



Arkansas Office of Recovery and Reinvestment

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MEMORANDUM

TO: Local Education Agencies (LEAs) Receiving State Fiscal Stabilization Funds

FROM: Erin Gildner, DFA-IGS Grants Coordinator

DATE: October 14, 2010

RE: Davis-Bacon Application on Projects Including Playground Equipment Installation and Other Outdoor Projects

I have received several questions regarding Davis-Bacon and playground equipment this week, so I called a contact employed with U.S. Department of Labor for some clarifying guidance. I would like to pass on this information to the LEAs since some of it is new information to me. I asked about Davis-Bacon application to playgrounds and other outdoor projects. Here are the scenarios I gave, with answers provided during our phone conversation.

1) Does Davis-Bacon apply to Playground Equipment where the installation is included into the price of the equipment and could not be easily separated from the contract, or where the cost of installation is minimal in comparison to the equipment?

No, this type of installation would be exempt from Davis-Bacon.

2) Does Davis-Bacon apply toward playground equipment and other items that are purchased and installed by district employees?

We already knew this answer, but I threw it in for good measure. No- this type of installation would be exempt.

3) Does Davis-Bacon apply toward playground equipment and other structures that are purchased and then contracted out to a company to install and do other work?

Yes, Davis-Bacon would apply to this type of contract. For these types of outdoor projects, you would choose a wage determination from the "Heavy" Construction category. Fence erectors that install metal fences and those who erect pavilions and other metal structures would be considered Ironworkers; if they placed a roof on the structure, they would be a roofer; concrete pourers and workers would be considered concrete masons.

The fact that "Heavy Construction" would be used is new to me, so I have included the definitions of the different categories below and the link where I found this information:

<http://www.wdol.gov/usrguide/sectionc.aspx#c4b>

DOL issues DBA WDs reflecting prevailing wages and benefits paid by the construction industry within specific localities. The DBA WDs are further classified by the nature of the construction projects performed, specifically listed as "schedules": residential, building, highway, and heavy construction. A brief outline of the definitions for each schedule is listed below. Further details and examples may be found in DOL's "All Agency Memorandum No. 130 and 131" issued in 1978 (reference the WDOL Library Page).

Building Construction. Includes construction of sheltered enclosures with walk-in access for the purpose of housing persons, machinery, equipment or supplies; all construction of such structures; the installation of utilities and of equipment, both above and below grade levels; as well as incidental grading, utilities and paving. Such structures need not be "habitable" to be building construction. Also, the installation of heavy machinery and/or equipment does not generally change the project's character as a building.

Heavy Construction. Includes those projects that are not properly classified as either "building," "highway," or "residential." Unlike these classifications, heavy construction is not a homogenous classification. Because of this catch-all nature, projects within the heavy classification may sometimes be distinguished on the basis of their particular project characteristics, and separate schedules may be issued for dredging projects, water and sewer line projects, dams, major bridges, and flood control projects.

Highway Construction. Includes construction, alteration or repair of roads, streets, highways, runways, taxiways, alleys, trails, paths, parking areas, and other similar projects not incidental to building or heavy construction.

Residential Construction. Includes the construction, alteration or repair of single-family houses, apartment buildings of no more than four stories in height. This includes all incidental items such as site work, parking areas, utilities, streets, and sidewalks.

Some contracts or projects may require more than one general schedule to be included depending on the nature and extent of the work. This is described in more detail in DOL's All Agency Memo No. 131

If you have any questions about the items discussed in this email, or you would like the contact information of the person I discussed the scenarios with from DOL, please feel free to contact me at Erin.Gildner@dfa.arkansas.gov or (501) 682-1468.

cc: Arkansas Department of Education