

Contractor's Guide to the Revised Davis-Bacon Act Regulations

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Did the 2023 update to the Davis-Bacon and Related Acts, which apply to contractors and subcontractors performing on certain federally funded or assisted contracts, appropriately modernize or unduly expand the Davis Bacon Act's (DBA) prevailing wage rule? Following the Department of Labor's (DOL) enactment of a final resolution on August 23, 2023 (final rule), interested parties immediately challenged the final rule, seeking a preliminary injunction. The parties argued that specified portions of § 5.2 and the entirety of § 5.5(e) in the final rule exceed the DOL's authority under the DBA and would result in undue hardship and irreparable harm for government contractors in the construction industry.

In June, a Texas federal judge sided with the position that the changes were an undue expansion of the DOL's authority, granting a nationwide preliminary injunction against the challenged provisions of the final rule. The decision affects an estimated \$217 billion dollar industry providing construction prevailing wage rates for an estimated 1.2 million workers.

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