

# The Executive Memorandum

The Heritage Foundation

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## CREATING INNER-CITY JOBS BY SUSPENDING THE DAVIS-BACON ACT

In the wake of the recent riots in Los Angeles, politicians in Washington are rushing to “do something” to aid America’s inner cities. One response has been to promise money to rebuild the devastated areas and to create jobs for local residents. But federal projects rarely mean construction jobs for lower-skilled individuals from poor neighborhoods. But the federal government could increase such job opportunities by suspending or repealing an obscure Depression-era labor law called the Davis-Bacon Act. This law virtually guarantees that any federal funds spent on construction projects, such as roads and bridges, or on rebuilding cities, will bar from employment the poorest, though often the most eager and competitive, workers.

Congress passed the Davis-Bacon Act in 1931 to protect unionized construction workers from competition for federal construction jobs from lower-wage non-union labor, especially black workers from the South. The Act, which is still on the statute books, requires contractors to pay the “prevailing wage” to all workers on federally funded projects valued at more than \$2,000. In practice, the United States Department of Labor, which is empowered to determine the prevailing wage, uses local union wage scales as a proxy for the prevailing wage. Since the union wage scale is significantly more than the market wage for lower-skilled or unskilled workers, this sets a “super-minimum” wage for each job classification. Thus any laborer who does not command union scale, even though his or her skills are perfectly acceptable for the work on federal projects, is frozen out of these jobs. Typically, those frozen out are black or Hispanic Americans. Thus with the Davis-Bacon Act in place, money for federal construction projects in riot-torn Los Angeles’s communities will mean jobs for unionized workers from other neighborhoods. But those unemployed local residents who are law-abiding and desperately want to work will be priced out of the market and forced to stand by and watch others take the jobs.

**Harming Minority and Young Workers.** Minority and small contractors usually are non-union and feel that paying the higher Davis-Bacon wages so that they can compete for a few federal projects each year will so disrupt their pay scales that it is not worth the trouble or the administrative costs even to bid on government projects. This fact was recognized fifteen years ago in a study on youth and minority employment published in 1977 by the Congressional Joint Economic Committee, “Davis-Bacon wage requirements discourage nonunion contractors from bidding on Federal construction work,” says the study, “thus harming minority and young workers who are more likely to work in the nonunionized sector of the construction industry.”

Until the passage of the Davis-Bacon Act, the federal government’s policy of accepting the lowest bid on construction projects allowed black laborers to compete freely for federal work and such projects were a great source of jobs for minorities from the South. Indeed, the original Davis-Bacon Act was drafted in 1927 by Representative Robert Bacon, a New York Republican, after an Alabama contractor won the bid to build a federal hospital in Bacon’s district. As Bacon stated in the first hearing on the bill, “The bid...was let to a firm from Alabama who brought some thousand non-union laborers from Alabama into Long Island, N.Y., into my congressional district.”

Sixty-five years later, many unemployed inner-city residents would jump at the chance to work for less than the local union scale on federal rebuilding projects. Yet as Congress and the White House prepare to send millions of dollars to south-central Los Angeles and other inner-city neighborhoods, Davis-Bacon rules will cruelly freeze these eager workers out of the chance to rebuild their own communities. Instead, federal dollars will be channeled into the pockets of other Americans, most of whom already have jobs, who will commute from well outside the affected areas.

**Pushing Up the Price Tag.** Examples abound of how the Davis-Bacon Act pushes up the price tag of inner-city projects and programs, while denying jobs to local residents. Mary Nelson, director of Bethel New Life Inc., a church-affiliated social service organization in Chicago, explains that Davis-Bacon adds as much as 25 percent to her total costs and often prevents her from using the local unskilled poor to help refurbish the housing projects they themselves live in. Instead, Nelson must contract with outside firms who have no roots in her neighborhood. Marshall England, who runs a similar program in New York City, declares that Davis-Bacon is "the biggest inhibitor to good housing in poor areas."

Even a more tragic story is the case of Duane Ehresman, who operates a small construction firm in one of Chicago's poorer Westside neighborhoods. Using modest funds from a federal program, Ehresman made the legal mistake of recruiting some 45 black youths to rehabilitate some dilapidated apartment buildings rather than hiring skilled workers at union rates. When the local unions complained, the U.S. Department of Labor fined Ehresman, and he was forced to fire his young workers and replace them with union tradesmen.

Organized labor defends Davis-Bacon as being good for minority workers. But for every skilled minority worker who gets a job at the prevailing rate, dozens of others are denied the chance to climb the first rung on the employment ladder.

Over a decade ago, after an examination of employment patterns on federal projects, a report from the Comptroller General of the United States recommended that the Davis-Bacon Act be repealed, in part because of its discriminatory impact on minority employment. Stated the 1979 report:

We could find no evidence...that the repeal of Davis-Bacon would have any discriminatory effect on women or ethnic categories of construction workers. To the contrary... Davis-Bacon wage rates actually resulted in fewer construction job opportunities for low-skilled minorities....

**Time to Open Up Opportunities.** The choice awaiting lawmakers is a simple one. If Congress truly wishes to bring jobs back to the inner cities it can take the immediate step of repealing the Davis-Bacon Act, thereby opening up job opportunities on federal reconstruction projects. Yet George Bush need not wait for Congress to act. The President has the executive power to suspend Davis-Bacon with the stroke of a pen in times of emergency. The term emergency is not defined in the law. The two previous suspensions of the Act were justified for very different reasons: Franklin Roosevelt suspended the Act in 1934 for "administrative" reasons, and Richard Nixon suspended the Act in 1971 out of fear it was fueling inflation. Bush could justify suspending Davis-Bacon nationally on the grounds that there is an urgent need to create job opportunities for minorities, and that this goal should be achieved in a manner that does not bust the budget. At the very least, Bush can suspend the Act on all projects in high-unemployment neighborhoods. He should not hesitate to do so.

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