



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-0050

---

**Special Attention of:**

Office of Davis-Bacon and Labor Standards Regional and Field Staff;  
Office of Multifamily Housing Program Directors;  
Office of Residential Care Facilities Directors;  
Office of Community Planning and Development Directors;  
CDBG and HOME Grantees;  
Public Housing Regional and Office Directors;  
Public Housing Agencies;  
Office of Native American Programs Administrators;  
Tribes; Tribally Designated Housing Entities;  
Indian Housing Authorities

**Notice: LR-22-02**

**Issued:** 07/01/2022

**Expires:** This Notice is effective until it is amended, superseded, or rescinded.

**Supersedes:** LR-09-01

**Cross References:** HUD Handbook, 1344.1; Davis Bacon Act; Davis-Bacon Related Acts; DOL Regulations 29 CFR Parts 1, 3, 5, 6, and 7; DOL All Agency Memoranda 130, 131, and 236; DOL Field Operations Handbook

---

**SUBJECT:** HUD guidance on determining Davis-Bacon applicability to early construction and covered demolition work.

**I. PURPOSE**

The purpose of this Notice is to provide guidance on the determination of Davis-Bacon wage requirements to HUD staff and program participants for *early construction* performed on HUD financed or assisted projects subject to Davis-Bacon and the Related Acts (DBRA), and to provide guidance on the determination of Davis-Bacon wage requirements on certain demolition work conducted in relation to covered HUD program activity, usually with Local Contracting Agencies (LCAs).

This Notice also provides guidance concerning character of work determinations and lock-in dates where work is covered by Davis-Bacon requirements.

**II. BACKGROUND**

*Early construction* specifically relates to necessary work performed as a condition of or a requirement for a project subject to DBRA to proceed. This work may or may not be a part of the main construction contract and may include, but is not limited to, site preparation/clearing, demolition, lead-based paint removal, and/or asbestos abatement. However, *early construction* does not include operations work and contracts, including routine and nonroutine maintenance work, that is otherwise subject to HUD-determined maintenance wage rates.

Demolition on LCA projects, by itself, is not necessarily considered to be *construction, alteration, or repair* (i.e., activities to which Davis-Bacon requirements may apply) and typically does not trigger DBRA *unless* it will be followed by Davis-Bacon-covered construction, whether the demolition is financed or assisted with HUD program funds or with other (non-HUD) funding. If subsequent construction at the site is planned—as part of the same contract, or if subsequent construction is contemplated, as part of a future construction project—then the demolition work is considered to be part of the overall construction project.

In such cases, if the subsequent construction work is subject to Davis-Bacon requirements, then the demolition would likewise be covered by Davis-Bacon requirements. Davis-Bacon requirements apply to demolition work where such requirements are imposed by statutory provisions that specify demolition as a Davis-Bacon-covered activity.<sup>1</sup>

Davis-Bacon coverage of demolition, in the context of HUD program activity, would necessarily involve knowledge that there will be subsequent construction *and* that the subsequent construction work will be covered by Davis-Bacon. This knowledge, whether of planned or contemplated construction work, implies that there is documented evidence of the expected subsequent construction. Such evidence may include contract specifications; disposition plans; budgets; applications for assistance; and similar records.

### III. DETERMINING THE APPLICABLE WAGE DECISION, CHARACTER OF CONSTRUCTION AND LOCK-IN DATES

When *early construction* occurs on a project subject to DBRA requirements and where mechanics and laborers are on the jobsite performing work before initial endorsement or main contract award, that work may be subject to DBRA requirements.<sup>2</sup> For wage determination purposes, a project consists of all the construction necessary to complete a facility regardless of the number of contracts involved, so long as all the contracts awarded are closely related in purpose, time, and place.<sup>3</sup>

The U.S. Department of Labor's (DOL) guidance on selecting a wage rate decision or multiple wage rate decisions will continue to apply for *early construction*. Once *early construction* is identified, and the character(s) of construction and the appropriate wage rate decision(s) have been selected, the wage decision locks-in when the early construction begins. Once locked-in, the rates will be effective for the entire project.<sup>4</sup>

In terms of demolition and work covered by Davis-Bacon wage requirements, determining the character of work is established by the *end result* of the work at that site. Demolition will take the project's end result primary category of construction: "residential" (single-family homes or apartments four stories or less); "building" (e.g., apartment buildings of more than four stories, or an office building, parking garage, or community center); "highway" (e.g., a parking lot, streets, or sidewalks); or "heavy" (e.g., an outdoor swimming pool).<sup>5</sup>

When it is known that the demolition will be later followed by Davis-Bacon-covered construction work, but the character of the end result is not yet determined, a "heavy" wage decision is applicable.

---

<sup>1</sup> DOL Field Operations Handbook (FOH) 15d03(a) and (b) and HUD Handbook 1344.1 (rev. 2) Federal Labor Standards Requirements in HUD Programs, Chapter 11, 11-8 (A), (B), and (C).

<sup>2</sup> For FHA projects, work done prior to application is not subject to Davis-Bacon prevailing wage requirements.

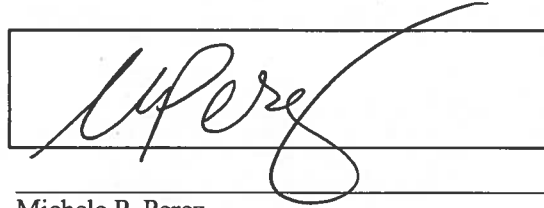
<sup>3</sup> DOL All Agency Memoranda 130 and 131

<sup>4</sup> DOL All Agency Memoranda 130, 131, and 236

<sup>5</sup> Ibid.

## V. CONTACTS

If you have questions about this Notice, contact the DBLS staff with jurisdiction in your area. A list of DBLS contacts is available on the national webpage.<sup>6</sup>



---

Michele P. Perez  
Assistant Deputy Secretary  
Office of Field Policy and Management

---

<sup>6</sup> Find your local DBLS contact at [https://www.hud.gov/program\\_offices/davis\\_bacon\\_and\\_labor\\_standards/laborrelstf](https://www.hud.gov/program_offices/davis_bacon_and_labor_standards/laborrelstf)