

CDBG-DR Policy Bulletin

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Davis-Bacon and Related Acts (DBRA) Applicability and Department of Labor Waiver Provisions

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U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Disaster Recovery



Purpose

This guidance explains how Davis-Bacon and Related Acts (DBRA) requirements apply to certain construction projects funded by Community Development Block Grant Disaster Recovery (CDBG-DR) grants, following a waiver granted by the U.S. Department of Labor (DOL) in response to HUD's request.

HUD sought this waiver to help grantees avoid undue hardship and administrative burden when using CDBG-DR funds as non-federal match for certain public facilities and infrastructure projects. This guidance outlines how the waiver applies, what it changes from standard DBRA practice, and key considerations for grantees managing current and future projects.

Standard DBRA Applicability (Without Waiver)

Under normal circumstances, DBRA requirements apply to all construction projects funded in whole or in part with federal assistance, including CDBG-DR funds. This means that:

- Prevailing wage determinations must be included in construction contracts either before contract award or before construction begins.
- In cases where federal funding is approved after construction starts, DBRA requirements would typically apply retroactively, requiring payroll reconstruction and back pay adjustments.

These retroactive requirements are designed to protect workers but can create challenges for disaster recovery projects, especially when funds are used to reimburse completed work.

DBRA Waiver Applicability (As Granted By Department of Labor (DOL))

On March 21, 2025, DOL granted HUD's request for a waiver of retroactive DBRA applicability for certain CDBG-DR projects. The waiver applies only to:

- **Public facilities and improvements**, including infrastructure projects;
- Projects where CDBG-DR funds are used as **non-federal match** for other federal grant programs (such as FEMA-funded projects); and
- CDBG-DR grants allocated for **2020, 2021, 2022, and 2023** disasters **funded under specific public laws** (see table below).¹

¹ Note that HUD received a separate waiver from DOL in 2020 that applies to **2015, 2016, 2017, 2018, and 2019 CDBG-DR** grants and all **CDBG-MIT** grants. This prior waiver applies to *all* construction contracts under these grants, and similarly applies **prospective application** of DBRA requirements for these projects. To take advantage of the flexibilities included in this prior waiver, grantees should review the **waiver letter** and **guidance** to align program implementation per the provisions included in the waiver:

<https://www.hud.gov/sites/dfiles/CPD/documents/DBRA-Applicability-Response.pdf> and
<https://www.hud.gov/sites/dfiles/CPD/documents/DBRA-and-HUD-Guidance-2020.pdf>.



Disaster Year	Public Laws	Allocation Announcement Notices (AANs)
2020	117-43	<ul style="list-style-type: none">• 87 FR 6364• 87 FR 31636
2021	117-43, 117-180	<ul style="list-style-type: none">• 87 FR 31636• 87 FR 3198
2022	117-180, 117-328	<ul style="list-style-type: none">• 88 FR 32046• 88 FR 82982
2023	117-328	<ul style="list-style-type: none">• 88 FR 82982

This waiver allows grantees to use CDBG-DR funds as reimbursement for completed projects without triggering retroactive DBRA compliance.

Key Provisions of the Waiver

Grantees should apply the following rules when determining DBRA applicability under the waiver:

1. **No DBRA applicability if:**

- All construction work on a project *was completed before* the date the CDBG-DR *grant agreement* was signed by HUD, and
- CDBG-DR funds are used *only to reimburse those completed project costs*.

2. **DBRA applies prospectively if:**

- Construction began *after* the date HUD signed the CDBG-DR grant agreement, or
- Construction began before the grant agreement date but was *still ongoing* as of that date.

3. The waiver applies to all projects funded by CDBG-DR grants **used as non-federal match** for **public facilities and improvements, including infrastructure**, whether *contracted by the grantee directly or through subrecipients*.



Side-by-Side Comparison Table

Scenario	Standard DBRA Requirements	DBRA Requirements Under This Waiver
Construction completed before the date HUD signed the CDBG-DR grant agreement	Retroactive application required; wage determinations incorporated	No retroactive application; DBRA does not apply
Construction began before the date HUD signed the grant agreement but was ongoing on that date	Retractive application required for work prior to agreement execution	DBRA applies only from the date that HUD signed the grant agreement
Construction began after HUD signed the grant agreement	DBRA applies prospectively from construction start	DBRA applies prospectively from construction start (no change)

Practical Tips for Grantees

- **Document key dates:** Maintain clear records of grant agreement execution dates and construction state/completion dates for each project.
- **Communicate with subrecipients:** Ensure that subrecipients and contractors are aware of the DBRA applicability timelines under this waiver.
- **Review reimbursement requests carefully:** Confirm that reimbursements are only for completed projects not subject to retroactive DBRA requirements.
- **Plan prospectively:** For ongoing new construction, standard DBRA requirements still apply from the execution date forward.
- **Coordinate with CPD:** Reach out to your applicable CPD staff member with any questions or project-specific scenarios.

Frequently Asked Questions (FAQ)

Q: Does this waiver apply to all CDBG-DR grants?

A: No. It applies only to CDBG-DR grants for 2020, 2021, 2022, and 2023 disasters funded under public laws 117-43, 117-180, and 117-328.

Q: Does this waiver apply to private housing construction projects?

A: No. The waiver applies only to public facilities and improvements, including infrastructure.

Q: If construction started before the grant agreement execution date and continued afterward, how does DBRA apply?

A: DBRA applies prospectively from the date HUD signed the grant agreement; prior construction work is not subject to retroactive compliance.

Q: Does this change standard DBRA requirements for future construction?

A: No. For all construction that begins after the grant agreement execution date, standard DBRA requirements apply.