May 17, 2022

USDOL: Comments on Proposed Rule Updating Davis-Bacon and Related Acts
Federal Register #2022-05346

First, I would like to thank Secretary Walsh and the DOL Staff for putting together these comprehensive and concise proposed rule changes to modernize the DBA and DBRA Parts 1, 3 and 5.

Although I am retired now, I encourage the adoption of these rule changes in their entirety. As the former Executive Secretary Treasurer of the Texas Building & Construction Trades Council, AFL-CIO, I worked with the DOL Regional Office in Dallas for several years to provide education and training to Building Trades Unions and Contractors in Texas that included participating in wage surveys, apprenticeship standards requirements, conformances, and enforcement.

I like reverting back to the 30% rule while conducting wage surveys and doing away with the metro versus urban counties separation. The last wage determination issued in Texas for Building was published back in July 2014. There were 2 surveys that included one for 77 Metro Counties and 177 rural counties. These determinations were very complicated with the use of contiguous counties, supergroups, and the use of statewide data. We discovered the erosion of several building trades crafts related work was clearly covered in their trade jurisdiction in their Collective Bargaining Agreements. This allowed several types of CBA work to covered by single specific classifications and splitting wages and benefits as union prevailed wages and benefits and SU weighted averages.

Since July 2014 in Texas, the SU weighted averages wage determinations are now almost 7 years old. The ability to update those on the 3rd anniversary from the wage determination publication date by using BLS data will keep wages and benefits at more current and competitive levels. Hopefully, the DOL gets the needed funding to conduct surveys every 3 years and enough to pursue enhanced enforcement of the DBA and the DBRA. This will require hiring a great number of investigators nationwide.

I am happy the DOL is also proposing to stop contractors using their registered apprentice programs in other jurisdictions that adversely affect the already registered programs in the locality where the project is located. This could give a contractor a better bid advantage by using different ratios, wages, and benefits to the mobility of their apprentices. The non-local contractor would now have to go by the local registered program requirements. An example would be an out of state contractor paying 50% wages for a 1st year apprentice and a ratio of 1 apprentice to 1 mechanic when the local program would require 60% wages for a 1st year apprentice and a ratio of 1 apprentice to 4 mechanics. It's not hard to see the inequity and disadvantage to local contractors bidding against non-local contractors.

I have noticed several comments submitted by other organizations to extend the comment period by 60 days. I see this request as a stalling tactic. There has been ample time to research and submit comments. I encourage the Department to stick to the published timeline.

Sincerely,

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Former Executive Secretary-Treasurer
Texas Building & Construction Trades Council, AFL-CIO
50 year Member – International Association of Heat & Frost Insulators & Allied Workers, AFL-CIO