

## Vermont Agency of Transportation - Response to Davis Bacon Inquiry

**From:** Chris Cole, Deputy Secretary, Vermont Agency of Transportation

**Sent:** Tuesday, April 21, 2015 12:38:31 PM

**Subject:** Forwarded message on S.15 - paid absence from work

Sonya Boisvert is the Civil Rights Program Specialist who manages our Labor Compliance Program. She's worked in the CR Section for the past 13 years and is considered the statewide expert on all things Davis-Bacon - often consulted by other state agencies and departments. So I call Sonya the Davis-Bacon Queen.

P.S. Brian [Searles] selected her as the VTrans Employee of the Year in 2011 for her work automating the collection of certified payrolls.

Lori  
Lori Valburn  
Civil Rights & Labor Compliance Chief  
Vermont Agency of Transportation

On Apr 17, 2015, at 3:08 PM, Lori Valburn wrote:  
Hi Chris,

I reviewed the bill and checked in with Sonya, since she is the official VTrans Davis-Bacon Queen, and our analysis is that even if our contractors had to start providing paid sick leave, there would be no fiscal impact on VTrans construction contracts and no change to the rates payable under Davis-Bacon.

Currently our contractors are required to pay (at a minimum) whatever the Davis-Bacon wage decision specifies for each classification, which they can pay in all cash or a combination of cash and "allowable" fringe. The Davis Bacon Act and 23 CFR Section 5.23 list examples of allowable fringe benefits as follows: Life insurance; health insurance; pension; vacation; holidays; **sick leave**; and supplemental unemployment compensation (emphasis added). Where state or federal law requires the contractor to provide any of these "allowable" fringe benefits, the contractors must do it, but they're entitled to credit for it against the total wage rate. For example, this past year a number of our contractors had to start providing mandatory health insurance. USDOL confirmed for Sonya that the contractors are entitled to full credit for the health insurance premiums, and that this would not trigger an increase in the wage rate. This is to be contrasted with other forms of benefits required by state or federal law that are not "allowable" fringe under Davis Bacon, such as workers compensation; unemployment compensation; and social security benefits. While these must be paid, the contractor is not entitled to credit for them against the prevailing wage amount.

Here's a link to an excerpt on fringe benefits in the USDOL Prevailing Wage Resource Book that describes the application and calculation of fringe benefits under Davis-Bacon in more detail:  
<http://www.dol.gov/whd/recovery/pwrb/Tab9.pdf>

Hope this helps and if the bill goes through we'll create some guidance for the contractors since this is sure to raise questions. Thanks!

Lori  
Lori Valburn