



SHEET METAL AND AIR CONDITIONING CONTRACTORS' NATIONAL ASSOCIATION, INC.

April 13, 2011

Chairman Tim Walberg  
Committee on Education and Labor  
Subcommittee on Workforce Protections  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Walberg:

The Sheet Metal and Air Conditioning Contractors' National Association (SMACNA), is supported by more than 5,000 contributing construction firms engaged in industrial, commercial, residential, architectural, public and specialty sheet metal and air conditioning construction throughout the United States. **SMACNA's membership has completed a wide variety of public construction projects from coast to coast and would like to express our support for the Davis – Bacon Act.** Further we support extending the Act, featuring prevailing wage language, to all federal and federally assisted construction. We supported covering federally assisted projects in the ARRA, which included housing, energy efficiency and infrastructure initiatives, to name a few, where a national funding role is vital and project quality demanded.

Over the last decade many in the legislative and some in the executive branch have sought to mischaracterize, undermine and decimate the administration and enforcement of the Davis-Bacon Act. We are hopeful this hearing will result in enhanced prevailing wage survey and administrative resources leading to superior implementation of the Act. We believe that is the Obama Administration's goal behind their ongoing improvements to payroll surveys, wage rate analysis and program refinement efforts within the Department of Labor. While those opposed to the Act on ideological grounds may never support prevailing wage, benefit and skill training standards at any level of government, greater program support for Davis-Bacon's administrative and survey functions will reduce the number critical of the Act on narrow, technical issues.

The economic benefits of enforcing current prevailing wage standards as part of assistance to suffering local and state economies protect the taxpayer and cannot be overstated. We would encourage the Committee to provide greater administrative support for the Act, increase its survey budget and its enforcement. As a contractor organization most familiar



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with the Davis-Bacon statute and regulations we do not fear the voluntary payroll surveys, doubt technical wage determinations or seek to minimize the consequences for those deserving of heightened enforcement. We have long urged harsh penalties for the many unscrupulous contractors caught willfully cheating their workers, the local communities and the taxpayers each year. By enhancing DOL personnel and survey resources we are confident the ongoing refinement efforts for the Davis-Bacon Act within the Department of Labor Wage and Hour Division will succeed. Our members appreciate that the Department of Labor has a Secretary, Wage and Hour Division Administrator and Solicitor of Labor with years of experience in support of the Act. Most important, they are committed to its improvement, continued simplification and strict enforcement. Given adequate resources for needed additional wage surveys, administration and enforcement they will be better equipped to implement the Act for quality driven procurement outcomes benefitting the tax payer and the majority of firms following the Act to the letter of the law.

The Davis-Bacon Act has been in effect for more than 75 years. **After on-line compliance reforms made over the last decade, compliance is fair and simple for any experienced public and/or private market contractor. Compliance takes just a minimum of administrative personnel for reporting and on-line instruction is available for those needing assistance.** Remember, the vast majority of self-described construction contractors are very small with a one to three employees generally not doing federal construction work. Two-thirds of all firms have five or fewer employees, including the owner! **Only a fraction will ever bid or work on a federal project. This is not due to Davis-Bacon but because they do not possess the necessary administrative resources, skilled workforce, experience or interest to do so.** Rarely will the average small contractor with their few employees rule out bidding a large federal project due to the prevailing wage reporting requirements alone or the strict quality apprenticeship and training standards the Act is also designed to encourage.

After three-quarters of a century it is disappointing that so many mischaracterize the Act's origins, valued policy goals and positive impact maintaining local wage, skill training and benefit standards. For educational reasons alone we appreciate the Committee's focus on the Davis-Bacon Act and suggested refinements for greater effectiveness and enforcement. **We hope the hearing results in a bipartisan appreciation and endorsement for the administrative support needed by the Department of Labor to implement and enforce the Act as intended. Even those in government hostile to the Act are responsible for seeing its enforcement facilitated as required by statute and regulation.**

SMACNA and our thousands of infrastructure contracting member firms support legislation that recognizes the importance and merit in prevailing wages as part of any **quality-based** public procurement policy. Federal, state and local prevailing wage laws encourage employers to:

- Pay a locally prevailing wage
- Offer health care coverage to their employees and their families
- Provide for the future retirement of their employees and
- Make a significant investment in the future by training a skilled and safety conscious workforce.

Support of prevailing wages on direct or federally assisted public infrastructure represents a commitment to construction quality and the future. Without prevailing wage statutes, the competitive bid system will erode the wage and fringe benefit standards common in localities across the nation and dismantle bonafide, proven training programs funded by private employers at more than \$700 million annually. Support for a prevailing wage policy fosters practices and programs lessening today and tomorrow's burden on the public sector. Our member firms DO NOT shift their health, pension and training costs to the local, state and federal government but include them in our contract bids on private and public work.

From decades of experience with Davis-Bacon, SMACNA member firms understand the Act's simple requirements, goals and the merit in a public procurement policy that encourages employers to provide quality wages, benefits and training. Further, we know that continuing federal commitment to requiring the payment of prevailing wages and benefits should not be cast as a union versus nonunion issue. **According to Department of Labor reports, more than 75% of Davis-Bacon wage determinations for federal projects pay less than the union wage.** In fact, most prevailing wage rates are far below union scale, some nearer the minimum wage, most without fringe benefits of any kind. Prevailing wage laws seek to prevent the federal government from undermining local economies and prevailing local employment and training standards and practices by reflecting local conditions... regardless of the level. Oddly, some members most hostile to Davis-Bacon come from areas with the lowest wage determinations.

We also ask that you carefully reconsider the critical role the Davis-Bacon Act plays in maintaining a well-trained, highly productive construction workforce. To date this important impact has been almost entirely overlooked. **Study after study finds that when productivity, quality of workmanship and life cycles costs of construction are**

**taken into consideration, it becomes apparent that prevailing wage laws are not only NOT costing the government money, but may actually be saving it money.** More than half of major private construction is awarded based upon a negotiated rather than a low-bid basis for this very reason- **-first costs are not a true indication of the overall cost or quality of construction projects.** Numerous studies have used actual Dodge Reports for thousands of construction projects to document lower costs for certain building types in prevailing wage states as compared to non-prevailing wage states due to the greater productivity of trained, skilled workforces utilizing advanced technological equipment and related management resources.

While Congress has received largely misleading, exaggerated and inaccurate information from anti prevailing wage forces on both the estimated savings and the policy consequences of using locally prevailing wages, we applaud the bipartisan support for the Davis Bacon Act already evidenced in the 112th Congress. First-rate construction industry firms should not be disadvantaged when bidding federal projects because they offer their employees locally prevailing wages, health care, pensions and skill training. This would be the impact if the prevailing wages were excluded from major federal infrastructure legislation regardless of the form of economic assistance. The Davis-Bacon Act does more than simply survey and publish locally prevailing wages – it reflects and supports prevailing employee training and benefit standards. These are critical to supporting local economies and guaranteeing that complex federal building standards for construction quality are met without fail.

Our contractor membership urges the Committee's support of prevailing wage coverage on federal and federally assisted construction legislation before the 112<sup>th</sup> Congress. We also ask the Committee to recommend sufficient survey and general administrative Wage and Hour Division resources to assure enhanced implementation of the Act. The Davis-Bacon Act benefits local economies, taxpayer value and businesses seeking quality-driven procurement decisions – if properly empowered by Congress.

Sincerely,

A handwritten signature in black ink that reads "Stanley E. Kolbe, Jr." in a cursive script.

Stanley E. Kolbe, Jr.  
Director, Governmental Affairs  
SMACNA, Inc.



## PREVAILING WAGE LAWS

### **POSITION:**

SMACNA supports prevailing wage provisions in current law and in innovative financing options being enacted by the Congress. SMACNA opposes repeal of the Davis-Bacon Act, in whole or part. Congress should act now to fund urgently needed infrastructure improvements and school construction while enforcing prevailing labor and benefit standards with uncompromised training program requirements. This is the quality effort the taxpayer expects. The improvement of the country's infrastructure and schools demand the highest quality and safest work product. To ensure best value, high quality construction, job-site safety, and to ensure a skilled workforce for the future through apprenticeship and training programs, Davis-Bacon prevailing wages should be applied with strict enforcement to all projects using federal dollars.

### **ISSUE:**

The Davis-Bacon Act requires that the local prevailing wage rate be paid to various classes of laborers and mechanics working under federally financed or federally assisted contracts for construction, alteration, and repair of public buildings or public works.

In the current session of Congress a number of concerted attempts to repeal or undermine the Davis-Bacon Act have been unsuccessful, failing to generate any majority support. Efforts to include prevailing wage in projects using innovative financing were successful in the stimulus package passed in the 111<sup>th</sup> Congress. Prevailing wage laws should support all federal construction project funding to support local economic standards.

### **KEY POINTS:**

- Davis-Bacon is as valid today as it was when it was enacted more than 75 years ago. It still protects local economies and the interest of the government in job quality, cost-effective construction and safety.
- Objective studies show that the Davis-Bacon Act and its implementation at the state level protect builders, workers, and local economies alike, while maintaining competitive prices, job quality, and job-site safety—all of which suffer where Davis-Bacon requirements are removed. Projects in areas without Davis-Bacon frequently cost more per square foot than in areas with prevailing wage protections.
- Davis-Bacon's detractors suggest that coverage for so-called "innovative" financing is expansion of the Act. In fact, Davis-Bacon coverage has been applied to a variety of federal programs that provide financial assistance other than, or in addition to, the traditional method of financing construction with direct federal grants.
- Given the extended downturn in the construction industry, needed infrastructure authorizations should be expedited including full Davis-Bacon coverage. Every billion dollars in infrastructure funding that the government puts into the economy creates 47,000 jobs.
- Highly technical mechanical and HVAC systems required for infrastructure repair and new technology systems require highly skilled labor for installation. Application of the Davis-Bacon Act facilitates the bona fide apprenticeship programs that produce these skilled workers.
- Dr. Peter Phillips of the University of Utah found that when Kansas and other states he examined repealed their state prevailing wage laws, there were no significant savings in school construction costs. For example, in Kansas following repeal apprenticeship training fell 38 percent, employer contributions to pension and health funds decline 17 percent and worker injuries rose 19 percent

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