Prevailing Rate of Wage Act (Davis-Bacon Act) (1979)

The GAO on Davis-Bacon:
A Fatally Flawed Study.

An Economic Critique by the Center to Protect Workers' Rights

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Introduction

The General Accounting Office Report to the Congress entitled "The Davis-Bacon Act Should Be Repealed" has taken center stage in the current debate over the Davis-Bacon Act. The Report has been used by a number of Congressmen and public officials, and has laid the basis for most of the arguments for repeal of the Act. Because of its status as a pivotal source of documentation, the validity of the GAO's evidence, methodology, and reasoning should be closely scrutinized.

In reviewing this GAO Report, we have found flaws so serious as to make their arguments inconclusive and groundless. These flaws result from a misapplication of data and a misunderstanding of the Act's purposes and benefits.

The Davis-Bacon Act, first passed in 1931, requires that workers on federally-funded construction projects be paid no less than the prevailing wage in their locality. In administering the Act, the Department of Labor issues formal determinations of the rates which prevail for the various crafts of the construction industry on projects of a similar character within a particular area. These determinations are issued on either an area basis (in which case they remain in force until superceded) or for a particular project, and apply to a specific type of construction work--residential building, commercial building, highways, etc.

These basic procedures have now been in effect for over 40 years. During that time, the Davis-Bacon Act has made an important contribution to the productivity and efficiency of the construction industry and to the standard of living of construction workers.

In the course of this critique, we will argue that the Davis-Bacon Act should be retained for the following reasons:

- Although the Davis-Bacon Act was passed during the Great Depression, it is still relevant and necessary today. The Act was designed to help correct problems which arise as a result of the structure of the construction labor market and the government's role in that market. Specifically, the purposes of the Act include stabilizing construction wages, eliminating wage-cutting as a basis for awarding government contracts, and providing a check on the government's power to disrupt local labor markets.

- The GAO has not demonstrated that the Davis-Bacon Act is being poorly administered. Rather, the procedures which the Department of Labor has established seem reasonable, and the wage rates which are determined under the law are quite close to those which actually prevail.

- The GAO has also not demonstrated that the Davis-Bacon Act contributes to excessive construction costs. Their conclusions in this area are based on a study which is so seriously flawed as to render it meaningless. Further, there is no reason to believe that the Act fuels inflation. On the contrary, construction wages have been lagging behind the rate of inflation, and labor costs have been declining as a share of the total cost of housing.

It is hoped that this paper will serve to reorient the discussion on Davis-Bacon towards a more rational evaluation of the Act and its function in the construction industry and the U.S. economy.

I. The Davis-Bacon Act Still Serves an Important Purpose and Should Be Retained.

A. Changes in Economic Conditions Do Not Make the Act Obsolete.

The first basic point made in the GAO Report is that Congress should repeal the Davis-Bacon Act because "significant changes in economic conditions...make the act unnecessary." Essentially, their argument is that the law was passed in response to problems faced by construction workers during the Great Depression. Since depression-era conditions no longer exist, GAO argues, the law is an anachronism and should be repealed.

This line of argument reflects a basic lack of understanding of the history and purpose of prevailing wage legislation. It is true that the hardships created by the Depression gave final impetus to the passage of the Davis-Bacon Act. However, this law, like many other important pieces of reform legislation enacted in the 1930's, was intended not merely as a temporary measure. Rather, Congress intended that these various laws would represent permanent reforms, improving the equity and efficiency of our economic system.

Instead of representing some sort of anachronistic oddity, the Davis-Bacon Act forms an integral part of a system of labor standards legislation. This system insures that prevailing wages are paid whenever the government employs labor, either directly

or indirectly. When the government itself is the employer, pay comparability laws specify that civil servants' salaries are to be based on rates received by private sector workers performing tasks of a similar nature. When the government employs labor indirectly through the contracting mechanism, the same function is carried out by the three basic prevailing wage laws--the Davis-Bacon Act, which covers construction; the Walsh-Healy Public Contracts Act, which covers the purchase of manufactured goods; and the Service Contract Act, which covers the purchase of services.

The essential purpose of each of these laws is to prevent the government from using its tremendous economic power to distort the workings of the free market. In the case of construction, the public sector is directly responsible for 22% of the total annual output of this industry; the government role is much larger in certain subsectors such as highways and streets, water supply facilities, and flood control and irrigation works.

Domination of a particular market by a single purchaser is a situation which economists term "monopsony," a situation analogous to the domination of a market by a single seller, which is known as monopoly. Both forms of market imperfection carry with them the potential for great damage to the system, and in both cases public policy is enacted in an attempt to provide remedies.

Economic theory indicates that a monopsonist, in the absence of countervailing power, will be in a position to exploit the seller by paying a price below that which would be determined by competitive market forces. In construction, given the fact that labor is likely to be the only element of cost over which an employer can exercise any degree of short-term control, the contractor will be likely to cut wages in order to maintain profit margins. This is analogous to the situation of monopoly, where artificially high prices tend to be passed along to the ultimate consumer.

The Davis-Bacon Act serves as a check on the government's potential role as a monopsonist in the market for construction. Rather than using its massive economic clout to drive down contract prices and wages whenever it can, through the passage of prevailing wage laws the government has agreed to forego the privileges of market power and to rely on the wage rates determined in the private sector.

This solution is quite similar to other legislative remedies which have been imposed to counteract the damage which might otherwise be done by excessive concentrations of economic power. For example, the government regulates the rates which may be charged by monopolists in fields such as public utilities and communications, and imposes various restraints on firms which hold dominant shares of their respective markets in other industries as well. Rather than being considered as unwarranted interferences in the free market, the antitrust laws are generally

regarded as being necessary to promote the efficient workings of our economic system. The various laws designed to counteract the government's monopsony power in the market for construction and other goods and services should be thought of in exactly the same terms.

In addition to its general role in providing a check on the government's massive market power, the Davis-Bacon Act also serves other purposes which are specific to the problems of construction. The Act is one of a number of institutions which help to counteract tendencies towards wage cutting and instability which would otherwise result from some of the unique characteristics of the construction industry. Some of these characteristics include:

- The transient nature of the contractor's relationship to the local community. Unlike manufacturing or service enterprises, construction firms tend to be highly mobile, due to the portability of their equipment and their need to operate over a large area in order to maintain an adequate volume of work. This tendency has been strengthened by the growing dominance of major national contracting firms.

- The ease with which firms are able to enter and exit the industry, because of the ready availability of equipment

through leasing arrangements and the existence of small-scale jobs suitable for small, lightly capitalized firms.

° The casual nature of most (though not all) employment relationships in the industry.

° The strong ties of most construction workers to the local labor market. In contrast to the contractor, the typical employee is generally discouraged from seeking work far afield by a number of factors, including family and community ties, investment in a home, limited knowledge about opportunities elsewhere, and the fact that any employment is likely to be too temporary to warrant relocation.

° The sharp seasonal and cyclical fluctuations in the demand for various types of construction (and thus for various types of labor) which plague the industry.

All other things being equal, the result of these factors is likely to be both persistent downward pressure on construction wages and a tendency for wages to fluctuate sharply. The tremendous mobility enjoyed by the contractor in comparison to his workers, and the high frictional unemployment resulting from the casual nature of the work will tend to place the employee at a disadvantage relative to the employer in terms of bargaining power. Ease of entry into the industry and the transient connection of

many firms to the community mean that many employers have little long-term stake in the stability of the local labor market and thus few incentives to avoid practices such as wage-cutting or to be concerned about insuring an orderly process of training and advancement for workers in the area. Frequent sharp swings in construction activity combine with the lack of long-term employment relationships to create a tendency towards instability in both wages and employment.

The conditions described above are the natural result of the structure of the construction labor market, just as substantial fixed capital investment, long-term employment relationships, and the need to provide for internal training and advancement promote more stable conditions in industries such as manufacturing.

In response to these characteristics of the construction labor market, a number of institutions have developed over time which counteract tendencies towards instability and provide a floor under wages. These institutions include collective bargaining, hiring halls and other efforts to match workers with jobs, area-wide training programs, labor-management-government stabilization committees, etc. The Davis-Bacon Act represents one of the government's contributions to this stabilization process.

Most of these private and public institutions which facilitate the smooth working of the construction labor market have been in existence for a number of years and have been of tremendous

importance in contributing to the productivity and efficiency of the U.S. construction industry. However, there has not been any change in the essential characteristics of the industry which required these reforms in the first place. For this reason, it may be most unwise to begin dismantling this institutional framework which has worked so well up until now.

In addition to helping counteract general tendencies toward instability in the construction labor market, the Davis-Bacon Act is particularly useful in alleviating potential problems inherent in government construction work. The problem of wage-cutting is particularly likely to crop up on government projects because of the nature of the contracting process. Seeking an objective criteria on which to base procurement decisions, the government has adopted a policy of generally awarding contracts to the lowest qualified bidder. Since labor is one element of construction cost over which an individual contractor can exercise significant control, there is a real temptation to try to underbid competitors by paying lower wages. The problem may be especially severe in cases where an out-of-town contractor underbids competitors by undercutting locally prevailing wage rates.

Why is it so important that tendencies towards wage-cutting be counteracted and that conditions in the construction labor market be stabilized? First, from the point of view of the workers involved, maintenance of decent wages is a matter of

economic justice. In this country we do not regard labor as simply another commodity, to be purchased as cheaply as possible. Instead, concepts of a decent living wage and a "fair day's pay for a fair day's work" are firmly established as a part of our way of life. It seems only natural that the government should play a leading role in promoting decent labor standards in its own business dealings.

However, perhaps more significantly, the Davis-Bacon Act also provides important benefits to the construction industry as a whole, to individual contractors, to the local commmunity, and to the government itself.

Prevailing wage protection is beneficial to the industry as a whole because it helps insure that wages and benefits will be sufficiently high and sufficiently stable and predictable to allow the recruitment, training and retention of a pool of skilled workers able to meet the normal labor needs of the community. In other industries such as manufacturing, individual firms bear primary responsibility for internal training of their workforce in whatever specific skills and duties are required. However, construction companies are dependent upon being able to draw on a local reservoir of fully-skilled craftsmen, qualified to perform any task within their trade and capable of efficiently completing any of the tremendous variety of projects which might arise.

While any given contractor who happens to undertake a job within a particular area may not have a large stake in the long-term development of a skilled labor force, this is of vital importance to the local industry as a whole. For this reason, there is a substantial community interest in insuring that there are adequate rewards to "human capital" investments in acquiring construction skills.

To some contractors, wage-cutting might appear to offer short-run benefits. However, if the longer-term results involved the drifting away of skilled construction workers into more attractive employment opportunities, the effects would be disasterous both for the industry and for the consumers of construction. Similarly, it would be most unfortunate if vital training institutions such as apprenticeship programs were to be allowed to slowly erode in the pursuit of transient savings.

In addition to providing benefits to the industry as a whole, the Davis-Bacon Act also protects individual contractors who are committed to maintaining decent labor standards. The Act guarantees equality of opportunity for such employers, giving them a chance to compete for government projects on an equal footing with firms whose only interest is short-run savings in wage rates. Similarly, the law helps protect the labor standards of the local community as a whole.

Finally, prevailing wage laws are also of practical importance in protecting the interests of the government and taxpayers.

All too often, cut-rate labor is associated with shoddy work in general, both because skilled and experienced workers are not willing to work for substandard pay and because contractors who cut corners on wages are also likely to cut corners elsewhere. While payment of prevailing wages certainly does not guarantee quality work, it at least makes it possible to hire people with the skills needed to do a job quickly, efficiently and properly.

In summary, the Davis-Bacon Act continues to serve a number of important purposes. It keeps the government from using its economic power to disrupt prevailing wages in the local community and helps to stabilize conditions in construction labor markets. In doing so, it provides important benefits to construction workers, contractors and the consumers of construction.

The GAO Report makes no mention of any of these functions served by the Davis-Bacon Act. Rather, its authors try to claim that the law was merely a short-term depression relief measure, and, on this basis, to argue that it is no longer needed. Obviously, any conclusion based on such a complete lack of understanding will be completely unfounded.

Beyond reflecting a total lack of understanding of the economic and social functions of the Davis-Bacon Act, the GAO's argument is also disturbing in its broader implications. Since their case against the law essentially rests on the fact that it was passed during the Depression, there is no reason why the

same argument would not apply with equal force to the full range of social reforms enacted during the same period--Social Security, farm price supports, unemployment insurance, the National Labor Relations Act, regulation of securities markets, federal deposit insurance, etc. If the fact that our society has improved dramatically since its passage is sufficient ground to repeal the Davis-Bacon Act, then isn't all of the progressive legislation enacted in the 1930's equally open to repeal?

This incredible notion that, since prosperity has returned, we should now dismantle the economic and social reforms enacted during the Depression merits examination. These laws were designed to prevent future depressions, and still have an important role to play today. Most economists would agree that the New Deal and related legislation enacted in the 1930's has helped to prevent more recent economic downturns from turning into catastrophes of the same magnitude as the Depression. Unless the GAO has some reason to believe that we have entered a new era of permanent prosperity, without the need for any legislative safeguards, one has to wonder about their wisdom in suggesting that Depression-era reforms should now be repealed.

B. Other Laws Do Not Substitute for the Davis-Bacon Act.

A second line of argument contained in the GAO Report is that the passage of other labor laws has made the Davis-Bacon Act obsolete. This argument totally lacks merit. The other pieces of legislation cited by the GAO serve completely different purposes--preventing employers from requiring wage kickbacks as a condition of continued employment, establishing the Social Security and Unemployment Insurance systems, codifying requirements related to the eight-hour day, etc. The only real connection between the Davis-Bacon Act and most of these other laws is that they all deal in one way or another with the general subject of labor. Arguing that these laws make Davis-Bacon unnecessary is roughly analogous to arguing that laws governing farm price supports replace the Pure Food and Drug Act because both laws deal with the general subject of food.

One other law cited by the GAO deserves special mention. This is the Fair Labor Standards Act (FLSA) which sets requirements for minimum wages and maximum hours. While this law does provide an important element of wage protection, it is not a substitute for the Davis-Bacon Act. The floor set by the FLSA is well below the rates prevailing in construction, and the purposes of Davis-Bacon--stabilizing construction wages, preventing wage cutting in the bidding process, and counteracting the government's potential power as a monopsonist--go far beyond the setting of minimum wage rates.

C. Experience with the Walsh-Healy and Service Contracts Acts does notIndicate that the Davis-Bacon Act is No Longer Needed.

Yet another line of argument used by the GAO to bolster its contention that the Davis-Bacon Act is unnecessary involves the two other federal laws governing wages paid to employees of federal contractors. These are the Walsh-Healy Public Contracts Act of 1936 and the Service Contract Act of 1965. The GAO claims that the prevailing wage provisions of these two laws have never been fully implemented and that this has had no adverse effect on labor standards in the industries covered. The implication seems to be that there would be a similar lack of adverse effects associated with repeal of Davis-Bacon.

This line of argument is misleading for several reasons, and, in any event, has little relevance to the debate over Davis-Bacon.

The Walsh-Healy Act applies to contracts to supply the government with manufactured goods. Obviously, the characteristics of the manufacturing industry are very different from those of construction, and most of the special factors described above as contributing to wage cutting and instability in construction are simply not present in manufacturing.

Wage determinations under Walsh-Healy are quite different from those of Davis-Bacon, since the former refer to prevailing minimum wage rates, and thus apply only to the lowest wage earners among the occupational classifications in an industry.

By the time the Labor Department stopped issuing Walsh-Healy determinations, the Fair Labor Standards Act had been strengthened to the point that the federal minimum wage approached the minimum rates set under Walsh-Healy. While this largely explains the observation that no adverse effects resulted from the abandonment of Walsh-Healy, it is of no relevance whatsoever to the construction industry or the Davis-Bacon Act.

With respect to the Service Contract Act, it is difficult to understand exactly what the GAO is trying to say. Although it is true that the Labor Department originally did not predetermine wage rates in most instances, Congress subsequently amended the law to require such predeterminations of prevailing wage rates for service contract workers. Currently, wage determinations are issued for 83% of service contracts awarded, with the major omissions being cases involving five workers or fewer.

Experience in the service contracts field confirms the continuing need for Davis-Bacon. The findings of wage-busting practices which led Congress to pass the Service Contract Act in 1965 and subsequently to pass amendments would seem to indicate that such conditions are more than a theoretical possibility.

D. High Hourly Wages Earned by Some Construction Workers Do Not Eliminate the Need for the Davis-Bacon Act.

One final line of argument which the GAO uses in building the case that the Davis-Bacon Act is no longer necessary is the fact that average hourly earnings in the construction industry are relatively high.

However, references to relative wage rates tell only part of the story. One of the main reasons why average wages in construction are higher than those in most other major industry divisions is that construction employees include a high percentage of journeymen craft workers who are highly paid because of their skills. Pay for craftsmen in the construction industry is not substantially higher than that received by their counterparts in other industries.[1/] A major reason for the difference in industry averages is simply the difference in skill mix.

Further, the relatively high hourly pay enjoyed by many construction workers tends to be offset by the high unemployment rates which they suffer. As a result of the seasonal nature of the industry, it is estimated that the average construction employee works only about 2/3 as many hours per year as the full-time, year-round worker.[2/]

The unemployment rate in the construction industry is both persistently high and unusually sensitive to the ups and downs of the business cycle. In May 1975, at the bottom of the last recession, the seasonally adjusted unemployment rate for construction workers stood at 21.6%, more than double the economy-wide average of 9.1%. In 1978--a relatively good year for the economy--the unemployment rate in construction was 9.9%, while the overall

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1/ According to data from the Bureau of Labor Statistics' Current Population Survey, the 1977 median wage for craftsmen in construction was $6.90, while the median for craftsmen in other industries (except auto mechanics) was $6.37.

2/ Statement of Secretary of Labor Ray Marshall before the House Subcommittee on Labor Standards, June 14, 1979, page 4.

average was 6.0%.[3/]

One of the results of these staggering unemployment rates is that the pay of construction workers is not high when viewed in terms of annual earnings rather than hourly wages. In 1977, average annual earnings averaged $14,364 for construction craft workers and $10,570 for construction laborers. For comparison purposes, the overall average for all wage and salary workers was $13,863 that year.[4/]

Anyway, as should be clear from the discussion above, the rationale behind the Act is not based on the level of construction wages, but rather on the structure of the industry and the government contracting process. However, it is important to understand that GAO comments about the high average wages received by construction workers are not only irrelevant to the discussion but also factually misleading.

Finally, it should also be remembered that there are a substantial number of workers in the construction industry whose wages and working conditions fall substantially below the average. While Davis-Bacon is important to all construction workers, it is particularly relevant to the needs of unskilled and semi-skilled employees without union protection, a group for which the problems described are real everyday possibilities.

3/ Bureau of Labor Statistics, Employment and Earnings.

4/ Bureau of Labor Statistics, Current Population Survey.

In summary, contrary to the GAO's contention, the Davis-Bacon Act has a number of important purposes to serve--helping to alleviate tendencies towards instability and wage cutting in the construction industry, assuring that contractors committed to decent labor standards have an equal chance at federal jobs, and providing a check on the government's tremendous power over construction labor markets. Although these tasks may take on a special urgency during times of economic downturn, they are important under any and all economic conditions. Thus, the fact that the Great Depression is over in no way eliminates the need for the Davis-Bacon Act. It would be extremely short-sighted and dangerous to begin dismantling the Depression-era reforms which have worked so well up to now in preventing the reoccurrence of the conditions of the 1930's.

II. The Department of Labor Does a Good Job in Administering the Davis-Bacon Act.

The second principal theme of the GAO Report is that the Labor Department is doing a poor job of administering the Davis-Bacon Act, and that the Act may, in fact, be impossible to administer.

The evidence which the GAO presents to back up its charges is not very convincing. Most of their material consists of isolated examples, some purely hypothetical. Some of their comments seem to reflect misunderstandings of the Department's practices; others reflect basic philosophical disagreements with the procedures which have been established. Contrary to the GAO's views, most of the Labor Department's practices (even as described in the report) appear quite reasonable, and the independent evidence available suggests that, on the whole, the Davis-Bacon rates tend to be quite close to actual prevailing wages.

No one would deny that there are some problems with the wage determination process. The administration of any program can always be improved. However, it does seem that the Department of Labor has been doing a generally good job, that its regulations are basically sound, and that it is certainly not true that the Davis-Bacon Act is inherently impossible to administer.

A. Wage Determinations Are Based On Surveys Whenever Necessary.

One of the main criticisms of DOL procedures made by the GAO is that wage determinations are often issued without a survey having been taken, with the Davis-Bacon rates being based instead on union-negotiated wages.

To aid in its study of the administration of the Davis-Bacon Act, the GAO selected a sample of 73 determinations made in five DOL regions. Out of this sample of 73, only 52% were found to be supported by wage surveys. The investigators also examined all 530 area determinations in effect at the time, and found that only 43% were based on surveys. In the cases where no surveys were made, wage determinations were based on collectively bargained rates. According to the GAO, these facts suggest that the Labor Department is issuing union rates for Davis-Bacon projects without evidence that they do, in fact, prevail.

The GAO's findings about the use of wage surveys are hardly as startling as the report makes them sound. The Labor Department has other tools at its disposal for determining wage rates besides making a full-scale survey. Regional office staffs try to stay in close contact with contracting agencies, employer associations, labor unions, and others familiar with local conditions. In many cases, based on information gathered in this manner, it may be clearly evident that union wage rates prevail for particular kinds of construction in particular areas. In such cases, the union

rates are obtained from the relevant collective bargaining agreements or other sources, without the need for a time-consuming and expensive wage survey.

Thus, there is nothing wrong with the Labor Department not taking surveys in all cases, and the GAO report presents no reasons to believe that the DOL has been erroneously deciding that surveys aren't needed. In fact, the only evidence they offer in this section is a comment that the Labor Department may regard the simple availability of collectively-bargained rates in an area as sufficient evidence that union rates prevail. This allegation is absurd. Collectively-bargained wage rates are available in every county in the United States. If this were actually the basis for the Department's decisions, they would take almost no surveys at all, and issue union rates in almost every case.

Obviously, they do nothing of the sort. The Department of Labor reports that only 43% of its current wage determinations represent union rates. This figure is generally consistent with the findings of the GAO, any differences between the two sets of estimates being easily explainable by the small size of the GAO sample and the difference in time periods to which they refer. Considering that federal construction activity is skewed towards the heavily unionized commercial building and heavy construction sectors, it does not seem at all unreasonable that union rates should prevail in 43% of the wage determinations issued.

Indeed, an examination of the GAO's own figures suggests that the Labor Department has been making wise use of its survey resources. In the residential construction sector, where open shop construction is most prevalent, fully 81% of the determinations studied were based on wage surveys. In the heavy construction sector where unions are strongest, surveys were taken in only one of five determinations sampled. In terms of regions, surveys were most common (80% of determinations) in the Atlanta Region, an area of relatively light unionization. In the Chicago Region -- still a union stronghold -- surveys were taken for only 31% of the determinations sampled.

In summary, the Labor Department's policy with respect to wage surveys appears to be quite reasonable. For areas and types of construction where there is no doubt as to the prevalence of collectively-bargained rates, full-scale surveys are unnecessary. The patterns of DOL survey activity noted in the GAO Report fit in well with what is known about the extent and distribution of unionization in construction, suggesting that the Department is making good use of its limited survey resources.

B. <u>There Are No Serious Problems With The Labor Department's Approach to Conducting Surveys</u>.

Another charge made by the GAO is that the voluntary nature of DOL wage surveys results in response rates

insufficient for accurate wage determinations. Interestingly enough, most of the discussion in this section of the report ("Labor's problems in obtaining wage data through the voluntary submission program") does not have anything to do with the Department of Labor, but instead consists of a recital of problems faced by the GAO's investigators in trying to conduct surveys of their own. Evidently, the GAO feels that if its own staff couldn't do the job successfully, the job must be humanly impossible. However, the problems associated with a one-time special survey effort conducted by people unfamiliar with the field are not necessarily indicative of the problems faced by the Department of Labor in its ongoing Davis-Bacon survey program.

The basic theme which underlies the GAO's comments in this area seems to be the idea that in order for a wage survey to be effective it must include responses covering 100% of the relevant projects in the locality. It is hard to understand the basis for this belief, especially since the principle of determining the characteristics of a population by taking a representative sample is very well established in statistical practice. Indeed, the GAO defends this practice eloquently elsewhere in their report, when they try to explain why a sample of 30 cases is sufficient for drawing conclusions about the thousands of wage determinations issued by DOL every year.

As far as sample size is concerned, the GAO examined the files on 14 wage determinations, and concluded that they were based on responses covering an average of 58% of the projects within the scope of the survey. The Labor Department indicates that its overall national response rate is somewhat lower, averaging 30%. The minimum sample size needed to produce estimates with a reasonable level of confidence will vary according to the size of the population being studied and the variance of the responses. However, 58% -- or 30% -- seems ample for these purposes.

As the Labor Department points out in its response to the GAO Report, many of the situations in which response rates are poor are those where there is little doubt as to what wage rates prevail. In cases where there is contention -- between union and open shop contractors, for example -- all sides are usually anxious to provide as much data as possible. The Department also points out that when more data is needed, special efforts can be made such as successive contacts by mail or telephone and personal visits to contractors.

C. The Inclusion of Data From Federally-Funded Projects Is a Practical Necessity.

One of the Labor Department's practices with which the GAO takes issue involves the use of rates paid on federally-funded projects in making Davis-Bacon wage determinations. The GAO argues that this is contrary to the intent of Congress, and cites three examples where deleting government projects from survey results would have changed the rates determined.

First of all, it is unclear where the GAO gets its ideas about legislative intent. Neither the Act nor its subsequent amendments contains any reference to limiting consideration to private projects. The Congress conducted oversight hearings in 1962 and 1963 on the administration of the Act. No recommendation was made to change this practice as a result of these hearings, nor was the issue addressed in the 1964 amendments.

More importantly, the inclusion of data from federal projects in Davis-Bacon wage surveys is a practical necessity. Private-sector counterparts are very scarce for many of the things which the government tends to build -- dams, airports, sewers, bridges, harbor facilities, etc. Unless it is considered preferable to base wage rates for the construction of highways and water treatment plants on surveys of driveways and swimming pools, inclusion of federal projects is the only viable alternative.

D. The Labor Department Does Not Routinely "Import" Wage Rates Into Areas in Which They Do Not Prevail.

The GAO Report also charges that the Labor Department's wage determination policies often have the effect of importing rates into an area from other localities. The GAO indicates that its studies uncovered a number of situations where rates determined in one area were "extended" to cover adjacent or even nonadjacent counties. Specifically, a review of files on 56 determinations turned up 18 cases where rates were extended from other counties.

Although the GAO implies that there is something wrong with this practice, in fact it is completely in accord with the dictates of both law and common sense.

First, it is not clear that all of these 18 cases represent extension of rates. In its review of their report, the Labor Department concluded that the GAO's findings on this subject may largely be the result of confusion over terminology. In cases where collectively bargained wage rates prevail, it is not unusual for a particular agreement to cover a fairly large geographical area. In such a situation, while the "source" of the rates might appear to be the county in which the union and contractor association have their headquarters, the fact that the Labor Department also finds these rates to prevail in other counties covered by the agreement does not mean that the rates have been artificially extended into a new area.

However, in addition, there are situations where the Department must go outside of the particular locality in question when issuing Davis-Bacon determinations. Such situations are likely to arise in sparsely populated areas, where the Department's staff may have to go to adjacent counties in order to find a sufficient number of projects to provide a basis for a wage determination. In unusual cases, such as a major dam or bridge project, it may be necessary to go a considerable distance before locating projects requiring similar types of labor. In these kinds of cases, obtaining

wage rates from projects outside the boundaries of the individual county involved is the only reasonable alternative available to the Labor Department. This practice will not lead to any significant distortions, since it is very likely that the contractor (and a substantial number of the skilled workers) will also need to be brought in from surrounding areas. The Labor Department adheres to certain guidelines in making these determinations; generally, metropolitan counties are not used to obtain data for rural counties, state boundaries are not crossed, and counties with distinctly different wage patterns are not grouped together.

This "borrowing" of wage rates is actually fairly rare. According to Labor Department statistics, none of the area determinations and less than 8% of the project determinations issued in fiscal year 1978 were based on data from outside the locality in question.

Further, there is absolutely no evidence that this practice leads to the imposition of union rates onto rural areas in which they do not prevail. Only 5.4% of these cases of "borrowed" data involved determinations of collectively bargained rates, while another 14% involved mixtures of union and nonunion wages. In the remaining situations -- slightly over 80% of the total -- the rates which were extended represented purely open shop wages.

E. Duplicate Counting of Workers is Not a Problem.

Yet another criticism which the GAO levels at the Labor Department's practices is that workers may be counted more than once in the same survey, as they move from job to job. The GAO believes that this "duplicate counting" of employees distorts survey results.

The GAO seems to be asking for a fundamental change in the philosophy governing the wage determination process, a change which would not necessarily represent an improvement. The Davis-Bacon Act and its implementing regulations require the Department of Labor to survey the wages paid on projects of a character similar to the work in question. The fact that some projects may take longer than others to complete, or that some individuals may show up two or more times in the same survey is irrelevant. Unless the GAO believes that a worker will always be paid the same wage regardless of employer, the inclusion of as many projects as possible increases the accuracy of the survey, even though some individual workers may be represented in data from more than one project.

It is also not clear why the GAO believes that this practice will bias the survey findings. This would only be the case if there were some fixed relationship between the level of wages and the time required to complete a project (and hence the likelihood of the employees moving on to another project in time to be counted again). In actuality, there is

likely to be a mixture of jobs and wage rates, with some short jobs paying high wages, some paying low wages, etc., and the net effects of the "duplicate counting" tending to offset each other.

It is interesting to consider the administrative changes which would be required to meet the GAO's objections in this matter. Rather than simply asking each contractor the number of individuals paid at each wage rate, the Labor Department would have to request a detailed listing of the names of everyone employed on each project, and then go through the tedious process of matching names to eliminate duplication. It is somewhat surprising to find the GAO advocating a drastic increase in the reporting and paperwork burdens involved in the program, especially since elsewhere in the report it criticizes these burdens as already being excessive.

F. The "30% Rule" Still Represents The Best Approach to Determining Prevailing Wages.

In addition to raising questions about the various survey methods employed in gathering wage data, the GAO also criticizes the procedures by which the Labor Department determines prevailing wage rates from the data collected.

The basic issue here is the so-called "30% rule," which specifies that the prevailing wage will be the rate paid to the greatest number of workers, provided that this rate is received by at least 30% of the workers employed. If no rate is received by 30% of the employees, the average wage is used.

While this approach may not be theoretically ideal, serious problems with other possible measures make the 30% rule the best alternative.

The 30% rule is particularly relevant in areas with a substantial degree of unionization, since these are the areas in which large numbers of workers are likely to receive the same wage. In such areas, the distribution of wage rates will probably be highly skewed -- that is, a large number of observations will be grouped near the high end of the scale. This may well result in an average which is below the rate received by a majority of workers. The picture may be further distorted by the presence of outlying observations representing unusually high or low wage rates received by employees who might actually be performing work at different skill levels. The effect of these outliers will be to artificially inflate or deflate the measured average.

What all this means is that, in many cases, simply averaging together all wage rates collected will not produce a determination which could reasonably be thought of as the prevailing wage. For example, consider an area in which 80% of the workers in a craft are unionized, with the remaining 20% receiving various rates below the union scale. In this situation, the average wage will be below the union wage, although with four-fifths of the workforce organized, the union rate would certainly be considered "prevailing." This example is purposely made extreme for illustrative purposes; the basic

problems inherent in using an average will be present in all kinds of situations where the distribution of wage rates is uneven.

Because of these problems, the decision was made long ago to base determinations on the wage rate paid to the greatest number of workers employed. The 30% cutoff was established to avoid situations where wages would be determined on the basis of an unduly small number of employees.

The GAO documents its contention that the 30% rule leads to inaccurate results by merely pointing to various situations in which application of the rule yields wage determinations different from those which would be computed using an averaging method. This is beside the point. Everyone agrees that the 30% rule and the averaging method will sometimes produce different results. If this were not the case, there would be no reason for the debate, since either method would provide an equivalent outcome.

The essential point is that the 30% rule does not significantly distort the overall average level of wages on federally-funded projects. This is dramatically illustrated by the results of a special Department of Labor study which involved examining every single craft determination made in fiscal year 1978 under the 30% rule and recomputing the rate using the averaging method. What they found is that the differences between the two sets of rates came in both directions and tended to cancel each other out. In 48.7% of

these determinations, the rates computed with the 30% rule were higher than the average rates; in 49.9% of the determinations, the 30% rule rates were lower than the average.

G. Conclusion: Labor Department Administrative Practices Are Sound, and Result in Davis-Bacon Wage Rates Quite Similar to Those Which Actually Prevail.

In summary, the GAO's charges concerning the manner in which the Davis-Bacon Act is administered tend to be unsubstantiated and often misleading. Considering the other means available for gathering information about local wages, the fact that not all wage determinations are supported by full-scale surveys proves nothing. In fact, an examination of the GAO's figures suggests that the Department is making efficient use of its resources. Practices such as the inclusion of data from federal projects, the collection of rates on a project (rather than worker) basis, and the use of the 30% rule all appear to be perfectly reasonable adaptations to the actual circumstances of the wage determination process. The GAO's principal line of argument with respect to these practices consists of showing that different practices would yield different results in certain cases, a fact which is not in dispute.

Rather than relying on isolated examples, it would seem that a much more rewarding approach to this issue would involve overall comparisons of Davis-Bacon rates with reliable independent data on construction wages. Such a general comparison

was not undertaken by GAO and, indeed, the requisite independent data is quite scarce.

Fortunately, some evidence of this type does exist, in the form of a study conducted by the President's Council on Wage and Price Stability (COWPS) in 1976. This study was based on a comparison of Davis-Bacon wage rates with the average wages reported in a special survey of the construction industry taken by the Bureau of Labor Statistics (BLS). The comparisons were made for both commercial and residential building in 19 cities for September 1972. Because the BLS rates represent the results of scientific surveys taken by an experienced independent statistical agency, this study allows for an examination of the general accuracy and validity of Davis-Bacon data collection methods as well as the specific effects of the 30% rule. There are some potential problems with using the BLS data -- the survey was essentially limited to urban areas (although some relatively small cities were included) and very small firms were not represented in the sample. However, these problems are not so great as to make the results not worth considering.

The results of the COWPS study tend to confirm the belief that, on average, wage determinations under the Davis-Bacon Act are quite similar to those which actually prevail in the economy. COWPS found that in the residential sector, the Davis-Bacon rates averaged only 3.1% higher than the rates reported by BLS. In commercial construction,

the Davis-Bacon rates were 2.7% below those reported by BLS. Naturally, in individual cases, the two sets of rates differed by larger amounts, resulting from differences in the way they are computed. However, this study provides no evidence that, on the whole, the level of wages required on federal projects is any higher than those actually prevailing for similar work.

Thus, not only has GAO failed to prove its case that the Labor Department issues inaccurate wage determinations, but the one independent, broadly-based survey available indicates exactly the opposite.

III. The Davis-Bacon Act Does Not Contribute to Excessive Costs of Federal Construction, Nor is it Inflationary.

This section addresses the final charge made by the GAO--that the Davis-Bacon Act results in unnecessary construction and administrative costs, and that it has an inflationary effect on the economy as a whole. On the contrary, the following discussion should clearly demonstrate that the GAO estimates of increased construction costs are based on the faulty application of data from a seriously flawed study, that their estimates of increased administrative costs are grossly exaggerated and that their charges regarding the inflationary nature of the Act are totally unsubstantiated.

A. The GAO Wage Surveys Do Not Provide an Adequate Basis for Examining the Accuracy of Davis-Bacon Wage Rates.

The GAO's charge that the Davis-Bacon Act raises the costs of federal construction is essentially based on their contention that the Labor Department issues inaccurate wage determinations. In cases where determinations are allegedly too high, the GAO argues that the result is excessive labor costs on the affected projects. Part of the GAO argument is based on its criticisms of DOL survey practices; these criticisms were shown to be without merit in the previous section of this analysis. In addition, the GAO also undertook 30 wage surveys of its own, in an attempt to "check" the Labor Department results. The fact that differences exist between the DOL and GAO figures is then offered as conclusive "proof" that the Labor Department persistently makes costly errors in setting Davis-Bacon rates.

There are at least three problems with the approach taken by the GAO, problems which are severe enough to seriously call into question any conclusions based on the survey data. The first problem relates to sample size. The GAO surveys included 15 area determinations and 15 project determinations, representing a sample of 2.8% of all area determinations then in effect and 0.2% of all project determinations then in effect. Clearly, this sample size is far too small to allow for any valid conclusions to be drawn regarding the universe of DOL wage determinations.

This fact is acknowledged in several places within the GAO Report. For example, on Page 100, the report's authors state, "...we recognize that our sample size was insufficient for projecting the results to the universe of construction costs during the year with any statistical validity." These problems were further discussed in the Comptroller General's response to questions posed by Senator Harrison Williams. This response indicated that GAO statisticians have computed that a sample of 1200 determinations, rather than 30, would have been required to produce statistically valid results.

While recognizing the existence of the sample size problem, the GAO still maintains that its sample was randomly chosen, and thus should be considered at least "representative" of the universe of determinations. This contention is highly questionable. Given such a small number of observations, the allegedly random nature of the selection process does absolutely nothing to assure that the sample is representative. Indeed, the basic reason why statisticians insist on a minimum sample size is to assure that

a sufficiently large number of observations are provided to produce a truly typical cross-section of the universe under study. There is absolutely no basis for the assumption that a sample as small as that used by the GAO, however randomly chosen, will be representative of anything.

If the GAO wishes to maintain that the 30 wage determinations which they studied are typical of DOL's practices, they need to provide some evidence to back this assertion. Specifically, they need to demonstrate that their sample of 30 is similar to the totality of wage determinations with respect to the important characteristics likely to have some bearing on the results--the percentage of determinations based on surveys, the types of construction involved, and the nature of the locality (rural or urban), for example.

The GAO presents no such evidence. On the contrary, what limited data is available suggests exactly the opposite. For example, cases in which union rates were determined to prevail seem to be seriously overrepresented in the GAO sample. While these account for only 43% of the determinations issued by DOL, they account for 66% of the cases studied by the GAO. Determinations for residential construction also seem to be overrepresented. These account for 26.7% of the sample, while housing and redevelopment account for only 2.5% of the value of public construction. Determinations for highway construction seem to be underrepresented (3.3% of sample but 24.8% of public construction).[5/] The GAO

5/Statistics on public construction come from U.S. Dept. of Commerce Construction Review, and represent annual averages for 1977 (the year to which the GAO figures apply). Public construction includes

sample also seems to be heavily rural. It is interesting that it seems to be the potential "problem" areas which are over-represented. This may largely explain the number of supposed problems which GAO found.

A second general question which might be raised regarding the GAO survey has to do with response rates. The GAO Report does explain the effort made to identify and contact all contractors within the locality who might have data to contribute. However, the report does not indicate to what extent these efforts were successful. In fact, in the section of the report dealing with the problems of wage surveys, the GAO quite candidly discusses the difficulties its investigators faced in gathering data--many contractors would not respond at all, others had trouble retrieving payroll records, and still others declined to provide the verification which the GAO investigators thought necessary. The GAO also discusses the problems encountered in locating construction work sufficiently similar to the project in question to meet their standards. While it is possible that the GAO may be able to document the comprehensiveness of their survey, they have not done so in their report, which contains no data on the types and number of projects used in making their wage estimates. Based on the information they do provide, there is no reason to believe that the GAO surveys were better than--or even equal to--those routinely taken by the Labor Department in terms of coverage, specificity

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projects undertaken by state and local as well as the federal government; as the GAO points out, a substantial portion of state and local construction is covered by Davis-Bacon because of federal financing, loan guarantees, etc. Mixed determinations involving some highway work account for another 10% of the GAO sample, in addition to the 3.3% accounted for by highway-only determinations.

and completeness.

Finally, it should be remembered that there were significant methodological differences between two sets of surveys, differences which severely limit the usefulness of one as a check on the other. While DOL wage surveys include federally-funded projects, the GAO surveys did not. As noted earlier, the inclusion of public construction is probably a matter of practical necessity in order to obtain data on the full range of relevant projects. For the one highway determination in the sample, for example, the GAO apparently got its data from small private projects such as grading and paving of driveways and roadways. No wonder they came up with different results than DOL's! The GAO justified its choice in this case by referring to a Wage Appeals Board decision which stated that small projects must be considered in issuing determinations. This justification hardly seems convincing. The Board has never stated that consideration should be limited to small private projects when setting wages for major federal highway construction. Yet, this is what the GAO, in its surveys, wants to do.

A second methodological difference between the two surveys involves the so-called "double counting" issue. The GAO decided to gather its data on a worker--rather than project--basis, in order to avoid counting individual employees more than once as they moved from project to project. As discussed above, it is not at all clear that the GAO's method will produce superior results. What is clear is that it will sometimes produce different results than those obtained in the DOL surveys. This fact, by itself, should not be used an an indictment of the accuracy of Labor Department survey procedures.

Despite all of these differences, the wage rates found to "prevail" by the GAO surveys turned out to be generally quite similar to the determinations actually issued by the Labor Department. A total of 242 individual craft rates were compared. In 35% of these cases, the DOL determinations were higher than the rates found by GAO; in another 52% of the cases, the reverse was found to be true. For the remaining 13%, the GAO and DOL rates were identical. When all observations were averaged together, the DOL wage determinations were higher than the rates found by GAO by only 20 cents per hour.

It is also interesting that the cases in which the DOL determinations were allegedly too high turned out to involve unusually small projects. These cases accounted for only 18% of the total cost of projects represented in the GAO sample.

Considering the methodological differences between the two sets of surveys, and the problems with the GAO sample, it is surprising that the figures came out as close together as they did. These results certainly do not support the charge that Department of Labor wage determinations bear little resemblance to actual prevailing wage rates.

B. The Davis-Bacon Act Does Not Result in Discrimination against Local Contractors.

The GAO also argues that "excessive" DOL wage determinations have the effect of limiting competition for federal contracts. Supposedly, when the government requires payment in excess of the

wages which actually prevail, some contractors will refuse to bid for fear of disrupting their own wage structures and creating morale problems as a result of differences in pay among employees on public and private projects. Thus, the report contends, the actual effect of the Davis-Bacon Act may be to discourage local firms from bidding on government work. The GAO offers two pieces of evidence to support this contention: conversations with contractors who mentioned this problem and the observation that in 7 of the 12 cases where the DOL rates were found to be too high, "non-local" contractors were awarded the jobs.

This argument is a little hard to swallow. First of all, as is argued throughout this critique, there is no reason to believe that there is any systematic pattern of excessive wage determinations under the Davis-Bacon Act.

Secondly, the GAO's allegations concerning the problems of local contractors are difficult to reconcile with what is known about the structure of the construction labor market. Most workers in the so-called basic trades (laborers, carpenters, operating engineers, iron workers, brick masons, etc.) are casual employees of contractors who have no fixed work site and no long-term payroll. Variations in pay rates from job to job will not present problems since these represent, to a large extent, an expected feature of employment. It is rare indeed for a general contractor employing the basic trades to have two jobs so closely related that his employees would even be aware of the variation in wage rates. Thus, in this segment of the market, it

is highly unlikely that a contractor would feel constrained from bidding because of a requirement that locally prevailing wages be paid.

Finally, there are other reasons to explain why local contractors in small towns and rural areas often do not bid on government projects. Federal jobs in these areas tend to be larger than those provided by the local market and demand both a higher level of skill in certain mechanical trades and more substantial financial resources than a local contractor is able to command.

In fact, the seven projects in which excessive Davis-Bacon determinations supposedly led to the contract being awarded to non-local firms were all located in what appear to be rural areas. Six were situated in counties of under 75,000 population. It also doesn't appear that the "non-local" contractors were brought in from any great distances. The distance between job sites and contractor offices given by GAO averaged well under 100 miles for these seven projects. This kind of mobility is not at all unusual in the construction industry. Further, the GAO presents no evidence to indicate that qualified local contractors existed in the counties mentioned, or that any such contractors did not, in fact, attempt to bid on these projects.

C. There is No Evidence that the Davis-Bacon Act Leads to Excessive Construction Costs on Federally-funded Projects.

The principal use which the GAO makes of its survey data is to attempt to show that the Davis-Bacon Act leads to unneces-

sary labor costs on federally-funded construction. In order to do this, the GAO excludes from consideration the 18 cases in which the DOL wage determinations were found to be too low and focuses instead on the remaining 12 cases in which it believes that the DOL rates are too high. For these 12 projects, the percentage difference between the DOL and GAO estimates of prevailing wages are taken to indicate the percentage by which labor costs have been artificially increased. After various manipulations, this becomes the basis for the conclusion that the effect of the Davis-Bacon Act was to increase the costs of federally funded construction by somewhere between $228 and $513 million in 1977.

This estimate is so seriously flawed as to render it useless as a basis for policy judgments. The evidence presented in the GAO Report is insufficient to support the conclusion that the Davis-Bacon Act imposes any costs at all, let alone the conclusion that these costs run in the millions of dollars.

The first set of problems with the GAO estimates involves the methodology by which they were produced. As has been discussed above, there is no reason to believe that the GAO figures are any more accurate than the determinations routinely produced by the Labor Department. In fact, they may be far less accurate. Further, the GAO Report presents no reason to believe that their sample of 30 projects is at all representative of the totality of wage determinations. As previously noted, there is some evidence that the GAO sample is systematically biased in ways which would be expected to inflate the number of "errors" found.

A second general set of problems with the GAO methodology involves the assumptions which underlie the translation of differences in wage rates into differences in cost to the taxpayers. First, the GAO investigators simply assume that lower wage rates mean lower labor costs. This ignores the very important factor of the relative productivity of high-wage and low-wage workers. High-wage workers are often also the better trained, more skilled and more experienced workers who are capable of doing a job more quickly and efficiently and with less wastage of materials. These differences may be especially relevant when comparing the productivity of union journeymen with that of lower paid and less qualified employees.

Although, unfortunately, there is little hard data on the relationship between wages and productivity, the few academic studies which do exist point to the dangers in equating low wages with low labor costs. For example, Professor Allan Mandelstamm [6/] has compared union and non-union construction in two cities in Michigan, concluding that greater productivity largely offset the higher wages paid to union workers. A recent study conducted by the Department of Civil Engineering at M.I.T. [7/] noted that higher wage rates on particular projects tended to be offset by a number

6/ Mandelstamm, Allan B. "The Effect of Unions on Efficiency in the Residential Construction Industry," Industrial and Labor Relations Review, July 1965.

7/ Bourdon, Clinton C. and Levitt, Raymond E. "A Comparison of Wages and Labor Management Practices in Union and Nonunion Construction." Massachusetts Institute of Technology, Research Report No. R-78-3, prepared for the U.S. Dept. of Housing and Urban Development under Contract No. H-2327-R, March 30, 1978, pages 94-95.

of factors: more careful selection of workers, the incentive for employees to perform well in order to continue on the high-wage project, the incentive to managers to use labor more efficiently, and a reduction in the need for first-line supervision as a result of the skills of the workers hired.

It should be clearly understood that this argument is not meant to imply that raising any given worker's wages will raise productivity. What is being argued is that there is reason to believe that high wage workers are often more productive, and that, for this reason, lower wage rates do not automatically translate into lower project costs. If cutting wages means that skilled journeymen can no longer be attracted to government projects, little money is likely to be saved as a result of this practice.

The GAO is absolutely right in insisting that no conclusive proof exists of a relationship between wage levels and productivity. However, this in no way justifies their methodology. By estimating the percentage savings in labor costs as equal to the reduction in wage rates, the GAO is, in effect, assuming that there is no connection between wage levels and efficiency, an assumption which runs counter to economic theory, common sense and the (admittedly inconclusive) studies which do exist.

A similar problem exists with the GAO's apparent assumption that all savings in project costs will be passed on to the consumer in the form of a lower final price. This is obviously an assertion which should be treated with considerable skepticism. In reality, the savings to the government will depend on how low the winning

contractor has to set his bid to undercut competition. This is not likely to be directly related to the wages which are expected to be paid.

In summary, there is no sound basis for the conclusions drawn by GAO either about the allegedly excessive level at which Davis-Bacon wage determinations are set, or about the savings to the taxpayers which would result from a reduction in wages paid on federal projects.

D. GAO Estimates of the Administrative Costs of the Davis-Bacon Act are Grossly Exaggerated.

The GAO Report estimates that the administrative costs incurred by contractors and government agencies as a result of the Davis-Bacon Act amount to about $200 million per year. The vast majority of this--about $190 million--represents the cost to contractors of complying with various recordkeeping and reporting requirements.

The source of this figure bears close examination. The GAO investigators apparently tried to develop their own estimates in the course of their wage surveys. This effort was abandoned as hopeless. The GAO Report states that the responses received from contractors were so varied (ranging from nothing to 50% of contract costs) that they were useless, and many contractors would not provide estimates at all.

Having failed in their efforts to develop estimates of their own, the GAO turned instead to figures provided by the Associated General Contractors of America (AGC). These figures were based on the results of a 1972 survey in which the AGC requested its members to help document the case against the reporting requirements by indicating the paperwork cost which they imposed. Apparently, most of the replies received were so unresponsive as to be useless. Even those which actually provided the requested data varied so greatly (from $200 to $10,000 per million contract dollars) as to be highly suspect.[8/] The final conclusion of this study, based on 41 usable responses, was that the various requirements of the Davis-Bacon Act increased the cost of government construction by 1/2 of one percent. The GAO then applied this percentage to its estimate of the annual volume of covered construction to arrive at the figure of $190 million in administrative costs to contractors.

It is not surprising that the AGC experienced difficulty in collecting precise estimates of these costs. The tasks connected with payroll recordkeeping and reporting are simply one phase of a contractor's normal office operations, and trying to allocate general administrative expenses among a number of related tasks is always a tricky process. What is surprising is that the GAO chose to adopt, without question, the results of a highly unreliable survey which was conducted by one of the parties to this debate in an effort to bolster its position.

8/ See Secretary of Labor Ray Marshall's response to the GAO Report, pages 29-32.

The GAO/AGC estimate seems particularly unbelievable in light of what the regulations implementing the Davis-Bacon Act actually involve. Essentially, a federal contractor is required to:

- Post the relevant Davis-Bacon wage rates prominently at each site;
- Maintain payroll records showing the wages and fringe benefits paid to each worker;
- Submit a copy of the payroll to the contracting agency each week;
- Submit a weekly statement certifying compliance with the law; and
- Keep payroll records available for review for at least three years following project completion.

The requirements for posting wage rates, certifying compliance, and retaining records would seem to impose only minor additional costs. Anyway, retention of payroll records is independently required by the Fair Labor Standards Act. With respect to the reporting requirements, it should be kept in mind that the contractor need only submit a copy of the payroll records in whatever form they are normally kept. Although the government does provide special forms for this purpose, their use is strictly optional. Unless one believes that contractors would not otherwise keep payroll records, it is hard to understand the source of the massive administrative costs to which the GAO refers.

E. The Davis-Bacon Act is Not Inflationary.

Finally, the GAO makes the charge that the Davis-Bacon Act not only contributes to excessive construction costs, but also has an inflationary effect on the construction industry as a whole. This charge is even less substantiated than the others in the report.

It is important to remember that the allegation that the Act leads to unnecessary construction costs is not sufficient to support the charge that the Act is inflationary. The GAO tries to blur the distinction between the two concepts in order to make it appear that there is some basis for its comments about inflation. This is incorrect. The term "inflation" refers to the rate at which costs and prices are increasing, not to their levels. The allegation that construction costs are higher than they should be does not imply that these costs are increasing at an excessive rate; in fact, it does not necessarily imply that they are increasing at all.

Our objection that excess costs are not the same thing as inflationary pressures is by no means meant to imply that excess costs, by themselves, would not be a serious problem. The GAO and other critics of the Davis-Bacon Act have simply provided no reason to believe that the law has served to raise the costs of federal construction. Inflation is also a very serious problem, a problem which has a particularly severe impact on the standard of living of working people in this country. However, while

gratuitously charging that the Davis-Bacon Act is inflationary may help the GAO improve the appearance of an otherwise weak case, such conduct does nothing to further the serious discussion about the causes of inflation which urgently needs to take place.

What basis does the GAO Report provide for its complaint about the inflationary impact of the Davis-Bacon Act? Essentially, the report cites only one bit of evidence on this score--the fact that wages and other costs in the construction industry were growing at a particularly rapid rate in the early 1970's. What this has to do with the Davis-Bacon Act is a mystery which the report's authors never clear up. During the almost 50 years over which this law has been in existence, construction wages have increased at various rates. There is no more reason to attribute the fact that wages rose rapidly in some years to the Davis-Bacon Act than there would be to claim that the slow growth of wages in other years was a result of the law.

In fact, the rapid increase in wages referred to by GAO is generally attributed to the boom conditions which existed in the construction industry in the late 1960's. The inertia created by this boom led to continuing escalation of wages and prices in the first couple of years of the present decade, even after the unemployment rate in the industry began to rise. However, this situation was only temporary, and the rate of wage increases soon receded. It is true that President Nixon temporarily suspended the Davis-Bacon Act in 1971, allegedly as an anti-inflation measure. This suspension was essentially political in nature, and was abandoned after only 35 days. Even the GAO presents no

reason to believe that this suspension had any effect on inflation.

If the GAO wants to argue that the Davis-Bacon Act is inflationary, they need to show that the law is causing construction wages to rise more rapidly than they would in its absence, and that these wage increases are driving up the costs of federal construction. The GAO has made no such showing, and, in fact, there is substantial evidence to the contrary.

Wages in construction have recently failed to keep pace with wages in other sectors of the economy or with prices. Over the past five years, hourly earnings for construction workers increased at an average rate of 6.1% per year. At the same time, average hourly earnings for the private nonfarm economy as a whole were increasing at a rate of 7.8% per year, and inflation was averaging 8.0% per year. After adjustment for inflation, construction wages actually fell by 12.4% between 1973 and 1978.[9/]

Not only have wages in construction been failing to keep pace with inflation, but labor costs as a whole have been rising less rapidly than other elements of construction costs. This can be clearly seen in statistics relating to the costs of housing, a matter of urgent concern to the average consumer. Between 1949 and 1977, the share of the consumer's housing dollar attributable to labor costs fell from 31 cents to 17 cents, while the share going to banks rose from 5 cents to 11 cents, the share going to landowners rose from 11 cents to 25 cents, and the share going to developers (in profits and overhead) rose from 15 cents

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9/ "Earnings" refers to the BLS Hourly Earnings Index; "Inflation" refers to the Consumer Price Index. All figures apply to the period 1973 to 1978.

to 17 cents.[10/]

A similar pattern can be seen in statistics for last year alone. While construction workers' earnings increased by only 7.5%, building materials prices rose by 10.8%, and interest rates were up by 43.3%.[11/]

In summary, the only way in which the Davis-Bacon Act could be contributing to inflation in the construction industry is by driving up the rate of increase in wage rates, which, in turn, would be raising the overall cost of projects. However, since wage rates are decreasing relative to prices and other wages, and labor costs are declining as a share of total construction costs, the GAO's complaints about the inflationary effects of the Act appear completely without merit. While construction workers' wages may provide a convenient scapegoat on which to blame skyrocketing building costs, such groundless allegations not only do a disservice to a group who are themselves victims of inflation, but also contribute nothing to the identification and correction of the real sources of these price increases.

F. Conclusion.

The General Accounting Office has presented a very weak case for the repeal of the Davis-Bacon Act. Serious methodological

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10/ National Association of Home Builders

11/ "Earnings" refers to the BLS Hourly Earnings Index for construction workers; "building materials prices" refers to the BLS Producer Price Index for intermediate materials and components for construction; "interest rates" refers to the prime rate charged by banks. All figures represent percent changes, fourth quarter 1977 to fourth quarter 1978.

problems render its estimates of the costs of the Act virtually meaningless, and the GAO has failed to produce any convincing evidence of the law's alleged inflationary impact. Contrary to the assertions made in the report, the practices of the Department of Labor in administering the Act seem basically sound, and the available data suggests that the level of wages required on federal projects is generally similar to that which prevails in the construction labor market as a whole. Finally, the Davis-Bacon Act still has several important purposes--helping to stabilize conditions in construction labor markets, preventing wages from being driven down as a result of the federal procurement process, and providing a check on the government's tremendous economic power which could otherwise severely disrupt the labor standards of the local community.

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