



STIMULUS BILL CLIENT ALERT

March 30, 2009

FEDERAL STIMULUS BILL IMPACTS EMPLOYERS RECEIVING FEDERAL FUNDS

Recipients of funding under the stimulus bill may face increased reporting requirements and labor costs due to a little-known provision requiring all construction projects directly or indirectly funded by the legislation to comply with the Davis-Bacon Act. All \$188 billion worth of construction projects funded in the American Recovery and Reinvestment Act must pay Davis-Bacon prevailing wage rates.

What is the Davis-Bacon Act?

Passed by Congress in 1931, the Davis-Bacon Act applies to contractors and subcontractors performing work 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.

The Act requires all covered entities to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits, as determined by the Secretary of Labor, for corresponding classes of laborers and mechanics employed on similar projects in the area.

The prevailing wage rate is almost universally higher than the minimum wage rate. Contractors and subcontractors on prime contracts in excess of \$100,000 are also required to pay employees one and one-half times their basic rates of pay for all

hours worked on covered contract work over forty in a workweek. Finally, covered contractors and subcontractors are required to pay employees on a weekly basis and submit payroll records to the contracting agency on a weekly basis.

What does this mean for recipients of stimulus funds?

If the Davis-Bacon Act is applied to recipients of stimulus funding, it could translate in more paperwork and costs for employers. It is important that recipients ascertain the applicability of the Davis-Bacon Act to their business operations and, if the Davis-Bacon Act applies, the prevailing wage rates and fringe benefits as set out by the Secretary of Labor for that area. Contractors or subcontractors found to have disregarded their obligations to employees, or to have committed aggravated or willful violations while performing work on Davis-Bacon covered projects, may be subject to contract termination and debarment from future contracts for up to three years. In addition, contract payments may be withheld.

If you would like assistance in determining whether or not the Davis-Bacon Act applies to your business operations or bringing your pay policies and practices into compliance with the Davis-Bacon Act, please contact your Kutak Rock attorney.

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