



DAVIS-BACON PRIMER FOR STATES IMPLEMENTING THE GREENHOUSE GAS REDUCTION FUND SOLAR FOR ALL PROGRAM

IRA Explainers and Guides Series for States

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The Inflation Reduction Act (**IRA**) provides opportunities for states and the private sector to access federal funding to finance and deploy renewable energy.² Under the IRA, state programs that deploy federal funding must comply with certain federal regulations, including rules regarding worker protection, local wages, and benefits under the Davis Bacon Act (**DBA**).

This explainer in the form of a question and answer (**Q&A**) document provides a plain English overview of DBA for state staff who will implement the IRA. It was specifically prepared for states that will implement the Greenhouse Gas Reduction Fund (**GGRF**) Solar for All (**SFA**) program, but many other stakeholders will find the information to be broadly applicable. It is based on publicly available information from federal agencies as well as interviews with solar developers in late 2023.

This Q&A does not constitute legal advice.

DBA is codified in [40 U.S.C. 3141 et seq](#) and implemented by the Department of Labor (**DOL**). On August 23, 2023, DOL published [final rules](#) in the Federal Register that comprehensively update the previous set of regulations that had been in place for 40 years.³ The final rule is effective as of October 23, 2023 and updated [Title 29 of the Code of Federal Regulations \(CFR\)](#).

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² [Public Law 117-369, 136 Stat. 1818](#)

³ 88 FR 57731

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1. The Basics

a) What Is the Davis-Bacon Act (DBA)?

DBA was enacted in 1931 to protect communities and workers.⁴ DBA requires (a) contractors and subcontractors for (b) the construction, alteration, or repair of (c) public buildings or public works (d) under contracts entered into by federal agencies and the District of Columbia that are (e) in excess of \$2,000 to pay laborers and mechanics the prevailing wage and fringe benefits or higher based on geographic location under certain conditions.

b) What Is a Davis Bacon-Related Act (DBRA)?

A Davis Bacon-Related Act (**DBRA**) is a statute in which Congress incorporated DBA labor standards for “federally assisted construction.” A DBRA is usually a statute that enables federal agencies to assist construction projects through grants, loans, loan guarantees, insurance, and other methods.

Examples of DBRAs are the Infrastructure Investment and Jobs Act of 2021 (IIJA), the Energy Policy Act of 2005, and the Clean Air Act of 1963 (as amended). GGRF programs administered by EPA are governed by the Clean Air Act, a DBRA. DOL maintains an updated list of DBRAs in an [excel spreadsheet](#) on its website [here](#).

c) What Is the Difference Between DBA and DBRA Projects?

In DBRA projects, compliance with DBA standards is required even though the federal government is not necessarily a direct party to the construction contract.

A few examples may help explain the difference between a DBA and a DBRA project:

- In a DBA project, a federal agency or the District of Columbia will sign a construction contract with a contractor directly.
- In contrast, in a DBRA project, a state, for example through a state agency deploying federal funds, may fund a construction contract for a solar project on a multifamily affordable housing building in which the construction contract is signed by the building owner with a developer.

In both cases, DBA standards will apply, and construction contracts will require DBA wages and a compliant administrative process (see below). However, a DBRA project may include specific requirements based on the policy decisions made by the implementation agency (EPA for Clean Air Act programs such as GGRF). DOL has published a document highlighting the differences [here](#).

d) Is the IRA a Davis Bacon-Related Act?

No. The IRA is not a traditional DBRA and is not listed on DOL’s website. However, the IRA does include worker protections, such as wage, apprenticeships, and benefits requirements, and in some instances funding through IRA programs will trigger DBA compliance. This is true where federal agencies will offer funding through financial assistance under another DBRA, such as the Clean Air Act for GGRF programs. More information is available below.

⁴ DBA was amended in 1935 and 1964.

e) Does the IRA Include “DBA Standards”?

Yes. Programs deployed under the IRA broadly fall into three categories with respect to DBA standards.

- (a) Programs that directly fund construction, alteration, or repair of public works or public buildings using federal monies above \$2,000 and in which a federal agency or the District of Columbia is a party are subject to DBA.
- (b) Programs capitalized via the IRA that fund construction through financial assistance administered by federal agencies under statutes classified as DBRAs must comply with DBA standards. For instance, GGRF programs are subject to DBA standards by virtue of the Clean Air Act’s DBRA status.
- (c) In addition, the IRA includes DBA-like labor standards for some of the programs it created. For example, the IRA makes tax incentives available to taxpayers that satisfy certain [prevailing wage and apprenticeship requirements](#) for projects of nameplate capacity of one MW_{AC} or more. These standards include meeting DBA wage levels as well as apprenticeship requirements. Meeting this requirement also includes complying with the recordkeeping and administrative requirements piece of DBA standards (see below).

2. EPA’s DBA Standards

EPA administers several programs that include DBA standards. Below, we focus on those under the umbrella of the Clean Air Act, like GGRF programs.

a) What DBA Standards Does the Clean Air Act Require?

Under the Clean Air Act, the EPA Administrator must take actions so that “all laborers and mechanics employed by contractors or subcontractors on projects assisted under this chapter shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the locality as determined by the Secretary of Labor, in accordance with [DBA].”⁵

Note however, that DBA requirements should only be applicable to funds that are used in a manner that triggers DBA compliance, for example, using federal funds for the construction of public works over \$2,000. However, some sources have stated that in DBRA projects, DBA standards are applicable even where “a public building or public work is not involved.”⁶ We have not been able to confirm this with EPA.

As stated in the GGRF Notice of Funding Opportunity and as confirmed by EPA on its [website](#), GGRF Solar for All funding will trigger DBA compliance requirements. However, it is unclear at this

⁵ 42 U.S.C §7614, i.e., Section 314 of the Clean Air Act, and 40 U.S.C. 3141–3144, 3146, and 3147. In addition, “the Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 ([15 F.R. 3176](#); [64 Stat. 1267](#)) and [section 3145 of title 40](#).”

⁶ Congressional Research Service, [Federally Funded Construction and the Payment of Locally Prevailing Wages](#), September 14, 2021

stage whether *all* development and financing activities under these programs will do so. For instance, we were not able to confirm whether DBA compliance would be required for work funded by the federal government on private buildings, as stated above.

b) What Is the Scope of the Guidance that EPA Will Issue on the DBA Standard?

We do not know. EPA has not commented on this topic.

c) What DBA Term and Condition Will Be Included in States' Cooperative Agreements with EPA?

For GGRF programs, EPA has stated that it would produce a “term and condition specifying DBRA compliance requirements” in its cooperative agreements with states.⁷ EPA has not yet produced such term and condition.

However, past examples exist that states can consult to understand what such term and condition may look like. For instance, in June 2019, EPA published a term and condition relevant to cooperative agreements for funding petroleum clean-up.⁸ It includes, among other things: a list of conditions for projects covered under DBA standards; instructions related to wage determination processes; standard language for contracts and subcontracts provisions for contracts of different dollar values; and compliance verification processes.

EPA's standard term and condition for GGRF cooperative agreements will be different, but we should expect it to be fairly similar in structure.

Further, the standard language for contracts between state recipients and contractors and subcontractors has been published by EPA (see below).

d) What DBA Standard Terms and Conditions Will Apply to Contractors or Subcontractors under EPA-Funded Contracts?

In October 2023, EPA published [DBRA Requirements for Contractors and Subcontractors Under EPA Grants](#) and [DBRA Requirements for Contracts in Excess of \\$100,000 Under EPA Grants](#). These standard requirements are updated on an annual basis and are a direct application of [29 CFR 5.5](#),

⁷ Note here that EPA programs are managed under either (a) grant agreements or (b) cooperative agreements. EPA, in the GGRF Notice of Funding Opportunity and on its website, has referred to both terms interchangeably. However, the NOFO clearly states that states will enter into cooperative agreements and not grant agreements for GGRF programs. As per EPA's [grant management training module](#) dated October 2022, “A grant is an agreement when EPA is not involved in carrying out project activities. In a cooperative agreement, EPA has substantial involvement in conducting project activities. The responsibilities shared between EPA and the recipient are clearly outlined and accepted before the agreement is awarded. ‘Substantial involvement’ refers to close EPA collaboration with the recipient in executing the project scope of work, and the terms of the cooperative agreement will describe EPA's anticipated involvement. A cooperative agreement does not give EPA the right to direct the recipient as if it were an EPA contractor providing services to the Agency.”

⁸ [Davis Bacon Terms and Conditions for Cooperative Agreements with Cleanup Activities using Petroleum Funding - Governmental Entities](#), EPA, 2019

the federal regulation that sets out contract provisions for contracts subject to DBA standards. [29 CFR 5.5](#) and the standard provisions mirror each other, and will in all likelihood, be the standard provisions that states will have to require from contractors and subcontractors under GGRF-funded contracts.

These standard provisions include:

- An acknowledgement from the contractor (or subcontractor) that DBA standards are applicable by virtue of the contract being funded under an EPA “assistance agreement” and that the contractor/subcontractor will comply with [29 CFR 5.5](#) if the contract is related to “activities covered under DBRA and exceeds (or will exceed) \$2,000.”
- Rules about minimum wages and fringe rates, weekly payment schedules and payroll certification processes and documentation, reporting requirements, and record-keeping requirements, rules about what may count as benefit contribution from employers, as well as rules about matching work hours with wage rates based on the classification of work
- Rules relating to sanctions for violations of the standards, including withholding of funds by the state and “debarment,”⁹ and whistleblower protection
- Role of the state recipient in informing DOL about certain events
- Rules relating to apprentices’ pay rates, benefits, and ratio of workers to apprentices on site

In addition, contracts that are greater than \$100,000 in value must also include additional provisions such as:

- An acknowledgement from the contractor (or subcontractor) that overtime provisions of the Contract Wage Hours and Safety Standards Act (**CWHSSA**)¹⁰ are applicable
- Work in excess of 40 hours per week is permissible if compensated at a rate of not less than one and a half times the basic rate of pay
- Sanctions for violation of CWHSSA rules, including withholding of payment, liquidated damages, interest, and debarment

3. Waivers, Exemptions, and Policymaking

To ensure that the deployment of GGRF SFA funds is effective, states should seek to inform in-state solar developer networks about relevant federal regulation like DBA early on in the process. In addition, as states enter negotiations with EPA for GGRF cooperative agreements, they should evaluate the flexibility that EPA may or may not have to set DBA policies that will support state goals. This section will provide states with background information to enter such negotiation period.

⁹ Debarment is a remedy used by the federal government to combat fraud and abuse. It excludes debarred persons from entering into contracts with the federal government.

¹⁰ CWHSSA requirements are set by [40 U.S.C. 3702 and 3704](#), as supplemented by DOL regulations in [29 CFR Part 5](#) and [2 CFR 200 Appendix II\(E\)](#).

a) Can DOL Waive DBA Standards?

No. DBA does not grant DOL the authority to waive DBA standards, but other DBRAs may provide for exceptions by the administering agency.

b) Can EPA, as the GGRF-Administering Agency, Waive DBA Standards for GGRF Implementation?

No. As per DOL guidance, some DBRAs contain specific criteria for activities supported by the federal assistance they provide. “Thus, a determination of whether DB[A] prevailing wage provisions apply in particular circumstances requires an analysis of the actual labor standards provision in the relevant related Act.”¹¹ For example, the DBA labor standards provision of Title II of the National Affordable Housing Act of 1990—a DBRA—does not apply if there are fewer than twelve assisted units in a project. However, in the case of the Clean Air Act, which is the source of EPA’s authority to administer the GGRF, there is no such language.

c) What Flexibility, if any, Does EPA Have to Deviate from the DBA Standards as Part of Negotiated Agreements with States or as Part of a Programmatic Policy Choice?

It is unclear. Some in the solar industry believe that both (a) individually negotiated agreements and (b) programmatic policies to more narrowly tailor DBA application are possible. We have not found a definitive answer to this question. We have asked EPA but the agency declined to comment. In a December 2023 email to CESA staff, EPA indicated it is working on formulating policy.

As a result, we recommend that states ask EPA what flexibility it has under the law and work with specialized counsels as appropriate to determine the best course of action for their state and their policy and program implementation goals.

d) Is There a Precedent for a Federal Agency Tailoring DBA Standards Application in DBRA Projects?

Yes. Section 1606 of the [American Recovery and Reinvestment Act \(ARRA\)](#), which, like the Clean Air Act, is a DBRA, includes very similar language to [Section 314 of the Clean Air Act](#).

At the time, the administering agency, DOE, issued [SEP Program Notice 10-008F Guidance for State Energy Program Grantees on Financing Programs](#) pertaining to different types of financing programs, such as loan loss reserves funds, revolving loan funds, and interest rate buy-down programs. Like GGRF programs, these ARRA programs could be administered by the state grantees themselves, and/or through agreements with third parties. The notice clarified that the DBA provisions of ARRA did not apply to:

- Individual homeowners receiving loans under a revolving loan fund program funded by ARRA dollars;
- Loan loss reserve funds; and

¹¹ [DOL Labor Standards Prevailing Wage Resource Book, Introduction to Labor Standards Statutes Coverage](#)

- Interest rate buy-down programs.

The IRA includes many exceptions to prevailing wage provisions in other contexts, most notably for projects smaller than 1MW_{AC} with respect to tax credits. One possible avenue would be for EPA to create some consistency in IRA implementation and harmonize its DBA policy with existing tax credits provisions. However, we have not received any indication that EPA intends to do so.

e) How Do the Clean Air Act and ARRA’s DBA Provisions Compare?

The relevant language for both is available below for reference. Emphasis was added by CESA.

Section 1606 of ARRA	Section 134 of the Clean Air Act
<p>“Notwithstanding any other provision of law and in a manner consistent with other provisions in this Act, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to this Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.”</p>	<p>“The Administrator shall take such action as may be necessary to insure [sic] that all laborers and mechanics employed by contractors or subcontractors on projects assisted under this chapter shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the locality as determined by the Secretary of Labor, in accordance with sections 3141–3144, 3146, and 3147 of title 40.”</p>

f) So, What Should a State Do When Negotiating EPA GGRF Contracts?

We recommend that states (a) collect data on compliance from solar developers in their state and evaluate ease of compliance and costs of compliance throughout the relevant solar sectors, and (b) bring this issue to EPA early on during contract negotiations.

Some states may find that developers will not struggle to meet DBA wages, while others will find it a significant impediment to timely deployment of award funding and a significant barrier to LMI solar deployment. DBA will generally add costs to LMI solar projects that non-LMI projects do not incur, making the economic case more challenging.

Additional information about wage and benefit costs and administrative compliance requirements can be found below in *Direct and Administrative Compliance Costs*.

4. Davis Bacon Standards

In this section, we present additional information about the DBA standards themselves. This topic is complex, and the information is not meant to be exhaustive but to provide states with enough background information to approach SFA implementation work with more serenity.

a) What Are “Davis Bacon Labor Standards”?

The scope of these standards is delineated in federal regulation.¹² They include requirements from:

- (a) DBA relating to wages, benefits, and reporting requirements
- (b) CWHSSA relating to work hours and safety¹³
- (c) The Copeland Act and its implementation rules relating to “anti-kickback” rules¹⁴
- (d) The prevailing wage provisions of the DBRAs
- (e) Rules related to the procedure for determination of wages under 29 CFR Part 1¹⁵ and
- (f) Rules related to labor standards provisions applicable to contracts covering federally finance and assisted construction under 29 CFR Part 5.¹⁶

Under such standards, contractors and subcontractors are required to pay their “laborers and mechanics” no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.¹⁷ They must also comply with administrative requirements including payroll certification, reporting, and record-keeping (see below).

b) What Contracts Do DBA Requirements Generally Apply to?

DBA labor standards generally apply to any contract in excess of \$2,000 entered into “for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the laws referenced by § 5.1,”¹⁸ i.e., subject to DBRAs.

c) What Is a Public Building or Public Work?

A public building or public work is “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 interest of the general public regardless of whether title thereof is in a Federal agency.”¹⁹

[29 CFR 5.2](#) further defines building or work as follows (emphasis added): “The term ‘building or work’ generally includes construction activities of all types, as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The term includes, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, **solar panels, wind turbines, broadband installation, installation of electric car chargers**, plants, highways, parkways,

¹² [29 CFR 5.2](#) “Davis-Bacon labor standards”

¹³ See above.

¹⁴ The Copeland Act is implemented via [29 CFR 3.1](#). It details the obligation of contractors and subcontractors relative to the weekly submission of wage statements; sets forth rules regarding payroll deductions; and delineates the methods of payment permissible for contracts subject to minimum wage standards.

¹⁵ See [29 CFR Part 1](#)

¹⁶ See [29 CFR Part 5](#)

¹⁷ 40 U.S.C. § 3142(c)

¹⁸ [40 U.S.C. 3142](#) and [29 CFR 5.5\(a\)](#)

¹⁹ 29 CFR 5.2(k). Emphasis added.

streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, **scaffolding, drilling, blasting, excavating, clearing, and landscaping**. The term ‘building or work’ also includes a portion of a building or work, or the installation (where appropriate) of equipment or components into a building or work.”

d) Who Is Required to Comply?

Contractors and subcontractors for activities covered under DBA or a DBRA are required to comply with DBA standards. Compliance is required even if only part of the contract is subject to DBA or DBRA. It does not matter whether the contract is a “prime contract” or a “subcontract.” The prime contractor is responsible for compliance of all of the subcontractors.

The term contractor “does not include an entity that is a material supplier, except if the entity is performing work under a development statute.”²⁰ A development statute here is a DBRA, like the Clean Air Act, or a select number of statutes listed in the regulation.²¹

5. Wages and Benefits

a) What Is a Wage?

Wages include (a) the basic hourly rate of pay and (b) benefits. Benefits are those that are irrevocably made to a third party, like a fund, a plan, or a program, or those that have been communicated in writing to the workers under an enforceable commitment. The exact definition can be found in [40 USC 3141\(2\) here](#).

b) What Is a Prevailing Wage?

A prevailing wage is the wage that DOL has determined is paid to more than 50 percent of the laborers or mechanics in a “classification” on similar projects in the area during the period in question. If the same wage is not paid to a majority of those employed in the classification, the prevailing wage will be the wage paid to the greatest number, if such wage is applicable to at least 30 percent of workers, or a weighted average otherwise. The exact definition is available in [29 CFR 1.2](#).

c) How Does DOL Define Wage Rates Generally?

DOL’s Wage and Hour Division (**WHD**) continuously compiles information about rates based on voluntary surveys with contractors, contractors’ associations, labor organizations, public officials, and others. These are used to set minimum local requirements for federal and federally assisted construction subject to DBA/DBRA’s prevailing wage requirements.²²

²⁰ See [29 CFR 5.2](#)

²¹ See [29 CFR 5.2 “Development statute”](#)

²² Additional information about how WHD determines local prevailing wage rates can be found in [29 CFR 1.3](#).

d) How Is the Prevailing Wage Determined in a Given Project?

The prevailing wage will be determined for a specific work by a “wage determination” made by DOL, which is simply a list of prevailing wage rates it has set. DOL’s WHD issues two types of wage determinations: (a) general and (b) project-based.

General wage determinations. A wage determination will be “general” if a rate exists for (a) the location, (b) the category of construction, and (c) the “classification” (i.e., type) of workers. General wage determinations are available on sam.gov/content/wage-determinations by selecting the location (a county), a type of construction project (i.e., building, residential, heavy, and highway),²³ and the most recent wage determination (list) for the type of work performed (e.g., carpenter, electrician, painter, etc.).

Note that “residential construction” includes the “construction, alteration, or repair of single-family houses or apartment buildings of no more than four stories in height.”²⁴ The screen shots below demonstrate how to retrieve wage rates from SAM.gov.

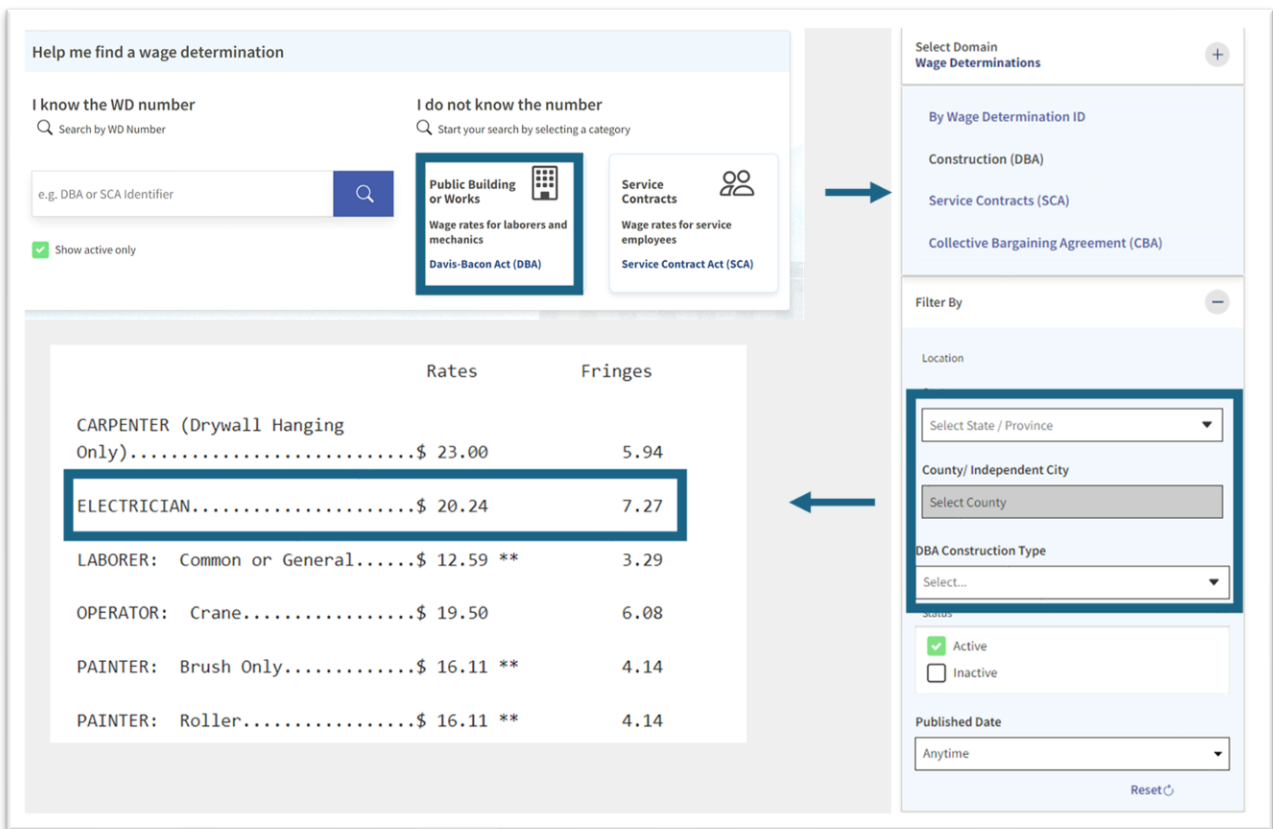


Figure 1 - Retrieving Prevailing Wages For Electricians, in the Building Category, in Washington County, Vermont

²³ [DOL All Agency Memorandum No. 130](#), dated March 17, 1978, sets forth the rules for selecting one of the four categories.

²⁴ See [WHD Fact Sheet #66D: Application of General Wage Determinations to Davis-Bacon and Related Acts Projects](#).

If WHD revises a general wage determination after the award of a prime contract, the revision generally does not apply to that project, but there are exceptions.²⁵ General wage determinations are available for most counties on sam.gov.

Project wage determinations. As per DOL, if there is no general wage determination for the location, if the work will be performed in multiple counties, or if “virtually all of the work on a contract will be performed by a classification that is not on the applicable general wage determination,” a “project wage determination” may be requested to DOL.²⁶ According to DOL, project wage determinations, once common, are now rare. They generally expire 180 days from the date of issuance.

More guidance about how to make wage determinations in a DBRA contract can be found in [WHD Fact Sheet #66D: Application of General Wage Determinations to Davis-Bacon and Related Acts Projects](#). In addition, WHD operates a toll-free information helpline available in both English and Spanish at 1-866-4USWAGE (1-866-487-9243).

e) What About State-Based Prevailing Rates?

DOL issued rules to update and modernize the DBA regulations (29 CFR parts 1, 3, and 5), which became effective in October 2023. The new rules include an option for DOL to adopt state or local prevailing wage rates as DBA wage rates.

Previously, DOL could consider state rates but was not specifically authorized to adopt state rates. The final rule explicitly permits WHD to adopt state or local prevailing wage rates “for both highway and nonhighway construction under certain circumstances where doing so would be consistent with the purpose of the DBA. In general, in order to adopt state or local rates, the Administrator must determine that that the state or local government’s method and criteria for setting prevailing wage rates are substantially similar to those the WHD uses in making wage determinations.”²⁷

The October 2023 update also modified the long-standing definition of prevailing wages and added new anti-retaliation provisions in DBA contracts among others. Changes are outlined on the [DOL website](#).

6. Workers

a) Who Must Be Paid a Prevailing Wage and Benefits?

“Laborers and mechanics” refers to workers whose duties are “manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial.”²⁸ The term includes apprentices and “helpers.”

²⁵ Id.

²⁶ See [WHD Fact Sheet #66D: Application of General Wage Determinations to Davis-Bacon and Related Acts Projects](#).

²⁷ [DOL DBRA Comparison Chart](#)

²⁸ [29 CFR 5.2 “Laborer or mechanic”](#)

Note that people performing the duties of laborers and mechanics must be paid the prevailing wage rate regardless of any contractual arrangement, e.g., an independent contractor or owner-operator relationship.²⁹

There are no nationwide standard classification definitions under the DBA,³⁰ so that each project will require evaluating the local area practice. For solar work, preliminary research indicates that the following functions would be classified as follows, although local practice will create localized categories for such work:

- Laborers could include:
 - (a) Installers
 - (b) Foremen
 - (c) Activation technicians
 - (d) Energy efficiency technicians
 - (e) Apprentices
- Electricians could include:
 - (f) Electricians
 - (g) Electrician apprentices

Note, however, that the title of a laborer or mechanic is not determinative of their pay rates. Rather, the rate applicable to the task performed on an hourly basis will govern the wage and benefit rate. This may prove complicated as crews may not be able to track the hourly activities of individuals who may perform electrician work for a few hours, and foremen for others, on the same day.

Laborers and mechanics must be employed directly “at the site of the work.” DOL further extensively defines the term “site” in [29 CFR 5.2](#), which includes both primary and secondary construction sites where a significant portion of the work is constructed, as well as adjacent support sites.

b) Who Must Be Paid Overtime Pay?

Overtime wages are 1.5x standard pay for all hours worked over 40 in a workweek. Under CWHSSA, overtime pay must be paid for prime contracts in excess of \$100,000 for laborers and mechanics, which in this instance includes guards and watchmen.

c) What Are Penalties for Non-Compliance?

Violations can result in penalties including payment of back wages, assessment of liquidated damages, withholding of contract funds, and debarment.

d) What Area Is Used to Calculate Prevailing Wages?

Prevailing wages are usually calculated based on counties. States that will offer financial assistance for GGRF Solar for All projects that cover an entire state should examine the impact of

²⁹ [DOL Guidance](#), p. 2

³⁰ [DOL DBA/DBRA Prevailing Wage Resource Book](#), p. 12

DBA in different counties across their state. States should also discuss with EPA the impact of their own state prevailing wage rate on projects.

7. Direct and Administrative Compliance Costs

a) What Are the Costs Associated with DBA-Compliant Wages for Solar Projects?

The impact of complying with DBA will depend on projects' locations as wage determinations are county-based, and the local practice relevant to worker classifications (see above for details).

In the Fall of 2023, CESA gathered the following data points to provide states with a reference point. These data were collected from large and mid-size developers as well as project funders. Based on these interviews, DBA wage rates would add between \$2,331 and \$5,000 per residential (single-family home) LMI solar project as compared to non-LMI projects outside of Solar for All. Differences between developers are, in part, due to the states in which they operate, to the base salaries of their current workforce, and to whether they currently use apprentices. These analyses from developers covered states like California, Connecticut, Massachusetts, New Jersey, New York, Illinois, Louisiana, Mississippi, Pennsylvania, and Rhode Island.

Annual Cost to Meet Prevailing Wage (per employee)						
State	Installers	Foreman	Activation Techs	EE Techs	Electricians	Electrical Apprentice
LA/MS	\$0.00	\$0.00	\$0.00	\$0.00	\$17,180.80	\$35,900.80
CT	\$0.00	\$0.00	\$0.00	\$0.00	\$45,073.60	\$67,953.60
NJ	\$21,673.60	\$9,193.60	\$48,713.60	\$48,713.60	\$94,036.80	\$139,796.80
PA	\$50,315.20	\$21,195.20	\$69,035.20	\$64,875.20	\$116,209.60	\$145,329.60
MA/RI	\$0.00	\$0.00	\$0.00	\$0.00	\$34,840.00	\$0.00
IL	\$94,608.80	\$73,080.80	\$114,940.80	\$114,940.80	\$85,581.60	\$116,677.60
CA	\$39,322.40	\$20,186.40	\$62,046.40	\$62,046.40	\$104,426.40	\$135,522.40

Figure 2 - Example of Analysis of Added Costs for A Mid-Size Developer in Select States

One developer quoted an average \$0.66 cost increase per W_{DC} in labor cost for a 7.5 kW system. For larger projects, one interviewee in Maryland mentioned a range of \$0.12 to 0.19 cents per W_{DC} in labor cost increase, depending on location, and mentioned not engaging in DBA projects smaller than 5MW. Another mid-sized developer in Massachusetts mentioned DBA wages resulting in a \$0.40 per Watt in added costs for projects in the 50-100 kW range. This number was relevant to solar on affordable housing.

In some of the locations analyzed, such as Florida and Arizona, developers found the effect of compliance with prevailing wages to be negligible (excluding administrative compliance costs) due to low prevailing wages.

As an additional point of comparison to think about the expected effect of prevailing wages on solar project costs, you may refer to the Illinois Power Agency's [REC Pricing Model for 2023 and 2024](#), which uses a 32% increase for state-level prevailing wages over standard labor costs for the Illinois (state) Solar for All program.³¹

Some critics of the DBA have argued that the DBA [methodology is outdated and flawed](#). They argue that this results in inflated wage expenses. The Congressional Budget Office estimates that the DBA would cost the federal government \$24.3 billion in spending between 2023 and 2032, while a May 2022 industry-funded study [estimated](#) that the DBA costs taxpayers \$21 billion per year and increases the cost of construction projects by 7.2% and increases construction workforce wages by 20.2%.

Note, however, that [other studies](#) have found more modest increases than those reflected above, and found that worker productivity gains largely offset costs related to prevailing wage mandates.

Whether one agrees or disagrees with critics or supporters, it remains that state agencies implementing Solar for All will need to use accurate and realistic labor cost inputs in the solar models they use so as to set incentives for various forms of Solar for All financial assistance at levels that will effectively enable LMI solar projects to make economic sense for the industry and communities. **As a result, we strongly recommend that states engage early with their in-state developer networks to best inform the design and planning process that will unfold within the first year of GGRF Solar for All implementation. States that do not currently have a large solar workforce should engage with developers in neighboring states with which they may share market characteristics.**

We also encourage EPA to clarify as early as possible which, if any, project types/size/deployment/assistance model may fall outside of the DBA standard.

b) What Are the Costs Associated with Administrative Compliance with DBA?

In addition to direct cost increases due to wage increases, which are location dependent, contractors will incur costs related to administrative compliance with DBA. Beyond wages and benefits, DBA requires that contractors and subcontractors comply with weekly payment schedules, maintain payrolls and records that list specific job classifications, wages, and time spent in detail, submit weekly records for all weeks in which contract work is performed and certify payrolls using WHD forms, keep records for three years after the end of a project, periodically review processes and documentation to ensure compliance with applicable prevailing wages, including with subcontractors, and perform audits.

As a result, contractors and subcontractors which are not currently compliant and want to participate in Solar for All programs that will require compliance with DBA labor standards will incur transition costs and ongoing maintenance and operation costs for administration. Such administrative costs may include new payroll systems, payroll administrators, reporting analysts,

³¹ See [Illinois Power Agency Releases 2023-2024 Renewable Energy Credit Prices and Rationale for Illinois Shines and Illinois Solar for All Programs](#) and related [REC Pricing Model for 2023 and 2024](#).

subcontractor auditing systems and processes, and modification of internal policies and employee handbooks.

One large residential developer estimated that administrative compliance would cost the firm an additional \$294 per project, regardless of wage rate increases. Another mid-sized residential developer estimated that the administrative costs to comply with DBA would require a \$1.25 million investment in staff and systems in the first year and would increase over time (see table below).

What	One time costs	2024 Annual Costs	2025 Annual Costs	2026 Annual Costs	2027 Annual Costs
Additional ADP fees to upgrade and run Time and Attendance so that we can support the Contractor Portal	\$53,000				
Additional costs for per employee per month given anticipated increase in HC (4\$pepm) to support the upgraded aspect of ADP		\$45,504	\$61,008	\$81,264	\$103,152
Additional ADP Fees to process payroll weekly: implementation fee	8,000				
Annual Fees for the Contractor Portal (IDI)		\$10,000	\$12,000	\$14,000	\$16,000
Additional HC to run payroll weekly : 1 Payroll Specialist - for current headcount + 1 per year due to increased # of employees (processing side)		\$85,000	\$170,000	\$255,000	\$340,000
Additional Benefits Specialist		\$85,000	\$85,000	\$170,000	\$170,000
Additional HC to support and audit PosiGen Davis Bacon administration: 2 Payroll Admins - for certified payroll, auditing, etc. - higher costs due to need to have labor union experience - reporting side		\$85,000	\$170,000	\$255,000	\$340,000
Additional HC to support and audit Subcontractor and Channel Partner Davis Bacon administration: 1 Payroll Specialists per year		\$85,000	\$170,000	\$255,000	\$340,000
Additional HC to comply with other aspects of Davis Bacon – including FLSA requirements: 2 HR Business Partner - (fully loaded)		\$150,000	\$300,000	\$450,000	\$675,000
Reporting and HR Analyst (fully loaded)		\$175,000	\$175,000	\$350,000	\$350,000
LCP Tracker or similar program (for subs, etc. to log into and connect)		\$50,000	\$52,500	\$55,125	\$57,881
FLSA Third Party Audit	40,000	\$31,500	\$33,075	\$34,729	\$36,465
Review and modification of the Handbook		\$15,000	\$15,750	\$16,538	\$17,364
Non HR Specific Related costs to include additional Holiday (day after thanksgiving). (Avg pay = \$31.00/ hour* 8 hours = \$248.)		\$235,104	\$315,208	\$419,864	\$532,952
Misc. Cost	50,000	\$100,000	\$105,000	\$110,250	\$115,763
Total	\$151,000	\$1,152,108	\$1,664,541	\$2,466,769	\$3,094,577
2024 Total cost (1 time cost + 2024 Annual cost)		\$1,303,108			

Figure 3 - Example of Analysis of Added Costs for DBA-Compliant Systems and Processes (Excluding Impact of Wage Rates and Benefits) for A Mid-Size Developer

Figure 3 above represents only one developer’s view of the DBA administrative compliance cost structure, and each developer’s costs will be different based on the systems and processes under which they currently operate. However, the line-item descriptions should be a fair representation

of the type of activities that can be required to meet administrative compliance requirements.³² **States should expect that small contractors may be deterred from participating in Solar for All programs due to the administrative complexity and extra costs of complying with DBA standards and should be ready to offer solutions or support to ensure broad participation by the private sector so that LMI communities receive the benefits of Solar for All funds.**

8. DBA References

- [Davis-Bacon 101: An Overview of the Davis-Bacon Act \(DOL\)](#)
- [Final Rule: Updating the Davis-Bacon and Related Acts Regulations \(DOL\)](#)
- List of DBRAs (DOL): [excel spreadsheet](#) and [webpage](#)
- [DBRA Resource Page \(DOL\)](#)
- [Prevailing Wage Resources \(DOL\)](#) including links to the prevailing wage resource book, Davis-Bacon poster, and the [field operations handbook](#) among others
- [Davis-Bacon Act Overview \(EPA\)](#)
- [SAM General Wage Determination](#)
- [Davis-Bacon Act \(GAO\)](#)
- [Podcast: Getting Worked Up — What to Know About the IRA's Wage Requirements \(Norton Rose Fulbright\)](#)

³² Note that the analysis example above refers to “FLSA,” which stands for “Fair Labor Standards Act” and is the federal law generally applicable to wages and hours of work. For most employment, the FLSA establishes minimum wage, overtime pay, recordkeeping, and child labor standards.