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UNITED STATES GENERAL ACCOUNTING OFFICE

WASHINGTON, D.C. 20548

FOR RELEASE ON DELIVERY
EXPECTED AT 9:00 A.M. EDT
JUNE 14, 1979

STATEMENT OF

ELMER B. STAATS, COMPTROLLER GENERAL OF THE UNITED STATES
BEFORE THE
SUBCOMMITTEE ON LABOR STANDARDS
HOUSE COMMITTEE ON EDUCATION AND LABOR
ON
THE [DAVIS-BACON ACT SHOULD
BE REPEALED]

Hse 01105

Testimony

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Mr. Chairman and Members of the Subcommittee:

We are pleased to appear here today to discuss our report. "The Davis-Bacon Act should be repealed."

The Davis-Bacon Act, passed in 1931, requires that each contract for the construction, alteration, or repair of public buildings or works in excess of $2,000 to which the United States is a party--or, under 77 related laws in which the United States shares the financing--state the minimum wages to be paid to various classes of laborers and mechanics.

The act was intended to discourage nonlocal contractors from successfully bidding on Federal Government projects by hiring cheap labor from outside the project area, thus disrupting the prevailing local wage structure.

This objective is to be accomplished through contract conditions requiring payment of not less than minimum wages (including fringe benefits) determined by the Secretary of Labor to be prevailing for the laborers and mechanics employed on projects of a similar character in the area in which the work is to be performed.

Initially, the act applied only to construction projects constructed under direct contract with Federal agencies. However, since 1937 the coverage of the act has been extended under 77 statutes to federally assisted construction projects including federally assisted housing construction.

About $172.5 billion was spent on new construction projects in calendar year 1977. About 78.1 percent ($134.7 billion) was performed on privately financed projects not covered by the act. Federal construction of $7.4 billion (4.3 percent of the total) was covered directly by the act and $30.4 billion was spent on construction by State and local agencies, a substantial portion of which involved Federal financial assistance, and thereby was covered by the 77 related acts noted above.

Over almost 20 years, the General Accounting Office has carried out numerous reviews of the Department of Labor's administration of the Davis-Bacon Act.

In a series of eight reports to the Congress issued between June 1962 and July 1971, we commented on the manner in which Labor had made minimum wage rate determinations for selected major construction projects. These earlier reports pointed out that the (1) prevailing rates prescribed by Labor were significantly higher than wage rates prevailing in the areas, and (2) higher rates that resulted from the inappropriate minimum wage determinations not only increased the costs borne by the Federal Government but also had an adverse

and inflationary effect on the economic and labor conditions in the area of the project and in the country as a whole. We made numerous recommendations to the Secretary for improving data collection and compilation, and issuing wage rates.

Because of continuing interest by the Congress and others, we made a detailed review to assess the extent that Labor had implemented the recommendations we made in our prior reports. We also evaluated whether the original purpose of the Davis-Bacon Act is being implemented and whether it is still needed in view of the vast socioeconomic changes in the Nation since the act was passed in 1931.

The results of our review are presented in our recent report to the Congress issued on April 27, 1979, entitled "The Davis-Bacon Act Should Be Repealed" (HRD-79-18).

In the report we stated our belief that the Congress should repeal the Davis-Bacon Act because

--significant changes in economic conditions, and in the economic character of the construction industry since 1931, plus the passage of other wage laws, make the act unnecessary,

--after nearly 50 years, the Department of Labor has not developed an effective program to issue and maintain current and accurate wage determinations; and it may be impractical to ever do so,

--the act results in unnecessary construction and administrative costs of several hundred million dollars, if the construction projects we reviewed are representative, and has an inflationary effect on the areas covered by inaccurate wage rates and on the economy as a whole.

The Department of Labor has voiced strong objection to, and disagreement with, our report and recommendation on several grounds.

We disagree with the Department's comments and believe that they were less than objective. Our analysis showed that Labor's comments for the most part (1) were misleading and inaccurate, (2) included information which was used out of context, and (3) were often unsupported, and did not reflect the information in its files.

Indeed, we believe our analysis of Labor's largely unsupported comments further supports the view that the act is not susceptible to practical and effective administration. In fact, our analysis indicates that Labor made no serious effort to consider the implications of the facts shown by our review. Therefore, we have included in our attachment to this statement a summary of our analysis of Labor's comments in some detail.

I would like to briefly discuss the findings and conclusions, which led us to conclude that the Davis-Bacon Act should be repealed.

SIGNIFICANT CHANGES IN ECONOMIC CONDITIONS AND WORKER PROTECTION LAWS SINCE THE 1930s

When the act was passed in 1931, the United States was rapidly sliding into the great depression. The depression wreaked particularly severe havoc on the building industry. The dollar value of new construction declined steadily during the years 1929 to 1933--from about $10.8 billion to $2.9 billion, the latter mostly Government financed. In that same period construction employment fell from 1.5 million workers to 800,000 workers. The annual wage of the average construction worker fell from $1,674 in 1929 to about half that in 1933.

By 1931 the Government's involvement in the building industry was increasing. In 1926 only 18 percent of all new construction was publicly financed. But, as economic conditions declined, the Federal Government tried to help the economy by pumping more money into the construction industry.

Since the 1930s, the country has experienced tremendous growth. The gross national product increased from $75.8 billion in 1931 to $1.9 trillion in 1977. New construction rose to $172.5 billion, with over three-fourths ($134.7 billion) in the private sector and less than one-fourth ($37.8 billion) in the public sector.

Also, the construction industry employed about 3.8 million workers in 1977 (compared to about 1 million in the 1930s). Moreover, the average annual income of construction workers has increased from an estimated $1,674 in 1929 to about $14,000 in 1977. Further, construction workers' wages stand about 56 percent above the average for all other non-agricultural, industrial employees in the country.

In addition, since the act was passed the Congress has enacted a number of other laws to protect construction workers against wage losses, exploitation by contractors, and adverse conditions. These laws (1) prohibit contractors from requesting wage kickbacks, (2) require that contractors be covered by payment bonds, (3) require that minimum and overtime wages be paid, and (4) provide for unemployment compensation.

THE ACT HAS BEEN AND CONTINUES TO BE IMPRACTICAL TO ADMINISTER

After nearly 50 years of administering the act Labor has not developed an effective system to plan, control, and manage the data collection, compilation, and wage determination issuance functions under the Davis-Bacon Act. In fact, the

policies, practices, and procedures developed by Labor for establishing wage rates under the act have only rarely implemented the legislative intent. Rates issued have nearly always affected local wage standards--in many instances amounting to wage fixing and limiting or establishing worker classifications for Government construction with no consideration given to classifications and corresponding wages paid on similar private construction in the locality.

The Secretary of Labor stated he was satisfied that on balance the Davis-Bacon Act was being competently and effectively administered. Our review of the wage determination activities in five Labor regions and headquarters showed numerous inadequacies, problems, and obstacles in labor's attempt to develop and issue wage rates based on prevailing rates.

For example, our evaluation of Labor's wage determination files and our inquiries regarding 73 wage determinations at five Department of Labor regional offices and headquarters showed that in many instances the wage rates were not accurately determined. About one-half of the area and project determinations reviewed were not based on surveys of wages paid to workers on private projects in the locality. Instead, union-negotiated collectively bargained rates were used.

The lack of surveys is vividly illustrated by our finding on area determinations. We asked labor to provide the basis for wage rates published in each of the 530 area wage determinations in effect in October 1976. Data furnished by the Labor staff

showed no surveys were made for 302 (57 percent) of the determinations. Some determinations for which no surveys were made covered multiple counties (both urban and rural) and even entire States.

In all areas covered by the 302 wage determinations Labor based its determinations on union rates from collective bargaining agreements. These negotiated union wage rates and worker classifications were published as prevailing. Moreover, on receipt of new agreements from local or international union offices, Labor's headquarters staff routinely published changes to the wage rates in the Federal Register.

Also, when determining the rates for these area determinations, Labor's headquarters staff sometimes required payment evidence; however, verification that the rates were being paid in the locality generally consisted of a phone call to the local union business agent or a signatory contractor. Labor did not determine how many workers were paid the rates in the locality or the extent of nonunion wages paid to workers engaged in similar work in the area.

For the remaining 228 area determinations, the Labor staff, Department of Housing and Urban Development, or State highway departments had conducted surveys. Nonunion rates had been determined to prevail in about 82 percent of these areas (186), mixed union and nonunion rates in about 8 percent (18), and union rates in the remaining 10 percent (24).

Labor stated that surveys are unnecessary, in some cases, because through maintaining a continuing liaison with contracting agencies, contractor and labor groups, and others interested and knowledgeable about construction in the various parts of the country, Labor has been able to develop and update economic information on the construction industry.

We could not substantiate through a review of the files or discussion with Labor officials that continuing liaison with agencies, contractors, and labor groups provides Labor with sufficient economic information on the construction industry to give a clear indication as to whether open shop or collectively bargained rates prevailed. We found no data in the files, either in the field or headquarters, relating to "economic information" in each county.

In counties where no surveys had been made, the files contained information indentifying the union local having jurisdiction in the county and, sometimes, collective bargaining agreements, if applicable. There was no other support, either at headquarters or the field, to show what wages prevailed in the locality.

Given the ever changing makeup of the construction industry, it is logical that current wage surveys would be the primary method for collecting wage data and determining accurate prevailing rates. Labor asserts that it conducts surveys wherever needed; this is contrary to what we found. Surveys are

conducted generally on an ad hoc basis, in response to protests or complaints, or in recognition that file data were so far out of date that they were no longer useful.

When Labor did make surveys there were problems in collecting data from contractors on a voluntary basis.

Labor stated that

--the voluntary submission program works effectively and that it has found no significant problems,

--data submitted voluntarily is checked against other objective data available, and

--the examples of data collection problems cited in our report were only subjective expressions by 5 out of a staff of about 1,000 who might undertake surveys in any one year.

Several of the memorandums we reviewed transmitting survey data to headquarters commented on the futility and inability to obtain data on a voluntary basis--even after all types of followup. Labor's implication that about 1,000 field staff might make surveys in any one year is a gross exaggeration. With few exceptions, surveys are conducted by the wage determination branch in the regional offices consisting of about 26 staff members nationwide. Also, we asked for, but Labor could not provide, examples of "other objective data available" when surveys produced limited wage information in the locality.

Labor further stated that Department personnel who make wage surveys are currently being provided with intensive training to assure a uniform approach. After Labor's response to our draft report we contacted four regional offices to determine the scope and extent of the intensive training labor stated was currently being provided to the staff. None of the specialists or analysts in the four regional offices were aware of any recent training in the conduct of surveys.

We also found that Labor still followed some of the questionable practices and procedures we identified in prior reports. Labor (1) continued to use wages paid on Federal projects where Labor had previously stipulated rates to be paid, (2) applied data from surveys of projects that were not of a character similar to the proposed construction, (3) extended wage rates to adjacent and nonadjacent counties, (4) included wages paid to the same contractor's employees for several projects, and (5) applied its 30-percent rule, which has resulted in inflated wage rates.

We tried to quantify the errors and inconsistencies in Labor's wage determinations, especially where rates were supported by surveys, but often the files were so sloppily documented or incomplete, or could not be located, that this was impossible.

Finally, Labor stated that its management of the program

is being constantly improved. It stated that in the past 2 years it has taken active steps to increase its effeciency in administering the Davis-Bacon Act to the fullest extent. To determine whether there have been improvements in Labor's administrative practices, we made a followup review in early calendar year 1979 at four of the five regions in our review. We observed that all of the ineffective practices identified in our report still exist--inaccurate wage rates are still being issued.

In our opinion, the Department of labor's procedures for developing and issuing wage rate determinations provide no assurance that the rates stipulated actually prevail for corresponding classes of workers on similar private construction projects in the locality.

EFFECTS OF LABOR DEVELOPING AND ISSUING INACCURATE WAGE RATES-- SOME TOO HIGH, SOME TOO LOW

As part of our review, we surveyed the wage rates in 30 localities and found generally that the wage scales issued by Labor did not prevail; this had the effect of Labor establishing new wage scales. In 12 localities we found that Labor's rates were higher than those prevailing in the locality; and in 18 the rates were lower than prevailed. Labor's higher rates were usually based on higher union-negotiated rates, although our surveys showed that nonunion rates often prevailed. As a consequence, when Labor's rates were too high, Federal construction costs were inflated.

In addition to the inflationary costs of Federal construction where Labor's rates were too high, local contractors and workers in smaller communities were affected the most--because contracts on the majority of the projects were awarded to outside contractors.

Some local contractors stated that, rather than disturb their existing wage structures, they would not bid on Government projects when rates were higher than those prevailing in the locality. Thus, the inflated costs may have had the most adverse effect on local contractors and their workers--those the act was designed to protect--by promoting the use of nonlocal contractors on Federal projects.

Conversely, little or no adverse impact was evident in the 18 projects where Labor's rates were lower than those prevailing locally. In fact, the opposite occurred--local contractors were generally awarded the contracts, and they generally paid workers at the prevailing rates in the community--which were usually above those stipulated by Labor. We found no instances where outside contractors took advantage of the low rates by importing low-paid workers into the locality. Thus, we found that the act's intent--to maintain the local prevailing wage structure--is carried out only when the administration of the act has no effect.

THE ACT HAS SIGNIFICANTLY INCREASED COSTS OF FEDERAL CONSTRUCTION AND HAS AN INFLATIONARY EFFECT

In the 12 locations where rates were too high, the wage costs paid on the projects averaged 36.8 percent more than the comparable wage costs at rates prevailing in the locality. The higher wage costs ranged from 5.2 to 122.6 percent. As a consequence Federal construction costs of $4.6 million on the 12 projects may have been increased by an average of 3.4 percent. The increases ranged from 1 to nearly 9 percent.

While our selection of 30 projects for review was made by random sampling, the sample size was insufficient for projecting the results to the universe of construction costs during the year with statistical validity. However, even without statistical certainty, the random nature of our sample leads us to believe that if these projects are representative (and we have no reason to believe they aren't) our cost estimates are a useful indication of the order of magnitude of the increased costs resulting from the Davis-Bacon Act's wage determinations.

For example, an estimate could be made, based on our sample data, showing that construction costs were inflated on 40 percent of the projects by an average of 3.4 percent. On this basis, costs of about $15.1 billion (40 percent of the estimated $37.8 billion in 1977) of Federal or federally assisted construction subject to the act may have been increased by about $513 million (3.4 percent of $15.1 billion).

On the other hand, a more conservative approach would be to estimate the savings on a project cost basis. The 12 projects found with inflated wages comprised 17.8 percent ($4.6 million) of the total estimated cost of $25.9 million of the 30 projects sampled. On this basis, costs on about $6.7 billion (17.8 percent of the estimated $37.8 billion in 1977) of Federal of federally assisted construction would have been increased by about $228 million (3.4 percent of $6.7 billion).

In addition, the act and a related weekly payroll reporting requirement of the Copeland Anti-Kickback Act result in unnecessary contractor costs--which are passed on to the Government--estimated at almost $191.6 million for 1976 and $189.1 million for 1977. Further, estimated costs of $10.9 million in 1976 and $12.4 million in 1977 were incurred by Federal agencies to attempt to administer and enforce the act.

Thus, the Davis-Bacon Act--which affected less than an estimated one million workers in 1977 (about 1 percent of the total workforce)--may be costing the taxpayers several hundred million dollars annually.

Moreover, the act has an inflationary effect on the economy, on the labor conditions in the areas of Federal or federally assisted construction projects, and because of the large volume of covered construction (about $37.8 billion), on the construction industry and the country as a whole. The inflationary effect of

the Davis-Bacon Act has been noted in other studies made by private economists, Government agencies, and others.

Labor questioned our estimate of several hundred million dollars of unnecessary costs. Although there has been much controversy as to the amount of the costs attributed to the Davis-Bacon Act, we believe it to be an incontrovertible fact that the act results in significant unnecessary administrative and construction costs. These costs relate to three separate and distinct elements.

First, there are costs incurred by the Department of Labor and other Federal agencies to administer and enforce the act.

Second, there are costs incurred by the contractors to prepare and submit to Federal agencies weekly statements of wage paid to their employees. Labor officials estimate that there are about 600,000 prime and subcontracts awarded annually subject to the weekly payroll reporting requirements. We recognize that most of these contracts are not in effect for an entire year--but some are, and others are in effect for many weeks of the year. Thus, it is apparent that many millions of dollars are spent by contractors in submitting weekly payrolls.

Third, there are excessive construction costs incurred when Labor requires wage rates higher than those actually prevailing in the locality of Davis-Bacon projects. Over almost 20 years we have identified many examples where labor has established wage rates

substantially in excess of wages prevailing in an area. The Department of Housing and Urban Development, other Federal agencies, States, and contractors have all identified similar examples.

Thus, although there may be differences of opinion as to the amount of unnecessary costs resulting from the Davis-Bacon Act, we believe that there should be no difference of opinion that the act is costing the Federal Government and the taxpayer many millions of dollars annually.

Labor said also that we failed to take into consideration the extent higher wage costs were offset by increased productivity. Labor referred to a Massachusetts Institute of Technology Study and a 1972 study by Professor D. Quinn Mills. Our analysis of the studies showed that Labor used the material from these reports out of context.

We are aware of two reports which included conclusions on the Davis-Bacon Act and productivity. The first is the Massachusetts Institute of Technology Study which Labor referred to. The Institute said its findings precluded wholesale assumptions or allegations about relative union productivity, and concluded that further study is needed before any general conclusion can be made.

The second report is "In Defense of Davis-Bacon" issued by the Building and Construction Trades Department, AFL-CIO, which Labor says is carefully researched and contains important insights into the complex issues surrounding the Davis-Bacon Act. That report, in discussing Professor Mills' and other studies, states:

"Having presented these views [regarding productivity] one must readily acknowledge that they do not represent a body of data. That body of data--either to prove or disprove any generalization about productivity in construction--simply does not exist. There are measurement problems which have not yet been solved by experts in the field, including those in Government."

It seems to us that these comments, along with those in other studies, refute Labor's conclusion that the higher union ages are offset by greater productivity. It appears to us, on the basis of the studies we reviewed, that conclusive evidence on this point does not exist.

Also, worker productivity is a procurement and contracting issue, and has little to do with Labor's administration of the Davis-Bacon Act. Labor's function is to issue accurate prevailing wage rates.

Labor said also that repeal of the Davis-Bacon Act would have serious social costs because it would seriously affect Labor's program to place minority groups and women in the building trades.

The employment of minorities and women on federally financed projects is covered under the affirmative action and contract

compliance program established under Executive Order 11246, which is administered by Labor. This program is unrelated to, and administered separately from, the Davis-Bacon Act.

This is also true for the other programs to protect minorities and women, such as title VII of the Civil Rights Act of 1964, administered by the Equal Employment Opportunity Commission and designated State and local fair employment agencies. These programs would continue whether or not the Davis-Bacon Act was repealed. This is also true for the Federal Government's apprentice training program, which is carried out by Labor under the Comprehensive Employment and Training Act--not the Davis-Bacon Act.

We could find no evidence or documented concern that the repeal of Davis-Bacon would have any discriminatory effect on women or ethnic categories of construction workers. To the contrary, contractors, and others argue that Davis-Bacon wage rate requirements actually resulted in fewer construction job opportunities for low-skilled minorities or those just starting in construction. According to a study on youth and minority employment published by the Congressional Joint Economic Committee on July 6, 1977, Davis-Bacon wage requirements discourage nonunion contractors from bidding on Federal construction work, thus harming minority and young workers who are more likely to work in the nonunionized sector of the construction industry.

CONCLUSION--THE DAVIS-BACON ACT IS NOT NEEDED

After nearly half a century Labor has not developed an effective program to maintain and issue current and accurate prevailing wage rates for every classification of mechanic and laborer working on the varying types of Federal or federally assisted construction in every city, town, village, and other civil subdivision in the United States and the District of Columbia. We believe that the concept of issuing prevailing wages as stated in the act is fundamentally unsound.

Given the diverse characteristics of the construction industry, the differing wage structures on the varying types of construction, and the voluntary aspects of collecting wage data from contractors in every county throughout the Nation, we do not believe that the act can be effectively, efficiently, and equitably administered. The Secretary of Labor's comments in the President's veto message in 1932 (concerning an amendment providing for the predetermination of prevailing wages) are still relevant today. He stated that

> "it is impracticable of administration;" it would "stretch a new bureaucracy across the country; and unless* * *wages were based on a thorough investigation in the locality, the rate stated* * *would only provoke dissatisfaction and controversy."

Furthermore, we believe the act is no longer needed or relevant. The conditions of depression and deflation which existed in the 1930s when it was passed have not recurred since that time. In fact, the economy and the construction industry have experienced tremendous growth (particularly in the private sector) so that the act now affects about 22 percent of the 3.8 million construction workers and only 1 percent of the Nation's total work force.

Also, the Congress has enacted other laws to protect construction workers against wage losses, contractor exploitation, or adverse economic conditions.

Moreover, the legislative intent of the Davis-Bacon Act--not to disturb local wage standards--has seldom been carried out. Government contractors' costs have been inflated by rates prescribed by Labor that are higher than those prevailing in the locality. However, when the rates were too low the legislative intent was generally achieved--local contractors were successful with contract awards and paid their workers at prevailing wages which were higher than those prescribed by Labor.

Since the act's intent is best met when wages become a competitive bidding factor in construction contracting, we believe that Davis-Bacon Act wage determinatins could be eliminated with the same success that has been achieved with the elimination of wage determinations for workers on Federal contracts for supplies and materials under the Walsh-Healey Public Contracts Act. For the past 14 years

no determinations have been issued by Labor for this, the largest segment of Federal contractor employees, and no adverse impact on wage standards of the workers involved has been evident.

THE DAVIS-BACON ACT SHOULD BE REPEALED

We recommend that the Congress repeal the Davis-Bacon Act and rescind the weekly payroll reporting requirement of the Copeland Anti-Kickback Act.

In addition, we recommend that the Congress repeal the provisions in the 77 related statutes which involve federally assisted construction projects and which require that wages paid to contractor employees be not lower than those determined by the Secretary of Labor to prevail in the locality in accordance with the Davis-Bacon Act.

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

A SUMMARY OF THE GENERAL ACCOUNTING OFFICE'S ANALYSIS OF DEPARTMENT OF LABOR'S COMMENTS ON REPORT TO THE CONGRESS--HRD-79-18 - APRIL 27, 1979 ENTITLED "THE DAVIS-BACON ACT SHOULD BE REPEALED"

By letter dated January 15, 1979, the Department of Labor presented detailed comments on each of our findings, conclusions, and recommendations. Labor disagreed with almost everything presented in our report.

On the basis of our analysis of Labor's comments, we believe that Labor's comments (1) were mostly misleading, inaccurate, and unsupported, (2) included information which was used out of context, and (3) did not reflect the information in its files. Further, in many cases Labor made accusations and assertions questioning our findings and conclusions, or it referred to specific actions it had taken for which it did not produce, nor could we find, adequate support.

Consequently, it took us an extraordinary amount of effort to analyze, review, and evaluate Labor's comments and claims. In many cases Labor did not provide us, nor could we find in its files, evidence or documentation to support its written comments.

We believe that our findings are accurate and representative of Labor's administration of the Davis-Bacon Act. And the end result is that, in our opinion, Labor has failed to provide sufficient evidence or persuasive and logical reasons for us to alter our conclusion that the Davis-Bacon Act is not relevant and needed and that the Congress should repeal it.

Our analysis of Labor's comments is included in our report in some detail. In this statement we present our evaluation of the most significant issues in Labor's comments on the following findings in the report:

--Significant Changes in Economic Conditions and Worker Protection Laws Make the Davis-Bacon Act Less Relevant

--The Davis-Bacon Act is Impractical to Administer, Resulting in Labor Developing and Issuing Inaccurate Wage Determinations

--The Davis-Bacon Act Has Resulted in Increased Costs for Federally Financed Construction and Has Had an Inflationary Effect on the Economy

SIGNIFICANT CHANGES IN ECONOMIC CONDITIONS AND WORKER PROTECTION LAWS MAKE THE DAVIS-BACON ACT LESS RELEVANT

We reported that even though the Davis-Bacon Act's basic objective has remained essentially unchanged since its passage, the economic and labor environment within which the act operates has radically changed since the great depression of the 1930s, resulting in the act being less relevant today. The conditions of depression and deflation which existed then have not recurred in the economy since that time. Also, since the act was passed the Congress has enacted other laws to protect construction workers against wage losses, contractor exploitation, or adverse economic conditions.

Labor commented that the purpose of the Davis-Bacon Act is much broader than to slow the downward trend in construction industry wages in the early 1930s and avoid destructive contractor competition. Labor said that the act is not solely the product of the great depression, it was a part of an early trend and continues to be necessary. It stated that this is evidenced by the many States that have enacted their own Davis-Bacon Acts--some in the 1950s and 1960s--when the economic condition was quite different from the 1930s.

We recognize that the Davis-Bacon Act was enacted for broader purposes. However, we believe the principal objective of the act was to protect communities from the depressing influences of lower wage rates at which nonlocal workers are hired and brought into communities to work on Federal construction projects.

We are also aware that many States have enacted so-called "little Davis-Bacon" laws. It should be noted, however, that several States are concerned about their Davis-Bacon Acts and have initiated action to repeal them. For example, in Florida a Governor's economic task force recommended in January 1979 that the State's act requirements be adjusted inasmuch as they lead to excessive costs for public construction. According to a study made for the task force, the rate set under the State's law often was automatically union scale, whereas the actual prevailing rate was between 23 to 41 percent lower for some crafts. The study stated that a special survey of education construction estimated that the wage rates under the State's law increased costs by up to 15 percent. On April 12, 1979, the State's legislature voted to repeal the State's law.

Similar charges that the State Davis-Bacon Act is wasting millions of dollars by establishing artificially high wages--based on union wages--for State highway and building projects were recently made in Minnesota. Legislation has been introduced to repeal that State's law.

Other employee wage laws protecting construction workers

Labor said that the various labor standards statutes enacted since 1931 complement the Davis-Bacon Act, but cannot substitute for the act because none of the laws we mention is a wage protection law.

We are not stating that the other laws cited in the report are a substitute for the Davis-Bacon Act. Rather, these laws provide the construction worker some protection--which was not available at the time the Davis-Bacon Act was enacted--against loss of wages through exploitation by contractors or from adverse economic conditions. The protection afforded by these laws, plus the significant improvements in the economic condition of the construction workers, make the Davis-Bacon Act unnecessary, in our opinion.

Effect of repeal on programs for minorities in the construction industry

Labor stated that repeal of the Davis-Bacon Act would have serious social costs because it would seriously effect Labor's programs to place minority groups and women in the building trades. Labor said participation of these minority groups in apprenticeship and other skills training programs in the construction industry have significantly increased as a result of the Government's affirmative action efforts during the 1970s, and the minority groups are just beginning to be represented in the high-paid "mechanical" building trades (plumbers, ironworkers, sheet metal workers, etc.). According to Labor, "Obviously, the tenuous foothold these workers have in the industry make them especially vulnerable to the wage exploitation which could occur with repeal of Davis-Bacon."

Labor provides no factual or logical basis for its viewpoint.

The employment of minorities and women on federally financed projects is covered under the affirmative action and contract compliance program established under Executive Order 11246, which is administered by Labor. This program is unrelated to, and administered separately from, the Davis-Bacon Act.

This is also true for the other programs to protect minorities and women, such as title VII of the Civil Rights Act of 1964, administered by the Equal Employment Opportunity Commission and designated State and local fair employment agencies. These programs would continue whether or not the Davis-Bacon Act was repealed. This is also true for the Federal Government's apprentice training program, which is carried out by Labor under the Comprehensive Employment and Training Act--not the Davis-Bacon Act.

We could find no evidence or documented concern that the repeal of Davis-Bacon would have any discriminatory effect on women or ethnic categories of construction workers. To the contrary, contractors, and others argue that Davis-Bacon wage rate requirements actually resulted in fewer construction job opportunities for low-skilled minorities or those just starting in construction. According to a study on youth and minority employment published by the Congressional Joint Economic Committee on July 6, 1977, Davis-Bacon wage requirements discourage nonunion contractors from bidding on Federal construction work, thus harming minority and young workers who are more likely to work in the nonunionized sector of the construction industry.

Economic effect of repeal on construction workers

Labor stated that repeal of the Davis-Bacon Act would risk serious economic and social costs for the 3.8 million workers in the construction industry. According to Labor, although the industry has very important implications for the national economy, it is one of the most highly competitive businesses in the country, and it is characterized by short-term employment, a preponderance of small firms and, although it has high labor costs, employers have less control over other costs--land, material, etc.--which have been increasing at a higher rate than labor costs. Labor also stated that the wages of construction workers in the past 7 years have lagged behind the average increases in all industries--and the gap has increased in the past year.

We agree that the construction industry, although composed mostly of small firms, has important implications for the national economy, since it has averaged about 9.4 percent of the Gross National Product--about $146.5 billion during the 5-year period 1973-77.

We also agree that the construction industry is competitive, and we recognize the significance of the industry's costs other than labor (such as land and materials). We fail to see, however, how these factors have a relevance to, or would be affected by, repeal of the act.

Labor cites data to indicate that between 1971 and 1977 construction worker wages increased 5.9 percent per year, compared to the all-industry average of 7.3 percent. Labor said that between 1975 and 1977 the gap widened, since the construction workers' increases were 5.5 percent per year and all industry increases were 7.7 percent.

These statistics are misleading.

The all-industry average wages cited by Labor mainly reflect the generally lower-than-construction wages of over 90 percent of employees on private nonagricultural payrolls. To illustrate, Labor's statistical data shows that in 1977 there were about 67.2 million employees on private nonagricultural payrolls, of which only about 3.8 million (5.7 percent) were employed in the construction industry. The data also shows that the average hourly and weekly earnings of construction workers have been substantially greater than the all-industry average (e.g., 56.5 percent greater in 1977). Therefore, the computation of percentage increases normally results in smaller percentage increases for construction wages relative to the lower all-industry average wages.

For example, the average weekly earnings of construction workers rose from $266.08 in 1975 to $295.29 in 1977, an in-increase of $29.21 (11 percent). The all-industry average weekly earnings went from $163.53 in 1975 to $188.64 in 1977, an increase of $25.11 (15.4 percent). Thus, although the all-industry average earnings increased by a larger percentage between 1975 and 1977 than construction earnings, the actual money increase for construction workers was greater than the all-industry average. Thus, while it may be true that the construction workers' most recent percentage wage increases have lagged a little compared to other industries, the reason could be that workers in other industries are starting to catch up to the construction workers' rates.

Finally, Labor stated that the Davis-Bacon Act is still needed and continues to serve its purpose of affording needed protection to the construction worker. According to Labor this need is reinforced by the fact that the Congress, through passage of the 1964 amendments including fringe benefits under the act, has reaffirmed the continuing need for prevailing wage legislation for construction workers. Labor concludes its comments on this chapter by stating:

> "* * * the costs of the repeal of Davis-Bacon would be very onerous and fall directly upon the four million persons attached to the industry, particularly women and minorities."

We disagree with Labor's assertion that repeal of the Davis-Bacon Act would seriously affect--economically and socially--construction workers and local construction contractors primarily because

--less than an estimated 1 million construction workers in 1977 were working on contracts subject to the Davis-Bacon Act;

--where Labor's wage determinations were too low, thus giving no effect to the act, local contractors were more successful in getting contracts and paid prevailing local wages; and

--some people believe that the Davis-Bacon Act wages may actually contribute to the unemployment problem because the high labor costs from excessive Davis-Bacon wage rates hinder the number of unemployed persons who might otherwise be employed on Government construction projects.

We found no indications, and Labor did not present any evidence, of an adverse effect on or exploitation by contractors of the estimated 3 million workers employed on construction projects not covered by the act.

We believe that Labor is overstating the hypothetical impact of repealing the act. Labor provided no documentation or support that the costs would be onerous or fall heavily on women and minorities. To the contrary, there are indications that repeal could benefit women and minorities.

The fact that an estimated 3 million construction workers who work on projects not covered by Davis-Bacon are among the best paid workers in the country indicates to us that construction workers do not need the "special protection" Labor deems so essential.

THE ACT HAS BEEN AND CONTINUES TO BE IMPRACTICAL TO ADMINISTER

After nearly 50 years of administering the Davis-Bacon Act, Labor has not developed an effective system to plan, control, or manage the data collection, compilation, and wage determination functions. Our review of the 73 wage determinations in five regions and headquarters showed continued inadequacies, problems, and obstacles in Labor's attempt to develop and issue wage rates based on prevailing rates.

Labor stated that our analysis of its administration of the Davis-Bacon Act contained fundamental misconceptions and errors. Labor said our sample of 73 area and project determinations--which include 50 project and 23 area determinations--was too small to be representative and was inadequate.

We disagree. Our conclusion and belief that the Davis-Bacon Act is impractical to administer and that Labor has issued, and continues to issue, inaccurate wage rates are based on well documented and adequately supported findings--vividly illustrated by examples--developed during a review of a cross section of Labor's area and project determinations.

We recognize that our sample was small, but our selection of project determinations was made on a random basis and stratified to the number of determinations issued in each region for various types of construction during the period covered by our review. We also selected the area determinations randomly in each region. Therefore our sample is representative of the determinations issued in the regions we reviewed. Moreover, our review was made at 50 percent of Labor's 10 regions, included all sections of the country, and included regions with (1) areas with much construction activity (in dollars), (2) areas with large numbers of construction workers, (3) both industrial and rural States, and (4) areas with high and low union representation.

Labor also took issue with all of our findings presented on inadequacies in program administration and inaccurate wage determinations.

Labor's comments for the most part were misleading, inaccurate, unsupported, and often did not reflect the information in its files. This is illustrated below in our evaluation of Labor's comments on our findings that (1) many wage determinations were not supported by surveys (the wage rates issued were mainly based on union collective bargaining agreements), (2) Labor's 30-percent rule has an adverse effect, (3) Labor has problems in obtaining wage data voluntarily from contractors, and (4) Labor's program improvements are not effective.

Lack of wage surveys

Labor stated that our comments on the lack of surveys for many wage determinations were based on an erroneous assumption that accurate wage rates can only be determined in one way--a rigid adherence to the survey process in every instance. It stated that surveys are unnecessary, in some cases, because through maintaining a continuing liaison with contracting

agencies, contractor and labor groups, and others interested and knowledgeable about construction in the various parts of the country, Labor has been able to develop and update economic information on the construction industry. This, Labor said, on many occasions, gives a clear indication as to whether open shop or union wages prevail for a particular civil subdivision or for certain crafts in the subdivision. But where there is uncertainty as to whether open shop or union rates prevail, and when sources indicate nonunion rates prevail, Labor said a survey is made.

We disagree with Labor's assertions regarding the adequacy of its wage survey and data collection system.

We found no systematic planning, control, or management of the data collection functions. We could not substantiate through a review of the files or discussions with Labor officials that continuing liaison with agencies, contractors, and labor groups provides Labor with sufficient economic information on the construction industry to give a clear indication as to whether open shop or collectively bargained rates prevailed. We found no data in the files, either in the field or headquarters, relating to "economic information" in each county.

In counties where no surveys had been made, the files contained information identifying the union local having jurisdiction in the county and, sometimes, collective bargaining agreements, if applicable. This information was sent to the field offices from Labor headquarters in 1972, when the wage activity was decentralized. There was no other support, either at headquarters or the field, to show what wages prevailed in the locality. In January 1978 the wage issuance function was again centralized at Labor headquarters. Thus, the function is now performed by headquarters staff, which is further removed from the localities and has less knowledge than regional staff of local wages and area practices.

Given the everchanging makeup of the construction industry, it is logical that current wage surveys should be the primary method for collecting wage data and determining accurate prevailing rates. Labor asserts that it conducts surveys wherever and whenever needed; this is contrary to what we found. Surveys are conducted generally on an ad hoc basis, in response to protests or complaints, or recognition that file data were so far out of date that they were no longer useful.

Labor's wage rates are based mainly on collective bargaining agreements

Labor stated that, when information is available to indicate that negotiated rates prevail, the collectively bargained agreement is used to insure that accurate rates are reflected. Labor asserts, however, that where doubt exists as to whether union rates prevail, they are resolved by undertaking a survey.

Our review indicated that Labor made few surveys to determine whether union rates prevailed.

Generally, if Labor had a collective bargaining agreement in its files that covered the locality where a determination was requested, in the absence of survey data it issued the union rates. For the most part, Labor had no other information in its files to show that union rates prevailed. We asked Labor staff for additional data showing that union rates prevailed, but they had none.

Lack of surveys for area determinations

Labor said that the percentage of area determinations which are current is constantly increasing. Labor said that it had analyzed each of its 9,516 county schedules--which list the wage rates issued in the counties--and found that 78 percent of the wage rates were set in the past year, and only 3 percent were more than 3 years old. Labor said this provides a more accurate and up-to-date description of the status of Davis-Bacon wage determinations than the information in our report.

We believe Labor's figures are misleading.

For one thing, the updating of the county schedules was not all based on surveys showing the wages that prevailed in the local areas covered by the determinations. We asked Labor officials to provide us information about those schedules that are updated by surveys. Labor officials stated that they were unable to provide this information; the updating data was not developed this way. Thus, in the absence of such information, we were unable to determine how many schedules were based on surveys or other valid documentation of wages being paid in the counties, as opposed to merely establishing current wage rates based on collective bargaining agreements without assurances that those rates actually prevailed in the counties.

Labor's 30-percent rule

Labor said the 30-percent rule is not established as being inflationary. It cited as support (1) a study by the Council on Wage and Price Stability, which showed in some cases that Labor's Davis-Bacon wage rates were lower by 2.7 percent than the average rate for commercial construction and (2) a study it made of 1,609 craft classifications where surveys were made, which showed that the 30-percent rule produced a prevailing wage rate very close to the average rate in a locality. For this reason, Labor said it cannot concur with our criticism that the 30-percent rule results in inflated and unrealistic wage rates. Labor stated also that the 30-percent rule has been applied consistently since 1935 and was reviewed in depth in 1962 by the House Special Subcommittee on Labor, which strongly supported its continued use.

In our opinion, the inflationary impact of the 30-percent rule is vividly demonstrated by the example in the report (page 52); where use of the 30 percent rule resulted in significantly higher rates than what the majority of workers were receiving. This is one of the examples we found during our review. Similar examples were reported in our prior reports on the problems in Davis-Bacon administration.

Labor's statement that the 1962 report by the House Special Subcommittee on Labor strongly supported continued use of the 30-percent rule used the report's content out of context and is misleading.

Our review of the report shows that the majority of the Subcommittee believed that Labor's use of the 30-percent rule (1) was not legislatively authorized and (2) had led to difficulties and justified criticism. It recommended that the 30-percent rule be established legislatively. However, no action has been taken on this proposal in the ensuing 17 years. Moreover, the Subcommittee's minority opposed the 30-percent rule and concluded that, by legislating its use as the majority suggested, the Secretary could avoid being accused of doing wrong because he would be following a specific statutory direction--this, the minority members stated, would be ridiculous and superficial. They recommended that the 30-percent rule be abandoned.

We believe Labor also used the Council on Wage and Price Stability's study out of context.

The Council relied on a Bureau of Labor Statistics special survey of union, nonunion, and average wages in 19 cities classified as Standard Metropolitan Statistical

Areas. These are large metropolitan areas that are typically union areas in most types of construction. This is acknowledged by the Council's study, which states "The Special Survey includes mostly large cities, whose degrees of unionization or patterns of industrial organizations may differ from that of other smaller cities." The Council also said the special survey covered the Standard Metropolitan Statistical Areas, whereas the Davis-Bacon rates do not necessarily encompass the entire areas.

Another significant fact, which was acknowledged by the Council, is that its wage comparisons did not include fringe benefits (which must be paid along with the basic wage rate) which, the Council states, are likely to be larger for union than for nonunion workers.

In our review, we found, for example, at a New Jersey project in October 1976, that the union fringe benefits ranged from about $1 to over $4 an hour, depending on the craft and locality. A study by the Massachusetts Institute of Technology showed that, on average, both the level of benefits and the proportion of nonunion employees receiving them are much lower than those in the union sector. The study said that for union employees the fringe benefits comprise a substantial proportion of hourly earnings ranging from 10 to over 20 percent of the basic hourly wage.

Labor also cited its study in fiscal year 1978 showing that, where surveys were made, the 30-percent rule resulted in nearly a 50-50 split between higher and lower than the average wage rate, with a difference of only 9 cents higher on the overall average. Labor's study showed that the 9 cents difference higher rate is made up of an average of 88 cents higher rates for 20 percent of the classifications at union rates and 10 cents lower rates for 80 percent of the classifications at nonunion rates. The union-negotiated rates did not include fringe benefits. This means that, when nonunion rates were determined by the 30-percent rule, wages were 10 cents an hour lower than an average rate. When union rates were determined by the 30-percent rule, they were 88 cents higher--adding $2 or $3 for fringe benefits would make this even more dramatic.

Problems in obtaining wage data through its voluntary submission program

Labor stated that the voluntary submission program works effectively--that it has found no significant problems, and it comports with administration policy for voluntary participation in Government programs. Labor also stated that, to insure a representative sample, it makes successive contacts

of potential survey respondents by mail, telephone, and even personal visits. Data submitted voluntarily is checked against other objective data available. Labor further stated that Department personnel who make wage surveys are currently being provided with intensive training to assure a uniform approach, and that manuals and procedural regulations are being revised.

Labor believes that the five examples cited in our report are only subjective expressions by 5 out of a staff of about 1,000 who might undertake surveys in any one year. Labor said these examples cannot be viewed as definitive judgments on the adequacy of the voluntary data collection system.

Labor's implication that about 1,000 field staff might make surveys in any one year is a gross exaggeration. With few exceptions, surveys are conducted by the wage determination branch in the regional offices consisting of about 26 staff members nationwide. Also, we asked for, but Labor could not provide, examples of "other objective data available" when surveys produced limited wage information in the locality.

Further, after Labor's response to our draft report we contacted four regional offices to determine the scope and extent of the intensive training Labor stated was currently being provided to the staff. None of the specialists or analysts in the four regional offices were aware of any recent training in the conduct of surveys.

Notwithstanding the validity of whether additional training is being provided, it is questionable in our opinion whether additional staff training or revisions to regulations and manuals can increase the voluntary participation of contractors in the data collection function. Contractors who are unwilling to participate will not provide data regardless of how well trained the staff may be.

We believe that our examples are representative of the problems in the data collection function. Our examples represent data collection problems observed in most surveys. If data had been obtained on the many unreported workers in each locality, a more accurate prevailing rate may have been issued.

GAO FOLLOWUP REVIEW SHOWS THAT LABOR'S PROGRAM IMPROVEMENTS ARE NOT EFFECTIVE

Labor stated that its management of the program is being constantly improved. It stated that in the past 2 years it

has taken active steps to increase its efficiency in administering the Davis-Bacon Act to the fullest possible extent. It cited the following:

--Processing of project wage decision requests through the regional offices has been eliminated to avoid duplication of effort and to reduce possible error resulting from both regional office and national office handling.

--Intensive training of the 10 regional wage specialists has been undertaken to assure a uniform approach to the wage determination program on a nationwide basis and to have an informed center of responsibility for the program in each region.

--New sections have been added to the Field Office Operations Handbook, and the Construction Wage Determination Manual of Operations has been updated and published.

--All regulations relating to the issuance of wage determinations in this program are in the process of being reviewed to provide full guidance to contracting agencies and other users of Department interpretive positions and procedures.

In our opinion, these actions will not help Labor to significantly increase the efficiency of the administration of the act. In one case the action taken may be counterproductive, in another the action apparently hasn't yet been initiated, and in yet another the action will not assist Labor in issuing current and accurate prevailing wage rates. Our evaluation of each of Labor's comments follows.

Centralizing the processing of requests

Field staffs were established in 1972 to insure that the Labor staff responsible for developing and issuing wage determinations would be better able to have current knowledge of local construction industry and area practices. Under the current system, where determinations are handled at the headquarters, those most knowledgeable of the locality have been eliminated from the wage determination issuance process. In our opinion, this has resulted in the loss of a check and balance function formerly performed in part by each group.

For example, the headquarters staff recently eliminated separate wage schedules for paving and utilities projects associated with building construction in Texas, although this had been a longstanding area practice in the State and

recognized as such by Labor's field staff. The action was later reversed by the Wage Appeals Board. In recent cases, the headquarters staff has issued incorrect rates--residential rates for building construction. In our opinion, continued involvement of the field staff in issuing determinations may have eliminated such mistakes.

Intensive training undertaken

We contacted several regional wage specialists about the intensive training Labor said had been provided since our review. None could recall having received any recent training. Labor's comments may refer to a 1-week meeting in October and November 1978, but this was primarily oriented to enforcement practices under the Davis-Bacon Act and Service Contract Act and was not directed to a uniform approach to issuing wage determinations.

New and updated manuals

New sections in the Field Office Operations Handbook cited by Labor provide guidance to compliance officers in carrying out enforcement investigations under the act. These will provide little or no guidance or assistance to wage specialists and analysts, either in the field or headquarters, to help issue current and accurate prevailing wage determinations.

Updating the Construction Wage Determination Manual of Operations primarily involved the addition of data furnished to agencies in the selection of the type of construction schedule to use for their projects. It provides examples of projects and their related broad category of construction (building, heavy, highway, and residential). The Wage Appeals Board has already told Labor that its administrative practices in identifying projects of a similar character have given insufficient weight to the language of the act, and that Labor's attempts to standardize procedures have resulted in introducing new rates into areas rather than reflecting applicable rates already there.

We agree with the Board and believe that the addition of this data to the manual may result in additional confusion.

Review of regulations providing guidance to agencies

This comment is not relevant to the basic finding in our report--Labor's administrative practices do not result in current, accurate prevailing rates. It is doubtful that reviewing regulations that provide guidance to agencies and

other users of wage determinations will result in more efficient and effective wage determinations by Labor.

THE ACT HAS SIGNIFICANTLY INCREASED THE COSTS OF FEDERALLY FINANCED CONSTRUCTION AND HAS AN INFLATIONARY EFFECT

Setting prevailing wages for federally financed construction, as required by the Davis-Bacon Act, has increased the direct cost of Federal construction. We etimate that, as a result of wages being established at higher rates than those actually prevailing in the area of the projects, construction costs for federally financed projects could be increased significantly.

Also unnecessary administrative costs, estimated at $191.6 million for 1976 and $189.1 million for 1977, were incurred by contractors for complying with the act's paperwork requirements--which are passed on to the Government. Also, estimated costs of $10.9 million in 1976 and $12.4 million in 1977 were incurred by Labor and other Federal agencies for administering and enforcing the act's requirements.

Labor stated that our findings regarding the effect of the Davis-Bacon Act on construction industry costs and the economy as a whole were not based on sufficient evidence, and our estimates of increased construction and administrative costs have major flaws and were not on a sound basis. Labor also took issue with the studies mentioned in the report that comment on the inflationary effect of the act and stated the studies have flaws and are inconclusive.

Increased construction costs caused by Davis-Bacon Act

Labor said we have major flaws in our estimates primarily because we (1) have an insufficient sample size, (2) used different criteria in our surveys because we excluded Federal projects and eliminated duplicative counting of workers, (3) failed to consider the extent higher wage costs were offset by increased productivity, and (4) assumed that there is a correlation between wages and contract costs to the Government--that contract costs would necessarily be higher if a wage determination is high or that there would have been a proportional savings in contract costs had wage rates been lower.

We disagree with Labor.

Our selection of the 73 projects covered in our review--including the 30 selected for wage surveys--was made on a random basis, and the project determinations were selected

proportionally to the number of wage determinations issued in each region we reviewed for various types of construction--building, heavy, highway, or residential. Also, our review, which was made at 5 of Labor's 10 regions, included all sections of the country--east, west, south, and north, and our coverage included regions with high construction activity, large numbers of construction workers, industrial and rural States, and areas with both high and low unionization.

We recognize that our sample size was insufficient for projecting the results to the universe of construction costs during the year with statistical validity. However, because of the nature of our selection process, we have no reason to believe that our sample of projects was not representative of the universe. Therefore, we believe that our cost estimates are a useful indicator of the order of magnitude of the increased construction costs resulting from Davis-Bacon Act wage determinations.

We followed Labor's rules when making our wage surveys except we (1) excluded Federal projects and (2) eliminated the multiple counting of workers. Federal projects were excluded because we believe that the legislative history of the act intended that the wage rates be based on those that prevailed in private construction. Excluding Federal projects also eliminated any bias of incorrect rates that may have been issued on earlier Davis-Bacon projects.

We considered the inclusion of the same employees working on different projects--multiple counting--to be a questionable practice which distorts survey results.

For example, it seems to us that using a rate paid to one worker on several projects could bias survey results when that worker's wages are given the same weight as a group of workers working on only one project if the wages of the one worker and the group of workers varies significantly.

Labor said we failed to consider the extent that its higher wage costs under the Davis-Bacon Act were offset by increased productivity. Labor offered as support the (1) study by the Massachusetts Institute of Technology, which states that wage costs may be reduced by using workers who have more training and/or experience; contractors choose better workers and supervisors who pay more attention to training and managing them, (2) comment by the Council on Wage and Price Stability that "union and nonunion workers may differ systematically in skill level within the same occupation," and (3) comment from a 1972 study by (Professor) D. Quinn Mills that a poorer quality of work may result

without Davis-Bacon determinations by facilitating awards to incompetent contractors competitive only by virtue of low wages and resulting in great long-term costs through higher maintenance and repair costs.

Worker productivity and contract awards to incompetent contractors are procurement and contracting issues, and have little to do with Labor's administration of the Davis-Bacon Act. As Labor is undoubtedly aware, the Federal Government and its contracting agencies must follow well-established and long standing procurement rules and regulations to assure that contracts are awarded to responsive and responsible bidders.

Labor's function is to issue accurate prevailing wage rates.

Although the Massachusetts Institute of Technology study stated that wages under the Davis-Bacon Act may tend to produce a higher productivity rate, the study said also that these higher rates were more than offset by the increases in wage costs resulting from certain occupational structures, legal and skill level requirements in the construction industry, and costs of inappropriate or redundant training and record-keeping under the act. The Institute said its findings precluded wholesale assumptions or allegations about relative union productivity, and concluded that further study is needed before any general conclusion can be made.

In regard to the study by the Council on Wage and Price Stability, Labor failed to include the entire Council statement that "many observers claim that union workers are on average more highly skilled and therefore more productive. On the other hand, union work rules and jurisdictional lines may increase labor costs."

In addition, Labor fails to mention that Professor Mills in his 1972 study also stated that the act tended to spread union scales to Federal work and this does tend to increase costs by certifying higher wages and fringe rates in some areas, than the Government would have to pay under open competition. The Professor also noted in his study that most attempts to study productivity and work rules in the construction industry "have been hardly more than a list of alleged practices or rules with which the surveyed employers expressed unhappiness."

We noted another significant point on worker productivity in the report "In Defense of Davis-Bacon," which Labor says is carefully researched and contains important insights into

the complex issues surrounding the Davis-Bacon Act. That report, in discussing Professor Mills and other studies, states:

> "Having presented these views [regarding productivity[one must readily acknowledge that they do not represent a body of data. That body of data--either to prove or disprove any generalization about productivity in construction--simply does not exist. There are measurement problems which have not yet been solved by experts in the field, including those in Government."

It seems to us that these comments, along with those in other studies, refute Labor's conclusion that the higher union wages are offset by greater productivity. It appears to us, on the basis of the studies we reviewed, that conclusive evidence on this point does not exist.

Finally, in attacking our cost estimates, Labor says there is no exact correlation between wages and contract costs to the Government that contract costs would necessarily be higher if a wage decision is high or that there would have been a proportional savings had wage rates been lower. Neither assumption, according to Labor, is correct. Labor asserts that, when a contractor pays low wages and the wage determination is also low, the contractor will bid only low enough to undercut other bidders who pay higher wages and any difference will go to his profits; thus, the contract price bears no exact relationship to wage levels issued.

Labor's comment that there is no direct relationship between wages and contract prices is speculative and unsupported.

Others believe that lower wages should result in lower contract costs. For example, in a report we issued on June 20, 1978, on the Mobile River Project in Alabama we stated that the Wage Appeals Board directed Labor to perform another survey because the original rates issued were inaccurate. As a result, Labor issued revised rates which were substantially lower. Alabama State officials have indicated that they anticipate savings in contract costs--because of the lower wage rates--for completion of the remaining portion of the project.

Also during our review contractors told us that their bids would have been lower if the wage rates were lower. Other contractors told us they refused to bid when wage rates were too high.

Labor estimated construction cost savings by using more accurate wage rates

In prior years the Department of Labor has estimated that significant savings could result through the use of more accurate wage rates.

In five reports we issued between August 13, 1964, and September 13, 1968, we discussed how the inaccurate wage rates issued by Labor were causing increased construction costs on residential housing projects. As a result of our recommendations, Labor performed more onsite surveys to verify data used to determine prevailing rates, and changed its practice of prescribing commercial building construction wage rates for housing construction. During fiscal year 1971 appropriation hearings held on May 14-20, 1970, Labor officials advised the House Subcommittee on Appropriations of their actions and stated that, where Labor made more onsite surveys, it found that Labor's wage determinations were in error by using the union or commercial rates on residential housing.

Labor officials told the House Subcommittee that it estimated a potential savings of $60 million annually could be realized by the Federal Government by using the residential wage rates instead of commercial rates for federally financed housing construction. This potential savings, according to Labor officials, was based on an estimate of $3 billion of federally financed public housing construction. We noted that Labor's estimate was calculated on the basis of the $4 million excess wages on projects totaling $50 million, as shown in our five prior reports, which we attributed to Labor's inaccurate rates.

Estimates of unnecessary administrative costs

Labor believes that our estimates of administrative costs of contractors are overstated, primarily because it questions the study made by the Association of General Contractors--which is the basis of our estimate. According to Labor, the Association is opposed to the payroll requirements of the Davis-Bacon Act and reiterated this opposition in its letter soliciting data for the study from its chapter members. As a result, this was an open invitation to build a case against the act. Thus, Labor asserts it was reasonable to infer that those who presented cost estimates were more strongly impelled to make a case against the act than those who did not respond and that, therefore, a biased self-selected sample was collected.

Labor did not provide any evidence or support for its conclusion that the Association's study was biased or slanted to present a case against Davis-Bacon Act payroll requirements.

Labor questioned the Association's study because (1) there was a small response from the membership, (2) the questions were not clearly stated, and, as a result, many answers were not responsive, (3) there was a wide variance in the responses, and (4) there were few responses for computing the average cost of compliance.

Our review showed, however, that the Association believed that the response to its survey was excellent and the quality of the information received was very good.

The Association said that many of the comments received were helpful in understanding the sense of futility on the part of contractors preparing the weekly payroll reports. It said many members believed that no use had ever been made of the payroll data and that the added cost of preparation produced no useful results.

In its letter to the Commission on Government Procurement, the Association did not claim that the survey was scientifically designed or statistically valid. It said the survey results gave an indication of the cost of complying with the act's requirements--they ranged from .5 percent to 5 percent of the total value of the contract. Moreover, it took an extremely conservative posture and estimated the cost at the low end of the range--.5 percent of the contract cost.

The weekly submission of certified payrolls is not required under other laws, including those containing labor standard provisions, such as the Service Contract Act. As our report and other studies have shown, these weekly payroll requirements burden the contractor and contribute to increased construction costs.

Moreover, our review and other studies have shown that the weekly payroll requirement contributes little to enforcement of the act.

In conclusion, we believe that the evidence shows that the weekly payroll records required by the act 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.

Other studies on the Davis-Bacon Act's inflationary aspects

Labor took issue with the eight studies cited in our report and stated that we did not cite, nor could it find substantial evidence from these studies, that Davis-Bacon has a significant inflationary impact on the economy as a whole. Labor also stated that the studies are inconclusive and flawed, as described in the report issued by the Massachusetts Institute of Technology.

We were aware of the Institute's study and have included a discussion of the Institute's study in our report. The Institute's study states that there are no serious studies of the actual cost effect that the Davis-Bacon Act has had. It is interesting to note that the Institute mentions only one of the eight studies--the study of the Council on Wage and Price Stability--and that, in referring to that study's description of the small percentage increases in wages due to the Davis-Bacon Act, the Institute said

> "* * * Although these margins are small enough to be considered insignificant--due to statistical error and to differences in worker productivity * * * the COWPS [Council on Wage Price Stability] authors nonetheless go on to compute a possible savings of $200 to $600 million in Federal construction costs by adopting an averaging rule."

Thus, contrary to Labor's assertions, the studies, (at least the Council's) do discuss the act's inflationary effect.

Labor questions the inflationary cost estimates included in the Wharton School study and indicates it was merely a study of 914 contracts during the suspension of the Davis-Bacon Act in 1971.

We believe Labor's reference is misleading.

The Wharton study is much more than a study of 914 contracts. It is a comprehensive study on what the Davis-Bacon Act is, what it is supposed to do, how it is administered, its administrative problems, and how contractors feel about the act. In addition, the study discusses the costs that are associated with the act and the act's effect on the economy.

Labor also gives a false impression of the Wharton study author's conclusion. The author believes that, despite the limitations of his study, it is the most direct comparison

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of costs with and without the act and his estimate of $240 million annually is probably a fair representation of actual savings to the government as a result of the suspension. He also said that, corrected for expected price rise due to inflation during the bidding period, the figure would rise to between $620 million and $1 billion.

He concluded by stating that

"Naturally, this figure, too, must be interpreted with some care. These low bids are also subject to competitive and gamesmanship pressures, although they are less influenced by them than are the aggregated figures previously presented. Nevertheless, it is probably the most direct comparison of costs with and without Davis-Bacon rates that could be produced."

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GAO REPORTS TO THE CONGRESS ON REVIEWS OF WAGE DETERMINATIONS UNDER THE DAVIS-BACON ACT

1. "Review of Wage Rate Determinations for Construction of Capehart Housing at the Marine Corps Schools, Quantico, Virginia" (B-145200, June 6, 1962).

2. "Wage Rates for Federally Financed Housing Construction Improperly Determined in Excess of the Prevailing Rates for Similar Work in Southeastern Areas of the United States" (B-146842, Aug. 13, 1964).

3. "Wage Rates for Federally Financed Building Construction Improperly Determined in Excess of the Prevailing Rates for Similar Work in New England Areas" (B-146842, Jan. 26, 1965).

4. "Wage Rates for Federally Financed Housing Construction Improperly Determined in Excess of the Prevailing Rates for Similar Work in the Dallas-Fort Worth, Texas, Area" (B-146842, Mar. 26, 1965).

5. "Review of Determinations of Wage Rates for Construction of Carters Dam, Georgia" (B-156269, Dec. 14, 1966).

6. "Need for More Realistic Minimum Wage Rate Determinations for Certain Federally Financed Housing in Washington Metropolitan Area" (B-164427, Sept. 13, 1968).

7. "Construction Costs for Certain Federally Financed Housing Projects Increased Due to Inappropriate Minimum Wage Rate Determinations" (B-146842, Aug. 12, 1970).

8. "Need for Improved Administration of the Davis-Bacon Act Noted Over a Decade of General Accounting Office Reviews" (B-146842, July 14, 1971).