

U.S. Department of Labor

Employment Standards Administration
Wage and Hour Division
Washington, D.C. 20210



APR - 9 1999

The Honorable Christopher Bond
Chairman
Committee on Small Business
United States Senate
Washington, D.C. 20510-6350

Dear Mr. Chairman:

Secretary Herman asked that I respond directly to your concerns about the recent General Accounting Office (GAO) report entitled *Davis-Bacon Act: Labor Now Verifies Wage Data, but Verification Process Needs Improvement* (GAO/HEHS-99-21). I appreciate the opportunity that your staff provided to discuss this matter, and hope that this letter also addresses any issues outstanding from that meeting.

As we explained in our meeting with your staff, the Department has been working for well over a decade to improve the Davis-Bacon wage survey program. We accelerated and expanded these initiatives in the wake of allegations of false data submissions in 1995 in Oklahoma. The GAO has credited our long-term initiatives to develop and evaluate alternative wage determination methodologies. We began this process by examining a number of options for achieving long-term improvements, concluding that the most promising approaches to achieving substantial improvements in the Davis-Bacon wage survey/determination process are: 1) reengineering the current wage survey/determination system; or 2) using the Bureau of Labor Statistic's (BLS) redesigned Occupational Employment Statistics (OES) survey as the primary basis for Davis-Bacon wage determinations.

During the last two years, the Department has made significant progress on both fronts. The Wage and Hour Division and BLS have worked closely to test the feasibility of using OES wage data as the underlying basis for future Davis-Bacon wage determinations, and we should soon have additional OES data available to allow us to further evaluate this approach. We have completed two BLS pilot surveys to determine the feasibility of collecting fringe benefit data, and authorized two more pilots. We are evaluating the potential usefulness of the resulting data for determining prevailing fringe benefits.

The Department has also implemented several steps in our reengineering initiative, including a Statewide pilot survey in Oregon that uses new printing and mail processing applications, and a new Davis-Bacon web site. A redesigned data submission form (WD-10) that is machine-readable and more user-friendly is in clearance and should be implemented in August 1999.

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In addition to our long-term initiatives, the Department instituted several short-term steps following the Oklahoma incident, including implementing additional third party wage data verification procedures to improve the accuracy of wage determinations and establishing a new notification of potential criminal sanctions for the submission of false information. Other verification improvements were developed and implemented pursuant to recommendations made by the GAO and the Department's Office of Inspector General.

In its review of the Department's Davis-Bacon wage survey process (released in 1996), GAO recommended that two changes be made in the existing process – that the Department verify a sample of contractor-submitted wage data and take steps to increase awareness of the appeal process and its accessibility to help control against the possible use of inaccurate data. We promptly implemented both recommendations by developing a random verification process for contractor submissions and by publishing an appeals notice on all wage determinations.

In March 1997, the OIG released its audit report on the accuracy of Davis-Bacon wage survey data used by Wage and Hour during calendar year 1995. Among other things, the OIG found no evidence of fraud in the data it sampled, and that Wage and Hour staff generally did a creditable job of reviewing the data received and correcting or eliminating responses which were not appropriate to the wage surveys. In response to the OIG's recommendations (and at the direction of the House Appropriations Committee in its reports on appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies for fiscal years 1998), the Department incorporated an on-site payroll-record review to the existing verification procedures.

The Department has taken a number of steps to improve the data verification process including: reviewing all third party data for accuracy and verifying a sample of submissions; verifying a sample of contractor-submitted data; subjecting a random sample of all data submissions to further on-site payroll record verification. We will have spent nearly \$1 million for on-site verification last year and this, and we are pleased that the GAO noted in its most recent (1999) report that “verification efforts completed to date may, however, have a significant impact on improving the accuracy of future wage determinations by deterring the submission of fraudulent and inaccurate data, educating contractors on how to complete wage data forms, and providing Labor with information to use in its long-term reengineering efforts.”

Despite these significant efforts, we agree that the integrity of our wage survey program needs to be assured. That is why we acted quickly on these helpful recommendations from GAO and the OIG and are acting promptly to implement the most recent GAO recommendations. And that is why we have made significant investments towards achieving substantial future improvements in the Davis-Bacon wage survey process through our reinvention and reengineering efforts.

I should also address several GAO observations, in particular their reference to errors in 70 percent of wage survey forms submitted and the 76 cents per hour average dollar value of those errors.

First, the 70 percent error rate was identified through our verification process; it was derived from nine final reports of the accounting firm we hired to conduct on-site verification of wage data in surveys conducted from April 1997 to June 1998. There is no indication that any of the errors identified were the result of fraud. Moreover, our verification process did exactly what it was designed to do – identify and correct inaccurate submissions. The inaccuracies were corrected before the data were ever used for a prevailing wage determination and, as a result of the verification procedures, the wage determinations are more accurate.

Furthermore, we cannot assume the 70% rate of error calculated from these nine reports will hold true for other surveys subject to on-site verification. In addition, as GAO pointed out, our current sample for on-site verification is not (and cannot feasibly be) large enough to effectively project from the sample to all wage data submitted in these nine surveys. (These analyses prompted GAO's recommendation – and the Department's concurrence – to use judgmental rather than random sampling.) Therefore, we also cannot assume that the rate of error is representative of all the wage data submissions.

It is also important to point out that all kinds of surveys – the census, BLS surveys, public opinion polls – contain some degree of reporting error, a margin of error if you will. What is significant is that the impact of non-systemic errors on the survey results is minimal. And, our experience suggests that this is also true of the Davis-Bacon wage survey program. First, the errors found through our verification procedures are corrected before the data are used in a wage determination. Second, non-systemic errors that may be undetected and, therefore, uncorrected and used in a wage survey tend – as with any type of survey – to cancel each other out. For example, the OIG's audit of the Davis-Bacon wage survey program found that a relatively small number of wage determinations were materially affected by erroneous wage survey responses. Our analysis of the errors found in the OIG's on-site review showed that the average change in the resulting wage determinations was, in fact, an increase in the wage rates of only ten cents per hour – in other words, the net effect of the errors was to produce wage determinations that were, on the average, slightly too low.

GAO reported that the data errors found through our on-site verification process averaged 76 cents per hour. We understand that GAO computed this average 76 cents variance by taking the absolute value of the difference between the reported erroneous wage rate and the verified wage rate. In other words, GAO did not average the pluses or minuses – differentiating reported rates higher than actual rates from those lower than actual. For example, assume that you had two errors on a data submission form – one over-reporting by 76 cents an hour and the other under-reporting by 76 cents per hour – the average impact of the two errors on a resulting wage determination would be zero, because the two cancel each other out.

GAO, however, in computing the average variance did not consider whether an error was negative or positive. Instead, they computed the average difference, which in the example above would be 76 cents. Given this methodology, there is no way that one can conclude that the errors resulted in a 76 cent per hour inflation in a wage rate. In fact, our analysis of the errors – if not

detected and corrected, as they were – is that they would have, on the average, increased the determined wage rate by about 25 cents.

Nevertheless, we are determined to take all steps necessary to assure that the wage data is accurate and that our processes for obtaining and verifying data are effective and efficient. The GAO made three additional recommendations in this latest study. The recommendations and our progress in implementing them are as follows:

1. GAO recommendation: Increase the use of telephone verification – while decreasing on-site verification – and increase efforts to obtain payroll documentation from all selected submitters.

The number of survey forms submitted by employers randomly selected for telephone verification under the current system will be increased (excluding where payroll data have already been submitted). The number of data collection forms from third party submitters randomly selected for telephone verification will remain at 10 percent. During the telephone verification process, the data submitter will be asked to provide documentation supporting his/her submission.

2. GAO recommendation: Change the procedures used to select wage data for verification, using a judgmental (rather than a random) sample of wage data submissions based on the potential impact of the data on prevailing wage rate determinations.

For each craft where a wage rate is proposed, Wage and Hour will identify the contractors with the largest potential impact on the resulting wage determination and any reported wage rates outside a predetermined weighted mean. The selected contractors will be contacted by telephone and asked to provide supporting documentation. If the documentation is not provided, the contractors will at least be sampled for on-site verification.

3. GAO recommendation: Revise verification procedures to take more appropriate action when documentation cannot be readily obtained from a contractor, such as not using data when supporting documentation is requested but not provided, requiring documentation where possible, and giving third parties an opportunity to provide supporting documentation for data they submitted.

Supporting documents will be requested in all telephone and on-site verification. If a contractor is not able or willing to provide documentation or access to the documentation, the data submitted may still be used unless the contractor has a history of not cooperating or has provided inaccurate data in the past. We are developing a system for tracking contractors that have previously failed to cooperate or provided inaccurate data. In addition, third parties will be given the opportunity to provide supporting documentation for all data they submitted.

As I indicated before, we agree that the highest priority should be given to our continued work on this important objective. However, we must disagree with your characterization that "little has been done." We have been working very hard on these initiatives and believe we have

made significant headway on a complex issue. We look forward to meeting again with your staff in the future to report on continued progress. Please let me know if you would like further information on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Fraser". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John R. Fraser
Deputy Administrator