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A Guide to The U.S. Department of Labor's 'New' Davis-Bacon and Related Acts Regulations

For the first time in 40 years, the Department of Labor (DOL) updated its interpretation and implementation of the Davis-Bacon and Related Acts in new final rules. DOL's new final rules concerning the prevailing wages and fringes contractors must pay their workers on federal and certain federally funded construction projects and published in the Federal Register on August 23, 2023 (88 Fed.Reg. 57526) are, in some respects, a throwback to 1982. In other respects, the new final rules attempt to create robust and new enforcement tools and procedures untethered to the plain language of the Great Depression-era Davis-Bacon Act or any subsequent Related Acts. Contractors and subcontractors on projects covered by the Davis-Bacon and Related Acts (and possibly also Inflation Reduction Act projects) should be aware of DOL's now final regulatory changes and take appropriate steps to ensure compliance once the new regulations take effect.

Our report will unpack these new regulations under four main headings:

Changes to the ways in which prevailing wages will be calculated and how wage determinations will be prepared and updated by DOL;

DOL's self-proclaimed expansion of its enforcement of the Davis-Bacon Act to all "development statutes";

Changes to key definitions and terms employed or implicated by the Davis-Bacon and Related Acts; and

Changes to DOL's enforcement tools to ensure contractor and subcontractor compliance.

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