

Davis-Bacon Act Overview

The Davis-Bacon Act requires that all contractors and subcontractors performing construction, alteration and repair (including painting and decorating) work under federal or District of Columbia contracts in excess of \$2,000 pay their laborers and mechanics not less than the prevailing wage and fringe benefits for the geographic location. Davis-Bacon requirements may be extended to federal financial assistance programs by the terms of other statutes (collectively referred to as Davis-Bacon and Related Acts). One related act, the Contract Work Hours and Safety Standards Act, requires overtime pay to employees on most Davis-Bacon Act covered contracts. Key Davis-Bacon Act requirements are to determine the appropriate wage determination for the project and include that in the contract documents, spot checking certified payrolls, and to conduct interviews.

Applicability

Davis-Bacon Act requirements apply to all laborers and mechanics employed by contractors and subcontractors with job duties that are physical and manual in nature including:

- Laborers and mechanics
- Watchmen or guards (under certain conditions)
- Working foremen (under certain conditions)

The term laborer or mechanic does not include workers whose duties are primarily administrative, executive, or clerical, rather than manual. Requirements only apply to construction at the “site of the work”, which has generally been defined as the physical place where the construction occurs. Work conducted off-site is generally not covered.

Compliance

Wage Determination	<p>Minimum Davis-Bacon wages are “based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work” in that specific geographic area (40 U.S.C. 3142[b]).</p> <ul style="list-style-type: none">▪ Prevailing wage is the minimum wage amount (basic hourly rate and any fringe benefits) for each labor classification in a predetermined geographic area for a particular type of construction▪ The U.S. Department of Labor establishes and updates Davis-Bacon wages<ul style="list-style-type: none">• Wage determination website: https://sam.gov/content/wage-determinations• Wage determination depends on construction type: building construction, residential construction, highway construction, or heavy construction
Contract Language	<p>Once it is determined that Davis-Bacon wage rates apply to a construction contract, the recipient’s contracting organization must state in the solicitation that Davis-Bacon prevailing wage rates are applicable and bid packages must include the current Davis-Bacon general wage determination for the area where construction will occur. If a contract is not awarded within 90 days of the bid opening date, the prevailing wage determination should be updated in contract documents.</p> <p>All contracts must include specific language about: minimum wages, withholdings, payroll and basic records, subcontracts, and Contract Work Hours and Safety Standards Act requirements.</p>

<p>Poster</p>	<p>Every employer performing work covered by the labor standards of the Davis-Bacon and Related Acts shall post a notice (including any applicable wage determination) at the site of the work in a prominent and accessible place where it may be easily seen by employees.</p> <ul style="list-style-type: none"> ▪ Davis-Bacon Poster: https://www.dol.gov/agencies/whd/posters/dbra
<p>Worker Payment, Payroll Documentation, and Overtime</p>	<p>Payment: All covered employees shall be paid weekly for all hours worked. Contractors can pay this wage out as a combination of cash and fringe benefits.</p> <p>Payrolls and basic records: Payrolls and basic records must be maintained by the contractor during the course of the work. Payroll must clearly list specific job classification and wages for each employee and break down the time employee spent in each classification if employee does multiple types of work. It is highly recommended that emphasis be placed on receiving and reviewing certified payrolls by the contracting organization during the first weeks of construction activity.</p> <ul style="list-style-type: none"> ▪ Must submit weekly records for each week in which any contract work is performed, a copy of all payrolls to the recipient, sponsor, or owner ▪ Must keep records for a period of three years ▪ Periodically review certified payrolls to ensure that the prevailing wages and fringe benefits being paid are consistent with the applicable wage determination <p>Overtime: Overtime is paid after 40 hours in a week.</p> <ul style="list-style-type: none"> ▪ Overtime compensation rate of at least one and one-half times the basic rate of pay ▪ Overtime rate of time and one half does not apply to fringe payments
<p>Employee Interviews and Spot Checks</p>	<p>Grantees are responsible for performing periodic employee interviews to ensure that the work actually being done by construction workers and mechanics is consistent with the corresponding job titles and wages being reported on the certified payrolls. Interviews should be conducted confidentially. All employees on the work site should be available for an interview if requested by the interviewer; however, the employee's participation is voluntary. The interviewer must be someone unaffiliated with the contractor and on-site regularly. Interviews should be conducted within the first two weeks of the initial payroll and within two weeks of the final payroll for the project.</p>

Non-compliance

Failure to pay any laborer or mechanic, including any apprentice or trainee employed or working on the site of the work, all or part of the wages required by the regulations is non-compliance. Grantees must immediately report violations of the prevailing wage requirements to the EPA Davis-Bacon Coordinator listed in the assistance agreement and to the appropriate Department of Labor Wage and Hour Division Office. Remedies for violations include payment of back wages, assessment of liquidated damages, withholding of contract funds, and debarment.

Typical violations are misclassification of laborers and mechanics; failure to pay full prevailing wage, including fringe benefits, for all hours worked; inadequate recordkeeping; failure to submit certified weekly payrolls; and failure to post the Davis-Bacon poster and applicable wage determination.