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UNITED STATES GENERAL ACCOUNTING OFFICE

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STATEMENT OF

GREGORY J. AHART, DIRECTOR, HUMAN RESOURCES DIVISION,
GENERAL ACCOUNTING OFFICE
BEFORE THE
SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES
AND OPEN GOVERNMENT
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
ON

[SENATE BILL 1681--TO REDUCE
THE PAPER WORK IN THE ENFORCEMENT OF GOVERNMENT
CONSTRUCTION CONTRACT PROVISIONS RELATING TO WAGE RATES
PAID TO EMPLOYEES]



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Mr. Chairman and Members of the Subcommittee:

We are pleased to appear here today to present our views on Senate bill 1681 which would amend the Copeland Anti-Rickback Act to eliminate the requirement that construction contractors submit weekly statements to the Federal Government on the wages paid to each employee.

We strongly support the intent of the proposed amendment. As demonstrated in our report issued to the Congress on April 27, 1979, entitled "The Davis-Bacon Act Should Be Repealed," the requirements for weekly submission of payrolls under Department of Labor regulations are an unnecessary burden on both the contractors and contracting agencies, result in a substantial amount of unnecessary administrative costs for the contractors--and ultimately the Government--and serve very little purpose in enforcement of the act.

The Copeland Act deals with compensation to workers employed on Federal or federally assisted construction projects, including projects subject to the Davis-Bacon Act. The Copeland Act prohibits anyone under penalty of a fine or imprisonment, to induce an employee "to give up any part of the compensation to which he is entitled under his contract of employment." The Act does not require submission of payrolls. It requires that Labor issue regulations requiring contractors to submit weekly statements with respect to the wages paid to each employee during the preceeding week.

However, in implementing that provision of the Copeland Act, Labor has issued regulations which require each prime contractor and subcontractor to submit a copy of the weekly payroll (including employee's name, trade, hours worked, and wages) in addition to the statement of compliance with the wage requirements of the Davis-Bacon Act. Labor has developed a combined payroll and compliance form for the contractors and contract agencies to use.

In addition, under Labor's regulations each contractor must maintain detailed payroll records and related data during the course of the project, showing the wages and fringe benefits paid to each worker, and preserve the payrolls and related data for at least 3 years after final payment under the contract and make them available for review by the contracting agency.

Moreover, each prime contractor is responsible for (1) assuring that all subcontractors used on the construction project adhere to the above requirements, and (2) reviewing the certification and passing on the subcontractors' weekly payrolls to the contracting agency.

COMPLYING WITH WEEKLY REPORTING
REQUIREMENTS IS COSTLY

In our report, we stated that the weekly payroll reporting requirements result in unnecessary contractor costs--which are passed on to the Government--estimated at about \$190 million a year.

The cost to contractors to comply with records maintenance, certification, and other reporting requirements of the Davis-Bacon and Copeland Acts includes the following:

- Additional clerical time for typing of separate payrolls.
Seldom did contractors use copies of their own payrolls, but instead transferred data to Government forms.
- Purchasing the payroll forms.
- Copying, because multiple copies of payrolls are required.
Subcontractors send copies to the prime contractor. The prime contractor sends copies to the agencies.
- Additional clerical time for contractors to review the subcontractors' payrolls for compliance.
- Insuring the subcontractor makes the necessary corrections, when errors are found.
- Mailing payrolls to the contracting agency.
- Storing the additional records, for 3 years following the date of final payment under the contract.
- Increased timekeeping and supervising. If a worker works in more than one classification, the different rates of pay for each must be recorded. Also, if a worker works partly on Federal and partly on private construction, different rates of pay may need to be recorded.

The weekly submission of certified payrolls is not required under other laws containing labor standard provisions such as the Service Contract Act. Moreover, we do not believe that

the payroll requirement is vital to enforcement. Studies by the Commission on Government Procurement and other agencies (such as the Department of Commerce's Economic Development Administration) showed that the weekly payroll requirement contributes little to enforcement of the act.

Also, as part of our work on the Davis-Bacon Act, we reviewed the enforcement of the act by the contracting agencies and found little use of the payroll data in the enforcement efforts.

Other studies have also shown that the weekly payroll reporting requirement burdens the contractor and contributes to increased construction costs to the Government.) For example, the high costs to contractors for complying with the act's payroll reporting requirement were discussed in a 1975 comprehensive report on the Davis-Bacon Act made by the Wharton School of the University of Pennsylvania. The report concluded that the payroll reporting requirement is time and money not well spent, and it recommended that the requirement at least be modified so that the payroll form is submitted only once--at the end of the job. The act's recordkeeping requirements were also cited in a report issued by the Massachusetts Institute of Technology in June 1978 which stated "the paperwork involved in the Davis-Bacon reporting requirement seems both onerous and nonsensical."

In conclusion, we believe that the submission of weekly payroll records required by Labor's regulations are an unnecessary

burden on both the contractors and contracting agencies, and that they serve very little purpose. There is no question that it is costing contractors--and ultimately the Government--a substantial amount; the only question is how much.

Therefore, we recommended that the Congress rescind the weekly reporting requirement of the Copeland Anti-Kickback Act.

Senate bill 1681

The bill under consideration, S.1681, would remove the requirement from the Copeland Act that the construction contractors submit to the Federal Government the weekly statement with respect to the wages paid each employee during the preceding week. In place, it would require that the contractor submit, at the beginning and the end of the contract or subcontract, as the case may be, a notarized statement with respect to the wages to be paid and the wages paid during the contract or subcontract period.

We strongly support the objective to reduce the paperwork burden associated with Federal construction contracts. We continue to believe that the payroll reporting requirement should be eliminated completely. We don't think it is necessary. Contractors are required to pay minimum wages established by Labor under the Davis-Bacon Act, and they are required to keep their payroll records for 3 years after the date of final payment under the contract.

However, if the Congress does not rescind the payroll reporting requirement, enactment of S. 1681 would be a significant improvement over the current requirements--if in fact it results in contractors submitting only statements of wages to be paid, and the wages paid, at the beginning and ending of the contract periods respectively.

We believe the Subcommittee may need to revise the language of S. 1681 to ensure that the intent--to reduce the paper work on construction contractors by rescinding the weekly payroll reporting requirements--is carried out.

As noted above, the Copeland Act itself requires only the weekly submission of a "statement" regarding the wages paid. However, Labor, through its regulations also requires the contractors to submit weekly, copies of the detailed payroll records. According to a legal interpretation by Labor's Acting Deputy Solicitor in May 1969, the inclusion in the regulations of a requirement for submission of weekly payrolls is not required but is authorized by the Copeland Act and Reorganization Plan No. 14 of 1950. This interpretation was reiterated by the Secretary of Labor in a letter dated January 31, 1976, to the Director, Office of Management and Budget, in which he requested approval for continuation of the weekly payroll reporting requirements. The Secretary's letter stated:

"I take this position for several reasons. In the first place, our recent study has made it obvious to me that the Copeland Act itself, in requiring a weekly statement of compliance, presupposes the existence of a tool for verification of such a statement, especially since we are dealing with an industry where experience has

demonstrated that records are easily lost, destroyed, or scattered. Accordingly, even though the law itself does not require the simultaneous submission of the weekly payrolls with the weekly statement of compliance, I believe it was both necessary and proper to institute such a requirement to implement the statutory intent of the Copeland Act that laborers and mechanics working on construction projects subject to the labor standards provisions of the Davis-Bacon and its related Acts be paid properly. I agree with the positions of the Department which has consistently interpreted the Copeland Act requirement to call for an accompanying full wage record on a weekly basis."

Senate bill S.1681, as presently worded, would only rescind the requirement that contractors submit the weekly statement of wages paid to the employees. The bill does not deal with the submission of weekly payroll records required by Labor's regulations. In view of Labor's interpretation that the Copeland Act authorizes requiring the submission of weekly payroll records along with the weekly statement, Labor could continue the requirement that weekly payroll records be submitted. Or Labor could require contractors at the end of the contract period to submit copies of payroll records for all weeks covered by the contract.

Thus enactment of S.1861 with its present language might not accomplish the intent to reduce the paperwork associated with construction contracts.

To overcome this problem and reduce the construction contractors' paperwork and administrative burden, the Subcommittee may wish to revise the language of S.1861, or specifically state in the Committee report its intent to eliminate the

requirement for submission of weekly payroll records as well as the weekly statement of wages paid.

Mr. Chairman, this completes my statement. We would be happy to respond to any questions you or members of the Subcommittee may have.