



PREVAILLING WAGE SEMINARS



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR



Davis-Bacon Coverage

DBA

- Enacted in 1931
- Amended in 1935 and 1964
- Protects communities and workers from non-local contractors underbidding local wage levels

Coverage of the DBA

- Applies to contracts in excess of \$2,000 to which the Federal Government or the District of Columbia is a party for construction, alteration, and/or repair, including painting and decorating, of public buildings or public works

Criteria For Considering DBA Coverage

- Is the agreement a “contract for construction” to which the Federal Government or District of Columbia is a party?
- “Construction” includes all types of work done on a particular building or work at the site thereof, as defined in the regulations (section 5.2(j)(1)).
- A contract is “for construction” if “more than an incidental amount of construction-type of activity is involved in the performance of the government contract.”

Criteria For Considering DBA Coverage

- Is the “contract for construction” a contract for construction of a public building or public work of the U.S. or the District of Columbia?
- A “public building” or “public work” – includes “a building or work, the construction, prosecution, completion, or repair of which is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.” 29 CFR 5.2(k)

Public Funding

- The structure of the payments does not determine DBA coverage.
- Any expenditure or transfer of funds or an asset of financial value either directly or indirectly in exchange for construction is considered public funding.
- It can include grants, awards, subsidies, or the conveyance or other transfer of property or real assets

Leases as Contracts for Construction

- DBA can apply to certain federal lease contracts that also call for construction of a public work or building.
 - The terms “public building” and “public work” are defined in 29 C.F.R. § 5.2(k) to include “every building or work, the construction, prosecution, completion, or repair of which is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.”

Leases as Contracts for Construction

AAM No. 176

- AAM No. 176, issued on June 22, 1994, provides guidance on:
 - “Application of the Davis-Bacon Act to Buildings and Works Constructed and/or Altered for Lease by the Federal Government.”
- If a lease calls for construction, alteration, and/or repair:
 - Apply AAM No. 176 guidance to determine whether DBA requirements need to be in the lease.

Lease Construction Contracts

Factors to consider for DBA coverage

- Consider the following factors in determining whether DBA applies to a lease/construction contract:
 - **Length of the lease;**
 - **Extent of government involvement in the construction project;**
 - **Extent the construction will be used for private rather than public purposes;**
 - **Extent construction costs will be paid for by lease payments; and**
 - **Whether it is written as lease to evade the DBA.**
- If there are any questions concerning the applicability of DBA coverage in a lease/construction situation, please contact WHD.

DBRA

- Davis-Bacon (DB) requirements extend to numerous “related Acts” that provide federal assistance by
 - Grants
 - Loans
 - Loan guarantees
 - Insurance

DBRA Examples

- HUD financed construction of low-income housing projects
- The Federal Highway Administration provides grants to states for reconstruction of roads and bridges on Federal-aid highways

Distinguishing DBA and DBRA

- Examples of DBA Projects:
 - VA hospital
 - Federal office building (GSA)
 - Military base housing (DOD)
 - National Park road (Dept. of Interior)

Distinguishing DBA and DBRA (cont'd.)

- Examples of DBRA Projects:
 - HUD - assisted housing construction project
 - EPA - assisted water treatment plant construction project

Davis-Bacon Labor Standards/Contract Stipulations

- The term “labor standards” means the requirements of:
 - The Davis-Bacon Act;
 - The Contract Work Hours and Safety Standards Act;
 - The Copeland Act;
 - Prevailing wage provisions of the Davis-Bacon and “related Acts”; and
 - Regulations, 29 CFR 1, 3, and 5.

Davis-Bacon Labor Standards (29 CFR 5.5)

- 5.5(a)(1) - Minimum wages
- 5.5(a)(2) - Withholding
- 5.5(a)(3) - Maintaining basic payroll records
- 5.5(a)(4) – Apprentices and trainees
- 5.5(a)(5) – Copeland Act compliance

Davis-Bacon Labor Standards

- 5.5(a)(6) - Subcontracts
- 5.5(a)(7) - Contract termination and debarment
- 5.5(a)(8) - Rulings and interpretations
- 5.5(a)(9) - Disputes concerning labor standards
- 5.5(a)(10) - Certification of eligibility

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