

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WASHINGTON, D.C. 20210



October 8, 1974

MEMORANDUM #119

TO: All Government Contracting Agencies of the
Federal Government and the District of
Columbia

SUBJECT: Truck Owner-Operators Under the Davis-Bacon
and Related Acts

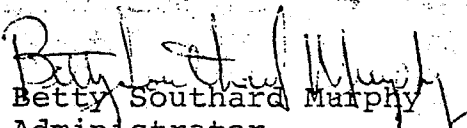
Reference is made to Memorandum #117, transmitted by this office on July 30, 1974, to which was attached a copy of a letter of the Secretary of Labor dated July 10, 1974, rescinding the administrative policy with respect to the application of the Davis-Bacon Act and related statutes to "owner-operators of trucks or other similar construction equipment who are independent contractors" which was set forth in a letter (DB-9) of a former Solicitor of Labor under date of September 13, 1961.

The Secretary's letter rescinding the policy enunciated by the former Solicitor made clear that in the future the wage rates for truck owner-operators will be treated for wage determination and enforcement purposes under the applicable statutes no differently than for any other classifications of laborers and mechanics subject to the Davis-Bacon and Related Acts. However, further clarification of the effect of the rescission appears necessary in the light of the provisions of 29 U.S.C. 259 and by reason of the fact that the former Solicitor's policy not to apply the pertinent statutes to such owner-operators also purported to relieve contractors and subcontractors from adherence to record-keeping requirements of the Department's regulations and provisions of their contracts.

This Department considers it essential that there be implementation of the rescission by promulgation of amendments to its regulations to make plain what will be required of the agencies and of contractors and subcontractors affected by it, if uniformity is to be achieved in compliance and enforcement as contemplated by Reorganization Plan No. 14 of 1950.

To assure that any implementing regulations will take into account the practical problems which may be encountered by procurement agencies and contractors, and will be drafted with the benefit of the experience of affected agencies and organizations representing construction laborers and mechanics and construction contractors, the Department intends to publish its proposed rules in the Federal Register for comment pursuant to the provisions of 5 U.S.C. 553.

Pending the adoption of implementing rules by this Department, agencies are advised to refrain from requiring implementing changes in their own procedures for procurement and contract administration. For the reasons stated above, the Department of Labor will expect agencies, contractors, and subcontractors to comply with the statutes as required by the rescission notice and the rules issued to implement it only on those contracts for which bids are invited or proposals solicited after notice of final adoption of the implementing rules.


Betty Southard Murphy
Administrator
Wage and Hour Division