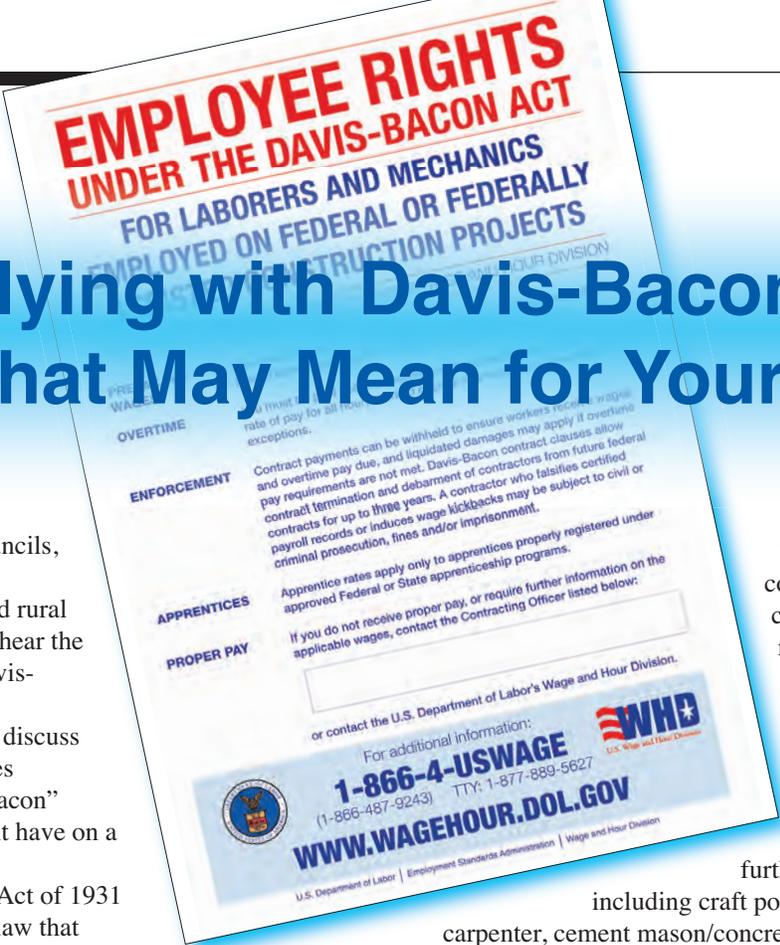


Complying with Davis-Bacon – and What That May Mean for Your Project



Many local city councils, managers and administrators and rural water districts sometimes hear the term “complying with Davis-Bacon”. The term is often mentioned when agencies discuss funding. What exactly does “complying with Davis-Bacon” mean? What effect could it have on a project?

First, the Davis-Bacon Act of 1931 is a United States federal law that established the requirement for paying the local prevailing wages on public works projects for laborers.

In Kansas, complying with Davis-Bacon is a requirement for projects when funding is received through either the water or wastewater loan programs administered by the Kansas Department of Health and Environment or grants through the Kansas Department of Commerce. USDA Rural Development or commercial credit do not require Davis-Bacon Prevailing Wage.



KRWA Tech Assistant Rita Clary works with Teresa Olson, Bookkeeper for Public Wholesale District No. 27 in reviewing payroll records for compliance with Davis-Bacon Act.

The Davis-Bacon Act covers four main areas of construction. They are: residential, heavy, buildings and highway. It applies to specific geographic areas, usually a county or group of counties.

Within these areas are further classifications,

including craft positions such as plumber, carpenter, cement mason/concrete finisher, electrician, insulator, laborer, painter, power equipment operator, roofer, sheet metal worker, truck driver, and welder.

The Davis-Bacon Act requires contractors to pay a prevailing wage as predetermined by the Department of Labor. One stated purpose of this is to prevent situations where employers may use migrant and other low-skill or unemployed workers to perform the work at low costs. Companies that participate in construction jobs where compliance with Davis-Bacon is required must assemble payroll data and report regularly. This adds to overhead costs. As a result of these cost increases, projects may end up costing more than if Davis-Bacon were not required.

The engineer must include the most current Davis-Bacon Prevailing Wage in the project bid documents. Wage decisions are modified from time to time to keep them current. In most cases, when the contract is awarded or when construction begins, the wage decision is locked-in and no future modifications are applicable to the contract or project involved.

In recent instances, Davis-Bacon wages seem to be higher rates in eastern areas of Kansas. Small systems located close to larger cities also run a chance of higher Davis-Bacon wage requirements because of union labor for construction.

Again, the Davis-Bacon wage requirement is simply a listing of the different work classifications and the minimum wage rates that must be paid to anyone performing work in those classifications. Contractors will want to make sure that the work classifications they need are in the wage decision and to make certain what wage rates need to be paid to the employees. The prime contractor is responsible for posting a copy of the wage decision and a copy of the DOL Davis-

Bacon poster entitled “Employee Rights under the Davis-Bacon Act” at the job where all employees have access to the poster. The contractor must request an additional classification and wage rate as quickly as possible from DOL if the classification is not listed.

The contractor will need to submit a weekly certified payroll beginning the first week of the project until the project is complete. All payrolls must be numbered. Submitting payrolls includes weeks that “no work” is performed. If a contractor is going to be off job site for an extended period of time he may prepare a note with the dates of no work and submit to the contract administrator and there will be no need for “no work” payrolls. The Prime Contractor should review all subcontractor’s payroll reports.

The certified payrolls must be reviewed and verified for each contractor each week of the project. The total amount of wages and fringe benefits must be equal to or greater than the wage decision.

On-site interviews of laborers

The contract administrator may visit the project site and interview some of the workers concerning their employment on the project. Every contractor must make their employees available for interview at the job site for the contract administrator or other inspectors. Interviews are confidential and the employee will be asked about the kind of work being performed and the rate of pay. The contract administrator will compare the information on the interview forms to the corresponding payroll to ensure that the workers are properly listed on the payrolls and for the days and hours worked on the job site, the work classification, and the rate of pay. The contract administrator will also review the payroll submissions to verify that the payrolls are complete and signed and that employees are paid no less than the wage rate for the work classification shown. The Department of Labor website notes that apprentices or trainees may be employed at less than the rates listed in the contract wage determination only when they are in an apprenticeship program registered with the Department of Labor or with a state apprenticeship agency recognized by the Department. Should it be found that an employee is being underpaid the contract administrator will notify the contractor to review how much wage restitution there is. The matter must be resolved immediately and the restitution to the underpaid worker(s) must be made.

Impact on costs

Can Davis-Bacon have an effect on a water or wastewater project? The answer is absolutely so. Depending on what part of the state the system is located, Davis-Bacon can increase the costs sufficiently. In some cases, larger municipalities have changed methods of financing projects to avoid complying with Davis-Bacon because of the additional costs. It is incumbent that financial advisers, engineers and governing bodies fully evaluate all costs involved and what the potential impact will be. In some cases, the additional costs may be more than the benefit that the funding method provides.

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