

 **Davis-Bacon Prevailing Wage Law and Federal Grants:**

**Quick Reference Guide**

**Reminder: Davis-Bacon Prevailing Wage law applies to all facilities contracts more than $2,000 paid in whole or in part with federal grant dollars (except IVAQ FC 209)**

The United States Department of Education recently issued [an overview](https://oese.ed.gov/files/2023/04/Davis-Bacon-Overview-4.26.23.pdf) on state and district requirements for compliance with Davis-Bacon prevailing wage requirements for facilities projects using federal grant funds. While DESE has obtained an assurance from districts requiring compliance with Davis-Bacon as part of Capital Expenditure forms and provided [guidance](https://www.doe.mass.edu/federalgrants/esser/using-esser-funds.docx) in conjunction with ESSER funds, DESE may monitor contracts that are and have been presented as part of the final (Step 2) approval process to ensure inclusion of Davis-Bacon provisions (but see note below).

DESE also reserves the option to request confirmation when final documentation for facilities projects (non-construction) is submitted. ESSER monitoring may include Davis-Bacon compliance checks as well. Finally,

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| Please be sure to include [federal (Davis-Bacon) contract provisions](https://www.ecfr.gov/current/title-29/section-5.5) for prevailing wages for any contract: |
| 1. For the construction, alteration, or repair (including painting and decorating) of [public buildings or public works](https://www.ecfr.gov/current/title-29/subtitle-A/part-5#5.2), *and*
2. When the contract amounts to greater than $2,000, *and*
3. The contract is paid in whole or in part using federal grant funds, not including IVAQ (which are not federal education grant funds, so Davis-Bacon does not apply).
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| Important Reminders about Davis-Bacon and Federal Grants |
| 1. Paying prevailing wages under Massachusetts law is not sufficient.
2. Where a project receives both federal and state/local funding, the project may be subject to both Davis-Bacon prevailing wage requirements *and* state or local laws that similarly require payment of prevailing wage rates set by the state or locality.
3. Where both federal and state/local prevailing wage requirements apply, contractors must pay whichever rate is higher for each job classification and meet whichever requirements are more protective of workers.
4. Davis-Bacon prevailing wage rates are set by county and can be found on <https://sam.gov> (see guidance on how to find applicable federal wage rates [here](https://www.fsd.gov/gsafsd_sp?id=kb_article_view&sysparm_article=KB0038670&sys_kb_id=897f84621b309d5006b09796bc4bcb99&spa=1)).
5. Davis-Bacon requires that districts receive certified payroll records weekly and other monitoring of contractors/subcontractors to ensure accurate weekly payment of required wage rates and retention of those records, among other responsibilities.
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***Additional Resources***

 **U.S. Department of Labor**

* [Fact Sheet #66: The Davis-Bacon and Related Acts (DBRA)](https://www.dol.gov/agencies/whd/fact-sheets/66-dbra)
* [Government Contracts Compliance Assistance | U.S. Department of Labor (dol.gov)](https://www.dol.gov/agencies/whd/government-contracts)
* [Prevailing Wage Resource Book May 2015 | U.S. Department of Labor (dol.gov)](https://www.dol.gov/agencies/whd/government-contracts/prevailing-wage-resource-book)

**U.S. Department of Education**

* [Davis-Bacon Overview (April 26, 2023)](https://oese.ed.gov/files/2023/04/Davis-Bacon-Overview-4.26.23.pdf)