CBO ESTIMATE ON DAVIS-BACON REPEAL IS FLAWED

The Congressional Budget Office (CBO) estimates presented to Congress[1] concerning the impact of the Davis-Bacon Act on the cost of construction are seriously flawed. The CBO estimates are based on estimates from a study conducted in 1983, that was based on an earlier study performed at the Department of Labor, without major updating. There is no basis in fact for the estimates of savings that would result from repeal of this Act. Items referred to as savings in the CBO estimate could be considered cost shifting to the states and private sector, thus distorting this side of the estimate. Perhaps more important, even, the estimate does not consider benefits which would be lost if the Act were repealed, and which easily could exceed the amount of savings incurred. As will be explained, we believe that the CBO estimate is insufficient as the main source of factual information on which the proposal to repeal the bill is based.

CBO estimates that repeal will result in savings to the Federal government of $3.1 billion over 5 years. The margin used to calculate saving in Federal construction spending is only 1.5%. In other words, even small errors in this number can eliminate the total savings. We raise this concern because we believe the estimate is based on a sufficient number of faulty assumptions, each of which could significantly alter the economic impact of repeal of the law. In particular, we question the following assumptions:

First, it is unclear how adjustments were made for changes made in the "30 percent rule," which the Department of Labor abandoned in the early 1980's. The "30 percent rule" meant that the prevailing rate would be determined by whatever rate was paid to 30% or more of workers in that classification in the locality. If no uniform rate is paid, the market average is the prevailing wage. Today the rule is 50%. Changing the rule from 30% to 50% means that prevailing wages will be determined by the market average in most areas. In the CBO figures, it is unclear how changes made in the 1980's are counted. If the effects of this change have already been absorbed, they cannot be counted again as a new saving if the Act were to be repealed.

Second, the gap in wages between union and non-union workers in construction has narrowed considerably. The CBO study bases its estimate on data from before 1983, when union members earned wages that were 40-44% higher than wages for non-union workers. The wage differential has declined to 29%. Even where unions have remained strong, savings in wages have already diminished by about a third. The CBO did not reduce its estimate to take into account this effect.

Third, the estimates of paperwork costs of compliance do not take into account today's common use of computers. The 1983 CBO estimate remains based on a survey of

---

[1]Most recently presented by CBO Director Robert D. Reischauer in testimony before the Subcommittee on Labor Standards, Occupational Health and Safety, Committee on Education and Labor, U.S. House of Representatives, May 4, 1993.

contractors in 1972. Had CBO adjusted for the overstatement of costs with regard to improvements in managing payroll information systems, their numbers would be smaller.

Fourth, the CBO estimate assumes that repeal of the Federal law would eliminate all prevailing wages. In fact, it is likely that some existing state prevailing wage laws will retain the prevailing wages on construction with shared state and Federal funding, and this will significantly reduce the impact of any Federal repeal.

Finally, and most critically, the CBO only looked at potential direct savings to the government. It ignored the costs--and especially indirect costs--that would accrue to the government and our society if Davis Bacon were repealed. In order for any reliable estimates on the costs or savings of a possible Davis-Bacon Act repeal to be made, a number of factors that may lead to increased costs should be considered, such as:

- There is substantial evidence, including Federal Highway Administration data, to suggest that there may be great variations in productivity in the construction industry. We question the CBO assumptions that high wage rates lead to high construction costs or that low wage rates lead to low construction costs. To estimate the effects of productivity differences, a study should be made of costs per unit of construction before and after repeal of state little Davis-Bacon Acts.

- There has been a major wage reduction in the construction industry in the last decade. Therefore, it is unlikely that further wage reductions in the magnitude anticipated by CBO will take place if Davis-Bacon is repealed. New estimates should be made, based on the reduction in wage differentials that have been observed since 1983.

- Changes in the dynamics of the construction industry have not been considered by the CBO: in particular, the growth of independent contractors in construction. According to separate estimates by the Bureau of Labor Statistics and the Internal Revenue Service, the number of workers in construction classified as independent contractors has grown from 1.1 million in the early 1980s to approximately 1.6 million in the early 1990s--a 45% increase in a decade.

- The CBO does not adequately factor the major changes in wage determinations that have been made by the Department of Labor in the last decade. Today, only 29% of area wage rates are based on union wage rates. The number of collective bargained agreements also dropped sharply, covering only 23% of employees in the construction industry.

- The CBO does not take into account the indirect costs inflicted on government and private industry through repeal of the Davis-Bacon Act. A recent econometric study by the University of Utah based on empirical data from the nine states that repealed their state prevailing wage laws in the 1980s, concludes that the Federal government would end up loosing $1 billion in annual tax revenues, and spending $300 million

more per year on workers' compensation related costs if the Act were to be repealed.

- Additional long-term consequences that repeal of the Davis-Bacon Act would have on competitive practices, bidding practices, cost over-runs, change order requirements, and construction quality have not been considered. The University of Utah study found that deleterious bidding practices increased dramatically following repeal of the state prevailing wage law in Utah.

- Long-term consequences of repeal on the workforce also need to be considered, including such factors as skills training, worker turn-over, safety and health patterns, funding of health care and retirement. Again, the University of Utah study noted a number of unanticipated, highly negative effects on the workforce.

Because of the important changes noted above, we believe members of Congress should reassess the Congressional Budget Office study and include the qualitative changes in the industry, the way the Act is administered today, and the indirect costs associated with repeal.

A new study of modern conditions, that is not based on the 1983 and earlier data that are so obsolete, should be conducted. Representatives for the construction industry should meet with CBO, the Department of Labor and the Department of Commerce to make an up-to-date study on which factual decision-making can be based.

When all factors affecting costs and savings associated with the Act and its possible repeal are included, it could very well be true that the Davis-Bacon Act saves government money. Therefore, it is possible that repeal could be very costly to our society. It is our strong recommendation that Congress seek another, up-to-date and scientifically valid study on the potential impacts of repeal before considering legislative action.

Steven Allen, Ph.D., North Carolina State University
Nicholas Ashford, Ph.D.,J.D., Massachusetts Institute of Technology
Rosemary Batt, Ph.D., Cornell University
Vernon Briggs Jr., Ph.D., Cornell University
John Craven, Ph.D., Middlebury College
Charles Craypo, Ph.D.,University of Notre Dame
James Devine, Ph.D., Loyola Marymount University
Peter Dorman, Ph.D., Michigan State University
Teresa Ghilarducci, Ph.D., University of Notre Dame
Eban Goodstein, Ph.D., Skidmore College
Garth Mangum, Ph.D., University of Utah
Larry Mishel, Ph.D., Economic Policy Institute
Ann Markusen, Ph.D., Rutgers University
Michael Perelman, Ph.D., California State University
Peter Philips, Ph.D., University of Utah
Juliet B. Schor, Ph.D., Harvard University
David Weil, Ph.D., Boston University