

U. S. DEPARTMENT OF LABOR

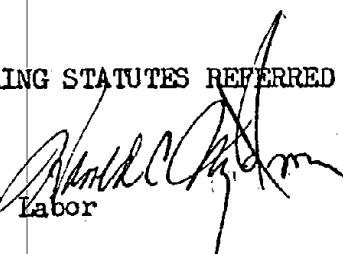
OFFICE OF THE SOLICITOR

WASHINGTON 25

December 5, 1960

MEMORANDUM #20

TO : AGENCIES ADMINISTERING STATUTES REFERRED TO IN 29 CFR,  
SUBTITLE A, PART 5.

FROM : Harold C. Nystrom   
Acting Solicitor of Labor

SUBJECT: Section 5.6(c) Regulations 29 CFR, Subtitle A, Part 5

Section 5.6(c) of Regulations, Part 5, provides as follows:

"(c) Under the Davis-Bacon Act the contracting officer shall require that any class of laborers and mechanics not listed in the Secretary's decision, which will be employed on the contract, shall be classified or reclassified by the contractor or subcontractor conformably to the Secretary's decision and a report of the administrative action taken in such cases shall be transmitted by the agency to the Secretary of Labor. In the event the interested parties cannot agree on the proper classification or reclassification of a particular class of laborers and mechanics to be used, the question, accompanied by the recommendation of the contracting officer, shall be referred to the Secretary of Labor for final determination. Where classifications of laborers and mechanics are desired under any of the other statutes listed in section 5.1 which were not included in the original decision, a supplementary wage determination shall be requested by the Agency Head."

A question has been raised as to the date to be used in setting a wage rate for an additional classification where such a classification has been omitted from a determination issued by this Department in accordance with the provisions of the Davis-Bacon Act, as amended.

It is the position of this Department that the wage minimum for such a classification should be based on information showing the rate prevailing for this classification five days prior to the opening of bids for the contract in question.

In order that this Department may be consistent with the above in issuing additional classifications and wage rates in supplementary wage determinations for projects subject to Federal prevailing wage laws other than the Davis-Bacon Act, it is requested that in requesting such supplementary action the requesting agencies furnish to this Department the date on which the bids were opened for the contract to which the determination in question is applicable.