



Davis-Bacon and Related Acts

When Are Federal Contracts Covered?



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR



dol.gov/agencies/whd
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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 federal or federally assisted contracts in excess of \$2,000 for construction, alteration, or repair.
- Covered contractors and subcontractors must pay their laborers and mechanics working on the site of work no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.



History of the Davis-Bacon Act (DBA)

- Enacted in 1931 to protect communities and workers from the economic disruption caused by contractors who obtain federal construction contracts by underbidding local prevailing wages.
- The DBA was the first federal law to provide minimum wage standards for non-government workers.



Statutory Language

“Every contract in excess of \$2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.”



Contracts Over \$2,000

- The \$2,000 threshold applies to the prime contract.
- Once a prime contract is covered, its sub-contracts will be covered even if they are under the \$2,000 threshold.



Federal Government or District of Columbia

- Includes any agency or instrumentality of the U.S. government or District of Columbia, including independent agencies, wholly owned government corporations, or non-appropriated fund instrumentalities.



Contracts for Construction

- “Construction” includes all types of work done on a particular building or work on the site of the work, as defined in the regulations (29 CFR 5.2).
- A contract is for construction as long as it requires more than an incidental amount of construction.
- This means that DBA can apply to a federal contract even if the primary purpose of the contract is not construction.



Building or Work

- The term “building or work” includes, without limitation, buildings, structures, and improvements of all types.
- Construction of a building or work also includes construction of just a portion of a building or work, or the installation (where appropriate) of equipment or components into a building or work.



Public Building or Public Work

- Includes any building or work, when its construction:
 - Is carried on directly by authority of or with funds of a federal agency
 - To serve the general public interest.
- A building or work does not have to be owned or operated by the federal government to serve the general public interest, so long as it fulfills a significant need or a goal of the relevant federal agency.



Public Funding

- Public funding is not limited to the direct payment of appropriated funds to a contractor but includes indirect funding.
- The structure of payments does not determine DBA coverage – any direct or indirect exchange of money or other assets for construction may be considered public funding.



Geographic Scope

- The DBA only applies to construction work performed within the fifty states, the District of Columbia, and the Commonwealth of the Northern Marianas Islands.
- The DBA does not apply to construction work performed in Guam, Puerto Rico, the U.S. Virgin Islands, or other U.S. territories; however, some Related Acts do apply to construction in the territories.



Federal Leases

- Federal lease contracts that also call for construction of the leased space will frequently meet the requirements for Davis-Bacon coverage.
- Factors to consider when deciding whether a federal lease is also a contract for the construction of a public building or public work can be found in [All Agency Memorandum 176](#), available on www.sam.gov.



Hybrid Contracts

- Because the DBA applies to any contract with more than an incidental amount of construction, it is possible for work on other types of contracts, such as supply or service contracts, to be covered under the DBA.
- Construction work on a service or supply contract will be covered under the DBA when the contract requires a substantial and segregable amount of construction.



Internet Sites

- Wage Determinations: <https://sam.gov>
- Wage and Hour Division: <http://www.dol.gov/agencies/whd/government-contracts>
- WHD Protections for Workers in Construction under the Bipartisan Infrastructure Law: <https://www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction>
- Resource Book: <http://www.dol.gov/agencies/whd/prevaling-wage-resource-book>
- Office of the Administrative Law Judges Law Library: <https://www.dol.gov/agencies/oalj/topics/libraries/LIBDBA>
- Prevailing Wage Topic videos: <https://www.dol.gov/agencies/whd/government-contracts/construction/presentations>



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