

September 10, 2021

Amanda Herrmann Vasquez  
National Director  
US Department of Housing and Development  
Office of Davis-Bacon and Labor Standards, Room 7122  
451 7th Street S.W., Washington, DC 20410

Dear Ms. Herrmann Vasquez,

Since enactment of the Davis Bacon Fair Labor Standards Act of 1931, states and localities have adhered to the law's directive ensuring local prevailing wages on federally-sponsored public works projects. The law has merit promoting fair wages based on location and job performed on the project. However, reporting requirements have proven difficult and cumbersome for many grantees and contractors to meet. Further, inconsistent and delayed communications on wage classification prolongs projects and leads to additional costs overall. Many aspects of the law are outdated including the initial project threshold of \$2,000 remaining in place for 2021.

As administrators of state Housing and Urban Development programs, COSCDA understands the intent of Davis Bacon labor standards and supports fair wages for work completed by contractors and their respective employees. COSCDA members also recognize the extent of resources and capacity involved currently to fulfill the policy as established by the Department of Labor (DOL) and carried out by HUD. We respectfully ask consideration of reforms which would remove burdensome reporting and facilitate improved access to HUD resources for local-led developments.

### Challenges

Several issues exist for state grantees and related stakeholders in meeting Davis Bacon compliance:

- As state CDBG and HOME grantees coordinate reporting responsibilities across several entities involved in project development, updated and accurate guidance is critical to this process. Training is necessary for various stakeholders to understand and respond to reporting metrics. While grantees host regular training, support from DOL and HUD has been insufficient in some states. As a result, especially for new contractors and sub-grantees, confusion exists in completing reporting.
- Wage classifications can be difficult to secure in non-entitlement areas to adequately determine contractor and employee wages. For certain laborer positions and project locations, classifications are accessible and readily available. Roles in this category include utility development for water and wastewater development. With other positions and geographies, wage classifications are much more difficult to obtain. State grantees have reported weeks and even months before responses are received

from regional DOL and HUD offices. As a result, projects are slowed and contractors unable to adequately respond until the requested wage levels are obtained.

- State and local prevailing wages exist separately from federal prevailing wages which creates confusion and proves duplicative in meeting program requirements. Additional time and effort are applied by project stakeholders in determining appropriate wage classifications and reporting compensation for each government-specific level and position.
- Employers are required to report wages of each employee weekly under Davis Bacon. Many contractors do not operate this way instead compensating employees on other schedules such as bi-weekly or monthly.

As a result of Davis Bacon's current reporting framework, state CDBG and HOME-supported projects experience a range of issues including delays to project completion, fewer bids from small but qualified contractors, and increased project and administrative costs.

- Contractors experience restitution costs for laborers which wage classification cannot be determined at the time of the project development. While costs can be incurred and distributed to laborers if pay is inadequate based on prevailing wage rates, this can result in significant project delays.
- States also report fewer bids being received on CDBG and HOME projects. Feedback from contractors reveal hesitancy in responding to request for proposals (RFPs) due in part to time and costs incurred in Davis Bacon compliance. States direct funds primarily to small and rural communities. Much of the time smaller contractors have limited capacity to complete reporting as required by Davis Bacon and are unable to compete with larger companies even though they are closer to the project site. If larger contractors determine to participate in bids, these firms are typically located in larger jurisdictions and take on other costs including travel to and from project sites which drives up project costs even more. Davis Bacon compliance certainly factors into budgeting and with past experience on their side, many eligible firms may determine the level of costs are too high to adequately support their operations.
- States experience significant administrative costs in Davis Bacon labor standards as well. Based on a sample of state CDBG grantees, grantees reported as high as 45% of total administrative costs dedicated to Davis Bacon compliance with others sharing costs of 29% and 18% respectively going to the same activity. Much of this increase is due to state employees' travel and lodging costs to rural job sites.

### Solutions

Ahead of an expected rule from DOL this November, COSCDA offers the following suggestions to improve administration and processes involved with Davis Bacon labor standards for state CDBG and HOME programs:

- A cross-agency study focused on analysis of impediments would positively contribute to understanding Davis Bacon's impact on both project development and stakeholder ability to meet policy requirements. Research on individual programs at HUD would identify costs experienced by participating project stakeholders and how changes can be incorporated to improve efficiency. Additionally, DOL's participation could be beneficial in supporting this development as a part of a larger cross-agency study on Davis Bacon.
- Further coordination between HUD and similar federal programs would contribute to better streamlining in project development including administration duties. CDBG and HOME are many times matched with Treasury, Environmental Protection Agency, and Department of Agriculture – Rural Development

resources in supporting projects. While cost contributions between the sources vary for each project, increased collaboration on program requirements would allow better management and increased community access to federal funds. Currently, separate labor requirements between HUD and other programs proves cumbersome with both grantees and contractors challenged in navigating different sets of program rules.

- States support improved surveying to inform wages in specific jurisdictions. Wage classifications can be difficult to obtain depending on specific laborer role and geography. Reinforcement of surveying through DOL and HUD regions would certainly facilitate determination of wages, reporting, and overall compliance responsibilities.
- Strengthened training is also needed to assist program administrators, contractors, and related stakeholders in appropriately addressing Davis Bacon compliance. Availability of training tools and policy guidance varies in states. At the same time, new grantees and contractors may come online without the knowledge or experience to handle Davis Bacon reporting. A review of current training practices and increased attention to providing this support would be greatly welcomed for HOME and CDBG programs.
- Alongside enhanced training opportunities, improved guidance is sought as well to aid reporting and compliance. Updated directives would be helpful related to wage rates with emphasis on both traditional laborer roles as well as roles associated with modern infrastructure and related investments i.e. broadband, energy efficiency, and weatherization.
- An updated timeline on wage reporting which is more responsive to employer payrolls is a much-needed improvement over the current reporting processes. The requirement presently has contractors providing wage information on a weekly basis. This is not in line with current compensation practices within the construction industry and how employers actually compensate their respective employees. It takes additional time and costs to contribute details on individual employee pay based on a timetable inconsistent with employer payrolls.
- The on-site interview requirement should be reviewed with alternative options considered to streamline reporting. Considerable administrative duties including time and travel of long distances are involved in completing this task as grantees and corresponding program administrators must obtain information in direct interviews with employees at the project site. Due to the increased health risks due to the COVID-19 pandemic as well as employee availability to respond, administrators can find it challenging to address this activity. A renewed approach which incorporates modern communications and engages laborers appropriately would aid this segment of Davis Bacon compliance.

COSCONDA appreciates HUD's Office of Davis Bacon and Labor Standards oversight of the agency's coordination on federal prevailing wages. We offer further insight to examine issues and advance solutions supporting greater efficiency in Davis Bacon labor standards. Thank you for your consideration.

Sincerely,



Dianne E. Taylor  
Executive Director