



Construction & Materials Tips

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Prevailing Wage Rates for Highway Construction Workers

Prevailing wage rates must be paid to employees working on departmental highway construction projects in accordance with the Davis-Bacon Act and state statutes. The Davis-Bacon Act was enacted in 1931 by the U.S. legislature to require the inclusion of minimum wage rates for laborers and mechanics employed on federally assisted contracts. The Act was named after its chief sponsors, Representative Robert L. Bacon of New York and Senator James J. Davis of Pennsylvania.

The Davis-Bacon Act is a depression era pre-New Deal statute intended to protect laborers and mechanics from substandard earnings by establishing local minimum wage standards, or from losing work to contractors who recruited from distant cheap labor areas. The U.S. Department of Labor determines prevailing wage rates prescribed by the Act.

Texas also maintains prevailing wage rate laws. SB 959, passed during the 74th legislative session, and effective September 1, 1995, created Texas Government Code Chapter 2258, "Prevailing Wage Rates. SB 311, passed during the 77th legislative session, and effective September 1, 2001, amended the existing code to specify separate higher prevailing wage rates for counties adjacent to Mexico and counties adjacent to counties that are adjacent to Mexico. Prevailing wage rates for the counties located in this area are determined by applying mathematical calculations to required payroll surveys conducted both statewide and in the locality in which the work is to be performed. The prevailing wage rate is based on the highest result of these calculations. The department may determine the "locality in which the work is to be performed," except for municipalities in the border area with a population of 500,000 or more. The locality for affected municipalities is limited to the geographic limits of the municipality. At present, this statutory requirement is limited to the city of El Paso.

In accordance with Texas Government Code §2258.021(b), maintenance contracts funded wholly with state funds are exempt from state statutory prevailing wage requirements. Wholly stated funded maintenance contracts are subject to the federal minimum wage requirement, which is currently \$5.15 per hour. However, maintenance contracts that are \$2,000 or more and involve federal funding are subject to the Davis-Bacon Act.

Guidance for district and area office personnel associated with labor requirements, including the Davis-Bacon Act, is covered in Chapter 15, Section 2 of the department's *Construction Contract Administration Manual*. You can refer questions regarding labor-related requirements to the Construction Section's Administrative Operations Branch at (512) 416-2532.