

QUESTIONS

and

ANSWERS

about

DAVIS-BACON:



PROTECTING THE AMERICAN STANDARD OF LIVING

THE DAVIS-BACON ACT PROMOTES:



Preservation of the American Standard of Living



Fair and Cost-Effective Federal Contracting



Adherence to Free Market Principles



Productivity in the Construction Industry



Quality Infrastructure



A Skilled Construction Labor Force



Minority Hiring, Training, and Economic Advancement



Healthy Families and Communities

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QUESTIONS *and* ANSWERS

Q: What is the Davis-Bacon Act?

A: The Davis-Bacon Act — also known as the prevailing wage law — preserves local area wages and labor standards in the process of letting contracts for federal construction work. Enacted in 1931, the law states that contractors for federal projects must pay their workers no less than the wage rates prevailing in the local area for each craft, as determined by the U.S. Department of Labor (DOL).

Q: Why is such a law needed today?

A: For several reasons. The Davis-Bacon Act was originally intended to encourage the development of a high-skill, high-wage growth path for the labor market in general, and the construction labor market in particular. Where the Davis-Bacon Act is applied, union and non-union contractors win federal construction jobs based on having the most productive, best equipped and best managed workforce.

Under the Davis-Bacon Act, local labor standards cannot be artificially depressed by competition for federal construction contracts. Nonetheless, critics of the Davis-Bacon Act argue that the government should use its bargaining power to cut local wage rates. They contend that local wage rates could be cut by as much as 50 percent. And they contend that such a race to the bottom can cut public construction costs substantially. But when local wage rates are artificially depressed, as advocated by critics of the Davis-Bacon Act, there is now a substantial body of evidence that indicates worker skills, experience and motivation also fall off. Contractors no longer compete on the basis of who can best train, best equip and best manage a construction crew. Instead, they compete on the basis of who can find the cheapest workers either locally or through importing labor from elsewhere. This puts the quality of construction at risk. It may also lead to substantial cost overruns.

Additionally, the absence of a prevailing wage rate can cause downstream increases in building and road maintenance costs. And it definitely leads to an increase in construction injuries and a decline in the health and pension coverage of construction workers. This puts pressure on worker compensation costs. Similarly, it puts pressure on social services — as family health needs go unmet and retired workers cannot make ends meet.

The philosophy underlying the Davis-Bacon Act is that a community is better off in the long run by encouraging competition that builds skills, builds productivity, pays decent wages and provides for the health and old age needs of its citizens. That is the philosophy and that is what the Davis-Bacon Act does.

Q: Is the Davis-Bacon wage a “union” wage?

A: No. The prevailing wage that must be paid on federal projects is based upon typical wages and benefits paid for construction work in each community, regardless of whether those workers are union members. According to the Department of Labor, a whopping 72 percent of wage determinations issued in 2000 were based upon *non-union* scales of labor. A union wage only prevails if the DOL wage survey process determines the local union wage to be the prevailing wage.

Q: Is the Davis-Bacon Act expensive for the federal government?

A: No. As John T. Dunlop, Ph.D., Secretary of Labor under President Ford and Harvard University professor, concludes, *Davis-Bacon is at least neutral with respect to costs*. The nation’s preeminent economist on construction, Dunlop observes that productivity is so much greater among high-wage, high-skill workers that often projects using such workers cost less than those using low-wage, low-skill workers. Inferior construction requiring repairs, revisions and lengthy delays actually means the federal government could *lose* money if Davis-Bacon is repealed. Other independent studies reach the same conclusion.

Opponents of the law who claim that the government would save billions per year utilize vastly oversimplified and fundamentally flawed methods of economic analysis which fail to take into account productivity, safety, community development and other economic forces contributing to the real cost-effectiveness that Davis-Bacon offers.

Q: Should the Davis-Bacon Act apply only to all federal construction projects financed by federal grants?

A: Not at all. Since 1931, Congress has on many occasions reaffirmed the principle underlying the prevailing wage concept of the Davis-Bacon Act as a fundamental principle of public policy (regardless of whether

a federal construction program is financed directly by grants or indirectly by some other mechanism). Congress has developed many indirectly financed programs that provide federal construction assistance in the form of grants, loans, loan guarantees, insurance, and other so-called innovative financing techniques such as tax credit bonds, state revolving loan funds, and other credit enhancements that maximize the leverage of limited federal funds to facilitate urgently needed construction. Time and again in the past 70 years, Congress has applied the prevailing wage provisions in the Davis-Bacon Act to newly-developed federally-assisted programs including those that assist construction of hospitals, water pollution control, highways, mass transportation, airports, and housing. In spite of this continual reaffirmation of the prevailing wage principle, opponents repeatedly attempt to block its application to various proposed new federally-assisted construction programs because it is an “unwarranted expansion of the Davis-Bacon Act.” After all these years, consistent application of the Davis-Bacon prevailing wage principle to any new federally-assisted construction program can hardly be called “unwarranted.” Simply put, the history of the Davis-Bacon Act clearly demonstrates that the specific type of financing mechanism utilized in a federal construction program is immaterial to the issue of Davis-Bacon scope and application.

Q: Doesn't a cut in wages automatically decrease costs of construction to the federal government?

A: Absolutely not. Wage cuts don't automatically translate to procurement savings. If you pay someone half the wage you were paying someone else, but this person takes twice as long to do the job, you haven't saved a penny. And if the job is done so poorly that it requires hiring someone else to bring it up to standard, you're paying *more*, not less.

Repeated studies have proven that there is a direct correlation between wage levels and productivity — that well-trained workers produce more value per hour than poorly trained, low-wage workers. For example, a study of 10 states where nearly half of all highway and bridge work in the U.S. is done showed that when high wage workers were paid *double* that of low-wage workers, they built *74.4 more miles of roadbed* and *32.8 more miles of bridges* for *\$557 million less*.

Furthermore, most analyses fail to take into account the spin-off economic impact of maintaining prevailing wages. When workers' income goes down, they have less money to spend purchasing goods and making investments. When businesses close or cut back as a result, tax revenues to the federal government decline and social expenditures rise. It is simply penny-wise and pound-foolish to assume that driving wages down will be of any benefit in helping balance the federal budget.

Q: How does the Davis-Bacon Act improve local economies?

A: The government has always been a major purchaser of construction services, and this helps local economies. Prevailing wage laws are also profitable community investments. A study done by Lionel Richman, LL.B., N.A.A. and Julius Reich, J.D. showed that in San Bernardino, California, the prevailing wage law generates benefits to the community 2.4 times the amount spent on the actual construction project. That's because workers spend part of their income in local shops and restaurants and pay local taxes, which recirculates throughout the economy.

Furthermore, for the Hispanic community in San Bernardino, Davis-Bacon gave some permanency to their economic gains by supporting apprenticeship, as 48 percent of apprentices were Hispanic.

Additional economic benefits of prevailing wage laws include:

- Maintaining funding for building trades health and pension plans and training programs;
- Immunizing the employee from the need to seek benefits from social programs;
- Contributing to the ability of the community to assist the needy; and
- Establishing an upwardly mobile track for minority members of the community to advance into higher-paying occupations.

Q: Have we seen any evidence of what would happen without Davis-Bacon?

A: Yes, and it's not a pretty sight. There are 12 states that have repealed their own prevailing wage laws over the past two decades, and the consequences have included:

- Competitive pressures in the industry leading to lower wages and fewer benefits;
- Reductions in and wholesale elimination of apprenticeship training programs;
- Declines in the quality of the workforce as the best candidates find careers in other industries more appealing; and
- Increases in injuries and deaths on the job as more untrained workers are employed.

Repeal of Utah's prevailing wage law caused a decline in average construction wages in the state and decreased union apprenticeship

training for construction. No other public or private source offset this decline in training. This led to high turnover of non-union apprentices, despite contractors' efforts to retain workers. Overall, the construction industry lost a significant portion of its human capital.

Another study in Iowa showed that contractors did not pass on savings to the taxpayer from paying lower wages — instead they lined their own pockets.

Q: Could a repeal of Davis-Bacon result in cost shifting to other government programs?

A: Yes. Prevailing wage laws often insure that bonafide health, pension and educational benefits are included in the DOL prevailing wage rate. (These benefits are included in the wage determination). In addition, if construction wages decline significantly, there will be a corresponding rise in the demand for government programs, ranging from financial aid for college students to Food Stamps — not just among the families of construction workers but among owners and employees of business patronized by these workers.

Furthermore, a current practice in some segments of the industry on private sector projects is for employers to misclassify workers, enabling irresponsible contractors to avoid paying employment taxes, such as social security, unemployment insurance and workers' compensation. This does not mean that costs are lowered — it means that *others* pay for these costs. Without Davis-Bacon, such practices would be extended to government contracts, with some employers effectively using tax dollars to stiff other taxpayers.

Q: Does the Davis-Bacon Act impede or improve the functioning of labor markets?

A: Davis-Bacon promotes sound investment in human capital and in our physical infrastructure. As *The Wall Street Journal* noted, there are severe shortages of skilled work in construction in many areas of the country. When wages are cut, the industry's ability to attract and train qualified individuals to work on construction projects is hindered even more. An adequate wage is essential to forming human capital within the industry. Because of its cyclical and extremely competitive nature — and our reliance on infrastructure for economic development and national security — construction labor markets must be protected.

Construction workers are trained for their skills. It often takes years of schooling and apprenticeship to gain proper experience — and

the importance of training is greater than ever at a time when rapid technological advancements are changing the nature of work in the industry. To retain a skilled workforce, workers must be paid fairly — by employers who contribute to training programs.

Davis-Bacon ensures the proper functioning of labor markets by grounding the industry's competition in fair wages: making contractors compete on more efficient management and entrepreneurial techniques.

Q: Does Davis-Bacon cause unemployment?

A: No. Unemployment is not caused by paying workers the prevailing wage in the industry — it is caused by other factors in the economy such as need for training, rapidly changing technology, underinvestment and underconsumption, and too-high interest rates. Besides, government policy aimed at reducing unemployment by reducing wages simply guarantees even more hardship and economic anxiety for the hard-pressed middle class and working families.

Q: Why do construction workers need the Davis-Bacon Act?

A: First, the Davis-Bacon Act prevents big government and big business from undercutting local wages. Making government and business pay prevailing wages in each community protects local, private industry and apprentice programs. Second, while many people believe that construction workers make above-average income, the typical annual income for construction workers is \$35,000, which is below the median family income in the United States.

One important economic outcome of the Davis-Bacon Act is that it provides some stability to uncertain employment, which helps working families. This, in turn, protects one of the last remaining industries in the United States to employ blue-collar workers. Without it, the industry will follow the low-wage, low-growth and low-productivity path of other industries.

Q: Wouldn't non-union workers benefit from repeal of Davis-Bacon?

A: Just the opposite. They would find their wages and benefits driven down to even lower levels. As noted previously, in more than seven of every ten communities, non-union wage scales are the prevailing

wage. So they do not find their employment opportunities hindered by Davis-Bacon, in fact, Davis-Bacon extends to non-union workers many of the protections enjoyed by union members.

Without Davis-Bacon, the downward pressure on wages and benefits would weaken or render non-existent the already feeble attempts by non-union contractors to establish apprenticeship and health and safety programs, making non-union construction work even more dangerous than it already is.

Q: Does the Davis-Bacon Act discriminate against minority workers?

A: Absolutely not! Opponents of the Act — not otherwise known for their advocacy of civil rights and affirmative action — have repeatedly charged that Davis-Bacon discriminates against minorities. This is not only a lie that egregiously misstates both history and contemporary reality — it is also premised on the pernicious notion that the only way to hire minorities on construction projects is to pay them less.

As a matter of historical record, Sen. James J. Davis (R-PA, and former secretary of labor under President Harding), Rep. Bacon (R-NY) and countless others supported the enactment of the Davis-Bacon Act because it would give protection to *all* workers, regardless of race or ethnicity. The overwhelming legislative intent of the Act is clear: all construction workers, including minority employees, were rescued from abusive industry practices. Mandating that a fair and livable wage be paid to every worker not only stabilized local wage rates and labor standards for local wage earners and local contractors but also prevented migratory contracting practices which treated African-American workers as exploitable indentured servants.

Today, thanks to the Davis-Bacon Act, African Americans, Latinos, Asian Americans, Native Americans and women are able to secure fair wages for their work on federal projects. In fact, minorities are heavily employed in the construction industry — especially in the unionized sector, where union apprenticeship programs graduate a greater number of minorities than non-union apprenticeship programs.

Norman Hill, the President of the A. Phillip Randolph Institute, stated that minority workers are “particularly vulnerable to exploitation such as the wage-cutting practices which the Davis-Bacon Act of 1931 is designed to prevent.” Repeal of the Act would leave minority workers with the twin specters of unemployment and wage reduction.

Q: Are most minority groups for or against Davis-Bacon?

A: The Davis-Bacon Act has long enjoyed the support of minority and women's groups. The NAACP passed a resolution supporting Davis-Bacon enforcement and its role in strengthening of opportunities for minorities through training and apprenticeship programs. Latino, Native American and women's groups have spoken in favor of the law. They recognize Davis-Bacon's role in helping to bring many minority families into the middle class. Davis-Bacon is important to women's pay and equality on the job, says Tradeswomen Now and Tomorrow (TNT), a national coalition of tradeswomen advocates and organizations.

Q: Is there a connection between safety and health for workers and communities and the Davis-Bacon Act?

A: Yes. The skilled, trained and dedicated workers who are hired at prevailing wages are trained to work safely. Better project safety and quality mean fewer risks of environmental or health disasters to communities. By preventing shoddy, unsafe work which can occur from employing poorly trained workers, our society actually saves money on environmental and economic clean-up costs.

Q: How can you argue that Davis-Bacon adheres to market principles?

A: Because the government plays by the rules set by the private sector in the free market. Large-scale government spending on highways, bridges, office buildings, harbors, sewage treatment plants, military construction and other projects has the potential to skew the market and throw it out of balance, with serious consequences for private industry. Davis-Bacon makes government play a neutral role by paying the same average wages paid by the private sector. It imposes no artificial standards, and instead respects market forces.

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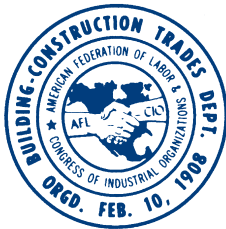
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