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March 10, 2021

Congressional Committees

DAVIS-BACON ACT: Army Corps of Engineers Provides Guidance on Wage Requirements, but Opportunities Exist to Improve Monitoring

The Davis-Bacon Act, as amended (the Act), requires contractors working on certain federally funded construction projects to pay their workers at least locally prevailing wages, as determined by the Department of Labor (DOL) for various job categories.[1] The Act was enacted, in part, to protect workers from contractors hiring lower-wage workers from outside their local area, thus obtaining federal construction contracts by underbidding competitors who pay local wage rates. Each federal agency that contracts for construction work covered by the Act is primarily responsible for enforcing the Act's requirements.

According to our analyses of contract data, the Army Corps of Engineers (Corps) obligated over $11 billion for domestic construction contracts in fiscal year 2019, more than any other component within the Department of Defense (DOD).[2] For example, the Corps' Civil Works program contracts with civilian companies for the majority of its construction projects, including those to reduce flood risk and facilitate commercial navigation. However, the extent to which the Corps monitors and enforces its contractors' compliance with the Act's requirements has not been fully evaluated.

The conference report accompanying the National Defense Authorization Act for fiscal year 2020 included a provision for GAO to study the contracting practices of the Corps, with a specific focus on how the Corps monitors and enforces the Davis-Bacon Act. This report examines (1) what guidance the Army Corps of Engineers has in place for Davis-Bacon Act monitoring and enforcement, and (2) how selected Corps districts reported monitoring and enforcing compliance with the Davis-Bacon Act. This report transmits the materials we used to brief your staff in December 2020 (see enc. 1).

To examine the Corps guidance, we reviewed relevant documents, such as Corps headquarters guidance documents about the Act, DOL guidance, and relevant federal laws and regulations.[3]

[1]See Pub. L. No. 71-798, 46 Stat. 1494 (1931) (codified as amended at 40 U.S.C. §§ 3141-3148).

[2]Overall, DOD obligated more contract dollars than any other federal agency in fiscal year 2019. Obligation amounts are based on GAO analysis of a federal database on government contracting, the Federal Procurement Data System-Next Generation. The Corps has both military and civilian responsibilities. The Assistant Secretary of the Army for Civil Works sets the strategic direction for the Civil Works program and has principal responsibility for the overall supervision of functions relating to the Army's Civil Works Program. The Chief of Engineers is responsible for execution of the civil works and military missions.

[3]Corps guidance in this report refers to the following documents: Army Corps of Engineers, Labor Relations in Construction, ER 1180-1-8 (Washington, D.C.: Dec. 30, 2016), supplemented by Army Corps of Engineers,

We assessed Corps guidance against the Act and the Federal Acquisition Regulation. The information and communication component of internal control—the information management communicates to achieve objectives—was significant to this objective. We also assessed the agency's guidance against these principles.[4] Specifically, we examined the extent to which Corps guidance communicated information to achieve objectives and the extent to which it directed staff to document the results of ongoing monitoring.

We also interviewed Corps headquarters officials and DOL officials and four external stakeholder groups: two labor unions and two trade associations. We selected unions and associations based on expert referral and our own research to include a range of perspectives. Lastly, we obtained and analyzed the 10 most recent semi-annual enforcement reports that the Department of the Army (Army, which includes the Corps) submitted to DOL.[5]

To examine the practices of selected districts, we conducted semi-structured interviews with a non-generalizable sample of four Corps district offices: Louisville, New Orleans, New York, and Walla Walla. We also reviewed relevant documents from these four districts. We selected these districts based on information from the Corps website about their activities and locations, as well as our analysis of a federal database on government contracting.[6] The four districts represent various geographical areas in the U.S. and a mixture of the volume and type of construction contracts (e.g. military and civil projects). While the four districts may not be fully representative of the Corps, they provide illustrative examples of the monitoring and enforcement practices carried out by district officials.

We conducted this performance audit from May 2020 to March 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The Davis-Bacon Act (the Act), as amended, generally applies to domestic federally-funded or assisted construction contracts in excess of $2,000, and workers' classifications are key to assuring contractors pay them the prevailing local wage. A worker's job classification is based

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Area/Resident Engineer Management Guide, EP 415-1-260 (Washington, D.C.: Mar. 31, 2016). We also reviewed Army Corps of Engineers, Construction Quality Management, ER 1180-1-6 (Washington, D.C.: Sep. 30, 1995).

[4]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

[5]These reports covered mid-fiscal year 2015 to mid-fiscal year 2020 (Apr. 1, 2015 through Mar. 31, 2020). While the reports cover the entire Army, the Corps accounted for over 90 percent of the Army contracts subject to the Act from fiscal years 2015 through 2019, according to our analysis of a federal database on government contracting. The reports include information determined by DOL, such as the amount and number of employees due wage restitution under the Act. For related enforcement information reported specifically by the Corps, see enclosure 2. We assessed the reliability of the semi-annual enforcement reports data by reviewing relevant documentation, interviewing knowledgeable agency officials, and manually testing the data. We found the data in these reports to be reliable for our purposes.

[6]Specifically, we analyzed data on construction contract volume (contract numbers and obligation amounts) from fiscal years 2015 through 2019. These data were from Federal Procurement Data System-Next Generation. We assessed the reliability of the data by reviewing relevant documentation and manually testing the data, and we found them reliable for our purposes.

on the type of work performed, and follows local area practices (e.g., how local contractors typically classify the work) used by firms in wage determinations. DOL determines prevailing local wages for multiple job classifications and compiles them to create a wage determination. The wage rates are based on a survey of contractors and interested parties (e.g., unions) in a given area.[7]

Agencies, such as the Corps, and their contracting officers or quality assurance representatives at the site of work are primarily responsible for monitoring contractors' compliance with the Act and for enforcing the Act.[8] The Corps' domestic structure is organized into three tiers: headquarters in Washington, D.C.; eight regional divisions; and 38 local district offices. Each Corps district conducts its own efforts to monitor and enforce the Act, with headquarters and the divisions providing additional support in some instances, such as when contractors and district staff disagree with the proposed classification and rate.

The Federal Acquisition Regulation lays out several monitoring and enforcement activities that agencies are required to fulfill under the Act. Agencies are to conduct initial checks, for example, to ensure the contractor is not prohibited from doing the work (e.g., due to prior violations), to ensure contracts contain the required clauses, and to ensure the proper wage determination is applied.[9] Monitoring activities include:

- Employee interviews to determine correctness of specified elements (classifications, rates of pay, fringe benefits payments, and hours worked).
- Payroll reviews to determine correctness of the elements listed in the previous bullet, as well as deductions, and to check for disproportionate employment of laborers, apprentices, or trainees (as compared to journeymen).
- On-site inspections to check the type of work performed, number and classification of workers, and fulfillment of posting requirements (e.g., wage rates visibly posted at the job site).
- Investigations when monitoring indicates that substantial or willful violations may have occurred or violations have not been corrected.

Agencies are also responsible for compiling and sending enforcement data to DOL. DOL may conduct an investigation on its own initiative or request an agency to conduct an investigation.

Agencies and DOL also share responsibility for some enforcement activities under the Act. For example, both the agency and DOL may request that back wages be paid to employees who were underpaid or require the contracting officer to withhold payment to contractors for wage underpayment or for not submitting weekly payroll records. Agencies and DOL can refer serious violations to the Attorney General. Contractors can also be debarred (disqualified from receiving federal contracts for 3 years) if DOL finds they have disregarded their obligations to employees. Examples of violations that have resulted in debarment include contractors falsifying payroll

[7]We previously reported on challenges in DOL's wage determination process, including the timeliness and representativeness of the data. To improve these data challenges, we made a recommendation to DOL and raised a matter for Congressional consideration, both of which were implemented. GAO, *Davis-Bacon Act: Methodological Changes Needed to Improve Wage Survey*, GAO-11-152 (Washington, D.C.: Mar. 22, 2011).

[8]Prime contractors are responsible for enforcing their subcontractors' compliance.

[9]For example, required clauses include a description of the requirement to pay workers at least weekly and also to submit payrolls to the agency on a weekly basis.

records or receiving a kickback of wages. The System for Award Management (SAM), available online at SAM.gov, lists contractors debarred for any reason.[10]

Army Corps of Engineers Provides Guidance on Construction Wage Requirements, but Improved Information Could Better Ensure Effective Monitoring

Guidance documents provided by the Army Corps of Engineers on construction wage requirements describe how agency staff should monitor and enforce compliance, but sections on monitoring lack information that could help the Corps better ensure that employees working for federal construction contractors are paid the prevailing wage. For example, the documents describe the Federal Acquisition Regulation requirements for reviewing workers' payroll records but lack specificity on selecting payroll records to review. Specifically, the documents do not include parameters on how to determine the percentage of payroll records to review or on how to select a sample to review. Internal control standards state that management should internally communicate the necessary information to achieve objectives. Corps Headquarters officials said they give districts autonomy to determine their own implementation practices for payroll reviews, which may vary based on local factors such as the size of a project or number of employees, and they have not considered providing additional information related to payroll reviews. However, information about these local factors is not in the Corps' payroll review guidance. Without such information, some districts may not have considered local factors while others may be unclear about payroll review selection. As a result, the Corps may not be monitoring contractors' adherence to the Act as effectively as it could be. For example, the Corps may be missing an opportunity to strengthen payroll reviews by efficiently targeting monitoring resources (e.g., to contractors with the greatest risk of noncompliance).

Similarly, the documents reflect the payroll review requirements but lack specificity on payroll review procedures. There is no direction for Corps district staff to use a standard form to document each payroll review, nor is there a procedure to document that all elements of the payroll review have been performed (e.g., checking the correctness of classifications and wage rates).[11] Federal internal control standards state that agencies should document the results of ongoing monitoring. However, Corps headquarters officials said they give districts autonomy to determine their own implementation practices for payroll reviews, and they have not considered providing additional information on payroll review procedures. As a result, the Corps may not be monitoring contractors' adherence to the Act as consistently as it could be. Specifically, the Corps lacks assurance that all districts' payroll reviews consistently document completion of every element.

Corps documents generally reflect the requirements for on-site inspections but exclude aspects that could improve payroll reviews. Corps' documents for the on-site inspection process provide information on checking for posting requirements (e.g., posters about wage rates), but lack directions for checking the number and classification of workers and the type of work performed, although the documents direct Corps staff to examine payrolls against these on-site observations. Corps forms for civil construction sites direct staff to document some of this

[10]We previously reported on limitations with the System for Award Management, including potential challenges identifying debarred contractors that are not listed by a unique identifier. We recommended DOL take steps to include such a unique identifier whenever appropriate and available, and DOL agreed. See GAO, *Federal Contracting: Actions Needed to Improve Department of Labor's Enforcement of Service Worker Wage Protections*, GAO-21-11 (Washington, D.C.: Oct. 29, 2020).

[11]The Corps uses a form to record specific payroll data. However, this form does not include each element of payroll reviews described in the Corps' guidance.

information, but Corps forms for military construction sites do not include directions to document this information.[12] Federal internal control standards state that management should internally communicate the necessary information to enable staff to perform key roles and achieve the entity's objectives. Corps Headquarters officials said they defer to districts about this process and that additional information may not be necessary because during on-site inspections, employee interviews collect information on worker classification that is documented on a standard form. However, the form does not document the number and classification of every worker on-site–only the workers interviewed. As a result, the Corps may lack assurance that all districts fully use on-site inspections to ensure contractors' compliance with the Act. Lacking a process to consistently document the number and classification of workers during on-site inspections may prevent the Corps from following its guidance to compare payroll reviews with on-site inspections.

The Corps' guidance documents also describe other required monitoring and enforcement activities under the Act, such as investigations into potential violations and requesting that back wages be paid to employees if warranted. For example, Corps guidance documents on investigations, including investigating complaints, include a description of the agency's responsibilities under the Act. Corps officials said their initial response to any complaint typically occurs within 3-5 business days. From fiscal year 2015 through 2019, the Corps reported collectively conducting an average of 179 investigations per year and has not recommended any contractor for debarment.[13]

Selected Districts Reported Developing Individualized Practices to Monitor Compliance with Construction Wage Requirements but Generally Uniform Enforcement Practices

In implementing Corps guidance, officials from four selected districts described variation in their on-the-ground monitoring practices. For example, officials in the four districts described wide variation in the proportion of payroll records reviewed and in how they select a sample to review. Officials in one district said they aim to review 100 percent of payroll records, while officials in another district said they aim to review about 20 percent of payroll records, which they review in the order records are received. District officials also reported varied procedures for payroll reviews, with officials in two selected districts reporting use of supplementary checklists to guide and document their payroll reviews. District officials also reported conducting on-site inspections differently. Officials in the four districts explained that they generally observe workers at the construction site on a daily basis, but officials in three districts said they rely on contractors' records to document some on-site monitoring information, such as the number and classification of workers.

Regarding enforcement, officials in all four selected districts reported generally uniform practices. When they notice a potential violation of the Act, they said they notify the contractors, who typically correct the issue promptly. Officials in these districts also said that they withhold money from contractors they suspect to be noncompliant until workers are paid wages due and that withholding money is a major tool for enforcing the Act.

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[12]A Corps form for civil construction includes the number and classification of workers onsite while, the Corps' version for military construction includes neither this nor the type of work performed. Corps officials said a Quality Control form documents the number and classification of workers onsite. However, the contractor completes this form and Corps' guidance notes that Corps staff should review the form.

[13]For Corps-reported information on the number of contractors penalized for violations of the Act, see enclosure 2.

Conclusions

The Corps is responsible for ensuring that the contractors it pays billions of dollars to are paying their employees local prevailing wages. Monitoring, including payroll reviews and on-site inspections, are key to ensuring that the Corps enforces contractors' compliance with the Davis-Bacon Act (the Act). While Corps guidance describes Federal Acquisition Regulation requirements for monitoring practices, Corps information on how to select and conduct payroll reviews and how to document on-site inspections may not be sufficient for Corps districts to ensure that monitoring is as effective and consistent as it could be.

Specifically, Corps documents lack information regarding the selection of payroll records to review, procedures for payroll reviews, and how to document on-site inspections. Without information on parameters for selecting payroll records to review, such as how to consider local factors, officials from the four Corps districts we spoke to described wide variation. In the absence of sufficient information on conducting and documenting payroll reviews (e.g., that they contain the correct wage rates), officials at two of the four districts used supplementary materials to guide and document their payroll reviews. In the absence of directions to consistently document on-the-ground conditions, like the number of employees on site, district officials we spoke with may not be fully using on-site inspections to ensure contractors' compliance with the Act. Overall, this may lead to inconsistent monitoring of contractors' compliance with the Act or reduce the effectiveness of monitoring. Improving aspects of these key monitoring activities may provide the Corps opportunities to better ensure that employees working for federal construction contractors are paid the prevailing wage.

Recommendations for Executive Action

We are making the following three recommendations to the Department of Defense:

- The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the Army Corps of Engineers provide clarifying information about determining the proportion of payroll records to review and selecting a sample to review. (Recommendation 1)
- The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the Army Corps of Engineers clarify payroll review procedures. For example, this could include a checklist with the key elements to review and document, such as correctness of wage rates. (Recommendation 2)
- The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the Army Corps of Engineers establish a process for consistently documenting on-site inspections, including the number of workers and type of work performed. (Recommendation 3)

Agency Comments and Our Evaluation

We provided a draft of this report to the Department of Defense (DOD) and the Department of Labor (DOL) for review and comment. DOL said they had no comments on the report. In DOD's comments, reproduced in enclosure 3, DOD generally concurred with the report's recommendations. DOD also provided technical comments, which we incorporated as appropriate.

In response to the third recommendation to establish a process for consistently documenting on-site inspections, including the number of workers and type of work performed, DOD concurred. DOD stated that the Corps currently has procedures in place for consistently

documenting on-site inspections, including the number of workers and type of work performed, as well as forms to consistently track this information. DOD also stated that it plans to consistently reiterate these procedures in ongoing trainings. As noted in our report, the Corps' guidance includes directions to document some information. We continue to believe that the existing procedures and forms do not constitute a process that staff can consistently follow and that the absence of such a process could lead to inconsistent documentation of on-site inspections. While training is a step in the right direction, we believe the recommendation would improve the agency's monitoring efforts.

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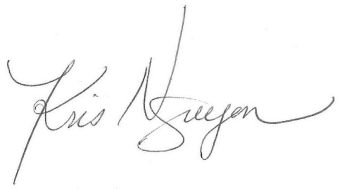
We are sending copies of this report to the appropriate congressional committees, the Secretary of Defense, the Acting Secretary of Labor, and other interested parties. In addition, the report will be available at no charge on the GAO website at https://www.gao.gov.

If you or your staff members have any questions about this report, please contact me at (202) 512-7215 or nguyentt@gao.gov. Contact points for our offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report were Michael Collins (Assistant Director), Laura Hoffrey (Analyst In Charge), Daniel Dye, Andrew Emmons, and Emily Weisenberger. Other contributors to this report include Rashmi Agarwal, Leslie Ashton, Christina Bixby, George Depaoli, Timothy DiNapoli, Jennifer Dougherty, Anne-Marie Fennell, Vondalee Hunt, Angela Jacobs, Sara Ann Moessbauer, Meredith Moore, Mimi Nguyen, Jason Palmer, Almeta Spencer, Rachel Stoiko, David Trimble, Kate van Gelder, Betty Ward-Zukerman, Eve Weisberg, Adam Wendel, and Tatiana Winger.



Tranchau (Kris) T. Nguyen, Director
Education, Workforce, and Income Security Issues

Enclosures – 3

List of Committees

The Honorable Jack Reed
Chairman
The Honorable James M. Inhofe
Ranking Member
Committee on Armed Services
United States Senate
The Honorable Maria Cantwell
Chair
The Honorable Roger Wicker
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate
The Honorable Patty Murray
Chair
The Honorable Richard Burr
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate
The Honorable Adam Smith
Chairman
The Honorable Mike Rogers
Ranking Member
Committee on Armed Services
House of Representatives
The Honorable Bobby Scott
Chairman
The Honorable Virginia Foxx
Republican Leader
Committee on Education and Labor
House of Representatives
The Honorable Peter A. DeFazio
Chairman
The Honorable Sam Graves
Ranking Member
Committee on Transportation and Infrastructure
House of Representatives

Enclosure 1: Briefing Slides

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Davis-Bacon Act: Army Corps of Engineers' Monitoring and Enforcement

Information Provided to Congressional Committees

December 16 and 17, 2020

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Introduction

- The Davis-Bacon Act, as amended, (the Act) requires contractors working on certain federally funded domestic construction projects to pay their workers at least locally prevailing wages, as determined by the Department of Labor (DOL) for various job categories.
  - The Act was enacted, in part, to protect workers from contractors hiring lower-wage workers from outside their local area, thus obtaining federal construction contracts by underbidding competitors who pay local wage rates.
  - Each federal agency that contracts for construction work covered by the Act is primarily responsible for enforcing the Act's requirements.

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Introduction, cont'd

- Our analyses of contract data found that the Army Corps of Engineers (Corps) obligated over $11 billion for domestic construction contracts in fiscal year 2019, more than any other component within the Department of Defense.*
  - For example, the Corps' Civil Works program contracts with civilian companies for the majority of its construction projects, including those to reduce flood risk and facilitate commercial navigation.
  - The extent to which the Corps monitors and enforces its contractors' compliance with the Act's requirements has not been fully evaluated.

*Overall, the Department of Defense obligated more contract dollars than any other federal agency in fiscal year 2019.

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Introduction, cont'd

- The conference report accompanying the National Defense Authorization Act for fiscal year 2020 included a provision for GAO to study the contracting practices of the Corps, with a specific focus on how it monitors and enforces the Davis-Bacon Act.
- This briefing presents information on our objectives to examine (1) guidance the Army Corps of Engineers has in place for Davis-Bacon Act monitoring and enforcement, and (2) how selected Corps districts reported monitoring and enforcing compliance with the Act.

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Scope and Methodology

- **Document review.** We reviewed relevant documents, such as Corps headquarters (HQ) guidance documents about the Act, DOL guidance, and relevant federal laws and regulations.
  - We assessed Corps guidance against:
    - The Act and the Federal Acquisition Regulation, and
    - Federal internal control standards.*
      - Specifically, we examined the extent to which Corps guidance communicated information to achieve objectives and the extent to which it directed staff to document the results of ongoing monitoring.

*GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: September 2014).

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Scope and Methodology, cont'd

- **Interviews.** We interviewed officials from Corps HQ and DOL and representatives from two labor unions and two trade associations.
  - We selected unions and associations based on expert referral and our own research to include a range of perspectives.
- **Enforcement report analysis.** We analyzed the 10 most recent semi-annual enforcement reports that the Department of the Army (Army, which includes the Corps) submitted to DOL.

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Scope and Methodology, cont'd

- **Four district case studies.** We conducted semi-structured interviews with a non-generalizable sample of Corps district offices: Louisville, New Orleans, New York, and Walla Walla.
  - We also reviewed relevant district documents.
  - The districts represent various geographical areas in the U.S. and a mixture of the volume and type of construction contracts (e.g., military and civil projects).
  - The districts provided illustrative examples of monitoring and enforcement practices by district officials.

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Background: Davis-Bacon Act

- The Act generally applies to domestic federally funded or assisted construction contracts in excess of $2,000.
- A worker's job classification is based on the type of work performed, and follows local area practices (e.g., how local contractors typically classify the work) used by firms in wage determinations.
- Workers' classifications are key to assuring contractors pay them the prevailing local wage.

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Background: Davis-Bacon Act, cont'd

- Wage determination is a compilation of prevailing wage rates for multiple job classifications, based on a survey of contractors and interested parties (e.g., contractors or unions) in a given area.* Each wage determination is specific to the construction category, such as highway or building.
  - For example, the prevailing wage for a general laborer constructing a building in New Orleans is $13.09 per hour, and for an electrician it is $43.63 per hour.

*We previously reported on challenges in DOL's wage determination process, including the timeliness and quality of the data. To improve these data challenges, we made a recommendation to DOL and raised a matter for Congressional consideration, both of which were implemented. GAO, *Davis-Bacon Act: Methodological Changes Needed to Improve Wage Survey*, GAO-11-152 (Washington, D.C.: Mar. 22, 2011).

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Background: Agencies' Roles in Oversight

- DOL's Wage and Hour Division determines prevailing wages, including job classifications, and may conduct investigations.
- Agencies, such as the Corps, and their contracting officers or Quality Assurance representatives are primarily responsible for monitoring contractors' compliance with the Act and enforcing it.
  - Prime contractors are responsible for enforcing their subcontractors' compliance.

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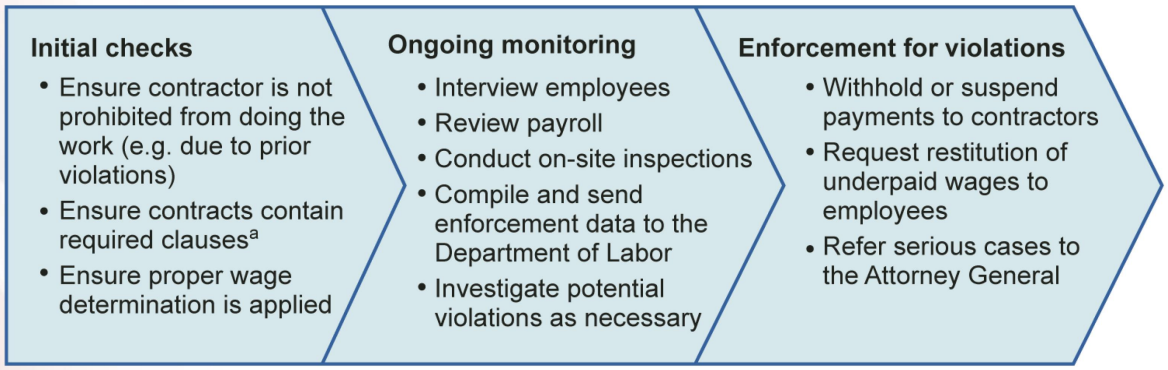
Figure 1: Key Davis-Bacon Act Responsibilities for Agencies



Source: GAO review of the Federal Acquisition Regulation. | GAO-21-203R

[a]For example, required clauses include a description of the requirement to pay workers at least weekly and also to submit payrolls to the agency on a weekly basis.

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Background: Key Davis-Bacon Act Monitoring Activities

The Federal Acquisition Regulation (FAR) includes monitoring activities under the Act that agencies must fulfill, as may be necessary, to ensure compliance with the labor standards of the contract.

- **Employee interviews.** To determine correctness of specified elements (classifications, rates of pay, fringe benefits payments, and hours worked).
- **Payroll reviews.** To determine correctness of elements in the previous bullet, as well as deductions, and to check for disproportionate employment of laborers, apprentices, or trainees (as compared to journeymen).

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Background: Key Davis-Bacon Act Monitoring Activities, cont'd

- **On-site inspections.** To check type of work performed, number and classification of workers, and fulfillment of posting requirements (e.g., wage rates visibly posted at the job site).
- **Investigations.** When compliance checks indicate that substantial or willful violations may have occurred or violations have not been corrected.

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Background: Key Davis-Bacon Act Enforcement Activities

- **Wage restitution and withholding.** Agencies and DOL may request that back wages be paid to employees who were underpaid. They may also require the contracting officer to withhold payment to contractors as a result of wage underpayment or for not submitting weekly payroll records.

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Background: Key Davis-Bacon Act Enforcement Activities, cont'd

- **Debarment.** Contractors can be disqualified from receiving federal contracts for 3 years if DOL finds they have disregarded their obligations to employees.
  - Examples of violations that resulted in debarment include falsifying payroll records, knowingly misclassifying workers, or contractors receiving kickbacks.
  - The System for Award Management, available online at SAM.gov, lists contractors debarred for any reason.*

*We previously reported on limitations with the System for Award Management, including potential challenges identifying debarred contractors that are not listed by a unique identifier. We recommended DOL take steps to include such a unique identifier whenever appropriate and available, and DOL agreed. See GAO, *Federal Contracting: Actions Needed to Improve Department of Labor's Enforcement of Service Worker Wage Protections*, GAO-21-11 (Washington, D.C.: Oct. 29, 2020).

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Background: The Army Corps of Engineers

- The Corps' mission is to "deliver vital public and military engineering services; partnering in peace and war to strengthen our Nation's security, energize the economy and reduce risks from disasters."
- The Corps leads construction on military and civil works projects.
- The Corps' domestic structure is organized into three tiers: headquarters (HQ) in Washington, D.C., eight regional divisions, and 38 local district offices.
- Each Corps district conducts its own efforts to monitor and enforce the Act, with HQ and the divisions providing additional support in some instances, such as when contractors and district staff disagree with the proposed classification and rate.

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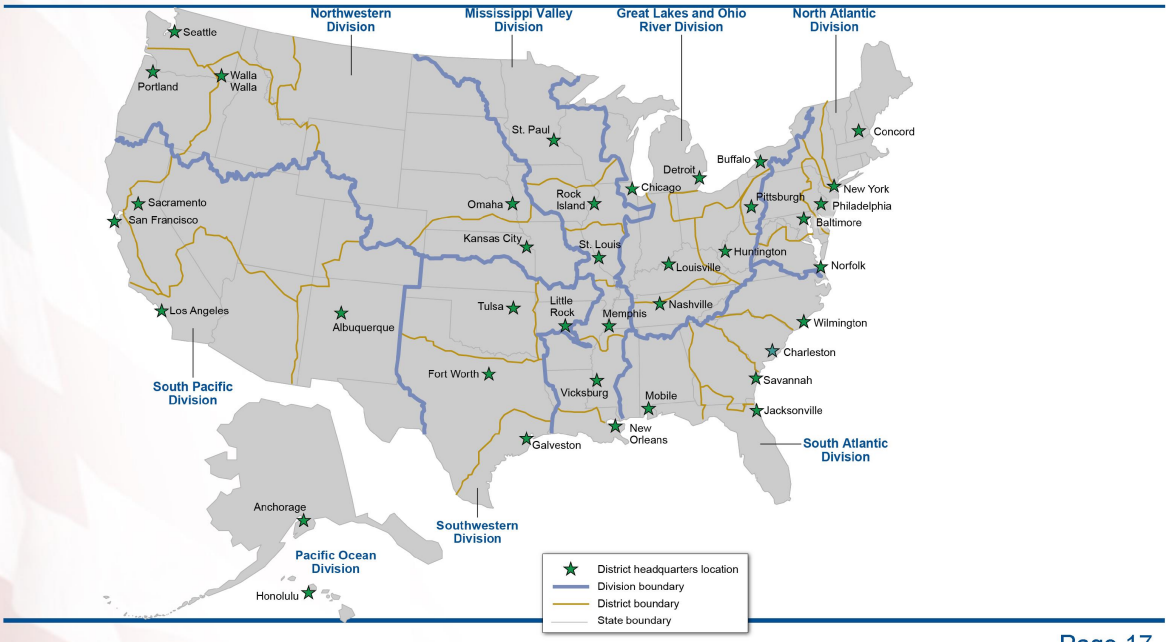
Figure 2: Army Corps of Engineers' Domestic District Offices



Sources: GAO analysis of Army Corps of Engineers data; Map Resources (map). | GAO-21-203R

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Obj. 1: Overview of Findings on the Corps' Guidance on Monitoring and Enforcement

- The Corps' guidance documents on construction wage requirements reflect the relevant FAR requirements and describe how staff should monitor and enforce compliance with the Act.
- Improved information about some monitoring activities could help the Corps better ensure that employees working for federal construction contractors are paid the prevailing wage. Specifically, opportunities exist related to selecting payroll reviews, payroll review procedures, and on-site inspections.

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Obj. 1: Corps Documents for the Act Describe Required Monitoring and Enforcement Activities

- The Corps' guidance documents include instructions relating to monitoring and enforcement activities under the Act, such as:
  - Preconstruction conferences
  - Employee interviews
  - Payroll reviews
  - On-site inspections
  - Investigations into potential violations
  - Restitution to employees
- DOL officials, when asked about best practices, said the Corps developed detailed guidance about enforcing the Act.

(For more about these monitoring and enforcement activities, see our discussion later.) Page 19

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Obj. 1: Corps Documents Reflect Requirements for Monitoring Activities

The Corps' guidance includes FAR requirements for:

- **preconstruction conferences** with contractors on their responsibilities under the Act;
- **employee interviews**, including documenting interviews on the Labor Standards Interview form and noting any apparent violations; and parameters for determining the number of employee interviews and selecting a representative sample of the workforce;
- **payroll reviews**, including elements such as determining the correctness of classification and wage rate, and comparing payrolls with interviews and on-site inspections.

(For more about how selected districts implement this interview guidance, see our discussion later.)

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Obj. 1: Corps Documents for Payroll Reviews Reflect Requirements but Lack Specificity on Selection

- While Corps guidance includes the FAR's requirements for payroll reviews, it does not include parameters on how to determine the percentage of payrolls to review or on how to select a sample to review.
  - This is unlike the Corps' guidance on employee interviews, which includes such information.
- Federal internal control standards state that management should internally communicate the necessary information to achieve the entity's objectives.

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Obj. 1: Corps Documents for Payroll Reviews Reflect Requirements but Lack Specificity on Selection, cont'd

- Corps HQ officials said they give districts autonomy to determine their own implementation practices for payroll reviews which may vary based on local factors (e.g., size of a project or number of employees) and they have not considered providing additional information related to payroll reviews. However, information about these local factors is not in the Corps' payroll review guidance.
- Without such information, some districts may not have considered local factors while others may be unclear about payroll review selection. As a result, the Corps may not be monitoring contractors' adherence to the Act as effectively as it could be.
  - For example, the Corps may be missing an opportunity to strengthen payroll reviews by efficiently targeting monitoring resources (e.g., to contractors with greatest risk of noncompliance).

(For more about how selected districts implement this guidance, see our discussion later.) Page 22

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Obj. 1: Corps Documents for Payroll Reviews Reflect Requirements but Lack Specificity on Procedures

- Similarly, there is no direction for Corps district staff to use a standard form to document each payroll review nor is there a procedure to document that all elements of the payroll review have been performed (e.g., checking the correctness of classifications and wage rates).*
- Federal internal control standards state that agencies should document the results of ongoing monitoring.
- However, Corps HQ officials said they give districts autonomy to determine their own implementation practices for payroll reviews and they have not considered providing additional information on payroll review procedures.
- As a result, the Corps may not be monitoring contractors' adherence to the Act as consistently as it could be. Specifically, the Corps lacks assurance that all districts' payroll reviews consistently document completion of every element.

(For more about how selected districts implement payroll review guidance, see our discussion later.)

*The Corps uses a form to record specific payroll data. However, this form does not include each element of payroll reviews described in the Corps' guidance.

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Obj. 1: Corps Documents for On-Site Inspections Generally Reflect Requirements but Exclude Aspects That Could Improve Payroll Reviews

- Corps' guidance for the on-site inspection process provides information on checking for posting requirements (e.g., posters about wage rates), but lacks directions for checking the number and classification of workers and the type of work performed, although the guidance directs Corps staff to examine payrolls against these on-site observations.
  - Corps forms direct staff to document some of this information for workers on civil but not on military construction sites.*
- Federal internal control standards state that management should internally communicate the necessary information to enable staff to perform key roles and achieve the entity's objectives.

*A Corps form for civil construction includes the number and classification of workers onsite, while the Corps' version for military construction includes neither this nor the type of work performed. Corps officials said a Quality Control form documents the number and classification of workers onsite. However, the contractor completes this form and Corps' guidance notes that Corps staff should review the form.

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Obj. 1: Corps Documents for On-Site Inspections Generally Reflect Requirements but Exclude Aspects That Could Improve Payroll Reviews, cont'd

- Corps HQ officials said they defer to districts about this process and that additional information may not be necessary because during on-site inspections, Corps officials said employee interviews collect information on worker classification that is documented on a standard form. However, the form does not document the number and classification of every worker on-site, only the workers interviewed.
- As a result, based on the Corps' current guidance, the Corps may lack assurance that all districts fully use on-site inspections to ensure contractors' compliance with the Act.
  - Lacking a process to consistently document the number and classification of workers during on-site inspections may prevent the Corps from following its guidance to compare payroll reviews with on-site inspections.
- Overall, by addressing the aforementioned aspects of payroll reviews and on-site inspections, the Corps may create opportunities to better ensure that employees working for federal construction contractors are paid the prevailing wage.

(For more about how selected districts implement on-site inspection guidance, see our discussion later.)

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Obj. 1: Corps' Documents Describe When Violations Require Investigations

- **Non-willful violations**. Corps guidance allows corrections, such as paying restitution and submitting evidence (e.g., supplemental payrolls and copies of checks) for misclassifications that involve small underpayments.
- **Willful violations.** Corps guidance states an investigation is required if a contractor is in willful violation of the Act, or if the total amount of restitution paid to employees exceeds $1,000.

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Obj. 1: Corps Officials' Views on Violations of the Act

Corps Headquarters Officials' Views on Most Common Violations of the Davis-Bacon Act

Corps HQ officials stated the most common violations of the Act are misclassification of workers' type of work. For example, misclassifying a cable splicer as a general laborer. The officials said that because local district staff have a daily view of the type of work performed, they are relied on to resolve worker classification disputes. Corps HQ provides district staff with regular training on the Act. Corps staff may direct classification questions to the Department of Labor (DOL) because it sets the classifications.

In contrast, Corps HQ officials said some other violation types have become less common, such as contractors incorrectly classifying whether or not an employee is an "independent contractor". Corps officials also said determining the construction category (e.g., highway, building, or residential) is usually straightforward based on DOL's guidance. However, determining the construction category may be difficult if there are multiple overlapping wage determinations for the same construction project (e.g., a military base with buildings, sidewalks, and sewer lines).

Source: Interview with Army Corps of Engineers headquarters officials | GAO-21-203R

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Obj. 1: Corps Documents on Investigations and Receipt of Complaints Include FAR Requirements

- Corps guidance on investigations, including investigating complaints, describes relevant FAR requirements.
- Corps HQ officials told us both HQ and districts will accept a complaint of construction wage violations from an affected worker or from a third party (e.g., a union) if sufficient evidence is presented (i.e., certified payrolls or employee pay stubs), and district staff address complaints.

Frequency of Complaints: Over the last 5 years, the Army (within which the Army Corps of Engineers manages the vast majority of construction contracts) reported that construction wage complaints related to the Davis-Bacon Act were filed against an annual average of less than 50 prime contractors (representing less than 1 percent of prime contracts awarded) and against an annual average of over 100 subcontractors.

Source: GAO analysis of semi-annual enforcement reports mid-FY2015 to mid-FY2020 | GAO-21-203R

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Obj. 1: Corps Investigations May Lead to Wage Restitution

- Corps HQ officials said district staff assess the merit of all complaints, and if warranted, initiate an investigation that may include workers receiving restitution from the contractor.
  - HQ officials said an initial response to any complaint typically takes place within 3-5 business days.

Wage Restitution Paid: The Army reported that on average, over 600 employees received wage restitution per year due to violations of the Davis-Bacon Act over the last 5 years. In the same period, the reported amount of wage restitution paid or withheld under the Davis-Bacon Act was less than one-twentieth of 1 percent relative to the total amount of all contracts awarded in that period.

Source: GAO analysis of semi-annual enforcement reports mid-FY2015 to mid-FY2020 | GAO-21-203R

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Obj. 1: Corps Process to Help Prevent Debarred Contractors from Receiving Awards

- The Corps' contract award checklist includes documenting that staff checked SAM.gov to ensure contractors are not debarred.
- Corps HQ officials noted their procedure is to check SAM.gov for every contract to verify the contractor has no adverse actions against them. The Corps does not have its own database of debarred contractors or contractors who violated the Act.
  - Corps HQ officials noted the Corps is not a debarring agency.
- Corps HQ officials said as they request DOL to investigate egregious violations, the Corps did not recommend any contractors for debarment nor did it terminate any contractors for violations of the Act from fiscal years 2015 through 2019*

*Corps HQ officials noted that DOL's investigations can lead to debarment.

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Obj. 1: DOL and Corps Officials' Views on Contractor Licensing Verification

Agency Officials' Views on Contractor Licensing Verification
Department of Labor officials noted the Davis-Bacon Act does not require contractors to have a particular kind of license. Corps HQ officials said Corps contracts often include special license requirements (e.g., required training for the contractor's safety official), which are monitored by field staff. In these cases, the contractor must submit evidence of the required credential, which field staff review and track in the Corps management system. Corps officials told us contractors are responsible for having the appropriate licensure to obtain permits.

Source: Interviews with Department of Labor and Army Corps of Engineers officials | GAO-21-203R

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Obj. 2: Overview of Findings on Selected Corps Districts' Reported Monitoring and Enforcement

- **Monitoring.** Officials from the four selected districts described variation in their on-the-ground monitoring practices:
  - Interview practices are tailored to each district's situation.
  - The proportion of payroll records reviewed ranged from 20 to 100 percent across districts, and the procedures for payroll review varied, with two districts using a supplementary checklist to guide the process.
  - The on-site inspection process varied, with three districts relying on contractors' records to document some on-site monitoring information.
- **Enforcement.** Reported enforcement practices are generally uniform across selected districts:
  - Contractors typically correct violations upon notification, and withholding money is a major tool for enforcing the Act.

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Obj. 2: Selected Districts Reported Developing Individualized Monitoring Practices

- Officials in the four selected Corps districts described various practices regarding employee interviews, payroll reviews, and on-site inspections. They generally consider these three monitoring activities to be key to identifying potential violations of the Act.
  - As described previously, Corps guidance allows districts autonomy in determining how to conduct some monitoring activities.
  - Some districts created or used additional district-level documents to guide their monitoring practices.

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Obj. 2: Selected Districts Reported Variation in the Frequency of Interviews

- Selected Corps districts vary in the number and frequency of employee interviews at construction sites (see below).
  - Officials in two districts said they typically interview every employee once.

Number and Frequency of Employee Interviews

District A	1 interview per month for each contractor and subcontractor
District B	2 interviews per month for each construction site
District C	1 interview per week for each contractor and subcontractor
District D	Two to three interviews at the beginning of a contract, then at least one interview per contractor every 6 months

Source: GAO interviews with selected Army Corps of Engineers districts | GAO-21-203R.

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Obj. 2: Selected Districts Reported Tailoring Interview Practices to Their Situations

- Officials from all selected Corps districts said they adjust interview practices to meet the needs of their district and each construction site, which may be large or small, cross state lines, or take place on land or water. They said that:
  - district staff may conduct interviews more often if there are sub-contractors, a large number of workers, or temporary workers on site.
  - while Corps officials usually select which employees to interview, employees sometimes approach Corps representatives to discuss their wage rate or raise a concern about a potential violation of the Act.
- Officials from three selected Corps districts said interviewing employees may be difficult if there are language barriers.
  - Officials from one Corps district said they try to hire employees fluent in other languages or might ask a foreman at the construction site to interpret. Officials from another district said they translated an interview form into Spanish.

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Obj. 2: Districts Vary in the Percent of Payrolls They Report Reviewing

- The four selected districts vary in the proportion of payrolls they review and in the way they select payrolls to review (see below).

Payroll Reviews

District	Percent payrolls reviewed	Selection method
A	20	Choose the first 20 percent of payrolls received from contractors.
B	25	Choose at least one payroll for each worker classification.
C	100	Review all payrolls.
D	40-50	Choose payrolls at random.

Source: GAO interviews with selected Army Corps of Engineers districts | GAO-21-203-R.

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Obj. 2: Timeliness of Payroll Receipt Reported to Vary

- Officials from one district said that sometimes contractors submit payroll records late.
  - For example, some subcontractors may not be accustomed to paying employees every week, as is required by the Act.
  - If officials in a district only check the payrolls they receive first, this may result in district officials not reviewing late payroll records.

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Obj. 2: Some Selected Districts Report They May Target Certain Payrolls to Review

- Officials from two of the four selected districts said they may more closely review some payroll records, for example, from contractors that officials remember as having been noncompliant in the past.
  - Officials from one district said that resolving problems with a subcontractor is sometimes more difficult than a prime contractor as Corps districts must work through the prime contractor rather than directly with the subcontractor.

Subcontractors: About five times as many subcontractors were found to be in violation of the Act as prime contractors for the Army Corps of Engineers (Corps).

Source: GAO analysis of Corps-reported information from FY2015 to FY2019 | GAO-21-203-R

- Officials from three districts said that when they see payroll records that classify workers as apprentices, they more closely review them as contractors may misclassify workers as lower-paid apprentices.

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Obj. 2: Some Selected Districts Reported Creating Supplementary Tools to Guide the Payroll Review Process

- Officials from two of the four selected districts said they use a checklist to conduct and document payroll reviews.*
  - One district's checklist provides a step by step process for officials to follow, and the other district's checklist includes the possible discrepancies or errors that a contractor may make on a payroll record.
  - Officials from one district said the checklist is a helpful supplementary resource beyond Corps HQ guidance. The other district identified the checklist as a best practice.
- Officials from three selected districts said they use additional local guidance. For example, one district created a guidebook on the Act for their district that includes examples of common payroll errors.

*Districts A and D.

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Obj. 2: Selected Districts Reported Using On-site Inspections to Monitor Contractors

- Quality Assurance (QA) representatives are generally on-site every day to observe workers' activities and the tools they use in order to judge the type of classification each worker should be in.
  - Some QA representatives remain on-site all day for more complex projects or for a couple of hours for less complex projects, according to officials from one district.
  - QA representatives may interview employees in conjunction with on-site inspections, but some districts do not consider on-site inspections to be a separate monitoring activity.
- District officials said that while QA representatives are in charge of monitoring for the Act, they must balance competing priorities for their time and monitor numerous labor standards beyond the Act, such as the Fair Labor Standards Act of 1938.

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Obj. 2: District Officials Reported Conducting On-site Inspections Differently

- Three districts said they rely on contractors' records to document some on-site monitoring information, such as the number and classification of workers.
- All districts said they ensure that proper wage rates are posted at the site.

Selected Districts' Implementation of Corps' Guidance to Inspect Construction Sites for Davis-Bacon Act Compliance

	Documented through first-hand observations of site		
District	**Number of employees**	**Classification of employees[a]**	**Type of work performed[a]**
A	No	Yes, some	Yes, some
B	No	Yes, some	Yes, some
C	No	Yes, some	Yes, some
D	Yes	Yes	Yes

Source: GAO interviews with Army Corps of Engineers (Corps) officials. | GAO-21-203R

[a] "Some" refers to districts gathering information during periodic interviews with a selection of some workers.

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Obj. 2: Reported Enforcement of the Act is Generally Uniform across Selected Districts

- Overall, district officials reported fairly uniform experiences and practices to enforce the Act:
  - When they become aware of a potential violation, they reach out to the contractor to correct the issue.
  - In their experience, one of the most common violations of the Act is misclassifying a worker at a lower wage rate. Officials from two districts also reported that contractors might classify workers correctly, but pay them the wrong wage rate for that classification.

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Obj. 2: Districts Reported Noncompliance Is Typically Resolved Quickly

- District officials indicated that inexperienced contractors or subcontractors might commit minor violations of the Act. However, most officials said that contractors typically quickly correct the issue when district officials notify them of it. The officials said that typically contractors correct it without any other enforcement actions.

Investigations conducted: The Army Corps of Engineers (Corps) reported collectively conducting an average of 179 investigations related to the Davis-Bacon Act per year.

Source: GAO analysis of Corps-reported information from FY2015 to FY2019 | GAO-21-203R

- No officials from selected Corps districts reported recommending a contractor be debarred in the past 10 years due to a violation of the Act.*

*All districts reported checking SAM.gov to confirm that contractors are not debarred. In some cases, officials from most selected districts look at contractors' past performance on labor standards before awarding contracts.

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Obj. 2: Responding to Complaints of Violations of the Act

- District officials said they may become aware of noncompliance through a complaint from an employee, DOL, or a third party, such as a labor union.
- While representatives from two external stakeholder groups reported concerns that some third party complaints were not thoroughly investigated, district officials explained that they respond to complaints from any party by investigating the contractor, conducting interviews, and reviewing payrolls for discrepancies.
  - Representatives from two external stakeholder groups stated that workers have sometimes not been paid wages due in certain circumstances, such as after a contract has ended. District officials said they withhold money from contractors they suspect to be noncompliant until workers are paid wages due. The officials described withholding money as a major tool for enforcing the Act.

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Obj. 2: Selected Districts Reported Coordinating with DOL

- District officials said they may reach out to DOL if the district and contractors disagree about a worker classification or to apply for a new classification and wage rate for a specialized worker.* Officials from one district said that sometimes applying for a new classification and wage rate can require waiting time, but that contractors generally agree with DOL's determination.
- District officials said they sometimes elevate a compliance issue to DOL:
  - DOL and Corps districts may jointly investigate claims of construction wage violations.
  - If the Corps is unable to resolve a violation at the district level, DOL will typically take over the investigation and resolve the issue.
- Officials from one district said that they invite local staff from DOL to train the Corps district staff.

* The Act does not have one set of occupation definitions, unlike under the McNamara-O'Hara Service Contract Act of 1965, which requires federal service contractors to pay locally prevailing wages.

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Conclusions

- The Corps is responsible for ensuring that the contractors it pays billions of dollars to are paying their employees locally prevailing wages.
- Monitoring, including on-site inspections and payroll reviews, are key to ensuring that the Corps enforces contractors' compliance with the Act.
- While Corps guidance describes FAR requirements for monitoring practices, Corps information on how to select and conduct payroll reviews and how to document on-site inspections may not be sufficient for Corps districts to ensure that monitoring is as effective and consistent as it could be.

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Conclusions, cont'd

- Corps documents lack information regarding the selection of payroll records to review, procedures for payroll reviews, and how to document on-site inspections, which may lead to inconsistent monitoring of contractors' compliance with the Act or reduce the effectiveness of monitoring.
  - Without information on parameters for selecting payroll records to review, such as on how to consider local factors, officials from the four Corps districts we spoke to described wide variation.
  - In the absence of sufficient information on conducting and documenting payroll reviews (e.g., that they contain the correct wage rates), officials at two of the four districts used supplementary materials to guide and document their payroll reviews.
  - In the absence of directions to consistently document the on-the-ground conditions, like the number of employees on site, district officials we spoke with may not be fully using on-site inspections to ensure contractors' compliance with the Act.
- Improving aspects of these key monitoring activities may provide the Corps opportunities to better ensure that employees working for federal construction contractors are paid the prevailing wage.

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Recommendations

- The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the Army Corps of Engineers provide clarifying information about determining the proportion of payroll records to review and selecting a sample to review (Recommendation 1)
- The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the Army Corps of Engineers clarify payroll review procedures. For example, this could include a checklist with the key elements to review and document, such as correctness of wage rates (Recommendation 2)
- The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the Army Corps of Engineers establish a process for consistently documenting on-site inspections, including the number of workers and type of work performed (Recommendation 3)

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Enclosure 2: Numbers of Army Corps of Engineers' Contractors Penalized for Violations of the Davis-Bacon Act

Table 1: Number of Contractors Penalized for Davis-Bacon Act (the Act) Violations by Army Corps of Engineers (Corps) Division, Fiscal Year (FY) 2015 through 2019

Corps division	Number of prime contractors penalized for violations of the Act[a]	Number of subcontractors penalized for violations of the Act[a]
North Atlantic	52	56
South Atlantic	10	88
Great Lakes and Ohio River	4	12
Mississippi Valley	1	6
South Pacific	6	25
Pacific Ocean	0	0
Northwestern	43	89
Southwestern	34	559
Total:	**150**	**835**

Source: Corps-reported information from FY2015 through FY2019 | GAO-21-203R

[a]According to Corps officials, the majority of penalized contractors corrected the violations, such as by paying restitution to workers for underpayment of wages. For egregious violations, Corps officials said they ask the Department of Labor to investigate, which can lead to debarment.

Enclosure 3: Comments from the Department of Defense

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

17 February 2021

Ms. Tranchau (Kris) Nguyen, Director
Education, Workforce, and Income Security
U.S. Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Ms. Nguyen:

This is the Department of Defense (DoD) response to the GAO Draft Report, GAO-21-203R, "DAVIS-BACT ACT: Army Corps of Engineers Provides Guidance on Wage Requirements, but Opportunities Exist to Improve Monitoring," dated January 21, 2021 (GAO Code 104317).

The DoD concurs without comment on recommendations one and two and concurs with comment on recommendation three in the GAO report. Specific comments on the report are embedded in the enclosed Adobe report. The DoD appreciates this opportunity to review the draft report. My point of contact is Mr. Theodore Kerr who can be reached at theodore.e.kerr.civ@mail.mil and 571-278-6754.

Sincerely,

Vance F. Stewart, III
Deputy Assistant Secretary of the Army
Management & Budget

Enclosure

GAO DRAFT REPORT DATED JANUARY 21, 2021
GAO-21-203R (GAO CODE 104317)

"Davis-Bacon Act: Army Corps of Engineers Provides Guidance on Wage Requirements, but Opportunities Exist to Improve Monitoring"

DEPARTMENT OF DEFENSE COMMENTS
TO THE GAO RECOMMENDATION

RECOMMENDATION 1: The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the Army Corps of Engineers provide clarifying information about determining the proportion of payroll records to review and selecting a sample to review.

DoD RESPONSE: CONCUR

RECOMMENDATION 2: The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and the Commanding General of the Army Corps of Engineers clarify payroll review procedudures. For example, this could include a checklist with the key elements to review and document, such as correctness of wage rates.

DoD RESPONSE: CONCUR

RECOMMENDATION 3: The Assistant Secretary of the Army for Civil Works should ensure the Chief of Engineers and Commanding General of the Army Corps of Engineers establish a process for consistently documenting on-site inspections, including the number of workers and type of work performed.

DoD RESPONSE: CONCUR With Comments

USACE currently has procedures in place for consistently documenting on-site inspections, including the number of workers and type of work performed. These procedures can be found in E.R. 1180-1-6, Construction Quality Management; and at E.P. 1180-1-8, Labor Relations in Construction. Specific forms used to consistently track this information are ENG FORM 2538-1-R, Quality Assurance Report (QAR) Daily Log of Construction – Military; and ENG FORM 2538-2-R (Civil); and ENG FORM 3180, Contractor Payroll Record. Together, these regulations and forms provide direction and obligate USACE staff to consistently track labor compliance. However, to further reinforce these established procedures, the ENG Form requirements will be consistently reiterated in ongoing trainings referenced in Recommendation 1 above. We believe this action satisfies GAO's intent and therefore inquire as to whether this recommendation is required.

Text of Enclosure 3: Comments from the Department of Defense

Page 1

17 February 2021

Ms. Tranchau (Kris) Nguyen, Director Education, Workforce, and Income Security

U.S. Government Accountability Office 441 G Street, NW

Washington, D.C. 20548

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Sincerely,

Vance F. Stewart, III

Deputy Assistant Secretary of the Army Management & Budget

Enclosure

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GAO DRAFT REPORT DATED JANUARY 21, 2021 GAO-21-203R (GAO CODE 104317) "Davis-Bacon Act: Army Corps of Engineers Provides Guidance on Wage Requirements, but Opportunities Exist to Improve Monitoring"

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(104317)