



**STATE OF SOUTH CAROLINA**  
**DEPARTMENT OF EDUCATION**

**MEMORANDUM**

**TO:** District Superintendents

**FROM:** Tonia Mallet Smith, Director  
Office of Emergency Programs

**DATE:** June 27, 2023

**RE:** Davis-Bacon Act Reminder

This memorandum is to provide key reminders related to the requirements related to the Davis-Bacon Act under the Elementary and Secondary Schools Emergency Relief (ESSER) Programs.

**When does the Davis-Bacon Act Apply?**

The provisions of the Davis-Bacon Act apply to all federally funded contracts in excess of \$2,000 that include: construction, alteration, minor remodeling, repair, and/or painting and decorating of public buildings. Once the Davis-Bacon Act applies to the prime contract in a project, it applies to all subcontractors even if individual subcontracts are under the dollar threshold.

**What does the Davis-Bacon Act Require?**

Contracting agencies must ensure applicable contracts include Davis-Bacon Act provisions where applicable and determine the prevailing wage schedule applicable to the region where the work occurs. Contracting agencies must ensure weekly payroll records are received that align with the prevailing wage rate for the region as well as confirm that any contractor making less than the prevailing wage are in qualified apprenticeship programs. Additionally, contracting agencies must confirm the required Davis-Bacon Act poster is posted visibly on the work site for the duration of the project. The Davis-Bacon Act poster is available on the Department of Labor website at the following link: <https://www.dol.gov/agencies/whd/posters/dbra>

Contractors and subcontractors must ensure workers are paid on a weekly basis and payroll records are submitted on a weekly basis to the contracting agency. Contractors and subcontractors also must post the applicable Davis-Bacon wage determination with the Davis-

Bacon workers rights poster on the job site in a prominent and accessible location where they can be easily seen by the workers.

### **What is the “Prevailing Wage”**

The prevailing wage is the wage the Department of Labor has determined is appropriate for the local area based on publicly available tables. The department defines “Wage” as the combination of the basic hourly rate and any fringe benefits listed in the Davis-Bacon wage determination. Prevailing wages, including fringe benefits, must be paid on all hours worked on the site of work and be based on job duties performed. Apprentices and trainees must be paid less if they are in an apprenticeship program registered with the Department of Labor.

### **Additional Resources**

The Department of Labor has published an FAQ document for the Davis-Bacon Act available [here](#). Additionally, general Davis-Bacon wage determinations are published publicly online available [here](#). Please do not hesitate to contact the Office of Emergency Programs at [scesser@ed.sc.gov](mailto:scesser@ed.sc.gov) or the Office of School Facilities at [schoolfacilities@ed.sc.gov](mailto:schoolfacilities@ed.sc.gov) with any questions or concerns regarding your obligations under the Davis-Bacon Act.