

The City of Norfolk: Federal Funding for Resiliency Projects Spells Davis-Bacon Compliance

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Back in 1930, the Chesterfield Heights neighborhood in the City of Norfolk, Virginia, was a developing, desirable residential area located just minutes from downtown along the Elizabeth River. Since that time, The City of Norfolk has almost doubled in population growing to over 240,000 residents, and Chesterfield Heights is now on the Historic National Register with over 400 homes. However, residents in this once desirable area have seen the neighborhood decline, as it is surrounded by industrial developments and has been negatively impacted by sea level rise.

The Hampton Roads region of Virginia, which includes the City of Norfolk, has seen a relative sea level rise of 14 inches since 1930 – the highest rate on the East Coast. Unfortunately, the region and neighborhoods like Chesterfield Heights have experienced increased erosion and flooding from typical rain events, normal tidal influence, and storm surge. Seven of the 10 most severe recorded storms over the past 13 years have occurred in this region, exacerbating already challenging conditions. The entire City of Norfolk is exceptionally vulnerable to these forces due to its 144 miles of coastline and its extreme sensitivity to coastal flooding. Mature coastal neighborhoods with lower socioeconomic status, such as Chesterfield Heights, are most at risk to these forces of nature.

SOME RELIEF: THE OHIO CREEK WATERSHED PROJECT

In 2016, the City of Norfolk was awarded a \$112 million federal grant from the National Disaster Resilience



Competition (NDRC) for the Ohio Creek Watershed project, which encompasses the Chesterfield Heights and Grandy Village neighborhoods. Grandy Village is an adjacent public housing community with more than 300 residential units. Started in 2014, the NDRC has awarded nearly \$1 billion in HUD Disaster Recovery funds to 13 states and communities.

The Ohio Creek Watershed was a perfect project for the NDRC since its objectives were to reduce flooding, improve public access to the waterway, and increase connections to the rest of Norfolk. In recent years, one of only two access roads to Chesterfield Heights had become completely impassable during frequent flood events, leaving residents with reduced access. Unchecked erosion and relative sea level rise have increased flooding from the Elizabeth River and reduced the

recreational use of the shoreline.

The Ohio Creek Watershed project will mitigate the negative effects of sea level rise through a relocated and raised roadway, earthen berms, wetland mitigation areas, improved stormwater drainage systems, coastal protection earthen berms, living shoreline, new stormwater pump stations, a raised bridge, box culverts, a resiliency park, bioretention basins, a stormwater park, a tide gate, concrete flood protection walls, landscaping, hardscaping, and improved water and sewer facilities.

Because this project is federally funded through The Department of Housing and Urban Development (HUD), the contractor is required to pay the locally prevailing wage rates and fringe benefits as outlined by the Davis-Bacon Act. Adherence to the Davis-Bacon Act is critical to maintain the federal funding and compliance is closely monitored by the Department of Labor.

WHAT YOU NEED TO KNOW ABOUT DAVIS-BACON COMPLIANCE

MBP is currently supporting the City of Norfolk on the Ohio Creek Watershed project, providing construction inspection, Davis-Bacon compliance monitoring and reporting, and critical path method (CPM) schedule management. The Davis-Bacon Act requires the payment of prevailing wage rates determined by the U.S. Department of Labor to all laborers on federally funded projects, such as the HUD funded Ohio Creek Watershed project. Compliance with the Act is critical for the City to receive Federal reimbursement and that is verified through monitoring the work taking place, reviewing contractor documentation, interviewing employees, and reporting quarterly to the Department of Labor. This large-scale project is spread over 255 acres and covers a wide variety of construction activities, resulting in challenges for providing effective Davis-Bacon compliance monitoring as described below. Even though Davis-Bacon reporting is required on a quarterly basis, the monitoring of compliance occurs on an almost weekly basis.

The Ohio Creek Watershed project has more than 30 contractors and subcontractors assigned to the project with 15

to 20 contractors or subcontractors working on the project at any given time. Each contractor or subcontractor working on the project requires the same compliance monitoring as the prime contractor. Compounding this issue, the project utilizes four different wage rate tables. Having four wage rate tables and 15 to 20 contractors on site utilizing one or more of the wage rate tables creates a labor-intensive process for payroll verification each quarter. To date we have reviewed 369 payroll records and conducted 81 interviews as part of our Davis-Bacon compliance monitoring. Given that extensive effort, here are some helpful tips for tracking and reporting:

CERTIFIED PAYROLLS

Every contractor that worked during the quarterly reporting period must submit certified payroll reports on a weekly basis with the appropriate wage rate table listed. The certified payroll reports should list each employee who worked that week, their job classification, hourly rate, hours worked, fringe benefits, and wages paid. It is critical to review the labor classifications against the wage rate tables that align with the contractor's scope of work. It is not uncommon to have contractors using the wrong wage rate table if their scope of work changes or if they are new to the project and picked the wrong one. The only employees who can be paid less than the required hourly rate for their job classification are apprentices and trainees registered in approved programs.


DAVIS-BACON INTERVIEWS

The Davis-Bacon interviews are utilized to spot check that the certified payrolls are accurate as it relates to an employee's job classification. At least one random onsite interview with an employee must be conducted for every contractor that worked during the reporting period. The interviews are confidential, and the employee will be asked about their work, consistency of work, and their rate of pay, to verify that they are being accurately paid based on their job classification. Common mistakes that we find are that an employee may be working within two or more job classifications but are only being paid at the lowest classification rate, a laborer may be operating equipment for part of their day but only being paid as a laborer, or the contractor was using the wrong wage rate table.

RESTITUTION

If the Davis-Bacon interviews find discrepancies in job classifications and/or benefits, the contractor will be required to pay wage restitution. The reviewer will determine the period for which restitution is required, calculate the amount of restitution, and track payment of the restitution to the employee. The contractor must provide proof of restitution, such as a cashed check, and if possible, obtain verbal verification of payment. This can be a difficult process sometimes if the contractor is no longer on site or if the employee is no longer working for the contractor.

REPORTING

Recipients of federal funding must submit quarterly Davis-Bacon compliance reports, a list of all contractors working during the reporting period, the date of the Davis-Bacon interviews, verification if they were being paid per their classification, verification of certified payroll compliance, and notes discussing any non-compliance and restitution actions. The report should also include copies of the certified payrolls and Davis-Bacon interviews. The importance of quarterly Davis-Bacon reporting cannot be overstated. For the City of Norfolk to secure its federal funding, it must document its compliance with Davis-Bacon, and for the Ohio Creek Watershed project, partnering with the federal government has been a key strategy in executing this critical local resiliency project. 



About the Author

Joe Modica, PE, CCM, is the Vice President, Service Executive, at MBP. Joe has more than 20 years of experience in the engineering and construction industry. His portfolio includes significant experience with infrastructure projects and programs including Locally Administered Projects (LAP), roadways, site civil, domestic water, sanitary sewer, and stormwater management. He has also authored numerous reports ranging from cost estimates, PPEA reviews, CPM schedule reviews, constructibility reviews, design narratives, and master stormwater management reports.

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