



May 4, 2011

Honorable Timothy Walberg
Chairman
Subcommittee on Workforce Protection
Room 418 Cannon House Office Building
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Walberg:

The Economic Policy Institute submits this supplemental statement to correct the hearing record and respond to serious errors in testimony submitted by James Sherk of the Heritage Foundation. Dr. Sherk's testimony grossly misrepresents the relationship between wages paid under the Davis-Bacon Act and what Dr. Sherk misleadingly calls "the market wage" -- local construction wage rates published by the Bureau of Labor Statistics in its Occupational Employment Statistics (OES). In his written testimony, Dr. Sherk, a Senior Policy Analyst in Labor Economics at the Heritage Foundation, claimed that Davis-Bacon rates are generally set "well above market wages," so high that they will increase the government's construction costs by more than \$10 billion this year¹. As we will show, this claim is false.

Dr. Sherk contends that, "The Wage and Hour Division uses unscientific methods and unrepresentative data to estimate prevailing wages. Unsurprisingly, Davis-Bacon rates typically bear little relation to actual prevailing wages. *** Davis-Bacon rates vary wildly from actual market pay."²

To support his contention, Dr. Sherk's testimony includes a table which compares, for selected cities and counties, the wage obtained from the OES with what Sherk labels the "Davis-Bacon" rate. The "Davis-Bacon" rates in his table are usually considerably different from the OES rate, and are more often above the OES rate than below the OES rate.

In fact, there is no reason to expect the rates to be the same because they measure different things. The Davis-Bacon rates are segmented among four types of construction and construction labor markets, they are collected from different geographic areas than the OES and at different times, and they typically collect information on much more detailed occupational breakdowns than the OES. As currently constructed, the OES is

¹ James Sherk, "Examining the Department of Labor's Implementation of the Davis-Bacon Act," Testimony before the Education and Workforce Committee, U.S. House of Representatives, April 14, 2011, page 1.

² Sherk testimony, page 7.

both significantly different and quite incapable of meeting the statutory requirements that the Davis-Bacon surveys have been designed to meet. The OES is not an appropriate benchmark for comparison and should not be idealized as the true “market rate.”

In any event, the wild variation and the upward bias Dr. Sherk found in his Davis-Bacon rates are the product of Sherk’s own invention and do not accurately represent the relationship between either the “market rate” or the OES and wage determinations under the Act. In truth, they are caricatures that result from misuses of the data: selecting only the Davis-Bacon rates for building construction while excluding the typically lower rates for residential construction, using different time periods for the Davis-Bacon and OES rates, and misunderstanding the difference between an occupational survey and a wage determination.

Failure to Include Residential Rates:

To support his claim that Davis-Bacon rates are generally too high, Sherk reports an hourly Davis-Bacon rate for electricians in Jackson, MI of \$38.57. This is the published Davis-Bacon rate for building and heavy construction in Jackson County and is far above the OES estimate of the hourly rate for electricians of \$27.14. However, the Davis-Bacon residential construction rate for Jackson County is only \$22.79. If we take as a rule of thumb that about half of construction workers are employed in residential work, the average hourly wage of electricians is \$30.68, about 13% above the OES hourly wage, rather than the 42% Sherk reports. Inclusion of residential rates for the other trades Sherk sampled -- carpenters and plumbers -- actually eliminates the upward bias Sherk identified. The estimated difference between the Davis-Bacon and OES hourly wage changes from one in which the Davis-Bacon rate is substantially above to one in which it is somewhat below the OES rate.

Reviewing Sherk’s table of “Davis-Bacon and Market Determined Rates for various cities,”³ we added information on the residential rate by trade for the county, averaged this rate with the building rate provided in Sherk’s testimony, and calculated the difference between the OES and the more appropriately averaged building and residential rates. The differences between the OES and Davis-Bacon rates are generally smaller than those reported by Sherk, and we find that the OES rate is *above* the averaged Davis-Bacon rate more often than not.

Comparing Davis-Bacon Rates from 2010 and 2011 to OES Rates from May 2009

Dr. Sherk’s second mistake is in comparing Davis-Bacon wage determinations which were in effect in 2011 with OES data from May 2009. When Davis-Bacon rates which were in effect in May 2009 are used, the apparent differences between the Davis-Bacon and OES rates are substantially narrower.

³ Sherk, testimony, page 8.

The Davis-Bacon wage determinations for Alameda and Contra-Costa Counties cited in the Heritage study went into effect between June 2010 and January 2011, between a year and a year and a half after the OES rates. The determinations for Sonoma County used in the Heritage study were closer in time to the OES rates for electricians (June 2009) and plumbers (August 2009) but the carpenter rate dated from July 2010, more than a year after the period covered by the OES data. Using this non-comparable data, and neglecting to adjust for residential rates, the Heritage study reported differences between Davis-Bacon rates and OES rates of between 27.5% and 86%.

The difference between the Davis-Bacon determination and the OES rate is considerably smaller when the Davis-Bacon rate which was in effect in May 2009 is used. As shown in Table 2, the second set of columns, the comparable rate for carpenters in all three counties was \$34.75, not \$37.75 as reported in the Heritage report. The rates for electricians in Sonoma County were \$42.33 for non-residential and \$33.25 for residential electricians, rather than \$44.00 and \$36.11 as reported by Heritage. The correct rates for plumbers in Sonoma were \$45.90 and \$40.80 rather than \$55.25 and \$51.11. Parallel reductions occur for electricians and plumbers in Contra Costa and Alameda counties.

Using the appropriate Davis-Bacon rates considerably narrows the difference between the OES and Davis-Bacon. For example, Heritage reports that the Davis-Bacon rate was 40.1% above OES hourly wages for Sonoma carpenters, 54.1% for electricians and a remarkable 86% for plumbers. Averaging in the lower residential rates, and using the Davis-Bacon rates which were in effect in May 2009, the differences were a far more modest 29.3% for carpenters, 16.5% for electricians and 45.9% for plumbers.

We have not checked to see whether the rest of the time periods used in Dr. Sherk's comparisons are equally inappropriate, but we suggest that the committee do so before citing any of Dr. Sherk's calculations.

Failure to Adjust Davis-Bacon Rates for the Use of Apprentices:

To put Dr. Sherk's third mistake into the simplest terms, he does not take into account that the surveyed Davis Bacon rate does not include apprentice rates and will therefore be higher than the average rates actually paid on a project.

Davis-Bacon rates are determinations of the hourly rate paid to journey level trades workers. They differ from wage survey data in that lower legally permissible rates, such as those paid to workers in certified apprenticeship programs, are not incorporated into the determinations. For example, under the apprenticeship adjustment allowed by the Davis-Bacon Act, apprentices in certified four-year carpentry apprenticeship programs will typically be paid 60% of the journey rate in their first year, 70% in their second year, 80% in their third year, and 90% in their fourth year in their

program. While these lower rates are captured by OES data, Davis-Bacon wage determinations do not reflect the lower rates of apprentices.

How would adjusting the Davis-Bacon wage determinations for the presence of apprentices affect the apparent differential between the Davis-Bacon and OES rates? This will vary with the number of apprentices in the construction labor force in an area and the length of the apprenticeship program, and the reduction in journey level wages. Carpentry apprenticeship programs usually take four years, plumbers' and electricians' take at least five years. We examined the effect of allowing for apprenticeship rates in Sonoma, Alameda and Contra Costa counties assuming that programs take four years and that wages start at 60% of the journey wage in the first year of the program and rise by ten percentage points annually.⁴ If 10% of the workers in a trade are enrolled in four-year apprenticeship programs, the adjusted Davis-Bacon wage would be 97.5% of the Davis-Bacon journey level determination.

Adjusting for the lower rates paid apprentices reduces the Davis-Bacon rate by between 83 cents and \$1.10 per hour. As a result, the Davis-Bacon rate for carpenters is between 17 and 26% above the OES rate, the electrician rate is between 14 and 21 percent above the OES rate, and the plumbing rate is between 21 and 42% above the OES rate. These differences are far smaller than the 27.5% to 86% differences reported by Dr. Sherk.⁵

Looking again at Sherk's first example, and taking into account the lower wage rates for apprentices, the OES-Davis-Bacon comparison for Jackson County is vastly different from how it was portrayed in the Heritage Foundation testimony. Rather than the Davis-Bacon rate for carpenters being 13.9% more than the OES rate, it is 3% *less* (\$20.39 vs. \$20.98). Rather than being 42% higher than the OES rate, the Davis-Bacon rate for electricians is only 10% more (\$29.91 vs. \$27.14). And rather than the plumbers/pipefitters rate being 16.2% higher than the OES rate, as Dr. Sherk claimed, it is actually 4% *lower* (\$27.17 vs. \$28.23).

⁴ These are conservative assumptions as the apprenticeship programs for electricians and carpenters last at least five years. Further, the proportion of apprentices in the labor force may well be greater than 10%: the Northern California Brotherhood of Carpenters reports that apprentices comprise 20% of the workforce in their region.

⁵ Another issue, one which is more difficult to examine, is whether the definition of an occupation used in Davis-Bacon surveys is comparable to that used in OES surveys. The Davis-Bacon rate is the rate paid to a journey level worker, a worker who is broadly trained in an occupation. OES definitions of construction occupations are broader, and may include less skilled workers, than the standards used for Davis-Bacon definitions. For example, the OES definition of a carpenter's work -- "Construct, erect, install, or repair structures and fixtures made of wood, such as concrete forms; building frameworks, including partitions, joists, studding, and rafters; and wood stairways, window and door frames, and hardwood floors. May also install cabinets, siding, drywall and batt or roll insulation. Includes brattice builders who build doors or brattices (ventilation walls or partitions) in underground passageways." -- would allow a worker who was trained in a relatively narrow set of skills, such as installation of concrete forms, to be classified as a carpenter. In contrast, such a narrowly trained worker is less likely to be classified as a carpenter under the Davis-Bacon definition.

Conclusion

After correcting for Dr. Sherk's many errors, and in particular for his failure to include the Davis-Bacon residential rate in his comparison, it becomes evident that Davis-Bacon rates are not remarkably different from the OES rates, let alone an idealized market rate. There are significant differences in a few areas, but overall the Davis-Bacon wage determinations Dr. Sherk selected tend to be lower than the OES rates once the appropriate corrections are made. The savings Dr. Sherk purports to estimate from more accurate Davis-Bacon wage determinations are fictitious.

Please let us know if you have any questions about this analysis. And thank you again for the opportunity to testify before the subcommittee on this important matter.

Sincerely,



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