

October 3, 2007

Notice to Contractors with contracts including Davis Bacon Requirements

RE: Submittal of Certified Payroll Transcripts

On September 28, 2007, the Des Moines Engineering Department received notification from the Iowa Department of Transportation (IDOT) that the IDOT had received an inquiry from the Federal Highway Administration (FHWA) concerning a 2004 Audit Finding for the City of Des Moines where the auditor documented the following condition: "The City obtains the certified payrolls from the contractor or subcontractor, but they are not being collected weekly from all contractors or subcontractors." The City of Des Moines policy has been that the Engineering Department will delay partial payment to the contractor if the contractor, or any of its subcontractors, seriously or habitually violates the Davis-Bacon Act requirements. The Engineering Department will not recommend final acceptance of the work until the contract work is in compliance with the Davis-Bacon requirements.

In fact, the Engineering Department has withheld partial payments on past projects when the contractor, or subcontractor, has seriously or habitually violated the Davis-Bacon Act requirements by not submitting certified payrolls timely, and has delayed acceptance of contracts until the certified payroll transcripts have been received from the contractor, and all subcontractors, and any necessary corrective actions have been completed.

However, the IDOT has recently increased its Davis-Bacon monitoring efforts and has revised Section 2.24, Davis-Bacon Wage Requirements, of the IDOT Construction Manual, effective April 17, 2007, regarding certified payroll transcripts to include the following statement:

If payrolls of the prime contractor are not received within 2 weeks of the period covered, the residency staff should advise the prime contractor, in writing, which payrolls have not been submitted and that progress payments for the work will be withheld. If payrolls of subcontractors are not received within 3 weeks of the period covered, the residency staff should advise the prime contractor, in writing, which payrolls have not been submitted and that progress payments for the subcontracted items will be withheld. In either case, communication with the contractor sooner than these time limits may be appropriate to inquire on the status of payrolls.

The Des Moines Engineering Department monitors Davis-Bacon Wage Requirements for contracts funded with a variety of federal funding sources including FHWA, FAA, EPA, and HUD. Federal Davis-Bacon law requires the contractor and its subcontractors to submit certified payroll transcripts within



ENGINEERING DEPARTMENT
CITY HALL
400 ROBERT D. RAY DRIVE
DES MOINES, IOWA 50309-1891
(515) 283-4920
FAX (515) 283-4112

ALL-AMERICA CITY
1949, 1976, 1981
2003

seven days after the regular payment date of the payroll period. As a result, the Engineering Department must develop and maintain consistent rules regarding Davis-Bacon monitoring, and has revised its policy similar to the above IDOT policy. Effective October 3, 2007, the Engineering Department will implement the following Davis-Bacon monitoring policy:

If payrolls of the prime contractor are not received within two weeks of the period covered, Engineering Department Staff should advise the prime contractor, in writing, which payrolls have not been submitted and that progress payments for the work will be withheld. If payrolls of subcontractors are not received within three weeks of the period covered, Engineering Department Staff should advise the prime contractor, in writing, which payrolls have not been submitted and that progress payments for the subcontracted items will be withheld. In either case, communication with the contractor sooner than these time limits may be appropriate to inquire on the status of payrolls.

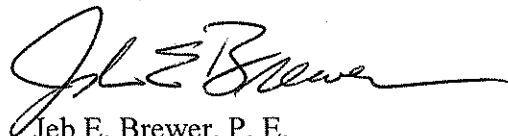
If prime contractor or subcontractor fails to submit required records or make them available, the City of Des Moines may, after written notice to contractor, take such actions as may be necessary to suspend further payments. Payment may be withheld on the prime contractor and subcontractor(s) who are in violation. Failure to submit required records upon request, or make such records available, may be grounds for disqualification of the contractor, or subcontractor, from participation in or bidding on future Des Moines construction contracts.

Engineering Department Staff will notify the prime contractor, and it is the prime contractor's responsibility to notify its subcontractors of these requirements and any actions.

This policy will be distributed to all prime contractors with active contracts as of October 3, 2007 that include Davis-Bacon requirements and will be distributed at the preconstruction conference on future projects that include Davis-Bacon requirements.

If you have any questions regarding this policy, or the monitoring of the Davis-Bacon requirements as they apply to your contract with the City of Des Moines, please contact James Doran at 515-283-4560, or Jim Fromm at 515-283-4005.

Sincerely,



Jeb E. Brewer, P. E.
City Engineer