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The Agency of Transportation provides the following concerns and questions regarding S.100.

### Concerns

- Large administrative and cost burden on contractors - especially difficult for small and medium-sized contractors. These contractors may not want to work on State projects due to complexity and cost.
- We don't pay for truck by load capacity as required in the bill, but rather by the hour. Truck load capacity is an out of date standard.
- Great Risk for Confusion During the Bid Process and the Construction Phase of the Projects for contractors: It has taken many years and lots of training to ensure that AOT's contractors comply with all aspects of the Davis-Bacon prevailing wage requirements on our federally funded construction projects, including the proper calculation and timely payment of base pay, fringe benefits, and overtime in all job classifications. Getting this right on all certified payrolls is not just an aspirational goal, it's a federal requirement that AOT gets tested on annually; non-compliance by AOT with all Davis-Bacon requirements can result in the imposition of costly audit expenses, fees and penalties, and the possible withholding of federal funding for our construction projects. We can't afford for our contractors to be confused about wage rate requirements. The Vermont State Construction Prevailing Wage Program uses completely different criteria than Davis-Bacon for calculating wage rates. There is a completely different definition and standard for fringe benefits (42.5% of base across the board), discrepancies in determining job classifications, and VDOL divides the state into three regions with different rates vs. Davis-Bacon having different rates for each county. It is very likely that these significant variances between the two systems will lead to much confusion during the bidding process, as well as the payment and documentation of payrolls during the construction phase of the projects. Many of our smaller contractors already struggle with Davis-Bacon compliance and trying to comply with two very different sets of prevailing wage laws would present a huge hurdle for many of them and could discourage them from working on our projects altogether.
- Cost Prohibitive: Based on the 2018 Vermont State Construction Prevailing Wage Schedule, the VDOL rates (base and fringe) in many job classifications would be cost prohibitive (or at least very unattractive) to many of AOT's contractors, large and small. Because the VDOL rates call for a 42.5% fringe component, virtually all job classifications in all regions set wage rates that are significantly higher than current Davis-Bacon rates. For the most commonly used classifications in highway construction, the rates vary from 50% to more than 100% higher for most regions/counties. For example, comparing the VDOL rates to Davis-Bacon rates in Chittenden County, for four common job classifications:

	<u>VDOL</u>	<u>Davis-Bacon</u>
○ Construction Laborers:	\$22.96	\$13.64
○ Flaggers:	\$22.91	\$11.11
○ Carpenters`	\$31.58	\$22.98
○ Paver Operator	\$29.04	\$17.94

- Implementing, Monitoring and Enforcing Compliance with a New Wage Scheme Would Be a Significant Administrative Cost and Burden: AOT has implemented comprehensive business processes and systems to ensure that we maintain the Agency in full compliance with all Davis-Bacon requirements, starting with the inclusion of various contract clauses and attachments during the bidding and award process, and continuing throughout the pre-construction and construction phases of every federally funded project that is subject to Davis-Bacon. Certified payroll from every prime contractor and sub-contractor is collected, reviewed, and verified for timeliness and accuracy, and pay restitution is calculated and collected for any discrepancies and reported to USDOL and FHWA. It would be extremely burdensome and labor intensive to develop and implement a comparable system if a state prevailing wage rate requirement was imposed on all AOT state funded construction projects and would very likely require additional staff and training to monitor, enforce, and document compliance.
- Current, and near-future contracts, including scores of Job Order Contracts (JOC) with small contractors will be adversely affected because they already have established labor rates that would not have taken the new rates into account.

Potentially impacted VTrans maintenance and repair contracts:

- Flaggers
- Well Drilling
- Winter Maintenance (Paving/Salting)
- ROW Mowing
- Bridge Painting
- Servi-Lift Services
- Rail Trail Maintenance
- ALL of the On-Call Rail Services Contracts (culvert, bridge, track, slope slides/washouts)
- Guardrail
- ALL Facilities Agreements for both Operations and Aviation (carpentry, electrical, mechanical, fencing, OH Doors, Roofing etc.)
- District Leveling
- ALL IDIQ
- ALL JOC
- Main Street Landing Renovations
- White River Junction Renovations
- DMV – Fairbanks Scales (and any future ones)
- Transportation Building Program (facilities).

#### Questions for legislature

- What is a “project?”

- What is “Construction cost?” If the “project” is over 100K for example, would the rates apply to the operator of a crane used from the JOC, even though the Job Order would be under 50K?
- How would this impact projects carried out by VTrans force account, but that also utilize some contractors?