

PUBLICATION

Stimulus Act Projects Require Strict Adherence to Rules

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The country is now well into the multi-year implementation of the American Recovery and Reinvestment Act of 2009 (ARRA or Stimulus Act). While commentators and politicians may still debate the effects of the Stimulus Act on the economy, contractors are seeing first hand some of the very real consequences of the Act. You may recall our admonitions about understanding and complying with the applicable laws triggered by working on ARRA projects. In particular, we provided you a detailed summary of the Fair Labor Standards Act, and prevailing wage laws, and we offered an overview of what ARRA requires of the construction industry. (See 2009 issues of *Bricks in the Wall* at www.bakerdonelson.com/bricks-in-the-wall.)

Last week, the Department of Labor (DOL) announced that it has taken significant legal action against a construction company in New York for failing to abide by the Davis-Bacon Act and the Contract Work Hours and Safety Standards Act, both of which specifically are made applicable by working on federal government projects involving Stimulus Act funds.

The DOL has charged that Lettire Construction Corporation did not properly monitor at least 16 out of 23 of its subcontractors to ensure their compliance with prevailing wage and overtime requirements. The DOL's investigation noted "under-bidding" by at least one subcontractor and that Lettire did not post required wage decisions at the worksite for employees to view. The DOL found that about 290 employees of these subcontractors were owed a total of around \$1.4 million in back wages. The investigation also determined that Lettire failed to pay prevailing wage rates and fringe benefits to some employees, did not pay some employees for all of the hours they worked, and submitted certified payrolls that did not reflect all actual hours worked by some employees during part of the project.

As a result of these violations, the DOL is asking to have Lettire and its president debarred for a period of three years from bidding or working on any federally funded projects. Ultimately, not only must Lettire come up with nearly \$1.5 million in back wages, but it also faces what, unquestionably, is a shot to its business plan and may amount to a death sentence.

If you have not had an opportunity to acquaint yourself with what ARRA requires, please do so. We have been involved in other examples of DOL investigations into similar allegations concerning Stimulus Act projects. While not every infraction will result in the same punishment the DOL imposed on Lettire, you cannot afford to take that chance.