



FEDERAL PREVAILING WAGE LAWS PROTECTING MIDDLE-CLASS WAGES FOR CONSTRUCTION WORKERS

The Davis-Bacon Act and Related Acts ("Davis-Bacon Act") ensure that construction workers on federal and federally assisted projects are paid *at least* the locally prevailing wage. These laws prevent federal and federally assisted construction contracts from artificially depressing local wages and economies.

Building trades unions support the consistent application of the Davis-Bacon Act and oppose all legislative and regulatory efforts to repeal or undermine this essential worker protection. We encourage Congress to stand with the working families of the building trades to protect and grow Davis-Bacon application in federal law so that we can rebuild domestic family-supporting jobs with good wages, health and retirement benefits.

For over 90 years, the Davis-Bacon Act and Related Acts have enjoyed bipartisan support. Regardless of party control, Congress has consistently applied prevailing wage requirements to a broad range of federally assisted projects because such laws help workers maintain a decent standard of living while ensuring that taxpayers receive a fair value for their investment.

Under prevailing wage laws, contractors must compete for work on the basis of who can best train, best equip and best manage a construction crew – not on the basis of who can assemble the cheapest, most exploitable workforce. As is, the construction industry is awash with illegal labor practices, including wage theft, the exploitation of undocumented workers, cash only payments, and employee misclassification. By ignoring federal and state labor laws, low-road contractors are able to save 30 percent or more in labor costs. Brazen lawbreaking has become the norm in many pockets of the construction industry. Prevailing wage laws help minimize such practices by setting a wage floor and requiring proactive government oversight by the U.S. Department of Labor (DOL) and contracting agencies.

Prevailing wage laws promote middle-class pathways and protect all workers against exploitation regardless of race, ethnicity and gender. Contrary to the claims of pro-business, anti-worker groups, studies consistently show that prevailing wage laws do not have a discriminatory effect. They level the playing field for contractors, preventing employers from discriminating against any particular group of workers by paying them less. In fact, peer-reviewed studies show that prevailing wage reduces the racial wage disparity in construction by up to 53 percent.

The prevailing wage is not a "union" wage. DOL establishes prevailing wages by county, for each classification of worker, based on survey data it collects from construction projects in the area. Anyone can participate in DOL's wage surveys: contractors, contractor associations, labor organizations, public officials and other interested parties. Without this wage floor, bidding in federal procurement would produce a race to the bottom in wages and benefits, resulting in higher poverty rates, increased dependency on public assistance, and lower tax revenues.

Prevailing wages do not affect construction costs. The preponderance of independent, peer-reviewed studies show that prevailing wages have no impact on construction costs. This is because construction labor costs comprise a low share of total project costs. And high-road contractors who pay family-sustaining wages and benefits are able to offset the hourly labor costs attributable to prevailing wages by hiring and retaining the most skilled and productive workers. Further, in an economy where qualified craft workers are in high demand, prevailing wage laws promote workforce development and recruitment by incentivizing registered apprenticeship programs.

The 2023 federal regulations from the US Department of Labor strengthen the implementation and enforcement of the Davis-Bacon Act and Related Acts for the benefit of workers in the construction industry. The following is a summary of some of the key provisions in the 2023 rule:

- Prevailing Wage Rates Will Reflect Wages Actually Paid to Workers. The rule includes the historical Three-Step Rule for calculating the prevailing wage which will: (1) ensure that Davis-Bacon rates reflect area wages, and (2) curb the use of watered-down rates based on weighted averages.
- Prevailing Wage Rates Based on Weighted Averages Will No Longer Stay Frozen. Prior to the 2023 rule, Davis-Bacon rates based on weighted averages ("SU rates") did not get updated between surveys, resulting in stagnant rates. The 2023 rule establishes a process for regularly updating SU rates using Bureau of Labor Statistics' Employment Cost Index (ECI) data.
- Authorizes DOL to Adopt Prevailing Wage Rates Set by State and Local Governments. The rule helps DOL conserve resources by authorizing the agency to adopt prevailing wage rates established by state and local governments.
- Addresses Missing Job Classifications. The rule authorizes DOL to proactively add missing classifications to wage determinations using existing criteria under the conformance process.
- Clarifies that Davis-Bacon Wage Protections Apply to Emerging Industries. The rule clarifies that, for purposes of Davis-Bacon coverage, the definition of "building or works" includes solar panels, wind turbines, broadband installations, and installation of electric vehicle charging stations.
- Requires Agencies to Incorporate the Most Recent Wage Determination into Ongoing Contracts. Federal agencies must : (1) annually update the wage determinations applicable to certain multi-year contracts on federal projects, and (2) update wage determinations when the scope of work on a covered project is substantially modified or when the contractor is required to perform work for an additional time period.
- Protects Workers from Retaliation. The 2023 Davis-Bacon regulations include anti-retaliation provisions to ensure that workers who raise concerns about payment practices or assist contracting agencies or DOL in investigations are protected from termination or other adverse employment actions.
- Clarifies that Independent Contractors are Also Entitled to the Prevailing Wage. The rule clarifies that prevailing wage protections apply to all construction workers on Davis-Bacon projects, regardless of employment status.

State of Play

In the Trump Administration, in less than 100 days, here are actions that have been taken impacting Davis Bacon

- Stopped defending the Davis-Bacon rule in ABC/AGC-backed lawsuit—a first step in backing away from supporting prevailing wage and handing these anti-union groups a win.
- Nominated former Associated Builders and Contractors attorney and anti-worker litigator Andrew Rogers to lead the DOL's Wage and Hour Division, overseeing the very prevailing wage regulations and enforcement that his former firm has litigated against for decades.
- Fired the only Davis-Bacon enforcement lead overseeing the application of prevailing wages on **\$39 billion** worth of federally-funded semiconductor projects.

- Fired regional Davis-Bacon enforcement staffers at HUD—crippling prevailing wage oversight on federally funded housing projects.