contractor shall submit weekly...a copy of all payrolls to the (write in name of appropriate Federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner...for transmission to the agency" (emphasis added). The word "agency" in the preceding sentence refers to the Federal agency. Therefore, pursuant to the current provisions of Regulations, Part 5, contractors performing work on federally assisted highway projects subject to the DB requirements are to submit certified payroll records each week to the State. Thereafter, the State is to transmit the records to the appropriate Federal Highway Administration office. Pursuant to section 5.6 of Regulations, Part 5, the Federal Highway Administration is required to retain the certified payroll records for three years from the date of the completion of the project.

Furthermore, even in those situations where the day to day enforcement responsibilities of the DB requirements, such as the review of the certified payrolls, is delegated to an applicant, sponsor or owner of the project, under Reorganization Plan No. 14, the Federal contracting agency is ultimately responsible for ensuring compliance with the DB prevailing wage requirements. In view of this responsibility, it is essential that the federal agency (in this case the Federal Highway Administration) retain control over the retention and disposition of the certified payroll records. Therefore, we are, effective this date, withdrawing the approval (for the retention of certified payroll records by the States) granted in the May 4, 1964 letter to the Bureau of Public Roads from former Solicitor of Labor Charles Donahue referenced in Mr. Morris' correspondence.

Accordingly, please take the appropriate action to immediately advise all of your agency's regional offices and the State highway offices of the current regulatory requirements outlined above.

Please provide us with a report of your actions on this matter.

Sincerely,

  
Nancy M. Flynn  
Acting Administrator

Enclosure

cc: Mr. G. W. Morris