



Arizona Department of Transportation

INTERMODAL TRANSPORTATION DIVISION
Construction Group

CONSTRUCTION BULLETIN 11-04

To:

Floyd P. Roehrich, Jr., State Engineer
Dallas Hammit, Deputy State Engineer, Operations
Robert J. Samour, Deputy State Engineer, Valley Transportation
Sam Maroufkhani, Deputy State Engineer, Development
Bill Hurguy, Asst. State Engineer, Materials
Stephen Beasley, Valley Project Management
Vincent Li, Asst. State Engineer, Statewide Project Management
Mike Manthey, Asst. State Engineer, Traffic Engineering Group
Mary Viparina, Asst. State Engineer, Roadway Design Group
Jean Nehme, Asst. State Engineer, Bridge Group
District Engineers
Construction Orgs
Construction Operations
Consultant Contract Administrator
FHWA Area Engineers

Date: August 23, 2011

From: Julio Alvarado, Assistant State Engineer, Construction

Subject: Davis-Bacon &
Related Acts (DBRA)
Trucking Requirements

Clarification of Definitions – RE: DBRA Trucking Requirements

Purpose

The intent of this bulletin is to:

- Clarify definitions pertinent to trucking requirements on Federal projects that are subject to the Davis-Bacon and Related Acts (DBRA).
- Disseminate the information to both ADOT personnel and Contractors.

Background

Industry has sought guidance in definitions and interpretations to assist in determining when their subcontractors are governed by requirements spelled out in DBRA.

De Minimis (Less than 20%)

De Minimis is a Latin expression meaning “about minimal things”. In this case, it refers to the fact that trucking subcontractors are excluded under DBRA if less than twenty percent of the work week is spent *on the project site*. That is construed to be eight hours or less per week.

In all cases a Subcontractor Request Form (SRF) must be completed for each separate item to be hauled. If the subcontractor is claiming De Minimis status, along with the SRF, the trucking firm must submit a letter to the Resident Engineer (RE) declaring their status as such. The RE must concur and the inspector will interview drivers to verify their situation is in compliance with the criteria.

If more than twenty percent of the work week is on the project site then DBRA labor standards apply and certified payrolls are required.

On the Project Site

Critical to determining the twenty percent threshold is determining what part of the work week is spent *on the project site*. The criteria is time within the project limits. However, an exception to that is when traveling on a public thoroughfare within the project limits. That time would be excluded until pulling off the public road into the Right of Way or onto the project staging area.

Material Suppliers

Direct quote from Department of Labor Field Operations Handbook (10/25/2010), Section 15e16:

- (a) The manufacture and delivery to the work site of supply items such as sand, gravel, and ready-mixed concrete, when accomplished by bona fide material suppliers operating facilities serving the public in general, are activities not covered by DBRA. This would be so even though the materials are delivered directly into a contractor’s mixing facilities at the work site. Such bona fide material suppliers are not considered contractors under DBRA. Thus, their employees are not subject to DBRA labor standards. (See also FOH 15b04 and 15e22.)

Owner-Operators of Trucks and other Hauling Equipment

The provisions of DBRA are not applied to bona fide owner-operators of trucks who are independent contractors. The certified payrolls, including the names of such owner-operators, need not show hours worked nor rates paid, but only the notation “Owner-operator.” This does not pertain to owner-operators of other equipment such as bulldozers, scrapers, backhoes, cranes, drilling rigs, welding machines, and the like - employees hired by owner-operators are subject to DBRA in the usual manner. (See the *Department of Labor Field Operations Handbook (10/25/2010), Section 15c17.*)

It should be noted and emphasized that the responsibility for proper reporting ultimately rests with the general contractor – who does the scheduling and pays for the subcontractor work.