

Davis-Bacon / Buy American Relationship

Question: Since the Davis Bacon Act uses same or similar language about "construction, alteration, maintenance or repair", does a determination that the project is (or is not) subject to the Davis Bacon Act also mean that the project is (or is not) subject to the Buy American provisions of 1605 of the Recovery Act?

Answer: No. A finding that the Davis Bacon Act (and Contract Work Hours and Safety Standards Act) does not apply (or applies) to a project does not necessarily mean that the Buy American provisions of 1605 of the Recovery Act do not apply (or apply). These two statutes contain some similar language, but are not the same, have different implementing regulatory frameworks, and are construed in the context of their respective statutory schemes. Recipients are cautioned that they are not to presume that coverage (or non-coverage) under one of these statutory/implementing regulatory frameworks subjects (or does not subject) the recipient to coverage for the other.