

DOCUMENT RESUME

02536 - [A1792799] (Restricted)

[Administration and Enforcement of the Davis-Bacon Act in Two Navy-Funded Projects]. May 26, 1977. 8 pp.

Report to Capt. W. H. Bannister, Commanding Officer, Southern Div., Department of the Navy: Naval Facilities Engineering Command, Charleston, SC; by Kyle E. Hann (for Farvin Colbs, Regional Manager, Field Operations Div.: Regional Office (Atlanta)).

Issue Area: Consumer and Worker Protection: Monitoring State and Local Enforcement and Providing Guidance (904).

Contact: Field Operations Div.: Regional Office (Atlanta).

Budget Function: Education, Manpower, and Social Services: Other Labor Services (505).

Authority: Davis-Bacon Act.

The Department of Labor and Federal contracting agencies' administration and enforcement of the minimum wage provisions of the Davis-Bacon Act were reviewed at two Jacksonville, Florida, housing construction projects funded by the Department of the Navy. Findings/Conclusions: The Resident Officer in Charge of Construction (ROICC), Naval Air Station, Jacksonville, was responsible for the enforcement of wage standards, but his enforcement efforts were not fully effective. Noncompliance was identified in misclassification of employees, lack of interviews with workers, ratio of apprentices to journeymen, certified payrolls not timely submitted, wage determination not prominently posted at worksite, underpayments, and overtime not paid. The review of the ROICC office disclosed that no formal training on labor standards was given to construction representatives, and that enforcement of the standards had a lower priority than other duties assigned the construction representatives. Recommendations: Appropriate investigation should be made of the contractors' violations and the failure of the ROICC to carry out his enforcement responsibilities. (DJM)



UNITED STATES GENERAL ACCOUNTING OFFICE
REGIONAL OFFICE
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ATLANTA, GEORGIA 30303

MAY 26 1977

Captain W. H. Bannister
Commanding Officer, Southern Division
Naval Facilities Engineering Command
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Dear Captain Bannister:

The General Accounting Office is reviewing the Department of Labor's (DOL) and Federal contracting agencies' administration and enforcement of minimum wage rate determinations issued for Federal or federally-assisted construction projects subject to the labor standards provisions of the Davis-Bacon Act. We are making the review at DOL and at selected Federal contracting agencies and contractor sites in various regions. In Region IV we reviewed two Department of the Navy funded projects administered by the Southern Division, Naval Facilities Engineering Command.

The Davis-Bacon Act requires that all workers employed on a Federal or federally-assisted construction project costing in excess of \$2,000 be paid minimum wages and fringe benefits 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 their workers at least once a week, wages not less than those which the Secretary of Labor determines to be prevailing.

Federal contracting agencies are responsible for enforcing the minimum wage provisions of the Davis-Bacon Act pursuant to regulations and procedures issued by DOL. DOL's labor standards regulations and procedures are incorporated in the Armed Services Procurement Regulations (ASPR).

An objective of our review is to determine whether the enforcement efforts by DOL and the Federal contracting agencies are adequate to insure that contractors and subcontractors are complying with the minimum wage provisions of the act.

We reviewed enforcement and monitoring practices of the Resident Officer in Charge of Construction (ROICC), Naval Air Station, Jacksonville, Florida, for the following two construction projects:

<u>Project and location</u>	<u>Construction cost a/</u>	<u>Contract No.</u>	<u>DOL wage determination</u>
77-unit housing improvement project Naval Air Station Cecil Field	\$671,224	N62467-75-C-0542	76-FL-262
15-unit housing improvement project Naval Air Station Cecil Field	\$131,870	N62467-75-C-0543	76-FL-262

a/ The 77-unit project was 66 percent complete and the 15-unit project was 100 percent complete as of February 28, 1977.

ENFORCEMENT EFFORTS NOT FULLY EFFECTIVE

The ROICC, Naval Air Station, Jacksonville, Florida, is responsible for enforcing wage standards on Navy funded construction projects in the Jacksonville area.

ASPR requires that contracting officers take actions, including the following, to insure that contractors and subcontractors comply with the act:

- interview a sufficient number of employees at the construction site and ascertain that they are paid the proper wage;
- obtain written evidence that each apprentice is registered by the appropriate State or Federal agency;
- determine that contractors comply with the apprentice/journeyman ratio and that apprentices are paid the wage rates specified in their certification;
- make regular payroll reviews to assure that payrolls are complete and correct;
- post a copy of the wage determination, and of any approved additional classifications, at the site of the work in a prominent place where they can be seen easily by the workers;
- check payrolls for inclusion of only job classifications and wage rates specified in the contract specifications, or otherwise established for the contract;

- determine that laborers or mechanics are paid for all hours worked in excess of 8 hours in any 1 calendar day at not less than one and one-half times their basic rates of pay; and
- obtain from the prime contractor a statement signed by subcontractors (Statement and Acknowledgement-DD Form 1566) acknowledging the inclusion of the "Davis-Bacon Act" clause in their subcontracts.

The ROICC's enforcement efforts on the two Cecil Field housing improvement projects are discussed below.

Contract -0542

One prime contractor and 10 subcontractors worked on the 77-unit housing improvement project. These contractors employed about 49 laborers and mechanics working in 11 trade classifications as of February 25, 1977. Our inquiries identified the following instances of noncompliance with the act and the ASPR.

- Employees interviewed by the construction representative did not include workers employed either in a sufficient number of trade classifications or by a sufficient number of contractors to assure compliance with the labor standards provisions of the contract. The construction representative interviewed three employees working in two trade classifications for one subcontractor. Two of these employees were misclassified and were underpaid.
- The number of apprentices employed by two subcontractors exceeded the specified ratio of one apprentice for each three journeymen on their payroll. Of 23 payrolls submitted by Electrical Systems, Inc., 6 showed 2 apprentices and 1 journeyman and 3 listed 2 apprentices and 2 journeymen. Of 20 payrolls submitted by Associated Mechanical Services, Inc., 2 showed 2 apprentices and 3 journeymen. On each of these 11 payrolls, 1 apprentice should have been paid at the wage rate for the classification of work they actually performed. We did not compute the total underpayment but it could be as much as \$3.20 an hour. In addition to this underpayment, some of these apprentices were paid less than the wage rate specified in their apprentice certificates. (See page 4.)

—The ROICC did not have a procedure to insure that certified payrolls were submitted weekly within 7 calendar days after the regular payment date for the payroll week covered. Contractors were not required to show the payment date on their certified payrolls and the ROICC did not date stamp payrolls to show when they were received. Thus, neither we nor the ROICC could determine if the payrolls were submitted in a timely manner.

—Two contractors did not submit DD Form 1565, "Request for Authorization of Additional Classification and Rate" for employees who worked in two classifications not listed in the DOL wage determination applicable to this contract. A mason tender was classified as a laborer on the certified payrolls, but we could not determine how glaziers were classified.

—The wage determination was not posted in a prominent place at the worksite where it could be easily seen by the workers. It was posted on an inside wall of the prime contractor's trailer in the superintendent's office.

Our limited examination of certified payrolls disclosed the following wage payment violations and inaccuracies.

--Three contractors classified and paid 16 employees as carpenter helpers, roofer helpers, or sheetmetal helpers although these classifications were not included in the wage determination. In the absence of a conformance agreement between the contractors and the contracting officer, these employees should have been paid at rates issued for the classification of work actually performed. On the basis of rates issued in DOL's wage determination for carpenters, roofers, and sheetmetal workers, these employees were underpaid about \$347.

—Two contractors underpaid five apprentices about \$230. These employees were paid less than the wage rate specified in the apprentice certificates. In addition, some of these employees should have been paid at the journeyman rate for the classification of work they performed. (See point on ratio of apprentices to journeymen on page 3.)

—One subcontractor underpaid four electricians about \$16.00 because he paid less than the \$7.99 rate required by the DOL wage determination.

- One subcontractor underpaid two employees about \$6.00 for overtime worked. The construction representative had identified these underpayments on January 10, 1977, but an amended payroll showing the corrective action taken had not been received by the ROICC at March 27, 1977.

Contract -0543

One prime contractor and five subcontractors worked on the 15-unit housing improvement project. The prime contractor and four subcontractors employed about 24 laborers and mechanics working in 11 trade classifications. The other subcontractor did not submit certified payrolls under this project. Our inquiries identified the following instances of noncompliance with the act and the ASPR.

- Employees interviewed by the construction representatives did not include workers employed either in a sufficient number of trade classifications or by a sufficient number of contractors to assure compliance with the labor standards provisions of the contract. Construction representatives interviewed six employees working in four trade classifications for the prime contractor.
- Employee wage interviews were ineffective in assuring compliance with contract labor standards provisions because construction representatives did not compare the data obtained in the six interviews with related certified payroll data. Two employees interviewed on July 27, 1976, stated that they worked on this project on July 13, 1976, but certified payroll No. 1 does not show that either of these employees was paid for work on this date. One of these employees also stated that he worked as a plumber for 8 hours at \$6.25 an hour on July 26, 1976. We could not determine if this employee was properly paid because the certified payroll for the week ending July 30, 1976, showed that he worked in the dual classification of plumber-laborer but it did not identify the number of hours worked in each classification.
- The prime contractor and four subcontractors did not submit certified payrolls weekly within 7 calendar days after the regular payment date for the payroll week covered and one subcontractor did not submit payrolls at all. While we were unable to determine the actual dates that the payrolls were received by the ROICC office, the certification date on the back of each payroll indicated that one was prepared more than 7 weeks after the payroll week covered. Two other subcontractors prepared all of their payrolls after they had completed work on the project and the prime contractor and one subcontractor prepared payrolls about

once each month. One subcontractor did not complete the certification on his eight payrolls.

- Payroll review procedures followed by the construction representative did not assure timely identification and correction of labor standards violations. For example, he reviewed payrolls submitted by one subcontractor 19 weeks after completion of the first payroll week— 7 weeks after the subcontractor had completed work on the project. He reviewed payrolls submitted by three subcontractors 6 weeks after they had completed work on the project. He did not obtain and review payrolls from the other subcontractor. His review of the prime contractor's payrolls was as late as 8 weeks after the payroll week covered.
- Drywall installers were incorrectly classified as carpenters on G.E.T. Construction Co.'s certified payrolls. These carpenters were paid from \$4.25 to \$6.50 an hour. Thus, the construction representative could not determine from the certified payrolls whether drywall installers were paid at least \$5.00 as required by the DOL wage determination.
- The prime contractor, G.E.T. Construction Co., did not submit statements (DD Form 1566) acknowledging the inclusion of the "Davis-Bacon Act" clauses in its subcontracts. Thus, the contracting officer had no assurance that subcontractors were aware of their responsibilities under the act.

Our limited examination of certified payrolls disclosed the following wage payment violations and inaccuracies.

- Two carpenters for G.E.T. Construction Co., were underpaid about \$29. On the original payroll, disapproved by the construction representative, these employees were classified as laborers. On the amended payrolls, approved by the construction representative, the wage rate paid was \$0.10 less than the carpenter's rate in the DOL wage determination.
- Certain G.E.T. Construction Co., employees were not paid overtime for work in excess of 8 hours in a calendar day. Construction Representative Reports dated August 30, 1976, and November 12, 1976, stated that G.E.T. Construction Co., employees worked overtime on August 30, 1976, and November 11, 1976, but certified payrolls showed that no overtime was paid employees on these dates.

--Leggett Heating and Air Conditioning Co., underpaid a sheetmetal worker about \$120. The employee was classified as a sheetmetal apprentice on the certified payrolls but neither the contractor nor the ROICC had an apprentice certificate on file. If this certificate is not provided, the contractor is required to pay the journeyman wage rate.

REORGANIZATION PLAN NO. 14
NOT FULLY IMPLEMENTED

In September 1974, the Secretary of Labor reissued Reorganization Plan No. 14 to all Federal contracting agencies. The principal objective of the plan is to assure consistent and effective enforcement of labor standards.

Activities of the construction representative are fundamental to the successful enforcement of contract labor standards provisions. To be effective, the representative must become fully familiar with each contractor's responsibilities in the employment and payment of persons engaged on the project as well as with the contractor's responsibilities for meeting other specifications, such as materials used, adherence to building code regulations, and time of completion of work. Our review at the ROICC office disclosed that:

--Officials of the Southern Division, Naval Facilities Engineering Command have provided no formal training on labor standards provisions which would assure that construction representatives understand the meaning and purpose of such standards. ROICC officials told us that construction representatives received on-the-job training and that labor problems were discussed with them in monthly meetings.

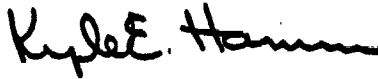
--Construction representatives are assigned other duties that have been ascribed a higher priority than labor standards enforcement. ROICC officials told us that the enforcement of labor standards had a lower priority than any other duties performed by construction representatives. One ROICC official stated that enforcement of labor standards was "a thorn in our side." Construction representatives stated that their primary duties were to inspect quality of materials and workmanship and to check for safety.


We discussed our findings with the Supervisory Civil Engineer in the ROICC office at NAS Jacksonville on March 24, 1977.

Since the Southern Division, Naval Facilities Engineering Command is responsible for enforcing the provisions of the act, we are referring these matters to you for appropriate investigation of contractors' violations and the ROICC's failure to effectively carry out his enforcement responsibilities. We would appreciate being advised of the results of any investigations and actions taken by the Navy in connection with the matters discussed herein.

A copy of this letter is being sent to the Department of the Navy, Naval Facilities Engineering Command, Alexandria, Virginia, and to the Regional Administrator, Employment Standards Administration, Department of Labor, Region IV, Atlanta, Georgia.

Sincerely yours,



 Marvin Colbs
Regional Manager

cc: Naval Facilities Engineering Command
Alexandria, Va.
Regional Administrator, ESA, DOL