



OCT 16 1992

MEMORANDUM NO. 167

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

FROM:

Karen R. Keesling
KAREN R. KEESLING
Acting Administrator

SUBJECT: Suspension of the Davis-Bacon Act and the Related
Acts in Florida, Hawaii, and Louisiana

On October 14, 1992, President Bush signed a proclamation, copy attached, suspending the Davis-Bacon Act in those areas seriously affected by the devastation resulting from Hurricanes Andrew and Iniki. The suspension proclamation was issued pursuant to section 6 of the Davis-Bacon Act, 40 U.S.C. 276a-5, and also applies to various related acts as well as any Executive order, proclamation, rule, regulation, or other directive requiring Davis-Bacon wage determinations.

This suspension covers the counties of Broward, Collier, Dade, and Monroe in the State of Florida; the parishes of Terrebonne, Lafourche, St. Martin, Assumption, Iberia, St. John the Baptist, Iberville, St. Mary, Ascension, East Baton Rouge, Lafayette, St. Charles, St. Tammany, West Baton Rouge, West Feliciana, East Feliciana, Point Coupee, Jefferson, Acadia, Avoyelles, Cameron, Jefferson Davis, Orleans, Plaquemines, St. James, St. Bernard, Vermillion, Allen, Calcasieu, Evangeline, Livingston, Rapides, St. Helena, St. Landry, Tangipahoa, and Washington in the State of Louisiana; and the islands of Oahu, Maui, Hawaii, Kauai, Lanai, and Kahoolawe in the State of Hawaii. In the event that a single contract/project requires construction work in areas covered by the suspension, as well as in areas not covered by the suspension, the Davis-Bacon provisions must be applied to the work performed outside of the suspended area(s).

The suspension will remain in force until otherwise provided and applies to all contracts entered into on or after October 14, 1992. Therefore, as of October 14, 1992, agencies should not request wage determinations for contracts to be awarded in the designated areas.

In the case of projects assisted under the National Housing Act, the applicable date is the beginning of construction or the initial endorsement of the mortgage, whichever occurs first. Thus, if either construction began or initial endorsement occurred prior to October 14, the Davis-Bacon provisions would be applicable to the project. In the case of projects to receive housing assistance payments under section 8 of the U. S. Housing Act, the applicable date is the beginning of construction or the execution of the agreement to enter into a housing assistance payments contract. Thus, if either of these two events occurred prior to October 14, the Davis-Bacon provisions would be applicable to the project.

Contracts awarded prior to October 14 are not impacted by this suspension, and the determined rates apply to all covered work performed on such contracts. Thus, subcontracts to such prime contracts are subject to Davis-Bacon provisions irrespective of the date of subcontract. The provisions of the Act and regulations for enforcement of the contract requirements, including the conformance provisions for adding classifications and wage rates, continue to apply to such contracts.

Questions regarding implementation of the suspension proclamation should be directed to Philip Gloss at (202) 219-7455.

Attachment

TO SUSPEND THE DAVIS-BACON ACT OF MARCH 3, 1931,
WITHIN A LIMITED GEOGRAPHIC AREA IN RESPONSE TO THE
NATIONAL EMERGENCY CAUSED BY HURRICANES ANDREW AND INIKI

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

1. Section 1 of the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494, as amended, 40 U.S.C. 276a(a)), provides:

...every contract in excess of \$2,000 to which the United States or the District of Columbia is a party, for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works of the United States or the District of Columbia within the geographical limits of the States of the Union or the District of Columbia, and which requires or involves the employment of mechanics and/or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics which shall be based upon the wages that will be determined by the Secretary of Labor to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the city, town, village, or other civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there....

2. Under various other related acts, the payment of wages is made dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act.

3. Section 6 of the Davis-Bacon Act, 40 U.S.C. 276a-5, provides that "In the event of a national emergency the President is authorized to suspend the provisions of sections 276a to 276a-5 of this title."

4. Within less than the period of a month, three vital areas of the Nation have been devastated by hurricanes. In late August, South Florida and sections of Louisiana experienced the full force of Hurricane Andrew, one of the severest hurricanes ever to strike the United States. The devastation that ensued resulted in the largest amount of property damage from a natural disaster in the history of the Nation. Tens of thousands of homes were destroyed, thousands of business establishments were badly damaged, and the public infrastructure of much of Dade County was severely damaged. On September 12, an equally ferocious hurricane struck the Hawaiian Islands. As a result of Hurricane Iniki, hundreds of homes were destroyed, the tourist industry on the island of Kauai was devastated, and much of the island's infrastructure was severely damaged. The combined impact of these hurricanes has resulted in an unprecedented level of devastation.

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The economic effects of the hurricanes have been equally devastating. Many businesses have been either destroyed or significantly damaged. Thousands of individuals have lost their jobs and livelihood. In addition, a record amount of Federal assistance will be needed to restore the communities that have been ravaged by these hurricanes. Accordingly, I find the conditions caused by Hurricanes Andrew and Iniki to constitute a "national emergency" within the meaning of section 6 of the Davis-Bacon Act.

(a) The devastation caused by both hurricanes has resulted in more than \$20 billion in property damage.

(b) The Federal Government has provided over \$10 billion in budgetary resources for disaster and related assistance to the people and the communities that were victimized by these hurricanes.

(c) The wage rates imposed by the Davis-Bacon Act increase the cost to the Federal Government of providing Federal assistance to these areas.

(d) Suspension of the Davis-Bacon Act, and the operation of related acts to the extent they depend upon the Secretary of Labor's determinations under the Davis-Bacon Act, will result in greater assistance to these devastated communities and will permit the employment of thousands of additional individuals.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do by this proclamation suspend, as to all contracts entered into on or after the date of this proclamation and until otherwise provided, the provisions of the Davis-Bacon Act of March 3, 1931, as amended, and the provisions of all other acts providing for the payment of wages, which provisions are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act, as they apply to contracts to be performed in the following jurisdictions: the counties of Broward, Collier, Dade, and Monroe in the State of Florida; the parishes of Terrebonne, Lafourche, St. Martin, Assumption, Iberia, St. John the Baptist, Iberville, St. Mary, Ascension, East Baton Rouge, Lafayette, St. Charles, St. Tammany, West Baton Rouge, West Feliciana, East Feliciana, Point Coupee, Jefferson, Acadia, Avoyelles, Cameron, Jefferson Davis, Orleans, Plaquemines, St. James, St. Bernard, Vermillion, Allen, Calcasieu, Evangeline, Livingston, Rapides, St. Helena, St. Landry, Tangipahoa, and Washington in the State of Louisiana; and the islands of Oahu, Maui, Hawaii, Kauai, Lanai, and Kahoolawe in the State of Hawaii;

And, as to such contracts to be performed in such jurisdictions, I do hereby suspend, until otherwise provided, the provisions of any Executive order, proclamation, rule, regulation, or other directive providing for the payment of wages, which provisions are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act;

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of October, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.

GEORGE BUSH