

DOCUMENT RESUME

02261 - [A1392387] (Restricted)

[Review of Administration and Enforcement of Minimum Wage Rate Determinations under the Davis-Bacon Act]. 20144. April 26, 1977. 7 pp.

Report to Peter Clute, Acting Regional Administrator, Department of Housing and Urban Development: San Francisco, CA; by William N. Conrardy, Regional Manager, Field Operations Div.: Regional Office (San Francisco).

Issue Area: Federal Procurement of Goods and Services (1900); Personnel Management and Compensation: Compensation (305).
Contact: Field Operations Div.: Regional Office (San Francisco).
Budget Function: National Defense: Department of Defense - Procurement & Contracts (058); General Government: Central Personnel Management (805).
Authority: Davis-Bacon Act. Department of Labor Decision 76-CA-6. HUI Handbook 6500.3.

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 project reviewed was the construction of a water well in Farmersville, California, under a Housing and Urban Development (HUD) Community Development Block Grant Program. The HUD San Francisco Area Office in Region IX has primary responsibility for enforcing labor standards, but delegated enforcement to the grantee (city of Farmersville), which contracted with a consulting firm to enforce standards. Findings/Conclusions: In its limited review, GAO found several violations in the areas of conforming wage rates, payroll records, employee interviews, fringe benefits, and certified payroll checks. HUD's inadequate training of the grantee and the lack of monitoring of the contractor has allowed labor standards violations to occur and go undetected. Recommendations: This matter is referred to HUD for appropriate investigation of the contractor's violations and the grantee's failure to carry out its enforcement responsibilities. (DJM)

Do not make available to public reading

UNITED STATES GENERAL ACCOUNTING OFFICE
REGIONAL OFFICE

803 FOX PLAZA, 1380 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94102
(415) 556-6200

IN REPLY REFER TO:

70144

Mr. Peter Clute, Acting Regional Administrator
Department of Housing and Urban Development
450 Golden Gate Avenue, Room 8460
San Francisco, California 94102

APR 26 1977

Dear Mr. Clute:

The General Accounting Office is making a review of 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 standard provisions of the Davis-Bacon Act. Our work is being performed at DOL and selected Federal contracting agencies and contractor sites in various regions, including Region IX in San Francisco.

The Davis-Bacon Act requires that all workers employed on a construction 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 mechanics and laborers at least once a week wages that are 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.

One project selected for review in Region IX was the construction of a water well in Farmersville, California (Tulare County), under a Housing and Urban Development (HUD) Community Development Block Grant Program. Our effort concentrated mainly on a limited review of the first phase of HUD's \$50,000 block grant to Farmersville.

ENFORCEMENT EFFORTS LACKING ON THE
TULARE COUNTY WATER WELL PROJECT

The San Francisco Area Office in Region IX has primary responsibility for enforcing Davis-Bacon labor standards on all HUD funded construction projects in Tulare County including the Farmersville water well project. Although the Area Office had delegated enforcement responsibility to the grantee (the city of Farmersville), it is still responsible for advising the grantee on DOL's and HUD's compliance requirements and procedures, and monitoring the grantee's enforcement activities. Farmersville contracted with Quad Consultants--an engineering and management firm--to act as its city engineer and enforce the labor standards.

Under HUD's enforcement standards, grantees are required to insure contractors and subcontractors are in compliance with the Act. Among other enforcement activities, they ascertain if prevailing Federal wage rates are posted at the work site, obtain and review weekly certified payrolls, and interview a reasonable number of employees at the construction site to see if they are being paid at the proper rates.

The Farmersville water well project was contracted in two phases. The first contract was for drilling and testing the well. The second contract was for the installation of a pump, motor, and tank.

Since the first phase had been completed and the second phase had just started, we limited our review to the first phase. To test whether the Phase I prime contractor and his subcontractor were in compliance with the labor standards, we examined the payrolls submitted to Quad Consultants, visited the construction site, and interviewed both contractors. Although our review was limited, we found several examples where the contractors had violated the Act or the DOL implementing regulations, and had paid employees less than the rates DOL had determined as prevailing in the locality.

For example:

--Our discussions with both contractors disclosed that neither was aware that the prevailing Federal wage rates for the crafts involved are to be posted at the work site. Therefore, wage rates were never posted.

- There was no indication on the certified payrolls that they had been reviewed by Quad. Quad stated they had not thoroughly reviewed the payroll documents. Our limited payroll review showed the subcontractor had employed a craft, pump installer, for which no wage rate had been issued by DOL in Decision 76-CA-6. The subcontractor, Ingram Equipment Company of Visalia, California, informed us that he had used the well driller's rate for his installers. Since the contract did not list this craft's prevailing wage rate, installer rates should have been established by Quad and the contractors and submitted to DOL as prescribed in the DOL regulations.

- Quad Consultants received the payroll records from the subcontractor 4 months late. These records were neither reviewed nor sent to the prime contractor as stipulated in the regulations. Ingram Equipment Company was not aware of these regulations; consequently, they sent the payroll records directly to the enforcement agency (Quad).

- Only one employee interview was performed by Quad. The interview form, when compared with the payroll, indicated that the employee was misclassified and underpaid by the subcontractor. According to the interview, the employee stated he was a well driller earning \$4.55 per hour, while the certified payroll shows the same employee as a pump installer earning \$5.20 per hour. Quad did not compare the interview with the certified payroll; therefore, it was not aware of the above discrepancies. Our review determined the employee had worked as a pump installer. However, until a wage rate for this classification is established and approved by DOL, the proper payment cannot be determined.

- The prime contractor's fringe benefit package was less than prescribed by the Project Decision for well drillers. Underpayments existed because the contractor did not pay the difference to three employees on the project. These employees should have received additional payments totaling \$97.45 while working on this Federal project (a copy of these computations is attached as appendix A).

--Examination of the prime contractor's time cards and cancelled payroll checks disclosed several inconsistencies between these documents and the certified payroll submitted to Quad. At least one employee, a well driller's helper, may have been underpaid as much as \$45.90. According to the time cards, this employee worked 8.5 hours' overtime for which he was not compensated (see appendix A). The contractor claims this underpayment was later corrected through the payment of uniform rental expense and payment at the employee's regular overtime rate of 3.5 hours which the employee did not work.

HUD Handbook 6500.3 states that enforcement of labor standards under the Community Development Block Grant Program has been delegated to the grantee. Overall responsibility for insuring that grantees properly perform their enforcement functions still remains with HUD. HUD must also provide the needed administrative, investigative, and technical support to the grant recipients. In signing the grant application, recipients agree they will administer and enforce the labor standards requirements set forth in HUD regulations.

In fulfilling their enforcement responsibilities, HUD has supplied its grantees with a grant handbook, DOL regulations, and necessary forms. Along with this material training seminars are held, but grantee attendance is not mandatory. A Quad representative attended the training seminar held in San Francisco in July of 1976. According to the Quad official, this seminar lasted 1 day and consisted of five or six presentations; one was on labor standards and requirements. Quad's representative at this seminar felt the information dispensed was voluminous and difficult to comprehend.

Quad informed us that they have not received any enforcement monitoring of this project. HUD's Area Representative for Kings, Fresno, Tulare, and Madera Counties agreed and stated that no systematic review of grants is performed. HUD's representative stated monitoring and/or investigations occur only when problems are brought to HUD's attention--a "putting-out-fires" approach. In our opinion, HUD's inadequate training, combined with a lack of monitoring, has allowed labor standards violations to occur and go undetected.

In view of the above violations found in our limited test, and the deficiencies in the grantee's handling of labor standards enforcement, adequate assurance was lacking that the provisions of the

Davis-Bacon Act are being complied with in accordance with regulations issued by DOL. Our findings were discussed with Quad Consultants and Mr. Bruce Hibbard of your San Francisco Area Office, and reiterated by Quad in a December 31, 1976, letter to your Area Office.

Since HUD is responsible for enforcing the provisions of the Davis-Bacon Act, we are referring this matter to you for appropriate investigation of the contractors' violations and the grantee's failure to carry out its enforcement responsibilities. We would appreciate being advised of the results of your investigation and actions taken by HUD and/or the grantee on noncompliance and contractors' violations. We would also like to know what steps are planned by HUD, to more effectively train and monitor grantees regarding labor standards enforcement.

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

Enclosure

FARMSVILLE'S WATER WELL PROJECTOvertime Not Paid

<u>Employee</u>	<u>Overtime hours</u>		<u>Hours not paid</u>	<u>Overtime rate of pay</u>	<u>Underpayment</u>
	<u>Worked</u>	<u>Paid</u>			
Manuel Serrano	15.5	7	8.5	\$5.40	<u>a/\$45.90</u>

a/Documents supporting the payroll indicated that the employee was under- and overpaid on both Federal and non-Federal projects. While source documents were confusing it appears that the underpayment may only amount to \$35.88, when the Federal and non-Federal projects are combined.

Fringe Benefits Cash Equivalent Not Paid

<u>Employee</u>	<u>Total Davis-Bacon hours worked</u>	<u>Hourly fringe benefit rate due employees</u>	<u>Underpayment</u>
Carl Wilkinson	48.5	<u>a/\$0.70</u>	\$33.95
Manuel Serrano	47.5	<u>b/.635</u>	30.16
Lester Wilkinson	52.5	<u>b/.635</u>	<u>33.34</u>
Total underpayment			<u>\$97.45</u>

a/A new employee who did not receive fringe benefits. He is entitled per DOL's Wage Determination to receive 70 cents per hour (55 cents Health and Welfare, and 15 cents Pension).

b/Employer paid 6.5 cents per hour for Health and Welfare. Employees are due 63.5 cents per hour for each hour worked on the Federal project (70 cents minus 6.5 cents = 63.5 cents).