

DOCUMENT RESUME

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[Review of Administration and Enforcement of Minimum Wage Rate Determinations under the Davis-Bacon Act]. 20144. April 27, 1977. 7 pp.

Report to Col. Jimmy Williams, Wing Commander, Department of the Air Force: Castle AFB, CA; by William N. Conrardy, Regional Manager, Field Operations Div.: Regional Office (San Francisco).

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The GAO is currently reviewing the Department of Labor's and Federal contracting agencies' administration and enforcement of minimum wage rate determinations used for federally-assisted construction projects subject to the labor standard provisions of the Davis-Bacon Act. One of the projects reviewed was the construction of a commissary for Castle AFB, Merced, California. Findings/Conclusions: Several deficiencies noted in Castle's enforcement of the Act, involved certified payroll checks, employee interviews conforming rates, apprentice certifications and ratios, and contract administration. The GAO believes that the lack of adequate training for contract administrators along with the minimal time spent enforcing the Act are the major causes of violations found. Recommendations: Castle AFB should perform a full labor standards compliance review of the commissary project to ensure that all provisions of the Act have been met and that all violations are uncovered.
(DJM)



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IN REPLY REFER TO:
20144

Colonel Jimmy Williams
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APR 27 1977

Dear Colonel Williams:

The General Accounting Office is performing a review of the Department of Labor's (DOL) and Federal contracting agencies' administration and enforcement of minimum wage rate determinations used for Federal or federally-assisted construction projects subject to the labor standard provisions of the Davis-Bacon Act. Our review is being performed at DOL and other selected Federal contracting agencies and contractor sites in various regions, including DOL's Region IX in San Francisco, California.

One of the projects selected for review in Region IX was the construction of a commissary for Castle AFB, Merced, California. The initial construction contract price for this project was \$813,916.

The Davis-Bacon Act requires that all workers employed on a Federal project costing in excess of \$2,000 be paid minimum wages and fringe benefits and that these be based on rates the Secretary of Labor determines as prevailing on similar projects in the area. Every construction contract subject to the Act must contain a provision stipulating that contractors and subcontractors must pay the workers at least once a week wages not less than those determined by the Secretary to be prevailing.

Federal contracting agencies are responsible for enforcing the minimum wage provisions of the Davis-Bacon Act. Enforcement is carried out pursuant to regulations and procedures issued by DOL which is also responsible for coordinating and monitoring the enforcement activities of Federal agencies. An objective of our review was to determine whether the enforcement efforts by DOL and Federal contracting agencies are adequate to insure that contractors and subcontractors are complying with the minimum wage provisions of the Act.

Enforcement effort lacking on
the Castle AFB project

Castle AFB has primary responsibility for enforcing the minimum wage rate standards on all projects on the base in excess of \$2,000.

The Procurement Division has two contract administrators responsible for labor standards enforcement. Guidance comes in the form of the Armed Services Procurement Regulations (ASPR), chapter 18--Labor Standards for contracts involving construction, and corresponding Air Force and Strategic Air Command (SAC) supplements.

Harris Construction Company of Fresno, California, was the prime contractor and employed 16 subcontractors on the Castle AFB commissary project. We performed a limited review of Castle's enforcement responsibilities for the contract by reviews of certified payroll documents, compliance checks (employee interviews), and contractor payroll records at the prime contractor and five of the subcontractors. We also held discussions with the contract administrators.

Deficiencies in Castle's enforcement of the Act were found in the areas of certified payroll checks, employee interviews, conforming rates, apprentice certifications and ratios, and in contract administration. Our findings are described below.

Certified payroll checks

- Harris Construction Company and its subcontractors did not submit certified payrolls to Castle AFB in a timely manner. Although the regulations require these payrolls to be received by the contracting agency within 7 days after the close of the pay period, the contract administrator received them up to 4 weeks late.
- Dressler Floor Covering Company employed a laborer at a wage below the prescribed Davis-Bacon rate. The laborer earned a flat \$4.50 per hour when his hourly rate should have been \$10.74, with fringe benefits. Dressler Company underpaid this employee \$193.29. A check for this amount minus deductions was received by Castle and forwarded to the employee.
- Two laborers for RACO, Inc., were not paid their full health and welfare benefits package prescribed by the contract. Since the company's fringe benefits were less than those DOL determined to be prevailing in the area, these two employees were due the cash difference. The two employees were underpaid \$55.48 and \$48.89. The contract administrator stated that RACO had been informed of these underpayments and had mailed the payments to DOL for disbursement.

--RACO, Inc., submitted two certified payroll documents which neglected to include a daily breakdown of the hours worked. Castle's contract administrator notified the contractor and asked for corrected payrolls.

--Ferrero Electric only listed a journeyman electrician's total hours worked on the Castle project. They neglected to list hours worked daily, the hourly rate of pay, or the withholdings of the individual. An enforcement check by us and Castle showed that no violations existed.

--J. & T. General Engineering, Inc., employed three laborers. Each worked the same number of hours at the same rate--two claiming one exemption and one with three exemptions, yet each person received the same net wages. In following up this discrepancy, we were unable to locate the owner after he had completed only 85 percent of the contract work. Neither the owner or his five employees who worked on the Castle project could be located for questioning; therefore, we were unable to determine if the employer had taken unauthorized deductions from the employees.

--Our examination of Harris Construction's certified payroll showed an employee worked 40 hours and was paid for only 33½ hours. The contractor's time cards and cancelled checks revealed that the employee actually worked 33½ hours and had been correctly paid. From these records it was apparent that a typographical error had been made.

--Zerbe Roofing Company showed an apprentice roofer working 9 hours in 1 day but did not receive overtime pay. A note to the payroll document stated that this hour of overtime was not paid since the roofer's union considers overtime only after 40 hours per week. The labor standards provisions in the contract state that any work over 8 hours per day is overtime and must be paid at a minimum of time and one-half. When the contractor was notified of the error he stated that the employee did not, in fact, work the 9 hours on the questioned day. The ninth hour was paid at the regular rate according to the employer because the job had ended and the union contract allowed an hour for travel. A signed statement from the employee confirmed this.

In our opinion, all of the above errors found in our limited review could have been found and alleviated had the payroll documents been thoroughly examined. All of the certified payrolls had been stamped by the contract administrator as reviewed; however, he admitted that these documents were only spot checked.

Employee interviews

The Air Force supplement to the ASPR requires that an employee interview or compliance check be made within 14 calendar days after work begins. Subsequent on-site compliance checks will be made on a continuing basis at no less than 4-week intervals. In reviewing the 11 interviews conducted by contract administrators, the following problems were found.

- Six of the employee interviews were not conducted in the required 4-week period. Three of these were between 1 and 3 weeks late.
- Three of the employees interviewed accounted for 6 of the 11 interviews. So, in fact, only eight separate individuals were interviewed. These eight employees represented only 7 percent of the 112 employees working on the project.
- Only 5 of the 17 contractors were represented by these interviews along with only 5 of the 15 crafts utilized on the project.

We believe that the number of interviews performed on this project were not reasonable or adequate in relation to the total employees, contractors, and crafts. Greater coverage may have disclosed some of the errors we found in the certified payrolls.

Conformance of rates

In our limited review of the payroll documents we identified two crafts for which rates did not exist in the wage determination and were not questioned by Castle's contract administrator. These were the rates paid for termite crewmen and refrigeration mechanics. The contract requires that employee classifications not listed on the wage determination be conformed by the contractor and contracting officer, with notification sent to DOL. These rates should be conformed to insure that the employees are receiving the proper wage.

Apprentice certifications and ratios

Castle AFB is required to insure apprentices, when employed, work in proper ratios to journeymen on base projects. In order to fulfill this requirement the contracting officer must have the proper apprentice journeyman ratios by craft. DOL and ASPR regulations require that the contractor must submit these ratios to either DOL or the contracting agency. After analysis of the contract files and discussion with the contract administrator the following apprenticeship violations were found to exist:

- Castle AFB did not review the apprentice to journeyman ratios to see if they were in compliance. Although the contract administrator was aware of Castle's responsibility to insure apprentice ratios, he had never seen these ratios nor asked the contractors to submit them. He stated that he did not have the time necessary to enforce this provision of the Act.
- Two of the 10 apprentices who worked on the project did not have certifications of their apprenticeship programs on file at Castle. Further review showed that both employees were misclassified on the certified payroll documents. The payrolls listed these two employees as a carpenter apprentice and plumber apprentice, respectively, when in fact the first had been a drywall trainee and the latter a refrigeration mechanic apprentice. Underpayments may have occurred from having these apprentices working for crafts other than the craft for which they were certified. We have referred these cases to DOL who will notify Castle of any underpayments.
- We found three cases where apprentices worked a whole week without a journeyman's supervision. Ratios of apprentices to journeymen require the presence of at least one journeyman. Where the apprentice works alone for a day or longer, he should be paid at the wage rate for the classification of work he actually performed. We referred these cases to DOL for further review who, upon completion, will notify Castle of any underpayments to the apprentices.

Contract administration

Currently Castle AFB has two contract administrators responsible for handling all of the Davis-Bacon type contracts. This responsibility involves following three to five contracts simultaneously from

"cradle to finish." These contract administrators estimate that only 2.5 percent of their total time is devoted towards the actual enforcement of labor standards. Most of their time is spent working on the paper work involved in preparing a project for bid and processing these bids.

The training received by the contract administrators at Castle on the Davis-Bacon was in the form of a historical overview of the Act including general enforcement procedures. The two contract administrators stated they believe that training was general but adequate. However, Castle's Executive Procurement NCO stated that due to the generality of the training he recommended that a more specific training program be given in labor standards enforcement.

The Procurement Division Chief Administrator stated that his Division's first mission is to get projects built according to specifications within the allotted time. The enforcement of labor standards is secondary to this goal. This official stated that in order to adequately enforce the Davis-Bacon Act he would need an additional two contract administrators.

We believe that the lack of adequate training along with the minimal amount of time spent in enforcing the Davis-Bacon Act are the major causes of the violations found in our audit. Contract administrators have had difficulties certifying apprentice ratios, conforming rates, making adequate and a sufficient number of employee interviews and compliance checks, and making adequate reviews of certified payrolls. Better enforcement of the Act along with additional training should help insure that labor standards are better enforced.

Action requested

In view of the contractor's violations found in our limited test, and the deficiencies in Castle's handling of labor standards enforcement, adequate assurance was lacking that the provisions of the Davis-Bacon Act were being complied with in accordance with regulations issued by DOL and the ASPR. We believe that Castle AFB, as the primary enforcement agency, should perform a full labor standards compliance review of the commissary project to insure that all provisions of the Act have been met and that all violations are uncovered. When this review is completed, we would appreciate being advised of the results and of any actions taken by Castle AFB

on noncompliance and contractor violations. We would also like to know what steps are planned to insure that the Davis-Bacon Act is adequately enforced.

A copy of this letter is being sent to the Regional Administrator for Employment Standards, Department of Labor, Region IX, San Francisco, California.

Sincerely yours,

William N Conrardy

William N. Conrardy
Regional Manager