

# Overcoming Prevaling Wage Adversity

BY MIKE ODE

Are prevailing wage laws unfair to open shop contractors? Or, do they create a level playing field for all contractors competing for publicly funded jobs?

The controversial debate surrounding these laws has been going on for years. Meanwhile, only the most well-organized contractors succeed when it comes to highly regulated and competitive government projects.

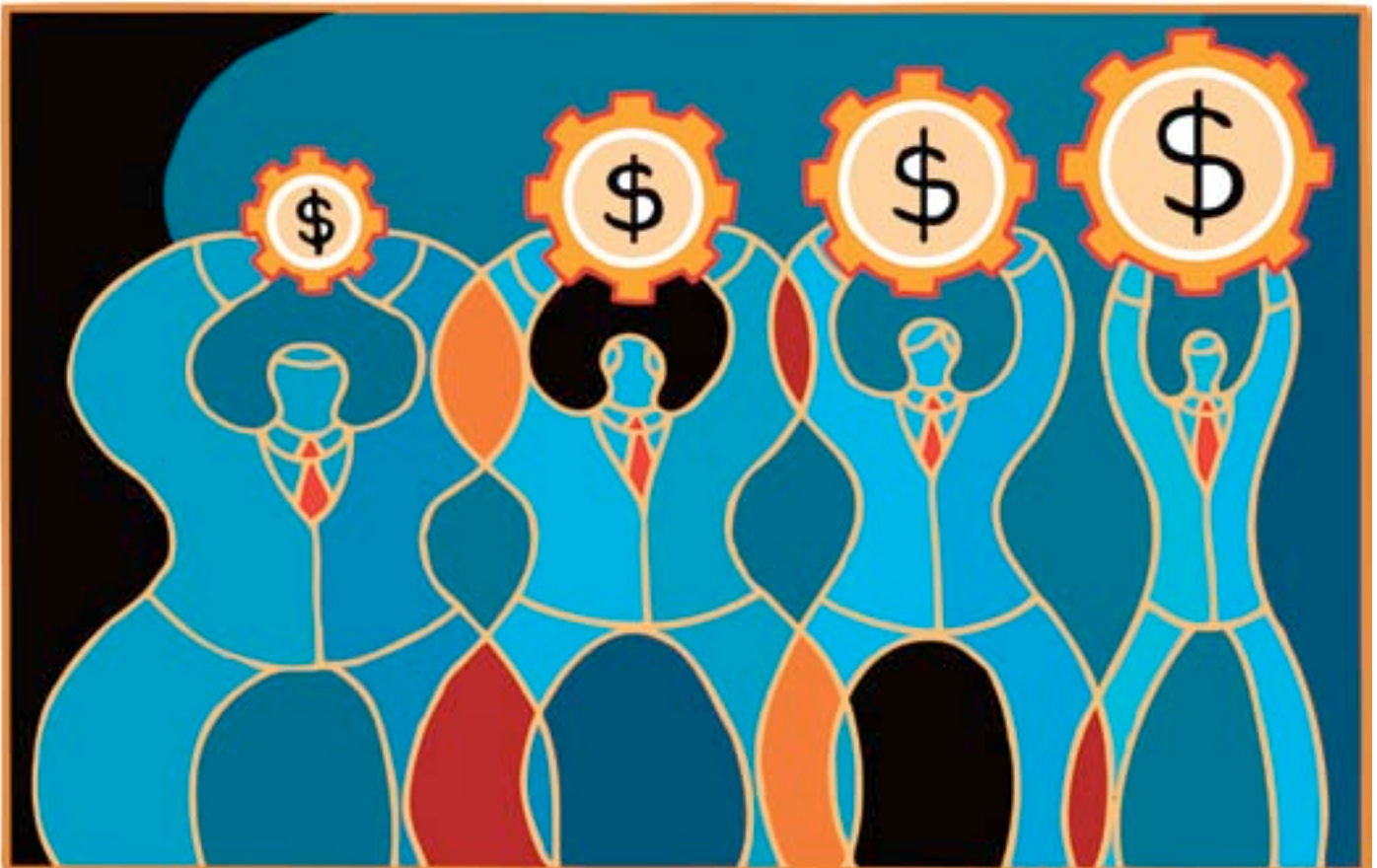
The Davis-Bacon Act, enacted in 1931, requires that a prevailing wage be paid to workers on all federally funded jobs. The U.S. Department of Labor determines the prevailing wage by taking a survey of

wages paid for a type of work within a specific geographic area. To complicate matters, this wage includes two components: the hourly pay rate and an amount to cover fringe benefits.

## FRINGE BENEFIT COMPLIANCE SEPARATES THE PLAYERS

Many argue that union contractors have an advantage over open shop contractors on prevailing wage jobs because workers already are enrolled in union-administered benefits programs. Without a lot of added paperwork, a union contractor can comply with the law's provision and lower its direct labor costs by paying tax-saving fringe benefits.

In contrast, many open shop contractors choose to pay the fringe portion of the prevailing wage in cash, believing it is the simplest way to comply with the law. In reality, this is an expensive compliance method. According to most calculations, contractors add as much as 30 percent per hour to their payroll costs because all cash wages are subject to payroll taxes (such as FICA, FUTA and workers' compensation). Workers enjoy the cash bonuses, but this method makes the company less competitive and drives down profit



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**Construction accounting  
technology can help  
automate the prevailing  
wage/certified  
payroll process.**

margins. Companies that pay this way also are more vulnerable to government compliance audits and fines.

Consider a contractor that bids on a federally funded job and says workers are entitled to a \$26-per-hour cash wage and \$8 per hour in fringe benefits. Choosing to pay fringe benefits as additional cash wages (resulting in total wages of \$34 per hour) means this contractor is paying about \$2.40 more per payroll hour than a contractor that uses a “bona fide” fringe benefits plan. If the contractor has 20 field employees, the cost of paying this fringe in cash totals more than \$7,600 per month, or \$92,000 per year.

**FOLLOW THE RULES AND  
KEEP ACCURATE RECORDS**

Understanding the rules and guidelines to the many prevailing wage laws in existence today—the federal Davis-Bacon Act, “Little Davis-Bacon” state laws and other related regulations—is far from easy. Many contractors turn to prevailing wage consultants or financial services firms to help establish low-cost benefits programs or make better use of existing programs.

A contractor that offers paid vacation and sick leave benefits, for example, might decide to increase employer contributions to meet the fringe benefit rate or sweep the remaining fringe rate into another benefit plan, such as a 401(k) plan with a special prevailing wage provision. According to prevailing wage experts, paying even a portion of the fringe rates in cash is not cost effective.

Fringe benefit planning is only half the battle. Without accurate recordkeeping and documentation, contractors risk more than just paying unnecessary payroll taxes. Sanctions for non-compliance of Davis-Bacon requirements can include owing employees large sums in backpay and interest, cancellation of contracts, debarment from federal projects and withholding of payments due.

**SOFTWARE SIMPLIFIES COMPLIANCE**

Accounting software technology helps level the playing field so that open shop contractors can win more public works jobs and make a profit.

However, contractors that use generic or outdated accounting software understand the grueling work that complying with Davis-Bacon reporting requires. Without the ability to track employees by job, trade or

hour, they must first identify which employees to include on the weekly reports. Next, they must collect the information for each employee, including work classifications performed while on the jobsite, hours worked each day at each different classification, the

rate of pay for that classification, the corresponding fringe benefit rate, the gross pay for each job, the gross pay for all jobs, all applicable payroll withholdings and the net pay for the week.

To prepare these reports, contractors must manually enter data into the forms or create a spreadsheet and enter the required data each week. The result is that contractors spend a lot of extra time and effort duplicating data entry, while increasing the risk of errors.

Construction-specific software technology makes it easier to track, calculate

and report the information needed for public works projects. In addition to many construction-specific features, government contractors should seek:

- 1. The ability to track employees by job, trade and hour.** This feature allows contractors to easily track labor costs, even as workers move from job to job and work at different hourly rates and trades.
- 2. The ability to set up different rate tables for distinct geographical areas and jobs.** In order to accommodate fluctuations in pay rates based on various prevailing wage schedules (and even non-prevailing wage jobs), this feature automatically defaults to the correct pay rate based on wage determinations per job or location.
- 3. The ability to properly allocate and accrue fringe benefits.** The software should enable contractors to pay fringes directly to employees, either through an existing fringe benefits plan or a qualified third-party plan. It also should automatically credit the company for existing non-cash fringe benefits paid on the employees' behalf, thereby reducing the fringe rate by the cost of current fringes.

- 4. The ability to generate certified payroll reporting.** The application automatically should collect and prepare the data necessary for certified payroll reports (including WH-347 Payroll Certification and WH-348 Statement of Compliance). Because state and local agencies often have stricter requirements than federal regulations, some systems provide more detailed reports, such as a complete breakdown of hourly fringe rates.
- 5. The ability to provide extensive reporting capabilities.** In addition to certified payroll reporting on a weekly basis, a government contractor needs access to historical certified payrolls and other related reports, such as minority compliance reports. Ideally, payroll system should integrate fully with job costing so Davis-Bacon wage and fringe expenses automatically are included in over/under-billing reports and other job history reports.

#### COMPETE WITH CONFIDENCE

Understanding the regulations and requirements that come with public works projects is the first step toward successful

prevailing wage work. By adopting a benefit plan in lieu of paying cash for fringe rates, for example, a government contractor can enjoy more than just lower payroll taxes. Considering today's tight labor market, the contractor also is better suited to recruit and retain qualified employees.

The second step to becoming a competitive government contractor involves accurate recordkeeping and timely reporting. Construction accounting technology can help automate the prevailing wage/certified payroll process. As a result, contractors eliminate the time-consuming and inefficient work that once took a big bite out of profits.

In today's world of prevailing wage work, the playing field may not be level, but with an understanding of the laws and the right software, more open shop contractors can compete for and win jobs.

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