



## SUBJECT: DAVIS-BACON ACT AND HOUSING

May 2006

### Davis-Bacon Act Applicability to Privatized Housing Projects

This fact sheet explains the applicability of the Davis-Bacon Act (40 USC Section 3142 – “DBA”) to Air Force Military Housing Privatization Initiative (“MHPI”) projects. The DBA applies to construction contracts in which the Government is a contracting party (ie: MILCON projects). The DBA also applies to most MHPI projects, but only to construction activities governed by the construction contract between the project owner and its construction contractor. The Air Force is not a party to that contract and is not directly responsible for DBA implementation and oversight.

- **What is the Act?** The DBA requires construction contractors to pay employees no less than locally prevailing wages and benefits paid to corresponding classes of workers on similar projects. The DBA applies to contracts in which the United States is a party for the construction, alteration, or repair of “public buildings or works”.
- **When and Why does the DBA Apply to MHPI Projects?** In all but one unique case, the Air Force has concluded that the DBA applies to its projects. Department of Labor (“DOL”) regulations define a ‘public work’ as a “building or work, the construction, prosecution, completion or repair of which...is carried on directly by authority of or with funds of a Federal Agency to serve the interests of the public regardless of whether title thereof is in a Federal agency.” Even though the Air Force is not a party to the construction contracts, the DBA applies due to the use of Government assets, including Federal funding, houses and infrastructure. This qualifies MHPI projects as “public works”. The final determination of whether the DBA applies to a particular MHPI project is dependent on the extent of Air Force financial support for the project.
- **Who Enforces Compliance with the Act?** DOL is responsible for the administration and enforcement of the DBA. Project owners are obligated to ensure that general contractors comply with the DBA for all construction activities. Project owner DBA obligations are included in the RFP, Lease of Property and Operating Agreement.
- **What is the Air Force’s Role in DBA Compliance?** The Air Force’s role is limited to periodic confirmation that the project Owner is fulfilling its commitment to properly monitor and enforce DBA compliance. Compliance checking involves requesting project owner evidence of DBA compliance through project owner DBA files, records, and payrolls on a periodic (annual) basis. Air Force Asset managers may use the assistance of contracted personnel for project owner compliance checking. The Air Force is not directly responsible for DBA implementation and oversight.
- **What are the Construction Contractors’ Obligations?** Construction contractors are required to pay employees the prevailing wage rate on a weekly basis and submit weekly certified payroll records to the project owner. For an all-inclusive list of construction contractors’ obligations, visit the DOL website at [www.dol.gov](http://www.dol.gov).
- **How is the Act communicated?** Every employer performing work covered by the labor standards of the DBA must post a notice at the work site in a prominent place. The DOL notice is demonstrated to the right.

## NOTICE TO ALL EMPLOYEES

Working on Federal or Federally  
Financed Construction Projects

### MINIMUM WAGES

You must be paid not less than the wage rate in the schedule posted with this Notice for the kind of work you perform.

### OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 a week. There are some exceptions.