

## The paradox of prevailing wage

*The complicated relationship between the Davis-Bacon Act, black construction workers, and black-owned construction businesses in Boston*

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The federal Davis-Bacon Act provides that all construction projects involving federal funding must pay workers the “prevailing wage.” The history and impact of the Act are complicated, particularly as it relates to racial disparities in pay. There is evidence that the Davis-Bacon Act helps improve income disparities between black and white workers, helps ensure equal pay for equal work, and is one of the most significant tools to combat wage theft in the construction industry. However, it’s important to understand why the Act was created and the impact it has had on both black workers and black-owned businesses.

### **The Davis-Bacon Act was created to bar black workers from federally funded projects.**

Yes, you read that right. The Davis-Bacon Act was created to prevent black workers from building a Veteran’s Bureau hospital in Long Island, New York. In the late 1920s, a contractor from Alabama won the bid for the construction and showed up with an all-black crew. Representative Robert Bacon took one look at the workers, was displeased that they were black, and soon after submitted H.R. 17069, “A Bill to Require Contractors and Subcontractors Engaged on Public Works for the United States to Comply with State Laws Relating to Hours of Labor and Wages of Employees on State Public Works.”

Bacon introduced several bills over the next few years, eventually teaming up with Senator James Davis. The Bacon-Davis Act, passed in 1931, requires that any federal contracts over \$5,000 had to pay workers the “prevailing wage.” Today the law mandates that federal construction projects must pay union wages (the prevailing wage) if at least 50% of the area’s workforce is unionized. Essentially, Davis and Bacon created an environment where a contractor had to choose to:

- A) Pay, for example, \$50 per hour for a well-trained union worker (i.e., a white man as building trades union membership was nearly 100% white men at the time), or
- B) Pay the same \$50 for an “unskilled” worker that might require training (i.e., a black worker from Alabama.)

In that scenario, the “skilled worker,” the white worker, is getting hired nearly 100% of the time.

### **Today the Davis-Bacon Act helps eliminate income disparities between black and white workers.**

Today in Boston, projects that require Davis-Bacon rates help eliminate wage theft and ensure that workers receive equal pay for equal work. It doesn’t matter where you were born, your race, ethnicity or sexual orientation; if you are an apprentice, you are going to earn an

apprentice wage. If you are a journeyman, you are going to make a journeyman wage and so on. That's terrific, right? Yes, but...

**Today prevailing wage is also a significant obstacle to black-owned businesses working in Boston neighborhoods.**

Black-owned construction businesses in Boston tend to be on the smaller side and often lack robust back offices and administrative staff. The paperwork required on prevailing wage jobs is tailored toward larger firms that have the expertise and capacity to handle federal government reporting. This alone presents a considerable barrier for minority-owned businesses from even bidding on Davis-Bacon covered projects. Additionally, Davis-Bacon projects require weekly payroll submission. Many Black-owned construction businesses operate on a two-week pay-cycle and this requirement doubles their payroll costs.

**The Davis-Bacon Act also creates a dynamic where white-male dominated unions are indirectly deciding what black-owned construction companies pay their workers.**

Yes. You read that right. I want to be very clear here, though. I am not arguing that it's being done so maliciously or with evil intentions in Boston. Some of the city's most prominent advocates for black workers are white union business agents.

**How the Davis-Bacon Act can play out in Boston.**

Roxbury, Dorchester, and Mattapan have the highest concentration of black and brown people in the city. It's no coincidence that they are also home to the highest level of minority-owned construction businesses in Boston, and by my calculations, all New England.

Let me paint the picture - A black contractor is working on a Davis-Bacon project in a majority-minority community, like Roxbury, employing an all-black or brown crew, is essentially being told what rate they must pay their workers by a group comprised of mostly white men that may live and work outside of that neighborhood. It may sound odd, but prevailing wage rates are based upon standards established in local collective bargaining contracts. These contracts are negotiated by union leadership and its members, which in Boston, is comprised largely of white men. In other words, minority-owned businesses do not have a seat at the table that determines wage rates on prevailing wage projects.

*\*It is important to note that even though Boston's union leadership is mostly white men, they are taking the task of diversifying their ranks seriously. Programs like Building Pathways and Build A Life MA are both working to help Boston's union trades become more reflective of its communities. Additionally, many locals now have people of color in leadership roles like organizers and business representatives.*

**Final Thoughts**

Prevailing wage is a complicated issue, made even more complicated with race. People tend to stay away from subjects that are complicated, particularly race issues because they make people uncomfortable. However, real progress requires getting a little uncomfortable.

On paper, the Davis-Bacon Act reads like a fantastic tool. And in many respects, it is. It has improved income disparities between white and black workers, facilitated equal pay for equal work, and helped stop wage theft. However, it's important to understand the history of the Davis-Bacon Act and how it has transitioned from a tool created to bar black workers to one that, however unintentionally, creates severe road-blocks for Boston's black-owned contractors from working on projects, often right in their backyards.

Because the federal government mandates the Davis-Bacon Act, it is the responsibility of the federal government to ensure that the Act is inclusive of all its citizens and businesses. To carry this out, a training template should be created for completing and submitting the required paperwork and grants should be awarded to local community-based non-profits to provide training to contractors, with an emphasis on MBEs.

Boston is, however, in a unique position to have prevailing wage laws create an even playing field for all its workers and businesses; Boston has made more progress diversifying its union rank and file in the last six years than it has in the entire time its workforce has been unionized. If this trend continues, and I fully expect it to with the current union leadership in place, future collective bargaining contracts will be negotiated by a group of individuals more reflective of Boston's diverse neighborhoods.

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