

Memorandum

CDBG Policy Guidance

Date: December 6, 2010
Policy 10-5

SC Department of Commerce, Grants Administration, 1201 Main Street, Suite 1600, Columbia, SC 29201
www.sccommerce.com

Subject: Applicability of Davis Bacon Requirements on Demolition Activities
Attachment: HUD Labor Relations Notice LR 2009-01
Resources: Implementation Manual, Chapter 5, Public Facilities and Chapter 7, Housing

Demolition, by itself, is not necessarily considered to be *construction, alteration or repair* (i.e., the activities to which Davis-Bacon requirement may apply). As a result, Davis-Bacon wage requirements are not typically triggered by demolition work alone. However, if the demolition is an integral part of a construction project or if subsequent construction at the site is planned or contemplated in the future, then the demolition work is considered part of the overall construction project. In such cases, if the subsequent construction work is subject to Davis-Bacon requirements, then the demolition would be covered also.

Therefore, in most cases demolition is *not* covered by Davis-Bacon requirements unless it will be followed by Davis-Bacon covered construction. This policy applies whether demolition is financed or assisted with CDBG or other non-CDBG funding.

In the context of CDBG program activity, Davis-Bacon coverage 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 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.

This policy memorandum updates the 2010 Community Development Block Grant Program and becomes effective immediately unless otherwise stated. The program documents located on the SC Department of Commerce website has the most up to date policies of the CDBG program.

<http://www.sccommerce.com/cdbgformsanddocuments/cdbgformsanddocuments.aspx>



Office of Labor Relations
LABOR RELATIONS LETTERS

Date: August 12, 2009

Letter No. LR 2009-01

Subject: Davis-Bacon applicability to demolition work

- I. Purpose**
- II. General principles**
- III. Character of work for “covered” demolition**

I. Purpose

The purpose of this Letter is to discuss the applicability of Davis-Bacon wage requirements to demolition work conducted in relation to HUD program activity. In addition, this Letter provides guidance concerning character of work determinations where demolition work is covered by Davis-Bacon requirements.

II. General principles

Demolition, by itself, is not necessarily considered to be *construction, alteration or repair* (i.e., activities to which Davis-Bacon requirements may apply). As a result, Davis-Bacon wage requirements are not typically triggered by demolition work, alone. However, 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.¹

Therefore, in most cases, demolition is *not* covered by Davis-Bacon requirements *unless* it will be followed by Davis-Bacon – covered construction. This principle remains true whether the demolition is financed or assisted with HUD program funds or with other (non-HUD) funding. There are very few exceptions. For example, Davis-Bacon requirements apply to demolition work where such requirements are imposed by statutory provisions that specify demolition as a Davis-Bacon – covered activity².

In the context of HUD program activity, Davis-Bacon coverage of demolition would necessarily involve knowledge that there will be subsequent construction *and* that the

¹ See All Agency Memorandum 190 and DOL Field Operations Handbook, para 15d02, available in the Library at www.wdol.gov, and HUD Handbook 1344.1, para 7-5, available at in the Library at www.hud.gov/offices/olr Note: Davis-Bacon applicability to subsequent construction may be triggered by HUD-assisted demolition. For example, the use of CDBG funds to finance demolition work that will be followed by construction work financed from other sources may trigger Davis-Bacon requirements on the construction work and thus, also, on the demolition. Please contact the HUD Labor Relations staff for your area for assistance with applicability determinations.

² Housing Act of 1949, Urban Renewal Program.

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.

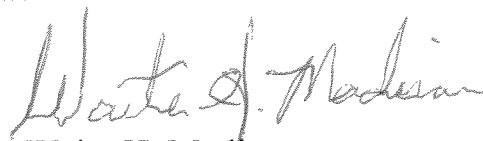
III. Character of work for “covered” demolition

When demolition work is covered by Davis-Bacon wage requirements, the next issue is the determination of the character of work for wage determination purposes – whether the applicable wage decision is residential, building, highway, or heavy. In such cases, the determining factor for character of work is the *end result* of the work at that site. That is, whether the end result is “residential” (single-family homes or apartments 4 stories or less in height); “building” (e.g., an apartment building greater than 4 stories, 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).³

For example, the demolition of a 16-story apartment building that results in the construction of 2-story townhomes would be subject to a residential wage decision; the demolition of an office building that is followed by the construction of a parking lot would be subject to a highway wage decision.

Finally, in some circumstances, it may be known that the demolition will be followed by Davis-Bacon – covered construction work but the *character* of the end result is not yet determined. For example, it isn’t known at the time the demolition is conducted whether the following construction will involve low-rise apartments (4 stories or less) or a high-rise apartment building (5 or more stories). In such cases, a heavy wage decision is applicable.

Any questions regarding this Letter should be directed to the Regional or Field HUD Labor Relations staff responsible for the jurisdiction involved. A list of Labor Relations staff, the jurisdictions they serve, and contact information is available at the Office of Labor Relations web site: www.hud.gov/offices/olr



Waite H. Madison
Director
Office of Labor Relations

³ See AAMs 130 and 131.