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September 18, 2007

Ms. Hazel Bell
Acting Chief
Branch of Management Review and Internal Control
U.S. Department of Labor
200 Constitution Ave., N.W, Room S-3201
Washington, D.C. 20210

RE: Extension of Information Collection for the Determination of Local
Prevailing Wage Rates per *Federal Register*, Vol. 72, No. 139

Dear Ms. Bell:

The Independent Electrical Contractors (IEC) appreciates the opportunity to submit comments regarding the collection of wage data to be used by the Department of Labor (DOL), specifically the Wage and Hour Division (WHD), in determining the local prevailing wage rate for federal construction jobs under the jurisdiction of the Davis-Bacon Act.

As a trade association representing more than 2,700 merit shop electrical contractors, IEC is concerned that the data collection methods currently employed to determine the prevailing wage rate are inefficient and inaccurate.

In order to properly address DOL's request for comment, IEC will address the specific areas of interest as noted in the *Federal Register*.

- *Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.*

IEC recognizes that this specific request for comment is not focused on the need for the Davis-Bacon Act and will therefore make all comments under the assumption that Davis-Bacon will remain the law and therefore some form of data collection is necessary.

However, it is not necessary for WHD to be responsible for the collection of the data used to determine the prevailing wage rate.

Currently, the Bureau of Labor Statistics (BLS) uses statistically valid methods to conduct wage surveys. In fact, BLS currently provides WHD with data for prevailing wage determinations under the Service Contract Act.

Furthermore, it is obvious that WHD does not have the capabilities to effectively conduct its current, voluntary survey method. The Department's own inspector general noted that it can take up to a year and a half to complete the wage survey in a particular area (*OIG Report March 30, 2004*). This time period is even more disconcerting if you consider the fact that these surveys do not include *every* contractor in a particular region, rather they merely include those contacted by WHD.

While IEC has provided WHD with a list of its contractor members to be notified when a survey is taking place, these companies had not been contacted previously. This raises the question of how WHD intends to reach those contractors who do not have a trade association to provide their contact information to WHD. If large numbers of contractors are not notified of the survey, and therefore cannot be expected to participate, it is reasonable to assume that the current prevailing wage rates are not truly reflective of their localities.

This raises legitimate questions about the utility of the information collected by WHD.

- *Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.*

The validity of the methodology and assumptions, specifically the voluntary nature of the survey and WHD's means of notifying potential survey participants, were addressed in the first question. However, this flawed process adds to the true burden of the collection of information in that it produces an inaccurate prevailing wage rate that does not truly reflect the local market.

The fact of the matter is that the Davis-Bacon prevailing wage rate is generally reflective of the various local trade unions' collective bargaining agreements, despite the fact that merit shop contractors compose at least seventy-five percent of most job markets, and more than ninety percent of the private sector workforce nationally.

While the hourly wage rate is not often the issue, such additions as fringe benefits do not accurately reflect the local prevailing wage rate.

An IEC contractor member in Ohio who works on federal contracts was kind enough to provide the following examples of how the current fringe benefits, as established by WHD as the local prevailing wage rate, do not give an accurate representation of the market.

- “Health and Welfare” is listed at \$5.00/hour, which comes to roughly \$800/month. For a family plan, \$800/month may be close to accurate, but it would not be realistic for most young, single employees.
- “Pension” is listed at \$5.12/hour, which comes to more than \$9,800 per year. This is a very generous pension plan, but does it legitimately reflect the majority of private sector plans?
- “Annuity” is listed at \$1.00/hour. Do most private sector contractors offer separate pensions and annuities?
- “Other” is listed at \$.65/hour. What does this represent?

While this breakdown of fringe benefits may be reflective of a local collective bargaining agreement, the data collection methodology that established this as the prevailing rate could hardly be considered accurate.

- *Enhance the quality, utility, and clarity of the information to be collected.*

As already stated, the quality of the current information could be improved by using a statistically reliable surveying method, instead of the current, voluntary survey that does not garner the broad participation necessary to ensure an accurate collection of data.

Also, for the purpose of clarity, an explanation of the prevailing wage rate, specifically the fringe benefits, would be helpful to contractors. As noted in the previous bullet, the IEC member was unclear as to what exactly an “Annuity” was, or how it varied from the pension plan, and, more pointedly, what “Other” meant. If WHD would simply make these explanations available on their website, it would provide more transparency and legitimacy to the process.

- *Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.*

The best means of minimizing the burden of information collection would be to replace the current, voluntary survey process with a statistically valid methodology executed by BLS. This would eliminate requiring employers and trade groups to actively pursue surveys in order to ensure their own participation, while also relieving WHD of the workload required to conduct the labor-intensive, inefficient survey process now in place.

Regarding the appropriate use of technology, the current survey process would certainly be improved by allowing contractors to submit information electronically, or simply by making the entire survey an online application.

To conclude, it is in the best interest of all involved in government contracting, especially the taxpayers who are paying the bill, to have an accurate and realistic process for determining the prevailing wage process. IEC appreciates the opportunity to be part of this comment process, and stands willing to assist as needed to improve the current prevailing wage process.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Worth". The signature is fluid and cursive, with the first name "Brian" and last name "Worth" clearly distinguishable.

Brian Worth
Vice President
Government Affairs