



AUG 13 2003

MEMORANDUM TO ASSISTANT REGIONAL ADMINISTRATORS, PBS
1P, 2P, 3P, 4P, 5P, 6P, 7P, 8P, 9P, 10P, WP
REGIONAL REALTY SERVICES OFFICERS
FROM: WILLIAM B. JENKINS
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OFFICE OF REALTY SERVICES – PE
SUBJECT: Davis-Bacon Act and the Acquisition of Leasehold Interests in Real
Property Clarification and SFO Revision

1. Purpose. This Realty Services Letter (RSL) revises the *Labor Standards* SFO paragraph to clarify that Davis-Bacon Act (DBA) requirements, where otherwise applicable as part of a lease project, apply both to base building and tenant buildout work.
2. Background:
 - a. GSA's current policy on implementation of the DBA was issued on September 13, 1994 as *Davis-Bacon Act and the Acquisition of Leasehold Interests in Real Property*, PQRP-94-07. That guidance instructs contracting officers to include a *Labor Standards* paragraph in lease solicitations for offers (SFOs) when the delivery schedules of such SFOs are long enough to permit satisfaction of the SFO requirements through construction of a building. The *Labor Standards* paragraph provides that if an Offeror proposes to satisfy the Government's requirements through new construction or the complete rehabilitation or reconstruction of an existing building, and where the Government will be the sole or predominant tenant of the facility, then various Federal Acquisition Regulation clauses implementing the DBA will apply to "work performed in preparation for occupancy and use of the building by the United States."
 - b. Associates in one region have incorrectly interpreted the policy above and applied the DBA only to tenant buildout work associated with lease-construction projects where the leases in question were scored as operating leases. We have coordinated the policy clarification in this RSL with all regions and the remaining regions report that they have been interpreting PQRP-94-07 as stated herein.
3. Effective Date/Expiration Date. These instructions and *Labor Standards* SFO paragraph revision are effective for all SFOs prepared on or after the date of this issuance, and will expire 12 months from the date of issuance, unless extended. Realty Specialists shall amend SFOs for ongoing acquisitions as deemed appropriate.
4. Cancellation. None.
5. Applicability. All real property leasing activities.
6. Instructions/Procedures.
 - a. Where otherwise applicable in accordance with the 1994 policy, the requirements of the Davis-Bacon Act shall be applied to both base building and tenant buildout work.
 - b. Regional offices should update their regional SFOs, pending revision of the National Office SFO by incorporating the revised *Labor Standards* paragraph as attached.

Attachment

LABOR STANDARDS Lease SFO Paragraph

LABOR STANDARDS (AUG 2003)

If an Offeror proposes to satisfy the requirements of this SFO through the construction of a new building or the complete rehabilitation or reconstruction of an existing building, and the Government will be the sole or predominant tenant such that any other use of the building will be functionally or quantitatively incidental to the Government's use and occupancy, the following Federal Acquisition Regulation (FAR) clauses shall apply to all work (including base building and tenant buildout) performed prior to the Government's acceptance of space as substantially complete. Full text versions of these clauses are available upon request from the Contracting Officer. Full text versions are also available at the following web site: <http://www.arnet.gov/far/>

- 52.222-4 Contract Work Hours and Safety Standards Act - Overtime Compensation
- 52.222-6 Davis-Bacon Act
- 52.222-7 Withholding of Funds
- 52.222-8 Payrolls and Basic Records
- 52.222-9 Apprentices and Trainees
- 52.222-10 Compliance with Copeland Act Requirements
- 52.222-11 Subcontracts (Labor Standards)
- 52.222-12 Contract Termination-Debarment
- 52.222-13 Compliance with Davis-Bacon and Related Act Regulations
- 52.222-14 Disputes Concerning Labor Standards
- 52.222-15 Certification of Eligibility