

Office Hours – School Construction – April 5, 2023

Agenda

- Cassandra Ryan Slide Deck: AOE submitted questions and USED responses as well as reporting
- Q & A

Participants

- 25 LEA representatives (0930)
- Cassandra Ryan, AOE Director of Regulatory Compliance and Risk Management
- Abby Houle, School Finance Analyst II
- Jill BriggsCampbell, COVID-19 Federal Emergency Funds Manager
- Josh Souliere, Education Assistant Division Director
- Kevin Doering, Education Programs Coordinator I

Questions sent to USED and responses received:

Re: Reporting, Correction, and “Making Davis Bacon Whole”

Davis Bacon

2 C.F.R. Part 200 Appendix II

- “...the non-Federal entity must report all suspected or reported violations to the Federal awarding agency...”
- AOE asked USED for clarification on the requirement and specifics about the process

1. Question 1: Can you clarify if the subrecipient would need to report an issue to USED if they are able to correct the issue and “make Davis Bacon whole” or only if the non-compliance is unable to be fixed?

Answer 1: If there is an allegation about a Davis-Bacon violation, even if it has been corrected, the subgrantee should keep the State informed, and the State in return, should keep the Department informed as the situation progresses.

2. Question 2: Who at USED would the LEA notify of a Davis Bacon issue?

Answer 2: Submit to the USED Vermont State Mailbox (Vermont.oese@ed.gov) and copy the AOE.FederalConstruction@vermont.gov – please include “Davis Bacon” in the email reference line

3. Question 3: Is there a timeframe in which notification to USED must occur?

Answer 3: Notify the Department as soon as reasonably possible about a potential Davis-Bacon issue.

REMINDER: **Suspected Davis-Bacon wage violations should be reported to the U.S. Department of Labor by contacting them at 1-866-4-US-WAGE (1-866-487-9243).

Davis Bacon Webinar Information:

- USED is hosting a Davis Bacon Compliance and Oversight webinar
- April 26th @ 2:30pm-4:30pm.
- Overview of how federal funding recipients can meet their obligations under the Davis-Bacon labor standards, including best practices for providing guidance and compliance oversight to sub-recipients and contractors. Please use this link to register:
<https://ems8.intellor.com?do=register&t=1&p=847504>.
- AOE has confirmed that while the webinar is also appropriate for LEAs as subrecipients

Expectation setting for this webinar: Will be somewhat general and . Still ask questions because this can help to signify to USED the quantity and quality of questions. Hearing about our specific districts' challenges will also be a helpful opportunity.

General Updates:

- No information update on late liquidation from USED
- Facility Assessments are ramping up; they will continue to a very busy summer. You will continue to hear from Andrew Smith and Anthony, work with them to schedule. Get the energy audit back to Marty Spaulding to streamline Assessment generation. Energy audit is a requirement of Act 72.

Question and Answers:

Q: What level of detail is required for these Davis-Bacon violations?

A: At this point, it is advised to give a summary, but not to overload them with documentation; keep it to a summary and they will reach out and ask additional questions if needed.

Q: Department of Labor violation reporting- what is the level of comprehensiveness that this is required for?

A: Cassandra advises be comprehensive and conservative for what you report- flyer display, actual wages, pay frequency, etc. should be reported.

Q: Inquiry about opening bids at full board meeting and legal counsel reply.

A: Cassandra has sent follow-up to legal and noted the urgency of the request, but we have not heard back so their last answer- that bid must be opened in full board meeting- still stands at present.

Q: What is the time requirement for advertisement? What is adequate time?

A: No federal procurement timeline or requirement that you should be aware of. Be consistent with what you would normally do- whatever you would do with other funds, do that with federal funds.

Q: Is there a final date for ESSER II Amendment?

A: July 15- See table below for dates.

ESSER DEADLINE COMPARISON TABLE

Fund	Period of Performance Beginning	Period of Performance End	Application Deadline	Date of Fund Return	Amendment Deadline	Stakeholder Engagement
ESSER I	13 March 2020	30 September 2022	20 March 2021	29 April 2021	31 May 2022	Not Required
ESSER II	13 March 2020	30 September 2023	1 November 2021	27 December 2021	15 July 2023	Not Required
ARP ESSER	13 March 2020	30 September 2024	TBD	TBD	15 July 2024	Required
ARP ESSER IDEA B	Substantially approvable on date application submitted in GMS	30 September 2023	1 December 2021	TBD	1 April 2023	Not Required
ARP Homeless II	13 March 2020	30 September 2024	1 December 2021	TBD	TBD (in 2024)	Not required

Q: 3 Acre Stormwater

A: Department of Environmental Conservation- [3 Acre Assistance](#)

Q: Thoughts on PCB testing and where we stand?

A: Still have \$2.5 million for source investigation and mitigation. Will only hear about that if you have eligible costs and Jill reaches out to you. That is really the only thing of certainty. That is the 80/20 cost share, consultant fees for development of corrective action plan, includes Air Purifiers, etc. There is also \$29.5 million that requires legislative action and is for the remediation (permanent removal of PCBs) of schools. The legislature needs to do something on these funds this session. The House put forth a bill that was looking at the alignment of the PCB program and larger school construction. Included in that House bill is a *pause*. Included protection for schools that are already in the process. That pause does not have Senate support or administration support. The Senate has started to take up funding discussion. But the ball that was rolled a couple months ago is still currently rolling, but with some ambiguity.

Unknowns/Concerns waiting to be addressed:

1. Cost share?- will it be 80/20 or 100; will there be a cap on the costs?
2. Will there be a cap?
3. Independent Schools?
4. \$29.5 million allocation (will it go to Burlington HS, etc)
5. Larger question of how and if PCB testing program interacts with school construction program

Important note: Air Purifiers and carbon filters are working really well to decrease the amount of PCBs in the air and gives some time for DEC and schools to continue operating while waiting for large issues/concerns are being addressed. However, the issues/concerns need to be addressed this legislative session.

Q: What is turnaround time for Project Approval?

A: Large stack of applications are coming in so it does take some time, but helps when applications are very clear and complete so that AOE does not have to send things back.

Add-in from Cassandra about Historic Preservation- there is a process for this federal funding designed by AOE and Historic Preservation to streamline process. Make sure you are engaging with AOE Historic Preservation form. If you receive notation at bottom of form saying you do not need to take any additional action, upload that to GMS. If you need additional action, you will go through Historic Preservation office process and they will issue a signed determination letter which you will upload to GMS.

Q: Does any bid over \$40,000 have to be public opening bid or just construction bids?

A: Any bid/contract over \$40,000. Not just construction.

Q: We are about to hire a Construction Manager (CM) as constructor. Once they are hired, they will hold the contracts and they are not subject to Vermont bid law in that aspect?

A: That is correct. But reminder that they need to follow Davis-Bacon (weekly pay, wage reqs, etc.). If a district is hiring a CM as an advisor or consultant and the district still holds contracts with contractors, they would be subject to the bid law. But if the CM holds the contracts, they are not subject to it.

Q: Question about timeline if all things are in the application?

A: More than a week. Be aware that Project Approval takes longer than Concept Approval and AOE is very meticulous and careful in there review for this step.

Other general notes (hands raised, reminders, conversation, etc.):

- When bid exceeds \$250,000 make sure you publicly advertise
- Davis-Bacon Webinar April 26th 2:30pm-4:30pm

- Project Approval level: Must include plans, not your bid
 - o At least specs of equipment for smaller projects
 - o Bigger projects should have CAD drawings and detailed plans, those need to be uploaded
- No information update on late liquidation from USED
- Facility Assessments are ramping up; they will continue to a very busy summer. You will continue to hear from Andrew Smith and Anthony, work with them to schedule. Get the energy audit back to Marty Spaulding to streamline Assessment generation. Energy audit is a requirement of Act 72.