



Guidance for Davis-Bacon Compliance

August 2022

State Revolving Fund (SRF) loan recipients are required to comply with the Davis-Bacon Act prevailing wage requirements. Federal Davis-Bacon Act requirements apply to construction contracts and subcontracts over \$2,000. State Davis-Bacon requirements apply to contracts and subcontracts over \$25,000. If both federal and state prevailing wage rates are applicable to your project, laborers and mechanics employed by your construction contractors must be paid the federal prevailing wage, or the state prevailing wage rate, whichever is higher.

Compliance with Davis-Bacon requirements requires a coordinated effort between the SRF Program, the loan recipient, the Construction Contractor, the Design Engineer, and the EPA. This checklist is meant to help loan recipients keep track of Davis-Bacon requirements and milestones throughout the life of an SRF funded project.

RESPONSIBILITY	ACTIVITY
LOAN AGREEMENT PREPARATION	
<input type="checkbox"/> SRF Program Staff	Ensure that Davis-Bacon requirements are included in the loan agreement.
<input type="checkbox"/> SRF Program Staff	Explain the Davis-Bacon clauses in the loan agreement to the Loan Recipient, as needed. Direct Recipient to website for SRF specification insert.
ADVERTISEMENT AND BIDDING	
<input type="checkbox"/> Design Engineer	Include the correct Davis-Bacon Wage Determination in the bid package. Private utilities must contact the SRF Program for wage determination approval by SRF Program Staff.
<input type="checkbox"/> Design Engineer	Ten days before bid opening, check for an updated wage determination.
<input type="checkbox"/> Design Engineer	If an updated wage determination is published ten days prior to bid opening, the bid package must be updated by addendum to include the updated wage determination.
<input type="checkbox"/> Design Engineer	If bid opening is postponed, recheck to see if an updated wage determination has been published. Include the updated determination if necessary.
<input type="checkbox"/> Design Engineer	Include the SRF specification insert in the project specifications.
AWARD OF CONTRACT	
<input type="checkbox"/> Loan Recipient	If the contract is not awarded within 90 days of the bid opening, update the wage determination in the awarded contract with the most current wage determination.
<input type="checkbox"/> Loan Recipient	Provide a copy of the executed construction contract that includes the correct wage determination to the SRF Program.
CONSTRUCTION	
<input type="checkbox"/> Construction Contractor	Pay all laborers and mechanics on the job the Davis-Bacon prevailing wage rate, or the state prevailing wage rate, whichever is higher.
<input type="checkbox"/> Construction Contractor	Document the value of any fringe benefits if the fringe benefits represent part of the prevailing wage.
<input type="checkbox"/> Construction Contractor	Submit weekly certified payrolls to the loan recipient. The certification statement on the payrolls must be signed.
<input type="checkbox"/> Construction Contractor	Post the wage determination and Davis-Bacon information posters on the job site.
<input type="checkbox"/> Loan Recipient	Spot check the certified payrolls against the wage determination. See Questions and Answers section for more guidance.
<input type="checkbox"/> Loan Recipient	Conduct wage rate interviews to ensure that the correct wages are being paid to the laborers and mechanics on the project. See Questions and Answers section for more guidance.

RESPONSIBILITY	ACTIVITY
CONSTRUCTION	
<input type="checkbox"/> Construction contractor	Responsible for ensuring that all subcontracts include the wage determination and required Davis-Bacon language, and that all subcontractors are aware of the Davis-Bacon requirements, pay weekly, and submit certified payrolls.
<input type="checkbox"/> Loan Recipient	Spot check subcontractor payrolls and conducts wage rate interviews. See Questions and Answers section for more guidance.
<input type="checkbox"/> Loan Recipient	Ensure that Davis-Bacon requirements are being met. Each disbursement request to the SRF Program includes a statement certified by the loan recipient acknowledging compliance with Davis-Bacon requirements.
<input type="checkbox"/> SRF Program Staff	Spot check the Loan Recipient’s work during their project inspections. SRF Program Staff will look for documentation that the fund recipient is doing their part and that systems are in place for verifying payrolls and conducting interviews.
PROJECT CLOSEOUT	
<input type="checkbox"/> SRF Program Staff	Collect and check Davis-Bacon wage interviews.
PROJECT INSPECTIONS AND EPA REVIEW	
<input type="checkbox"/> SRF Program / EPA	The SRF Program may request to inspect project records as part of a project inspection. In addition, EPA audits several of the SRF Program loans every year. For loans that EPA audits, the EPA may request certified payrolls and documentation of interviews. EPA will review the wage determination included in the executed contract.

Question and Answers

What if I advertised for bids without the required language in the bid advertisement?

If you have not yet awarded the contract, you can include the required language in the bid package through an addendum.

What if I awarded my contract without the required specification insert or wage determination?

If, for example, you advertised your project before securing SRF funding, you can add the required language to the contract by change order. Prevailing wages must be paid to laborers and mechanics for the entire project. This may require the construction contractor to adjust payroll going back to the start of the project.

Do Davis-Bacon wages apply to my Engineering consultant? What about the staff of my utility?

Davis-Bacon wages only apply to laborers and mechanics employed by the construction contractor or subcontractors. Public utility staff and engineering consultants are not covered by Davis-Bacon Act prevailing wage requirements.

What if I have other financing in the project? Can I require that prevailing wages on part of my project?

No, prevailing wages must be paid to laborers and mechanics for the entire project. A “project” is considered to be all the work performed under a contract for construction. If you are managing multiple construction contracts and multiple funding sources, be very careful to ensure that the correct funding requirements are applied to the correct contracts.

How do I know which wage determination is the correct one?

There are four types of wage determinations: Heavy, Highway, Residential, and Building. Wastewater and stormwater construction is generally “Heavy.” If the project includes significant amounts of pavement, or an enclosed building, the “Highway” or “Building” schedules may be necessary.

What do the interviews consist of and how many do I have to do?

Loan Recipients conduct interviews in order to ensure that their construction contractor is complying with the Davis-Bacon Act prevailing wage requirements. The interview should use Standard Form 1445 which includes all the required questions. You can get SF-1445 from the US General Services Administration or on SRF’s website. The loan recipient should establish an interview schedule to ensure that the contractor is complying. SRF staff can work with you to determine an interview schedule that provides reasonable assurance that you are exercising due diligence. At a minimum, one interview must be conducted per construction project. EPA suggests that interviewing 10% of the employed laborers and mechanics is a good guideline for larger projects.