

U.S. DEPARTMENT OF LABOR
WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS

WASHINGTON, D.C. 20210



Date: FEB 11 1970

Reply to
Attn of: GCSWS

Subject: MEMORANDUM # 86

To: AGENCIES ADMINISTERING STATUTES REFERRED
TO IN 29 CFR, SUBTITLE A, PART 5

Re: Site of the Work and Contract Performance Under the
Davis-Bacon and Related Acts

The enclosed principles regarding "site of the work" are followed by the Wage and Hour Division in carrying out its enforcement and administrative responsibilities under the Davis-Bacon Act. The principles apply equally to Federally-assisted contracts under the Related Acts. They are furnished for your assistance and guidance in carrying out your responsibilities under the Davis-Bacon and Related Acts.

A handwritten signature in cursive script, reading "Robert D. Moran", is written over the typed name.

Robert D. Moran, Administrator
Wage and Hour and Public Contracts Divisions
U. S. Department of Labor

Enclosure

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Site of the work and contract performance. (a) Reg 5.5(a)(1) prescribes the wording of the "site of the work" clause to be inserted in both D-B Act direct contracts and Related Acts assisted contracts. The same "site of the work" definitions apply to both. The general principles stated below are followed by WHPC representatives in determining the "site of the work" in all DBRA investigations:

(1) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and to other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site" because of proximity. For example, if a small office building is being erected, the "site of the work" will normally include no more than the building itself and its grounds and other land or structures "down the block" or "across the street" which the contractor or subcontractor uses in the course of his performance on the particular contract. In the case of larger contracts, such as for an airport or a dam, the "site of the work" is necessarily more extensive and includes the whole area in which the contract construction activity will take place. Fabrication plants, "mobile factories", batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the work" provided they are dedicated exclusively or nearly so to performance on the contract and are so located in proximity to the actual construction location that it would be reasonable to include them. Once the limits of "site of the work" have been determined, the Secretary's wage rate decision is applicable only to those mechanics and laborers employed by a contractor or subcontractor within such limits (that is, upon the "site of the work"), including drivers who temporarily leave the "site" to transport materials and equipment used in the course of contract operations.

(2) Not included in the "site of the work" are permanent home offices or branch plant establishments of a contractor or subcontractor, his fabrication plant and tool yard establishments, whose locations and continuance are governed by his general business operations. This is so even though mechanics and

laborers working at such an establishment may repair or maintain machinery used in contract performance, or make doors, windows, frames, or forms. Regardless of the activities performed at such establishments, the Secretary's wage rate determination does not apply because they do not constitute the "site of the work". However, if such mechanics or laborers are required to go to a place which is the "site of the work" to perform activities on the contract there, the Secretary's wage rate decision is applicable for the actual time so spent, not including travel.

(b) Contracts with bona fide material suppliers or with manufacturers to produce, supply or deliver items to the "site of the work" for use in the construction activities are not subject to DBRA, nor is transportation by common carrier over regular routes. However, if such a materialman, manufacturer or carrier undertakes to perform a contract, or some part of a contract as a subcontractor, his mechanics and laborers employed at the "site of the work" are subject to the Secretary's wage rate decision in the same manner as those employed by any other contractor or subcontractor.