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Why the Davis–Bacon Act Should Be Repealed

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What Is the Davis–Bacon Act (DBA)?

- The DBA requires federal construction contractors to pay at least the wage rates prevailing on non-federal construction projects in the same locality.
- The act was intended to prevent the purchasing power of the federal government from driving down construction wages during the Great Depression.
- The act applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of $2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works.
- To calculate the wages that contractors must pay, the Wage and Hour Division (WHD) surveys construction wages and publishes prevailing wage determinations for each county in the United States. Federal contractors must then pay their employees at least the prevailing wage for each class of worker.

Policy Concerns

- In most cities, DBA wages bear no resemblance to prevailing market wages. In some cities, DBA rates are more than double market wages. In other cities, DBA rates are the minimum wage.
- DBA wages differ from actual construction wages because fundamental flaws mar the process used to determine prevailing wages.[1]
  - WHD uses unscientific self-selected survey samples.
  - Most DBA estimates are based on responses from fewer than 30 workers—too few to accurately estimate wages even if the survey were scientifically representative.
  - Inspector general audits found errors in 100 percent of wage reports examined.
  - Most prevailing wage surveys are years out of date. Some rates in effect have not been updated since the 1970s.
- DBA rates average 22 percent above market wages.[2] This needlessly inflates the cost of federal construction and wastes taxpayer dollars.
- Where DBA rates are below market wages and the federal government is a major construction employer, the government's purchasing power can depress wages—precisely the effect the law was intended to prevent.[3]
- Despite the proven flaws in the DBA, proponents of the act continue to call for its expansion to private-sector construction projects. Private-sec-

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tor employers do not have the same purchasing power as the federal government, and there is no economic justification for extending DBA coverage to private construction.

Economic Effects

- The DBA increases the cost of federally funded construction projects by 9.9 percent.
- Repealing the DBA restrictions would allow the government to build more infrastructure and create 155,000 more construction-related jobs at the same cost to taxpayers.
  - Tax dollars could be used to build more for less money. Instead, the DBA builds less for more money.
- Alternatively, repealing the act would have saved the federal government $10.9 billion on construction costs in 2011.[4]
- The DBA's requirements make it extremely difficult for minority, open-shop contractors to employ and train unskilled minority workers. Given that unskilled workers must be paid the same wage as skilled workers, there is no incentive to hire the unskilled worker.
  - Ralph C. Thomas, executive director of the National Association of Minority Contractors, stated that a minority contractor who acquires a DBA contract has "no choice but to hire skilled tradesmen, the majority of which are of the majority. This defeats a major purpose in the encouragement of minority enterprise development—the creating of jobs for minorities.… [The DBA] closes the door in such activity in an industry most capable of employing the largest numbers of minorities."[5]
  - Eliminating prevailing wage requirements raises minority wages.[6]

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2. Sarah Glassman *et al.*, "The Federal Davis–Bacon Act: The Prevailing Mismeasure of Wages," Beacon Hill Institute, February 2008, at *http://www.beaconhill.org/BHIStudies/PrevWage08/DavisBaconPrevWage080207Final.pdf* (January 4, 2012).
3. James Sherk and Patrick Tyrrell, "Davis–Bacon Flaws Hurt Virginia's Workers," Heritage Foundation *Backgrounder* No. 2159, July 7, 2008, at *http://www.heritage.org/research/reports/2008/07/davisbacon-flaws-hurt-virginias-workers*.
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5. Scott Bullock and John Frantz, "Removing Barriers to Opportunity: A Constitutional Challenge to the Davis–Bacon Act," Institute for Justice, at *http://www.ij.org/about/861* (January 4, 2012).
6. Daniel P. Kessler and Lawrence F. Katz, "Prevailing Wage Laws and Construction Labor Markets," *Industrial and Labor Relations Review*, Vol. 54, No. 2 (January 2000), pp. 259–274.