U.S. Department of Labor
Employment Standards Administration
Wage and Hour Division

September 2005

Guidance on the Suspension of the Davis-Bacon and Related Acts in Areas Impacted by Hurricane Katrina

The Wage and Hour Division (WHD) of the U.S. Department of Labor administers and enforces the provisions of the Davis-Bacon Act and related labor standards statutes, the Copeland "anti-kickback" Act, and various other statutes including the Fair Labor Standards Act (FLSA). This document provides answers to some basic questions following the suspension of the Davis-Bacon and related Act provisions, as well as portions of the Copeland Act, in areas affected by Hurricane Katrina to assure individuals of continued labor standards protections.

1. If hurricane related construction is performed in a State or county other than those listed in the President's proclamation, will the Davis-Bacon wage rates apply?

Yes. This suspension only applies to construction performed in the parishes in the State of Louisiana; counties in the State of Mississippi; the counties of Baldwin, Choctaw, Clarke, Mobile, Sumter and Washington in the State of Alabama; and the counties of Broward, Miami-Dade, and Monroe in the State of Florida. If a single contract or project requires construction work in areas covered by the suspension as well as areas not covered by the suspension, the Davis-Bacon provisions must be applied to the work performed outside of the suspended area(s).

2. How long will the suspension last?

The suspension will remain in force until rescinded by the President.

3. If a construction contract was awarded before September 8, is it covered by the Davis-Bacon labor standards?

Yes. If a contract was awarded before September 8, the Davis-Bacon provisions continue to apply to the project. Contracts awarded before September 8 are not affected by this suspension, and the determined rates apply to all covered work performed on such contracts. Subcontractors on prime contracts awarded before September 8 are subject to Davis-Bacon provisions regardless of when the subcontract was awarded.

4. Will contractors have to submit certified payroll records?

No. Contractors performing construction work on contracts affected by suspension of the Davis-Bacon and related Acts provisions have been exempted from the regulatory requirement to submit certified payroll records for the work performed in the affected areas. The "anti-kickback" provisions of the Copeland Act and the regulations governing payroll deductions continue to apply.

5. If contractors on federally-funded or assisted construction contracts are exempt from the certified payroll requirements, do they have to maintain payroll records?

Yes. The recordkeeping requirements of the FLSA will apply to any employer covered by that Act. The FLSA requires that the records include certain identifying information about the employee and data reflecting the hours worked and the wages earned.

6. What other related federal labor laws apply?

All other laws continue to provide labor standards protections for workers in the affected areas.

The Contract Work Hours and Safety Standards Act overtime provisions, which require the payment of time and one-half an employee's basic hourly rate, continue to apply to certain contracts in excess of $100,000.

The minimum wage, overtime, and child labor provisions of the FLSA apply to covered employers and employees in the same manner as before the suspension. The FLSA requires employers to pay covered non-exempt employees no less than the federal minimum wage for all hours actually worked and overtime at no less than one and one-half times an employee's regular rate of pay for all hours actually worked in excess of 40 in a week.

The FLSA also regulates the hours in which individuals under age 16 may be employed and the Secretary of Labor's Hazardous Occupations Orders identify 17 non-agricultural occupations or industries banned for minors under age18. The Department of Labor's ***YouthRules!*** Web site, **www.youthrules.dol.gov**, provides information for employers, young workers and parents about youth employment, the jobs minors may perform and the hours they may work. The Web site includes a video seminar entitled ***"Youth Working in Construction"*** that provides valuable and easy to understand information on the rules for teens working in the construction industry.

Federal labor laws administered by other agencies such as the Occupation Safety and Health Administration may apply. Additional information can be found on the Department's Web site: **www.dol.gov.**

ADDITIONAL INFORMATION

For more information regarding the Davis-Bacon Act and the Fair Labor Standards Act, visit the Wage and Hour Division Web site at **www.wagehour.dol.gov** or call our toll-free help line, available 8 a.m. to 8 p.m. eastern time, at 1-866-4US-WAGE (1-866-487-9243). Wage determination and other Davis-Bacon related information may also be obtained at the Wage Determination On-Line Web site at **www.wdol.gov.**