

May 1999

# DAVIS-BACON ACT

## Labor's Actions Have Potential to Improve Wage Determinations



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**Health, Education, and  
Human Services Division**

B-282463

May 28, 1999

The Honorable Arlen Specter  
Chairman  
The Honorable Tom Harkin  
Ranking Minority Member  
Subcommittee on Labor, Health and Human  
Services, and Education  
Committee on Appropriations  
United States Senate

The Honorable John Edward Porter  
Chairman  
The Honorable David R. Obey  
Ranking Minority Member  
Subcommittee on Labor, Health and Human  
Services, Education and Related Agencies  
Committee on Appropriations  
House of Representatives

The Davis-Bacon Act requires employers to pay locally prevailing wage rates, including fringe benefits, to laborers and mechanics on the more than \$40 billion of federal construction projects each year.<sup>1</sup> The Department of Labor's Wage and Hour Division (WHD), responsible for administering this act, determines these wage rates through surveys that collect data on wages and fringe benefits paid to workers in similar job classifications on comparable construction projects in the same geographic area. In the past, we and others have raised concerns that wage determinations issued by Labor may not accurately reflect wages paid in the local area. Inaccurate wage determinations could lead to the payment of wages that are either lower than what workers should receive, or higher than the actual prevailing wages, which would inflate federal construction costs at taxpayers' expense.<sup>2</sup> Accuracy problems can be caused, for example, by low participation rates in the surveys or the use of survey wage data that are, on average, 7 years old.

For fiscal year 1997, the House Appropriations Committee Conference report directed Labor to test and implement ways to improve the overall

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<sup>1</sup>This 1996 estimate includes only construction projects for which federal agencies provide direct contracts. It does not include projects that receive federal assistance through grants, loans, loan guarantees, or insurance.

<sup>2</sup>See Davis-Bacon Act: Process Changes Could Raise Confidence That Wage Rates Are Based on Accurate Data ([GAO/HEHS-96-130](#), May 31, 1996).

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wage determination process by either using alternative wage data sources or, if that was not feasible or cost-effective, improving the capacity of the existing survey process to promote participation and data reliability. The report also directed us to determine whether Labor's changes would improve the timeliness and accuracy of wage determinations.<sup>3</sup> As agreed with the congressional appropriations committees, we determined

- the status of Labor's efforts to improve the Davis-Bacon wage determination process, and
- whether the changes Labor is making are likely to address the timeliness and accuracy of wage determinations.<sup>4</sup>

To determine the status of Labor's efforts and whether they are likely to address the accuracy and timeliness of Davis-Bacon wage determinations, we interviewed Labor officials at WHD and the Bureau of Labor Statistics (BLS), obtained and reviewed relevant documents, and evaluated ongoing and planned efforts for their potential impact on wage determinations. We conducted this review between February and April 1999 in accordance with generally accepted government auditing standards.

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## Results in Brief

In response to the conference report directive, Labor is currently testing a number of efforts that are aimed at improving the process for determining prevailing wage rates. The alternatives being tested fall under two tracks:

- redesigning WHD's existing survey process, including revising survey forms to obtain data more efficiently and using technology to more quickly and accurately analyze the survey data obtained; and
- using data from surveys conducted by BLS to determine prevailing wage rates.

The earliest efforts began in 1996 and most efforts under both tracks are scheduled for completion by fiscal year 2000. Given these time frames and the need to analyze the results, Labor officials said they will decide in fiscal year 2001 which track (or specific efforts) best promotes a wage determination process that will result in accurate, timely wage determinations.

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<sup>3</sup>U.S. Congress, House of Representatives, Making Appropriations for the Department of Defense for Fiscal Year 1997, H. Rept. 104-863, 104<sup>th</sup> Cong., 2nd sess.

<sup>4</sup>The conference report also directed us to ascertain whether Labor's changes would improve the reliability of wage determinations. We believe that accurate wage rates would be reliable and, for ease of presentation, are using the term accuracy to represent reliability as well.

Efforts under either track, if successfully implemented, have the potential to improve the timeliness and accuracy of wage determinations. For example, redesigning the survey form and making it more accessible and understandable to survey participants could increase survey participation and improve the timeliness of data submitted, potentially leading to more accurate and timely wage determinations. However, Labor officials identified several key issues that they will need to address for efforts under either track to achieve the intended results. These issues include concerns about (1) WHD's ability to deal with potentially significant increases in the volume of survey data collected under a revised process and (2) limitations of BLS data as a tool in setting prevailing wage rates. Labor officials also acknowledged that they need to develop a clear plan to make an informed decision about which track, or combination of efforts under both tracks, to implement. Labor has established general performance measures that officials say will guide Labor's efforts. Additionally, it has started to collect limited baseline data to assess progress made under both tracks but such data may be of limited use. Labor has also recognized that other factors, such as cost, will need to be considered when officials decide which efforts would most improve the accuracy and timeliness of wage determinations, but officials have not yet specified how these other factors will be analyzed.

## Background

The Davis-Bacon Act, enacted in 1931, and related legislation require employers on federally funded construction projects valued at more than \$2,000, or on federally assisted projects, to pay their workers, at a minimum, wages that the Secretary of Labor has determined to be "prevailing" for corresponding classes of workers on similar projects in the same locality. To carry out this mission, Labor administers surveys to construction contractors and third parties, such as representatives of unions and contractor associations, and asks them to provide wage and fringe benefit data on a form called the WD-10. Labor sets wages for four types of construction—building, residential, heavy, and highway—that it finds reflect current categories in the construction industry as well as the act's requirement that wages for Davis-Bacon workers be commensurate with workers on "similar" projects. Labor's survey coverage ranges from a county to an entire state, reflecting its implementation of the act's requirement that prevailing wages represent those paid in the same locality. For example, surveys are typically conducted on a countywide basis for all construction types except highway, which are often conducted on a statewide basis. Labor generally issues general area wage rates for specific job classifications or occupations, such as electricians,

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carpenters, and drywallers to meet the act's requirement that it set wages for "corresponding classes" of workers.<sup>5</sup> Labor has implemented procedures to verify wage data submitted on the surveys to address problems related to data accuracy. In 1999, we reviewed these procedures and recommended specific changes to increase their impact on the accuracy of the wage determinations while reducing the time and cost to collect this information.<sup>6</sup> See appendix I for a more detailed description of the wage determination process.

BLS, the Labor component responsible for collecting, analyzing, and disseminating labor statistics, is providing data to WHD from its existing survey programs to allow WHD to evaluate whether those data can be used to set prevailing wages under the Davis-Bacon Act. BLS seeks to produce nationally representative employment and economic statistics that are timely and accurate. To do so, BLS has established key priorities, such as drawing representative samples, ensuring high response rates, and guaranteeing the confidentiality of survey respondents. In fiscal year 1997, BLS began collecting wage data through its Occupational Employment Statistics (OES) survey, which had until then collected only employment data. This mail survey, which comprises a sample of 1.2 million establishments, covers approximately 400,000 establishments each year and thus takes three yearly cycles to obtain data from the entire sample. BLS is also in the process of combining several surveys that produced local and national employment, wage, fringe benefit, and employment cost data into a single survey: the National Compensation Survey (NCS). By April 2001, BLS expects to survey over 30,000 establishments in 154 metropolitan and nonmetropolitan areas that represent all such areas in the United States. Initial data collection will involve BLS staff conducting on-site interviews and reviewing various payroll documents. According to BLS officials, although this sample will be sufficient to produce national estimates, BLS will be able to publish detailed data for only about half of the areas surveyed.

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<sup>5</sup>Labor determines an area's prevailing wage rate on the basis of the 50-percent rule, which states that the prevailing wage will be the wage paid to the majority of workers employed in a specific job classification. If the same rate is not paid to a majority of those workers in the classification, the prevailing wage will be the average of the wages paid, weighted by the total number of workers employed in the classification. In addition to these general area wage determinations, Labor also issues determinations on a case-by-case basis for individual projects through means other than surveys.

<sup>6</sup>See Davis-Bacon Act: Labor Now Verifies Wage Data, but Verification Process Needs Improvement (GAO/HEHS-99-21, Jan. 11, 1999).

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## Labor Has Initiated, but Not Completed, Efforts to Improve the Wage Determination Process

In response to the conference report directive, Labor is currently testing a number of efforts under two tracks that it believes will improve the wage determination process. It expects that wage determinations would more accurately reflect prevailing wages if the wage survey process was improved through efforts that would, for example, increase survey participation and the timeliness of data collection and analysis. The earliest of these efforts began in 1996, with most scheduled for completion in fiscal year 2000. Labor will evaluate the results of these efforts and decide in fiscal year 2001 which track, or combination of efforts under both tracks, to implement.

Labor informed the House Education and Workforce Committee in 1997 that it had selected these two tracks to test simultaneously: one track focuses on ways to redesign the current process WHD uses to collect and analyze survey data to set prevailing wage rates, while the other explores the use of BLS survey data as the basis for setting prevailing wages.<sup>7</sup> Table 1 highlights selected major efforts under the redesign track; table 2 describes the efforts under the BLS track. Efforts under the redesign track seek to (1) improve survey data collection by, for example, redesigning the WD-10 survey form, making the form more accessible through a specially designated Internet web site, and using alternative methods to identify contractors and distribute surveys; and (2) enhance data analysis through such means as verifying wage data and developing technology to help identify inaccuracies in the data. WHD has tested or plans to test some of these efforts in two comprehensive surveys covering entire states and all four types of construction, which WHD traditionally has not done. For example, in the first survey, conducted in Oregon in 1998, WHD used state unemployment insurance (UI) data to identify additional construction establishments to survey. In the second survey, scheduled to begin in Colorado in June 1999, WHD plans to test technology, such as the use of imaging and scanning software, to facilitate data entry and analysis.

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<sup>7</sup>In 1996, Labor selected these two tracks, after soliciting input from external customers and interested parties, because it believed they were the most promising for improving the wage determination process.

**Table 1: Selected Major Efforts to Redesign WHD's Current Survey Process**

Description	Status
<b>Survey data collection</b>	
Comprehensive surveys	
Conduct statewide surveys for all four types of construction to move from a countywide to a statewide system that includes all construction types	<p>A pilot survey was conducted in Oregon in 1998 and a second is expected to be initiated in Colorado in June 1999.</p> <p>Results from Oregon are expected in September 1999 and from Colorado in 2000.</p>
Redesigned WD-10 form	
Add barcode to track survey submissions and change form to make survey completion easier and clarify data	<p>Barcodes were tested in the Oregon survey.</p> <p>WHD revised some questions and made format changes.</p> <p>The bar code and revised questions and format were incorporated in a redesigned form, which should be submitted to the Office of Management and Budget (OMB) for clearance in June 1999. WHD plans to use this form for all surveys beginning in August 1999.</p>
Collect wage data by "labor hours" rather than "peak week" <sup>a</sup>	<p>Collection of wage data by labor hours was completed in fiscal year 1999 in a regular Hawaii survey.</p> <p>WHD is currently considering an advanced notice of proposed rulemaking to solicit public comment on the use of labor hours in lieu of peak week, and other methodological changes.</p>
Internet web site	
Design a web site that provides information about and access to the WD-10 and allows participants to submit data electronically to WHD	<p>In 1998, WHD initiated a web site that provides access to the current WD-10 form, which includes a bar code. Participants can download but not electronically submit the form.</p> <p>WHD is developing an interactive WD-10 based on the revised form for the web site that participants will be able to complete on-line and submit electronically.</p> <p>WHD plans to submit the interactive form to OMB for clearance in September 1999 and put it on the web site in fiscal year 2000.</p>
Additional sources to identify survey universe	
Use UI or other databases to supplement existing sources of data to identify contractors to survey	The use of a UI database was tested in the Oregon survey; it will not be tested in the Colorado survey. <sup>b</sup>

(continued)

Description	Status
Automated printing and mailing of surveys	
Use the Census Bureau's automated facilities to print and mail surveys	Census' facilities were used to distribute survey forms in the Oregon survey and will be used in the Colorado survey. WHD plans to use this process for all surveys beginning in August 1999.
<b>Data analysis and verification</b>	
Telephone and on-site verification	
Review wage data submissions by telephone or on-site for accuracy	<p>As of 1996, WHD had implemented telephone verification for a sample of wage data submissions from contractors and third parties.</p> <p>In 1997 WHD implemented on-site reviews for a sample of wage data submissions from contractors and third parties.</p> <p>In response to previous GAO recommendations, WHD plans to increase the number of telephone reviews and decrease the number of on-site reviews.</p>
Technology	
Use imaging and scanning software to facilitate data entry and analysis	WHD has developed this technology and expects to complete testing in June 1999.
Use "knowledge management" <sup>c</sup> software to help WHD analysts and survey respondents check the completeness and adequacy of survey data, identify inaccuracies, and allow WHD analysts to analyze data in a standardized way across regions	WHD is currently testing software packages and expects to select one by the end of fiscal year 1999.
Develop a Computer-Assisted Telephone Inquiry (CATI) system to help WHD analysts follow up with survey respondents to collect clarifying information	<p>WHD is currently evaluating telephone systems in its regional offices to determine how to accommodate a CATI.</p> <p>WHD expects to determine the preliminary design in fiscal year 1999 and develop the system in fiscal year 2000.</p>

<sup>a</sup>The "peak week" refers to the work week in which the contractor employed the largest number of workers in a particular job classification for work on a specific construction project. While peak week counts the number of workers within a job classification for only one week, regardless of the number of hours worked and the wages paid them, labor hours counts the number of total hours worked within a specific job classification for the entire duration of the project.

<sup>b</sup>Colorado will not allow WHD to use its UI database because BLS is conducting a survey there at the same time and the state does not want to burden employers with excessive paperwork and discourage participation.

<sup>c</sup>Knowledge management software allows users to examine, verify, and manage information in a database. For example, the software will allow wage analysts to identify inconsistent or missing information on submitted wage data forms.

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Efforts under the BLS track have focused on using existing BLS surveys to obtain data on wage rates, fringe benefits, and the union affiliation of construction employees.<sup>8</sup> According to WHD and BLS officials, BLS was selected as a possible alternative data source for a number of reasons, including BLS' more comprehensive approach and expertise in collecting wage data compared with other potential sources, and its history of providing statistical information to others. Also, BLS already provides wage and fringe benefit data to WHD for the determination of prevailing wage rates under the Service Contract Act (SCA), which requires that individuals working in service occupations (such as janitors, security guards, or data processors) under contract to a federal employer be paid prevailing wages. SCA, however, has a more flexible concept of locality than Davis-Bacon, and many of these service contracts are nationwide in scope. As a result, under SCA, WHD uses a single national rate for several types of fringe benefits to determine prevailing wage rates, unlike Davis-Bacon, for which it must use fringe benefits paid in a given locality.

BLS has undertaken three distinct efforts to collect or tabulate data on wage rates, fringe benefits, and union affiliation of construction employees for WHD. In regard to wage data, BLS is using its existing survey procedures and sampling frame to produce data for construction industries in local areas to allow WHD to evaluate the data's usefulness in setting wage rate determinations. To collect data on fringe benefits and union affiliation, BLS conducted pilot surveys using existing survey procedures and sampling frames to test whether NCS and OES could obtain the necessary information. WHD and BLS officials agreed that no significant changes would be made to OES or NCS during this initial period, as these surveys had been recently revised (for example, adding the wage variable to the OES) or developed (for example, the NCS), and BLS did not know how additional changes to the surveys would affect their viability.

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<sup>8</sup>If a particular wage determination is based on a union's collective bargaining agreement and Labor has no indication that the situation has changed, updated wage determinations may be based on updated collective bargaining agreements.

**Table 2: Description of Efforts to Collect Data Through BLS Surveys**

<b>Effort</b>	<b>Description</b>	<b>Status</b>
OES wage data	Determine whether the existing OES sampling frame and methodology could provide sufficient wage data	<p>In fiscal year 1997, BLS conducted the first cycle of the 3-year survey, but the sample of construction establishments was too small to provide locality-based wage estimates.</p> <p>In fiscal year 1998, BLS conducted the second cycle and provided results to WHD in April 1999.</p> <p>BLS is currently conducting the final cycle and expects data for the full sample to be available by 2000.</p>
NCS fringe benefit data	Conduct studies in four locations to collect fringe benefit data in areas not currently surveyed by NCS	<p>BLS completed the first two studies (Jacksonville, Fla., and Tucson, Ariz.) in 1998.</p> <p>BLS completed data collection for the third location (Salt Lake City, Utah) and expects to release results in June 1999.</p> <p>In April 1999, BLS began data collection in the final location (Toledo, Ohio) and expects to release results at the end of fiscal year 1999.</p>
OES union affiliation data	Test whether OES can obtain information on union affiliation	<p>BLS conducted an initial test in four states in 1998 to determine if employers had union affiliation information and were willing to provide it. BLS provided this information to WHD in 1998.</p> <p>On the basis of positive test results, BLS is conducting a follow-up study in nine additional states and expects to have results in fiscal year 2000.</p>

As shown in tables 1 and 2, the first of these efforts—telephone verification of contractor and third-party wage data submissions—began in 1996, and some of the efforts have been completed or implemented, such as on-site verification, the use of automated printing and mailing operations, and the use of state UI data to identify construction establishments. However, most efforts are still being tested or are ongoing and not scheduled to be completed before fiscal year 2000. For example, results from the Oregon survey, which tested several of these efforts, will not be available until September 1999. Additionally, WHD does not expect to select a knowledge management software package before the end of fiscal year 1999. The development of one effort—CATI—to facilitate the

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clarification of data by follow-up telephone calls will not begin until fiscal year 2000. Moreover, even though BLS has provided some data to WHD from the initial OES union affiliation test and two of the NCS fringe benefit studies, all of the results will not be final until 2000.

Although the conference report did not set a deadline for Labor to complete these efforts, Labor officials said they will decide which track—or combination of efforts under both tracks—to select in fiscal year 2001. Officials said this schedule is necessary given the time frames of individual efforts and the need to evaluate and analyze all of the results when the efforts are completed. For example, according to officials, because final results representing the full OES sample will not be available until 2000, an assessment of the OES data's usefulness cannot be done until the entire 3-year cycle of data collection is completed. Officials will not be able to determine until then whether the wage data collected by the survey will meet BLS standards for issuance and be sufficient to meet WHD's needs in determining wage rates. However, officials said that although they would discontinue efforts at any time that did not appear to be working, in the absence of a clear "stop light," they believed they needed to see these efforts through, evaluate them, and make an informed decision.

Since fiscal year 1997, Labor has allocated over \$11 million for these improvement efforts. It spent \$7.4 million in fiscal years 1997 and 1998 and allocated \$3.75 million in fiscal year 1999. In its fiscal year 2000 budget, Labor plans to obligate another \$3.75 million to continue funding these activities. To date, WHD has primarily used these funds to (1) procure the services of private sector contractors to redesign the wage survey process and conduct on-site verification; (2) purchase computer hardware and software and telecommunications equipment; and (3) reimburse BLS (about \$3.7 million) for its survey activities, including the salaries and expenses of about 11 full-time-equivalent staff at BLS to conduct the NCS surveys. These funding amounts do not include salaries for WHD staff working on improvement activities.

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## Labor's Efforts Have Potential to Improve Accuracy and Timeliness of Wage Determinations

On the basis of our review of Labor's efforts and our past work on the Davis-Bacon Act, we believe that a number of Labor's efforts under both tracks, if successfully implemented, have the potential to improve the accuracy and timeliness of wage determinations. To achieve more accurate and timely wage determinations under either track, Labor officials said the process must promote greater survey participation, improve the accuracy of data submissions and Labor's ability to verify

them, and increase the efficiency of data collection and analysis. Labor must ensure that the data are collected, analyzed, and published in a timely manner so that when wage rates are issued, they still reflect current local conditions. As summarized in table 3, a number of WHD’s efforts seek to improve the accuracy of the incoming wage data, such as making wage survey forms easier to complete, and to promote greater participation, such as using BLS’ OES survey with its large sample of construction establishments. However, Labor officials said they will need to address a number of unresolved issues in both tracks that could limit the potential of these efforts to achieve the desired results. Furthermore, they said they would need to do a number of things to ensure the track or efforts they select are the best options for improving the accuracy and timeliness of wage determinations.

**Table 3: Potential Impact of WHD’s Efforts on Improving the Accuracy and Timeliness of Wage Determinations**

Effort	Potential improvement to wage determination		Area of process improvement
	Accuracy	Timeliness	
Comprehensive surveys	X	X	<p>Collecting data on a statewide basis for all four construction types would allow WHD to collect and use data for all construction types and counties at once, rather than soliciting and discarding data that did not meet the identified construction type and county requirements specified in a survey, resulting in increased data and more efficient data collection.</p> <p>Respondents would complete only one survey for all construction types and counties rather than having to complete surveys for four different construction types by individual county. This could improve respondents’ awareness of the survey and the universe of survey participants, and reduce respondents’ burden, thereby yielding greater levels of participation.</p> <p>The greater volume of data resulting from larger, more frequent surveys could improve the accuracy of wage determinations and provide WHD with more flexibility to ensure sufficient usable data to issue wage determinations.</p>
Redesigned WD-10 form	X	X	<p>Making the form more accessible (for example, through revised questions, Internet access) and understandable to participants could encourage more participants to complete the survey, resulting in greater participation, and reduce errors in data submissions.</p> <p>Collecting data by labor hours instead of peak week could facilitate completing the survey, which could increase participation, decrease errors, and reduce review time for WHD analysts.</p>

(continued)

Effort	Potential improvement to wage determination		Area of process improvement
	Accuracy	Timeliness	
Additional sources to identify survey universe	X		Using UI or other data sources could identify additional construction establishments to survey, leading to greater levels of participation.  Greater participation could increase the volume and representativeness of data submitted, thereby increasing the accuracy of wage determinations.
Telephone and on-site verification	X		Verification could identify and correct errors and help educate survey participants on how to complete forms properly.
Technology	X	X	Imaging and scanning technology could expedite the transfer of survey data into an automated WHD database, which would expand survey coverage and facilitate data analysis and verification.  Knowledge management software could help WHD staff analyze and verify data correctly and more efficiently, reducing the analysts' work load and review time.
BLS' OES wage data	X	X	The use of OES with its large sample of construction establishments could identify a greater number of employers. BLS' requirements for high response rates could lead to significant rates of participation.  When OES completes its 3-year cycle and is fully operational, it will provide wage data annually that could improve the timeliness of wage determinations.

To achieve these potential results, Labor officials said that they need to address a number of unresolved issues:

- Efforts to redesign the current wage determination process or conduct statewide surveys for all four construction types could significantly increase the volume of data received by WHD analysts. WHD estimates these changes would result in a tenfold increase in the number of WD-10s wage analysts would have to process before they begin data analysis. Although WHD plans to use technology to facilitate data handling and analysis, such a significant increase in the volume of data could affect the timeliness of wage determinations and raise questions about the adequacy of WHD resources and technology to deal with this work load.
- The use of alternative databases such as UI to identify additional construction establishments may not result in sufficient data that would adequately represent the current universe of construction establishments. The use of Oregon's UI database provided names of additional construction establishments to survey; however, according to BLS officials, UI databases may not accurately represent all construction establishments because of

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the high rate at which they are created and disbanded. As a result, WHD officials said they will need to evaluate the advantages and disadvantages of alternative data sources to ensure that survey participation accurately reflects the current universe. This would also be the case for any states, such as Colorado, that do not allow WHD to use their UI databases.

- Using BLS' OES data as the basis for wage determinations presents WHD with a number of operational issues about setting wage rates. For example, WHD officials said they need to evaluate whether the level of data provided through OES by occupation or construction type would be sufficient to comply with wage determination rate requirements. Also, because OES provides no information on fringe benefits, WHD officials said they would have to link OES wage data with other data sources that include fringe benefit data to set wage rates that comprise all relevant wage data and accurately reflect local conditions. WHD officials believe that the only adequate source of fringe benefit data is NCS; but because NCS data are available only at the national level or for limited geographic areas, their usefulness may be limited.

Labor officials also said that they need to develop clear plans about how to ensure that the track or efforts they choose are the best options to improve the timeliness and accuracy of wage determinations. Accordingly, they have established general performance measures that the officials said will be used to gauge Labor's process improvements and guide the final decision about which track to select. The measures seek to ensure that, by fiscal year 2002, Labor will be able to

- survey each area of the country for all four types of construction at least every 3 years, and
- issue 90 percent of all wage determinations within 60 days of Labor's national WHD office receiving wage survey data from regional offices.<sup>9</sup>

Regarding the first measure, WHD officials believe that conducting surveys and issuing the resulting wage determinations every 3 years will lead to wage determinations that validly represent locally prevailing wage rates. Regarding the second measure, WHD officials reported that WHD currently issues almost all wage determinations within 60 days of receiving the information from regional offices and they would seek to maintain this level of timeliness at least 90 percent of the time despite the potentially significant increase in data volume resulting from more frequent, larger surveys.

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<sup>9</sup>Under the current process, the national office receives the survey data after the regional office has collected and analyzed the survey data and calculated recommended wage rate determinations.

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According to WHD officials, the first measure represents an improvement in timeliness in the wage determination process given that wage determinations are based on survey data that are, on average, 7 years old. Officials recognized, however, that they would have to consider other indicators to ensure that more frequent, larger surveys result in more accurate data and greater survey participation, especially if efforts under both tracks enable them to conduct surveys every 3 years. Nevertheless, they believe it is too soon to define these other indicators before the results of the individual efforts are available. The second measure provides some indication of timeliness but does not reflect improved accuracy or participation. In addition, WHD officials said they are not sure how this measure would help assess efforts under the BLS track, since under this scenario, BLS—not WHD’s regional offices—would be providing the wage data to WHD’s national office.

To develop baseline data that will be used to assess the progress individual efforts achieve, WHD has also recently started to model the process; this involves tracking segments of the current WHD wage determination process to identify and address bottlenecks. For example, WHD is collecting data from its Oregon and Colorado surveys to estimate the time it takes WHD wage analysts to conduct various survey activities and the percentage of employers submitting usable wage data. However, these data may not be appropriate baseline data because they include a mix of traditional and new practices, and represent data from only two surveys. Also, given that WHD has little useful information on the time needed to issue a wage determination, the accuracy of wage determinations, or survey participation rates, it is not clear how this information will allow WHD to assess the extent to which the tracks improve the process.

Finally, Labor has begun to identify other key factors, such as cost, that will need to be addressed as part of its decision-making process, but it has not yet set priorities or assigned weights to these factors. These factors are important if both tracks demonstrate some improvements in timeliness and accuracy, which they likely will, or if WHD must consider certain trade-offs—for example, if one track achieves greater levels of accuracy, but is significantly more expensive or resource-intensive. However, Labor believes it is premature to do so until it has seen the results of all of the individual efforts.

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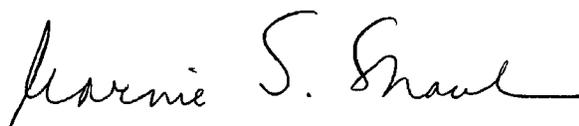
## Agency Comments

We provided a draft of this report to the Department of Labor for its review and comment. In its comments, Labor stated that our report provided an excellent summary of its recent efforts to improve the accuracy and timeliness of Davis-Bacon wage determinations. Labor also reiterated that it must first establish whether both approaches it is undertaking, or some combination of the two, will be feasible to meet the needs of the Davis-Bacon wage determination program before it can assess the relative merits of each. Labor also noted that it had initiated improvements to the Davis-Bacon wage determination process before the congressional conference report directive. We acknowledge that Labor initiated prior efforts to improve the process; however, the scope of this report focuses only on the status of Labor's efforts to respond to the congressional directive. Labor officials also provided technical comments and corrections, which we incorporated as appropriate. Labor's comments are included in their entirety in appendix II.

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We are sending copies of this report to the Honorable Alexis M. Herman, Secretary of Labor; the Honorable Bernard E. Anderson, Assistant Secretary for Employment Standards; the Honorable Katherine G. Abraham, Commissioner of the Bureau of Labor Statistics; appropriate congressional committees; and other interested parties.

Please call me or Larry Horinko, Assistant Director, at (202) 512-7014 if you or your staffs have any questions about this report. Other major contributors to this report were Lori Rectanus, Ronni Schwartz, and Robert C. Crystal.



Marnie S. Shaul  
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Education, Workforce, and  
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## Abbreviations

BLS	Bureau of Labor Statistics
CATI	Computer-Assisted Telephone Inquiry
CBA	collective bargaining agreement
CRA	Construction Resources Analysis
NCS	National Compensation Survey
OES	Occupational Employment Statistics
OMB	Office of Management and Budget
RSPR	Regional Survey Planning Report
SCA	Service Contract Act
UI	unemployment insurance
WHD	Wage and Hour Division

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# Labor's Wage Determination Process Under the Davis-Bacon Act

The Davis-Bacon Act requires that workers employed on federal construction contracts valued in excess of \$2,000 be paid, at a minimum, wages and fringe benefits that the Secretary of Labor determines to be prevailing for corresponding classes of workers employed on projects that are similar in character to the contract work in the geographic area where the construction takes place.

To determine the prevailing wages and fringe benefits in various areas throughout the United States, Labor's Wage and Hour Division (WHD) periodically surveys wages and fringe benefits paid to workers in four basic types of construction (building, residential, highway, and heavy<sup>10</sup>). Labor has designated the county as the basic geographic unit for data collection, although Labor also conducts some surveys setting prevailing wage rates for groups of counties. Wage rates are issued for a series of job classifications in the four basic types of construction, so each wage determination requires the calculation of prevailing wages for many different trades, such as electrician, plumber, and carpenter. For example, one heavy construction survey in Louisiana identified wage rates for 89 different construction trade occupations. Because there are over 3,000 counties, WHD would need to conduct more than 12,000 surveys each year if every county in the United States was to be surveyed. In fiscal year 1997, Labor issued 1,860 individual rates in wage determinations based on 43 area wage surveys. Labor's wage determination process consists of four basic stages:

- planning and scheduling surveys of employers' wages and fringe benefits in similar job classifications on comparable construction projects;
- conducting surveys of employers and third parties, such as representatives of unions or industry associations, on construction projects;
- clarifying and analyzing respondents' data; and
- issuing the wage determinations.<sup>11</sup>

## Stage 1: Planning and Scheduling Survey Activity

Labor annually identifies the geographic areas that it plans to survey. Because it has limited resources, a key task of Labor's staff is to identify those counties and types of construction most in need of a new survey. In

<sup>10</sup>Heavy construction is a catch-all grouping that includes projects not properly classified under the other three types of construction; for example, dredging and sewer projects.

<sup>11</sup>A wage determination is the listing of wage and fringe benefit rates for each job classification of workers that the WHD administrator has determined to be prevailing in a given area for a type of construction. Each wage determination involves establishing prevailing wage rates for many occupations.

selecting areas for inclusion in planned surveys, the regional offices establish priorities based on criteria that include

- the need for a new survey according to the volume of federal construction in the area;
- the age of the most recent survey; and
- requests or complaints from interested parties, such as state and county agencies, unions, and contractors' associations.

If a type of construction in a particular county is covered by a wage determination based on collective bargaining agreements (CBA) and Labor has no indication that the situation has changed such that a wage determination should now reflect nonunion rates, an updated wage determination may be based on updated CBAs. The unions submit their updated CBAs directly to the national office. Planning begins in the third quarter of each fiscal year when the national office provides regional offices with the Regional Survey Planning Report (RSPR). The RSPR provides data obtained under contract with the F.W. Dodge Division of McGraw-Hill Information Systems that show the number and value of active construction projects by region, state, county, and type of construction, and the percentage of total construction that is federally financed.<sup>12</sup> Labor uses the F.W. Dodge data because F.W. Dodge has the only continuous nationwide database on construction projects. Labor supplements these data with additional information provided to the national office by federal agencies regarding their planned construction projects. The RSPR also includes the date of the most recent survey for each county and whether the existing wage determinations for each county are union, nonunion, or a combination of both.

Using this information, the regional offices, in consultation with the national office, designate the counties and type of construction to be included in the upcoming regional surveys. Although Labor usually designates the county as the geographic unit for data collection, in some cases more than one county is included in a specific data-gathering effort.

The regional offices determine the resources required to conduct each of the priority surveys. When all available resources have been allocated, the regional offices transmit to the national office for review their schedules of the surveys they plan to do: the types of construction, geographic area, and time frames of when they plan to survey each defined area.

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<sup>12</sup>The F.W. Dodge data consider a project to be active from the time on-site work begins (ground breaking) until it is released to and accepted by the owner.

When Labor's national office has approved all regional offices' preliminary survey schedules, it assembles them in a national survey schedule that it transmits to interested parties, such as major national contractor and labor organizations, for their review and comment. The national office transmits any comments or suggestions received from interested parties to its affected regional offices. Organizations proposing modifications of the schedule are asked to support their perceived need for alternative survey locations by providing sufficient evidence of the wages paid to workers in the type of construction in question in the area where they want a survey conducted.

The target date for establishing the final fiscal year survey schedule is September 15. Once the national office has established the final schedule, each regional office starts to obtain the information needed to generate lists of survey participants for each of the surveys it plans to conduct. Each regional office then contacts Construction Resources Analysis (CRA) at the University of Tennessee. CRA applies a model to the F.W. Dodge data to identify all construction projects in the start-up phase<sup>13</sup> (within the parameters specified in the regional office's request) and produces a file of projects that were active during a given time period. The time period may be 3 months or longer, depending on whether the number of projects active during the period is adequate for a particular survey. The information CRA solicits from F.W. Dodge is provided directly to the regional offices and includes data on construction projects such as the location, type of construction, and cost; the name and address of the contractor or other key firm<sup>14</sup> associated with the project; and if available, the subcontractors.<sup>15</sup>

When the regional offices receive this information, Labor analysts screen the data to make sure the projects meet four basic criteria for each survey. The project must

- be of the correct construction type,
- be in the correct geographic area,
- fall within the survey time frame, and
- have a value of at least \$2,000.

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<sup>13</sup>F.W. Dodge defines the start-up phase as one in which the construction will commence within 60 days.

<sup>14</sup>Other examples of key firms would be the owner or architect of the project.

<sup>15</sup>A subcontractor is an employer that has a contractual agreement with the project's prime employer. On a typical construction project, most employees working on the job will be employees of subcontractors.

In addition to obtaining files of active projects, Labor's regional analysts are encouraged to research files of unsolicited information that may contain payment evidence submitted in the past that is within the scope of a current survey.

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## Stage 2: Conducting Surveys of Participants

When the regional offices are ready to conduct the new surveys, they send a WD-10 wage reporting form to each contractor (or employer) identified by the F.W. Dodge reports as being in charge of one of the projects to be surveyed, together with a transmittal letter that requests information on the projects listed on the enclosed WD-10, a list of subcontractors that may have worked on each project, and information on any additional projects the contractor may have. Every WD-10 that goes out for a particular project has on it a unique project code, the location of the project, and a description of the project. Data requested on the WD-10 include a description of the project and its location, in order to assure the regional office that each project for which it receives data is the same as the one it intended to have in the survey. The WD-10 also requests the contractor's name and address; the value of the project; the starting and completion date; the wage rate, including fringe benefits, paid to each worker; and the number of workers employed in each classification during the week of peak activity for that classification. The week of peak or highest activity for each job classification is the week when the most workers were employed in that particular classification. The survey respondent is also asked to indicate which of four categories of construction the project belongs in.

In addition, about 2 weeks before a survey is scheduled to begin, regional offices send transmittal letters to congressional representatives and a list of third parties, such as national and local unions and industry associations, to encourage participation. Labor encourages the submission of wage information from third parties, including unions and contractors' associations that are not the direct employers of the workers in question, in an effort to collect as much data as possible.<sup>16</sup> Third parties may obtain wage data for their own purposes, such as for union officials that need wage information to correctly assess workers' contributions toward fringe benefits. Third-party data generally serve as a check on data submitted by contractors if both submit data on the same project. Regional offices also

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<sup>16</sup>Labor officials said that third-party data submissions generally account for about one-third of all wage survey submissions. The percentage of survey respondents that are third parties can be substantial for surveys of metropolitan areas.

organize local meetings with members of interested organizations to explain the purpose of the surveys and how to fill out the WD-10.

Because the F.W. Dodge reports do not identify all the subcontractors, both the WD-10 and the transmittal letter ask for a list of subcontractors on each project. Subcontractors generally employ the largest portion of on-site workers, so their identification is considered critical to the success of the wage survey. Analysts send WD-10s and transmittal letters to subcontractors as subcontractor lists are received. Transmittal letters also state that survey respondents will receive an acknowledgment of data submitted and that the respondent should contact the regional office if one is not received. Providing an acknowledgement is intended to reduce the number of complaints that data furnished were not considered in the survey. Labor analysts send contractors who do not respond to the survey a second WD-10 and a follow-up letter. If they still do not respond, analysts attempt to contact them by telephone to encourage them to participate.

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### **Stage 3: Clarifying and Analyzing Respondents' Data**

As Labor's wage analysts receive the completed WD-10s in the regional offices, they review and analyze the data. Labor's training manual guides the analyst through each block of the WD-10, pointing out problems to look for in data received for each one. Analysts are instructed to write the information they received by telephone directly on the WD-10 in a contrasting color of ink, indicating the source and the date received. They are instructed to draw one line through the old information so it is still legible.

Labor's wage analysts review the WD-10 to identify missing information, ambiguities, and inconsistencies that they then attempt to clarify or verify by telephone. For example, an analyst may call a contractor for a description of the work done on a project in order to confirm that a particular project has been classified according to the correct construction type. An analyst may also call a contractor to ask about the specific type of work that was performed by an employee in a classification that is reported in generic terms, such as a mechanic. In that situation, the analyst would specify on the WD-10 whether the employee is a plumber mechanic or some other type of mechanic to make sure that the wages reported are appropriately matched to the occupations that are paid those rates.

Similarly, because of variations in area practice, analysts may routinely call to find out what type of work the employees in certain classifications

are doing. This is necessary because in some areas of the country, some contractors have established particular duties within a traditional general craft as a specialty craft (for example, drywall finishers as a specialty craft under the general craft of painters). Specialty crafts are usually paid at lower rates than general crafts.

Labor verifies wage data from a sample of wage data forms submitted by contractors and third parties by both telephone and on-site review. For telephone verification, Labor selects a 10-percent sample of wage data submissions from third parties and a 2-percent sample of submissions from contractors. They verify wage data by telephone and, where appropriate, ask that supporting payroll documents be mailed to Labor. For on-site verification, Labor selects at least a 10-percent sample of wage data forms submitted by contractors and third parties. A private accounting firm was hired to conduct on-site reviews. Auditors from the firm conduct an on-site review of payroll records at the contractor's work site to verify wage survey data. For both telephone and on-site verification, Labor's procedures require that the data be verified only with the contractors, not with the third parties. Any discrepancies between the original WD-10 submitted and the payroll records or contractor's testimony are recorded by the wage analyst and auditor. WHD reviews the discrepancies and makes changes, as necessary.

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## Data Are Recorded

When an analyst is satisfied that all issues with respect to the data on the WD-10 for a particular project have been resolved, the data are recorded and tabulated. The analyst enters them into a computer that generates a Project Wage Summary, Form WD-22a, for reporting survey information on a project-by-project basis. The WD-22a has a section for reporting the name, location, and value of each project; the number of employees who were in each classification; and their hourly wage and fringe benefits. It also has a section for reporting the date of completion or percentage of the project completed, whichever is applicable.

At least 2 weeks before the survey cutoff date, the response rate for the survey is calculated to allow time to take follow-up action if the response rate is determined to be inadequate. For example, WHD operational procedures specify that if data gathered for building or residential surveys provide less than a 25-percent usable response rate or less than one-half of

the required key classes of workers,<sup>17</sup> the analyst will need to obtain data from comparable federally financed projects in the same locality.<sup>18</sup>

If an analyst has no data on occupations identified by Labor as key classification of workers for the type of construction being surveyed, Labor's procedures require him or her to call all the subcontractors included in the survey who do that type of work and from whom data are missing, to try to get data. If the analyst still cannot obtain sufficient data on at least one-half of the required key classes, consideration must be given to expanding the scope of the survey geographically to have more crafts represented. If the overall usable response rate for the survey is 25 percent or more, data on three workers from two contractors are considered sufficient to establish a wage rate for a key occupation. After the survey cutoff date, when all valid data have been recorded and tabulated, the final survey response rate is generated by computer. Typically, a WHD analyst takes 4 months to conduct a survey.

Once all the valid project data have been entered, the prevailing wage rate for each classification of worker can be generated by computer. If a majority of workers is paid at a single rate in a job classification, that rate prevails for the classification. The wage rate needs to be the same, to the penny, to constitute a single rate. Lacking such a majority, a weighted average wage rate for that occupation is calculated.

The prevailing wage rate for each occupation is compiled in a computer-generated comprehensive report for each survey, called the Wage Compilation Report, Form WD-22. The WD-22 lists each occupation and the wage rate recommended for that occupation by the regional office. The form indicates whether the rate is based on a majority or a weighted average, and provides the number of workers for which data were used to compute each wage rate. The regional offices transmit survey results to the national office, which reviews the results and recommends further action if needed.

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## **Stage 4: Issuing the Wage Determinations**

The national office issues final wage determinations after reviewing recommended wage rates submitted by the regions. There is no review or comment period provided to interested parties before they go into effect. Access to wage determinations is provided both in printed reports

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<sup>17</sup>Labor defines key classes of workers as those determined necessary for each of the four types of construction surveys.

<sup>18</sup>Since 1985, a regulation has prohibited, to the extent practicable, the use of wages for federal construction in determining prevailing wages.

available from the U.S. Superintendent of Documents and on an electronic bulletin board. Notices of modifications to general wage determinations are published in the Federal Register.

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## Labor's Appeals Process

An interested party may seek review and reconsideration of Labor's final wage determinations. The national office and the regional offices accept protests and inquiries relating to wage determinations at any time after a wage determination has been issued. The national office refers all the complaints it receives to the relevant regional offices for resolution. Most inquiries are received informally by telephone, although some are written complaints. Regional office staff said that a majority of those with concerns appear to have their problems resolved after examining the information (collected on form WD-22a) for the survey at issue, because they do not pursue the matter further. If an examination of the forms does not satisfy the complainant's concerns, the complainant is required to provide information to support the claim that a wage determination needs to be revised. The national office modifies published wage determinations in cases where regional offices, on the basis of evidence provided, recommend that it do so, such as when it has been shown that a wage determination was the result of an error by the regional office. Some of those who seek to have wage rates revised are told that a new survey will be necessary to resolve the particular issue that they raised. For example, if the wage rates of one segment of the construction industry are not adequately reflected in survey results because of a low rate of participation in the survey by that segment of the industry, a new survey would be necessary to resolve this issue.

Those who are not satisfied with the decision of the regional office may write to the national office to request a ruling by Labor's WHD administrator. If the revision of a wage rate has been sought and denied by a ruling of Labor's WHD administrator, an interested party has 30 days to appeal to the Administrative Review Board for review of the wage determination. The board consists of three members appointed by the Secretary of Labor. The Solicitor of Labor represents WHD in cases involving wage determinations before the Administrative Review Board. A petition to the board for review of a wage determination must be in writing and accompanied by supporting data, views, or arguments. All decisions by the Administrative Review Board are final.

# Comments From the Department of Labor

**U.S. Department of Labor**

Assistant Secretary for  
Employment Standards  
Washington, D.C. 20210



APR 23 1996

Ms. Cynthia Fagnoni  
Director, HEHS/EWIS  
United States General Accounting Office  
441 G Street N.W., Room 5928  
Washington, DC 20548

Dear Ms. Fagnoni:

Thank you for the opportunity to comment on your draft report entitled *Davis-Bacon Act: Labor's Actions Have Potential to Improve Accuracy and Timeliness of Wage Determinations*.

Your report provides an excellent summary of our recent efforts to improve the accuracy and timeliness of Davis-Bacon wage determinations. We are encouraged by your conclusion that the two tracks which we are currently pursuing have the potential to improve both accuracy and timeliness. We certainly agree with your conclusion and we are working diligently to ensure that each track is fully developed and carefully analyzed. When this process is completed, we expect to be able to make an informed decision and select the option or combination of approaches that have the best potential for improving the accuracy, reliability, and timeliness of Davis-Bacon wage determinations.

In addition to a few minor technical comments previously discussed, we suggest the following to place this issue in context. In several places, the report states that the "earliest efforts [in the current reinvention/reengineering process] began in 1996." While this statement is correct with respect to most of our recent initiatives, it is also true that for more than a decade the Department of Labor has been implementing significant improvements in the Davis-Bacon wage survey/determination program. Development of a Manual of Operations, expansion of the number of published general wage determinations, and implementation of a system to make published wage determinations available electronically are just a few of the improvements that had been implemented prior to the current reengineering and reinvention initiatives. The current initiatives really build on, continue and expand these earlier improvement efforts. Initial development of our current initiatives commenced before funds earmarked for this purpose were first appropriated in fiscal year 1997 and the House Appropriations Conference report directed the Department of Labor to test and implement ways to improve the overall wage determination process.

*Working for America's Workforce*

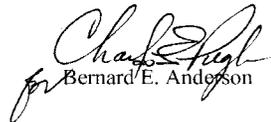
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**Appendix II**  
**Comments From the Department of Labor**

As described in your report, the Department of Labor is currently developing two possible options for improving the accuracy, reliability, and timeliness of Davis-Bacon wage determinations. We agree with your conclusion that these options have the potential to accomplish this goal. At the present time, however, sufficient data are not available to state conclusively that both options are, in fact, feasible – either in operations or cost. As you note, data from the full Occupational Employment Statistics survey sample will not be available until 2000. Once we can ascertain whether both options are feasible, we will assess the relative merits based on our established performance criteria of accuracy, reliability, and timeliness as well as administrability, continuity and -- certainly -- cost. However, we must first cross the threshold of establishing that both approaches, or some combination of the two, provide a feasible basis for meeting the needs of the Davis-Bacon wage determination program.

Again thank you for the opportunity to comment on your draft report. We are encouraged by the progress, thus far, in exploring these two alternatives and we appreciate your continuing, thoughtful input as we perform this work.

Sincerely,

  
for Bernard E. Anderson

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# Related GAO Products

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Davis-Bacon Act: Labor Now Verifies Wage Data, but Verification Process Needs Improvement ([GAO/HEHS-99-21](#), Jan. 11, 1999).

Davis-Bacon Act: Process Changes Could Address Vulnerability to Use of Inaccurate Data in Setting Prevailing Wage Rates ([GAO/T-HEHS-96-166](#), June 20, 1996).

Davis-Bacon Job Targeting ([GAO/HEHS-96-151R](#), June 3, 1996).

Davis-Bacon Act: Process Changes Could Raise Confidence That Wage Rates Are Based on Accurate Data ([GAO/HEHS-96-130](#), May 31, 1996).

Davis-Bacon Act ([GAO/HEHS-94-95R](#), Feb. 7, 1994).

The Davis-Bacon Act Should Be Repealed ([GAO/HRD-79-18](#), Apr. 17, 1979).

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