



Grants Management Office

This document is intended to function as a summary for convenience. It is not intended to replace or supplant terms of a Grant Agreement, federal guidance, rules, regulations, or state law. While the Grants Management Office (GMO) can provide guidance, those receiving SLFRF funds should seek final direction from their respective legal counsel and/or executive leadership on the compliant uses of the federal funds they are tasked to oversee.

Topic: Davis-Bacon Act Reporting Compliance Guidance

Guidance:

Issue: Whether the following are subject to the Davis-Bacon Act:

- Eligible water, sewer, and broadband infrastructure projects;
- Eligible capital expenditures under the public health and negative economic impacts eligible use category; and
- Eligible projects under the revenue loss eligible use categories.

Answer: The Davis-Bacon Act (“DBA”) requires government contractors to pay locally prevailing wages and fringe benefits to laborers and mechanics employed on certain federal or federally assisted contracts for construction, alteration, or repair. The U.S. Department of Treasury has indicated in its reporting guidance that the DBA does not apply to projects funded **solely** with award funds from the Coronavirus State and Local Fiscal Recovery Fund (SLFRF); however, compliance with the DBA **may** be required depending on certain factors that include: whether additional funds from another source are used on the project, the applicability of other Related Acts, and/or whether the project exceeds \$10,000,000.00. For further information, please see below.

Applicability of the Davis-Bacon Act to SLFRF Funded Projects:

The DBA does not apply to projects funded solely with award funds from the SLFRF program outside of the District of Columbia; however, recipients and subrecipients may be otherwise subject to the requirements of the DBA when SLFRF funds are used on a construction project in conjunction with funds from another federal program that requires enforcement of the DBA. For additional information on this question and those concerning projects funded by both SLFRF funding and other sources of funding see the Treasury’s [Coronavirus State and Local Fiscal Recovery Funds Final Rule: Frequently Asked Questions](#), FAQ #4.8 and FAQ #6.15.

The Treasury has also indicated in its [Compliance and Reporting Guidance](#) that recipients and subrecipients will need to provide documentation of wages and labor standards for infrastructure projects and capital expenditure projects **over \$10 million**. Recipients and subrecipients will either need to implement a process and produce the required information outlined in the reporting guidance or certify that the project is in compliance with the DBA and is subject to a project labor agreement. The information below is an extraction, the full [Compliance and Reporting Guidance](#) can be found [here](#):

For projects over \$10 million (based on expected total cost):

a. A recipient may provide a certification that, for the relevant project, all laborers and mechanics employed by contractors and subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known

as the “Davis-Bacon Act”), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as baby Davis-Bacon Acts”). **If such certification is not provided, a recipient must provide a project employment and local impact report detailing:**

- The number of employees of contractors and sub-contractors working on the project;
- The number of employees on the project hired directly and hired through a third party;
- The wages and benefits of workers on the project by classification; and
- Whether those wages are at rates less than those prevailing.

Recipients must maintain sufficient records to substantiate this information upon request.

b. A recipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). **If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing:**

- How the recipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project, including a description of any required professional certifications and/or in-house training;
- How the recipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
- How the recipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities, including descriptions of safety training, certification, and/or licensure requirements for all relevant workers (e.g., OSHA 10, OSHA 30);
- Whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market;

and

- Whether the project has completed a project labor agreement.

c. Whether the project prioritizes local hires.

d. Whether the project has a Community Benefit Agreement, with a description of any such agreement.

Additional Resources for Recipients/Subrecipients:

Below is a non-exhaustive list of additional resources relevant to SLFRF and Davis-Bacon:

- [Labor Reporting Template for Capital Projects > \\$10 million.](#)
- <https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>
- <https://home.treasury.gov/system/files/136/SLFRF-Final-Rule-FAQ.pdf>
- <https://www.dol.gov/agencies/whd/government-contracts/construction>
- <https://www.dol.gov/agencies/whd/government-contracts/construction/faq>
- <https://www.dol.gov/agencies/whd/government-contracts/construction/guidance>
- <https://www.dol.gov/agencies/whd/fact-sheets/66-dbra>
- <https://www.dol.gov/sites/dolgov/files/WHD/davis-bacon/DBAOverview-2021.pdf>

Revision History:

This guidance may be periodically reviewed and revised.

Last Reviewed: 09/15/2023

Last Published: 09/15/2003

Last Revised: 09/15/2023