The Department of Labor recently proposed new federal regulations regarding how minimum wages will be calculated for federal construction projects. DOL’s new proposal will add to the cost of performing these projects. The comment period for the new regulations will be closing soon, and we then will be able to see what the next steps will be.

The federal law known as the Davis-Bacon Act, or DBA, became law in the 1930s and provided that workers on federal construction contracts must be paid what is known as the “prevailing wage” for workers in the area of the project. The law was intended
to keep federal contractors from bidding work based upon wage rates for workers who could be imported from areas other than where the project was to be performed.

From the DBA’s inception until the Reagan era of the early 1980s, a methodology was used for determining prevailing wage rates that would allow rates to be based upon as low as 30% of the relevant workforce. The Reagan administration, believing that the DBA rule contributed significantly to inflation, rewrote the rule to take into account a larger cross section of workers.

The Biden administration now has proposed returning to the pre-Reagan era rule. This proposed change would raise prevailing rates and further allow for periodic upward adjustments for certain wage rates. The Biden administration disputes that the impact of inflation should be considered in implementing the new prevailing wage rule.

So, if you are a federal contractor performing work subject to the DBA, be on the lookout for new developments regarding prevailing wages soon. Also be ready for increases of applicable prevailing wages as the new regulations are implemented.

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