



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**Memorandum**

Washington, D.C. 20590

Subject: Applicability of Davis-Bacon Wage Rates  
to Utility Work

Date **APR 21 1986**

From: Director, Office of Highway Operations

Reply to  
Attn. of: HHO-32

To: Mr. M. Eldon Green  
HRA-10 Regional Federal Highway Administrator  
Portland, Oregon

We acknowledge your March 27, 1986, memorandum informing of the conflict in interpretation over applicability of Davis-Bacon wage rates to utility-let contracts financed with Federal funds. Representatives of the U.S. Department of Labor (DOL) have contended that Davis-Bacon wage rates are applicable on such contracts while Mr. Gendell's memorandum of law, dated May 15, 1985, indicated that Davis-Bacon wage rates are not applicable.

Please be advised that the May 15, 1985, memorandum of law is affirmed. Further, it is our position that the Federal Highway Administration (FHWA) is vested with final authority for administration of programs financed under Title 23 assistance.

Issuance of contradictory instructions from Federal agencies is regrettable. Inasmuch as the FHWA has final authority in this matter, future conflict at project level should be avoided by requesting that DOL representatives pursue their complaint through DOL channels.

Original signed by  
David S. Gendell

David S. Gendell

## FEDERAL HIGHWAY ADMINISTRATION

HHO-32:RCSlovensky:jev:60355:04/11/86

cc: Official File 7362  
Reader File HHO-1  
Reader File HHO-30  
Chron. File HHO-32  
R.C. Slovensky HHO-32  
H. O'Reilly HCC-50  
Carney HGN-12  
D.S. Gendell HHO-1  
R.C. Leathers HED-1