

# DIFFERENTIATE YOURSELF WITH TECHNICAL CAPABILITIES

*Davis-Bacon Act opportunities for contractor clients*

By Frank Pennachio

**D**uring the economic downturn, insurance agencies with large books of construction business have suffered along with their construction clients. Premiums and commissions have plummeted as construction companies have downsized or even closed their doors.

Few agents are aware of an opportunity to assist construction companies grow their top-line revenue. In these tough economic times, helping your clients bring in more business is invaluable and may even make the difference between the client's viability or demise.

There are not many ways for insurance agents to assist clients in growing their top-line revenue. However, knowledgeable agents can assist contractors in securing federally funded and state prevailing wage construction projects. Let's look at what an agent can do to help contractors succeed with these construction projects.

Federal construction money is flowing since President Obama signed the American Recovery and Reinvestment Act of 2009 into law on February 17, 2009. These construction contracts require the winning contractor to comply with prevailing wage requirements under what is known as the Davis-Bacon Act of 1931. Most non-union

contractors are not aware of a powerful strategy that will help them win more federally funded and state prevailing wage construction bids and drive more profit to their bottom line.

First, let's review some of the requirements of the Davis-Bacon and related acts. Contractors and subcontractors must pay laborers and mechanics employed directly on the site of the work at least the locally prevailing wages (including fringe benefits), listed in the Davis-Bacon wage determination in the contract for the work performed. The Davis-Bacon "Prevailing Wage" is the combination of the basic hourly rate and any fringe benefits listed in a Davis-Bacon wage determination.

The contractor's obligation to pay at least the prevailing wage listed in the contract wage determination can be met by paying each laborer and mechanic the applicable prevailing wage entirely as cash wages or by a combination of cash wages and employer-provided bona fide fringe benefits. Prevailing wages, including fringe benefits, must be paid for all hours worked on the site.

Most non-union contractors pay the fringe benefit portion of the prevailing wage as additional cash wages, since they are unaware of another way to comply with the law. The problem is that by paying the fringe benefits as additional cash wages, these contractors are increasing their payroll burden and

may lose the bid due to their increased costs.

Instead, the contractor can allocate the fringe benefit amount to a bona fide benefit plan(s) and realize significant cost savings. When the fringe portion of the prevailing wage is used to provide benefits for hourly workers, this amount is not subject to payroll costs such as:

- Social Security and Medicare taxes
- Federal unemployment taxes
- State unemployment taxes
- Workers compensation premiums
- General liability premiums if based on payroll

Here's an example of a wage determination listing:

	Rate	Fringe
Millwright	\$ 37.35	\$ 10.10

If the contractor combines the base rate and the fringe rate and pays the employee \$47.45 per hour, then they must pay the payroll burden, the taxes and insurance premiums listed above on \$47.45 per hour. However, if the contractor pays the employee \$37.35 per hour and purchases bona fide fringe benefits with the \$10.10 per hour, then they have to pay the payroll burden only on the \$37.35.

Let's assume the contractor's payroll burden of taxes and insurance premiums is 25%. The payroll burden savings on the fringe rate is approximately \$2.53 per hour for each

hour worked on the job. When you do the math, you can see how this savings can add up quickly and how it may be the deciding factor in whether or not the contractor succeeds with its bid. This is especially important now that private sector construction projects have decreased, creating more competition for publicly funded jobs.

There are additional benefits to the contractor when purchasing fringe benefits for the employee as opposed to paying the employee fringe benefits in cash. When employees are working on a prevailing wage job where their hourly pay is higher than usual, they are inclined to want the job to last longer. By keeping their hourly wage as close as possible to their usual pay, then the contractor removes the incentive for employees to keep the job going longer than necessary.

Prevailing wages are determined by the U.S. Department of Labor. They vary by the state and county where the work is performed and by construction trade. There will be instances where there is not enough difference between prevailing wage and the contractor's usual wage rates. Even if the wage difference is not enough to benefit the contractor, the agent will still have provided value to the contractor by exploring the option. Agents and contractors can research prevailing wage determinations at <http://www.gpo.gov/davisbacon/>.

To bid on federally funded jobs, a contractor should register with the Central Contract Registration (CCR) at <https://www.bpn.gov/ccr/>. The CCR eliminates the need for contractors to apply separately to each federal agency. Once registered at CCR, the contractor can bid on contracting opportunities listed at [www.FBO.gov](http://www.FBO.gov), where all government agencies publicize government procurement opportunities over \$25,000.

In addition, there are services that will match a contractor's personal profile against every FedBizOpps notice published on a daily basis and then will e-mail them to the business. If your client wants to bid only on work in their home state, that employer will be notified of such bids only and will not have to wade through projects of no interest.

Also, more than 30 states have prevailing wage laws. These laws apply to construction contracts awarded by state, city or other local agencies, and their intent is similar to the federal Davis-Bacon Act. Because much of the federal money is flowing to the states and local municipalities, it is important for contractors to review those opportunities as well.

## *Agents can separate themselves from the pack by becoming knowledgeable in prevailing wage projects and helping their clients get them.*

Agents should be asking their prospects and clients the following questions:

- Do you ever work on prevailing wage projects?
- If so, is the mandated prevailing wage usually higher or lower than your typical wage rates?
- How are you handling the fringe benefits under these contracts?
- If you could lower your payroll burden and be more competitive on these jobs, would you be interested?

Agents will find that most non-union contractors are paying the fringes out in cash, thus driving up their costs. Contractors may wonder why their current agent has not asked these questions and explored this opportunity.

Agents are at risk if they are not having these conversations with their construction clients. How do you think your client contractors will feel if they lost a prevailing wage bid by a few thousand dollars, which is common in this competitive environment, and later learned from your competitor how they could have won that contract?

All awards of federal and state prevailing wage jobs are public record. Agents can look up the companies that bid on the job and which one was awarded the contract. Both the winner and the losers are prospects for agents. The winner can earn more profit if the right strategy is deployed before the project is completed, and the losers can learn how to improve their chances for success on the next bid.

Agents are always looking for ways to differentiate themselves from their competition. You cannot differentiate yourself from the competition unless you change the dialogue and demonstrate capabilities different from your competition. How many agents are aware of strategies to be deployed on Davis-Bacon Act and prevailing wage projects? How many can guide a contractor to securing more of them? How many agents are engaged with business owners in a way that can help drive up their top-line revenue?

Business owners are used to hearing the same "saving money" pitch from agents to the point where it sounds like white noise. Getting a business owner the lowest premium on insurance policies is of little value if the contractor has no work. In these tough times, agents must move beyond the commodity transaction approach of bidding and quoting and bring distinctive value to their clients. Is there a greater value than helping a client's business grow and thrive?

Agents can separate themselves from the pack by becoming knowledgeable in prevailing wage projects and helping their clients get them. Yes, it takes work and study, as well as moving out of a familiar comfort zone. Most agents will not invest in this knowledge and align with the resources necessary to execute the strategy. It is much easier and familiar to bid and hope.

Business owners crave, but usually do not get, a high level of direction, leadership, and capabilities from most insurance agents. Many have been taught by agents that the only way agents can help them is to get them lower insurance premiums. If given the opportunity, employers will beat a path to the door of professionals who bring them new ideas and strategies to grow their business.

Assisting businesses with increasing their revenue and profit is a powerful differentiator. The space is wide open. In addition, agents may also find that the business they save may be their own. ■

### **The author:**

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