

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210



FEB 28 1985

MEMORANDUM NO. 140

TO: ALL CONTRACTING AGENCIES OF THE FEDERAL GOVERNMENT AND THE DISTRICT OF COLUMBIA

FROM: WILLIAM M. OTTER *William M. Otter*
Administrator

SUBJECT: Revisions of the Davis-Bacon Regulations, 29 CFR Part 1 - Reference: All Agency Memoranda Nos. 133 (July 8, 1982) and 134 (July 23, 1982)

On January 31, 1985, the Department of Labor issued revised final Davis-Bacon regulations, 29 CFR Part 1, regarding the procedures for determining prevailing wage rates under the Davis-Bacon and Related Acts (50 FR 4506). These final rules, which became effective immediately upon publication, implement two provisions of the deferred final rules previously published in May 1982 which were enjoined by the U.S. District Court for the District of Columbia and subsequently upheld by the U.S. Court of Appeals for the District of Columbia Circuit. Building and Construction Trades Department, AFL-CIO, et al., v. Raymond J. Donovan, Secretary of Labor, et al., 712 F. 2d 611 (D.C. Cir. 1983). The U.S. Supreme Court declined to review the decision of the appeals court and on December 21, 1984, the district court issued an order lifting the injunction on several key provisions which had been upheld.

The recent Federal Register notice implements the following regulatory changes in the Department's procedures for determining prevailing wages (29 CFR Part 1), which are applicable to all wage surveys completed on or after January 31, 1985:

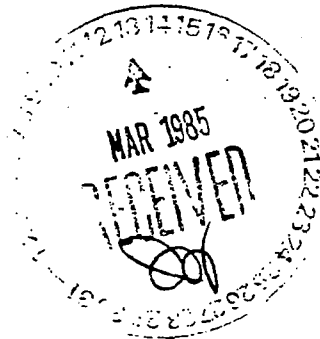
Section 1.3(d) - wages paid to workers employed on projects subject to the Davis-Bacon Act generally will not be considered when developing wage determinations for building and residential construction, except where there are not sufficient data available from similar privately financed projects to determine prevailing wages in the absence of such data; and

*THOSE WORKING ON
YOUR CONTRACT
DO NOT COUNT
UNLESS NOT
ENOUGH OTHER
WORKERS*

Section 1.7(b) - wages paid to workers employed on projects in metropolitan areas will not be used in making wage determinations for rural areas, and vice versa.

(OVER)

The district court injunction remains in effect, however, for certain regulatory provisions pertaining to the expanded use of "helpers" on projects subject to the Davis-Bacon Act, and that portion of the district court order is still under review. The Department plans to implement the "helper" regulations as expeditiously as possible.



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