



Davis-Bacon and Related Acts

What is Debarment and Why Does It Happen?



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

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Introduction

- The Wage and Hour Division (WHD) is responsible for administering and enforcing several federal laws involving labor standards including:
 - The Davis-Bacon and Related Acts (DBRA);
 - The McNamara – O’Hara Service Contract Act (SCA);
 - Executive Orders applicable to federal contractors;
 - The Fair Labor Standards Act (FLSA);
 - Family Medical Leave Act (FMLA).

Davis-Bacon and Related Acts

- The DBRA applies to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for construction, alteration, or repair.
- Covered contractors and subcontractors must pay their laborers and mechanics working under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

Debarment

- Occurs when a contractor is declared *ineligible* for future contracts due to:
 - Violations of the Davis-Bacon and Related Acts (DBRA) involving disregard of its obligations to workers or subcontractors
- Period of ineligibility is 3 years

Debarment Criteria

- Debarment is considered when a contractor has, for example:
 - Submitted falsified certified payrolls
 - Required “kickbacks” of wages or back wages
 - Committed repeat violations
 - Committed serious violations
 - Misclassified covered workers in clear disregard of proper classification norms; and/or
 - As a prime contractor, failed to ensure compliance by subcontractors
 - Otherwise engages in conduct that constitutes a disregard of obligations to workers or subcontractors

Impact on Prime Contractor

- Prime contractors can be debarred for subcontractor violations where such violations reflect a disregard of the prime contractor's obligations.
- For example, debarment could be appropriate if a prime contractor and many of its subcontractors violated provisions of the DBRA and CWHSSA, the prime contractor failed to flow down the DBRA labor standards clauses and to take steps to ensure its subcontractors complied with the DBRA

Debarment Process

- The debarment process is given at 29 CFR 5.12(b)
- Where the Administrator finds reasonable cause for debarment, contractors will be notified by any means that would normally assure delivery.
- Notified parties may make a written request for a hearing postmarked within 30 days of the date of the notification from the Administrator
- The case will then be referred to an Administrative Law Judge for hearing

Debarment List

- Once the debarment process is complete, the name(s) of the contractor and any responsible officers, along with the name of any firms in which they are known to have an interest, are placed on the list of ineligible persons or firms, which is distributed to federal agencies
- This list is searchable online at the [System Awards Management website](#)

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