



Labor Standards (Davis Bacon & Section 3)

**State of South Carolina Department of Commerce
2025 CDBG Implementation Workshop**

Presented by Civitas, LLC



Davis Bacon Act

- Outlines labor standards for federal projects
- Triggered on construction **projects over \$2,000**
 - Exception is housing of less than 8 units under one owner
 - Materials provided by a bona fide material supplier are NOT subject to Davis Bacon
 - Demo not subject to Davis Bacon **unless** it is followed by construction work
 - Installation work performed in conjunction with an equipment supply contract is subject to Davis Bacon when installation is more than an incidental amount of activity (i.e., more than 20%)



Implementation Components



Ensure Davis-Bacon, labor standard clauses & wage decision in all bid docs, contracts & subcontracts

Hold a preconstruction conference to review requirements with contractor

Review payrolls & compare to interviews weekly throughout construction

Conduct site interviews & make sure posters on site

Resolve issues as they arise

Report to State (& DOL, if necessary)

Certified Payroll Review Step by Step



Payroll Review

- ***Make sure these are correct:***
 - Dates
 - Payroll #
 - Wage Rate
 - Hours Worked
 - **Overtime**
 - Deductions
 - Other (10-N)
 - **It's Legible**
- If a contractor uses an alternate format, they must include all new required information. Otherwise, they will be required to adopt this form.

U.S. Department of Labor Wage and Hour Division **Davis-Bacon and Related Acts Weekly Certified Payroll Form**
(For Contractor's Optional Use; See Instructions at www.dol.gov/whd/forms/wh347instr.htm)
Unless otherwise noted, the information requested is specific to the named project below.
Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

☐ SUBMISSION OF FINAL DBRA CERTIFIED PAYROLL FORM ☐ PRIME CONTRACTOR ☐ SUBCONTRACTOR

Rev. January 2025
OMB No.: 1235-0008
Expires: 01/31/2028

PROJECT NAME		PROJECT NO. or CONTRACT NO.		CERTIFIED PAYROLL NO.		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME													
PROJECT LOCATION		WAGE DETERMINATION NO.		WEEK ENDING DATE		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS ADDRESS													
(1A)	(1B)	(1C)	(1D)	(1E)	(2)	(3)	(4)	(5)	(6A)	(6B)	(6C)	(7A)	(7B)	(8)		(9)			
WORKER ENTRY NO.	WORKER LAST NAME	WORKER FIRST NAME	WORKER MIDDLE INITIAL	WORKER IDENTIFYING NO.	(1) JOURNEYWORKER (9A) REGISTERED APPRENTICE	LABOR CLASSIFICATION	ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES	TOTAL HOURS WORKED FOR WEEK	HOURLY WAGE RATE PAID FOR ST AND OT	TOTAL FRINGE BENEFIT CREDIT	PAYMENT IN LIEU OF FRINGE BENEFITS	GROSS AMT EARNED	GROSS AMT EARNED FOR ALL WORK	TAX WITH- HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)	TOTAL DEDUCTIONS	NET PAY TO WORKER FOR ALL WORK
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Reviewing Payroll Reports – Employer Information

☐ SUBMISSION OF FINAL DBRA CERTIFIED PAYROLL FORM		☒ PRIME CONTRACTOR	☐ SUBCONTRACTOR	OMB NO.: 1235-0008 Expires: 01/31/2028
PROJECT NAME	PROJECT NO. or CONTRACT NO.	CERTIFIED PAYROLL NO.	PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME	
ABC Park Improvements	25-78	2	Chatham Construction LLC	
PROJECT LOCATION	WAGE DETERMINATION NO.	WEEK ENDING DATE	PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS ADDRESS	
123 ABC St, Charleston	SC20250004	08.16.2025	456 King St, Charleston, SC 29401	

- Contractor/Contract Information includes basic information about contractor/subcontractor and the contract.
- Certified Payroll Number
 - Start with “1” and number sequentially for each weekly payroll submitted.
 - Payrolls may be submitted for weeks where no labor was performed and should be included in sequential numbering.
- Wage Determination Number
 - Include the applicable wage determination for the project.

Reviewing Payroll Reports – Worker Information and Labor Classification (Columns 1-3)

- **Worker Information (Columns 1–2)**
 - Each worker’s full name and a unique identifying number (e.g., last 4 digits of SSN) must be listed in Columns 1A-1E.
 - Column 2 identifies whether the worker is a journeyworker or a registered apprentice.
- **Labor Classification (Column 3)**
 - Classifications must match those on the applicable wage determination.
 - A worker may appear under more than one classification if multiple roles are performed. They should be listed separately for each different work classification performed.

(1A)	(1B)	(1C)	(1D)	(1E)	(2)	(3)
WORKER ENTRY NO.	WORKER LAST NAME	WORKER FIRST NAME	WORKER MIDDLE INITIAL	WORKER IDENTIFYING NO.	(J) JOURNEYWORKER (RA) REGISTERD APPRENTICE	LABOR CLASSIFICATION
1	Ort	Grace		0123		Electrician

Payroll Reports – Day and Date (Column 4) & Total Hours (Column 5)

- Days reflect the start date of employer's workweek
- Straight time (ST) and overtime (OT) hours worked should be reported in the applicable boxes.
- Hours worked in excess of 40 hours a week should be reported as "overtime"
- Note: The new form does not auto-calculate hours

(4)							(5)	
ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES						TOTAL HOURS WORKED FOR WEEK	
	S	M	T	W	T	F		S
	10	11	12	13	14	15		16
	HOURS WORKED EACH DAY							
ST		4	4	4	4	4	20	
OT								

Payroll Reports – Rate of Pay (Column 6) & Amount Earned (Column 7)

- Workers Hourly Wage Rate
 - Cash may be paid in lieu of fringe being paid to approved plans
 - The total of wage plus fringe paid must be equal to or greater than the total of the wage plus fringe indicated on the wage determination used for the project
- Gross Amount earned on the project is reported in column 7a and gross amount earned for all work is reported in column 7b.

(6A)	(6B)	(6C)	(7A)	(7B)
HOURLY WAGE RATE PAID FOR ST AND OT	TOTAL FRINGE BENEFIT CREDIT	PAYMENT IN LIEU OF FRINGE BENEFITS	GROSS AMT EARNED	GROSS AMT EARNED FOR <u>ALL WORK</u>
25.00		75.38	575.38	1250.25

Payroll Reports – Deductions (Column 8) & Net Wages Paid for Week (Column 9)

- Standard employment deductions should be input into the deductions fields.
- Other Deductions can include employee obligations for income taxes, social security payments, insurance premiums, retirement, savings accounts, and any other legally permissible deduction authorized by the employee
- Deductions may also be made for payments on judgments and other financial obligations legally imposed against the employee
- Confirm Column 9 is accurately calculated. This number is not auto-calculated.

(8)				(9)
DEDUCTIONS FOR <u>ALL WORK</u>				NET PAY TO WORKER FOR <u>ALL WORK</u>
TAX WITH- HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)	TOTAL DEDUCTIONS	
215.33			215.33	1,034.92

Payroll Reports – Page 2

PROJECT NAME		PROJECT NO. or CONTRACT NO.		PAYROLL NO.		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME																																																																																																																																																																																							
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I paid or supervised the payment of the laborers or mechanics working on the above project during the stated time period. I certify the following:																																																																																																																																																																																													
☐	The payroll information submitted with this statement is correct and complete for the above project during the above period, and the wage and fringe benefit rates paid to the workers, including credit taken for the reasonably anticipated costs of a bona fide fringe benefit plan, fund or program, are not less than the applicable wage and fringe benefits rates for the classification(s) of work actually performed, as specified in the wage determination(s) incorporated into the contract.																																																																																																																																																																																												
☐	All regular payrolls and all other basic records that the contractor is required to maintain for this payroll period are complete and accurate and will be made available upon request from the agency or the Department of Labor.																																																																																																																																																																																												
☐	The classifications reported for each laborer or mechanic are the classification(s) of work that each worker actually performed.																																																																																																																																																																																												
☐	Any workers paid as apprentices during the above period are duly registered in a bona fide apprenticeship program registered with the Office of Apprenticeship, Employment and Training Administration, United States Department of Labor ("OA"), or a State Apprenticeship Agency ("SAA") recognized by Department of Labor. I have verified the registered apprenticeship program information provided below as accurate and applicable to any apprentices identified on page 1 of this form.																																																																																																																																																																																												
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HOURLY CREDIT FOR FRINGE BENEFITS <i>If an amount is listed in (6B) on the first page of this certified payroll form, enter the hourly credit claimed under each plan name, type and number for each worker and check whether the plan is funded or unfunded.</i> <table border="1"> <thead> <tr> <th rowspan="3">NAME OF WORKER</th> <th colspan="2">FB NAME</th> <th colspan="2">FB NAME</th> <th colspan="2">FB NAME</th> <th colspan="2">FB NAME</th> <th colspan="2">FB NAME</th> <th colspan="2">FB NAME</th> <th rowspan="3">TOTAL HOURLY CREDIT</th> </tr> <tr> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> <th>FB TYPE</th> <th></th> </tr> <tr> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> <th>PLAN NO.</th> <th></th> </tr> </thead> <tbody> <tr> <td></td> <td>☐ Funded</td> <td>☐ Unfunded</td> <td>☐ Funded</td> <td>☐ Unfunded</td> <td>☐ Funded</td> <td>☐ Unfunded</td> <td>☐ Funded</td> <td>☐ Unfunded</td> <td>☐ Funded</td> <td>☐ Unfunded</td> <td>☐ Funded</td> <td>☐ Unfunded</td> <td></td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> <tr> <td></td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>Hourly Credit</td> <td>\$</td> <td>\$</td> </tr> </tbody> </table>												NAME OF WORKER	FB NAME		FB NAME		FB NAME		FB NAME		FB NAME		FB NAME		TOTAL HOURLY CREDIT	FB TYPE		FB TYPE		FB TYPE		FB TYPE		FB TYPE		FB TYPE		PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.		PLAN NO.			☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded	☐ Funded	☐ Unfunded			Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$		Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	Hourly Credit	\$	\$
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☐	All workers on the project have been paid the full weekly wages earned, and no rebates or deductions have been or will be made either directly or indirectly, other than permissible deductions as defined in 29 CFR part 3.																																																																																																																																																																																												
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THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION (SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE), AS WELL AS DEBARMENT FROM FUTURE FEDERAL AND FEDERALLY-ASSISTED CONTRACTS. INFORMATION REPORTED IN CERTIFIED PAYROLLS MAY BE SUBJECT TO DISCLOSURE IN RESPONSE TO A FREEDOM OF INFORMATION ACT REQUEST.																																																																																																																																																																																													

- Statements of Compliance
 - Boxes 1-3 & 6 must be checked.
 - Box 4 should be checked & completed for any registered apprentices listed on the payroll report
 - Box 5 should be checked & completed if the contractor is claiming an hourly credit for their contributions to fringe benefit plans
- Legally valid electronic signatures are acceptable if they show approval of the payroll record and verify the signer's identity.



Restitution for Underpayment of Wages



Overview

- Employer must make wage restitution for underpaid employees.
- Restitution should be paid promptly and in full, minus authorized deductions.
- All wages, including restitution amounts, must be recorded on a certified payroll report.
- If workers not found:
 - Contractor must deposit/escrow restitution & provide proof to grantee
 - Grantee must attempt to locate employee (certified mail, etc.)



Restitution Required Steps

- **Notification**: Contract administrator will issue written notice to prime contractor about wage underpayments, detailing discrepancies and corrective steps.
 - Prime contractor has 30 days to resolve wage underpayments; failure to do so may result in payment withholding.
 - Subcontractor, if the employer, coordinates restitution via prime contractor.
- **Wage Restitution Calculation**: Difference between paid and required wage rates, multiplied by hours worked, equals gross restitution due.
- **Correction Payrolls Required**: Must list affected employees, work hours, wage rate adjustments, gross restitution, deductions, and net amount.

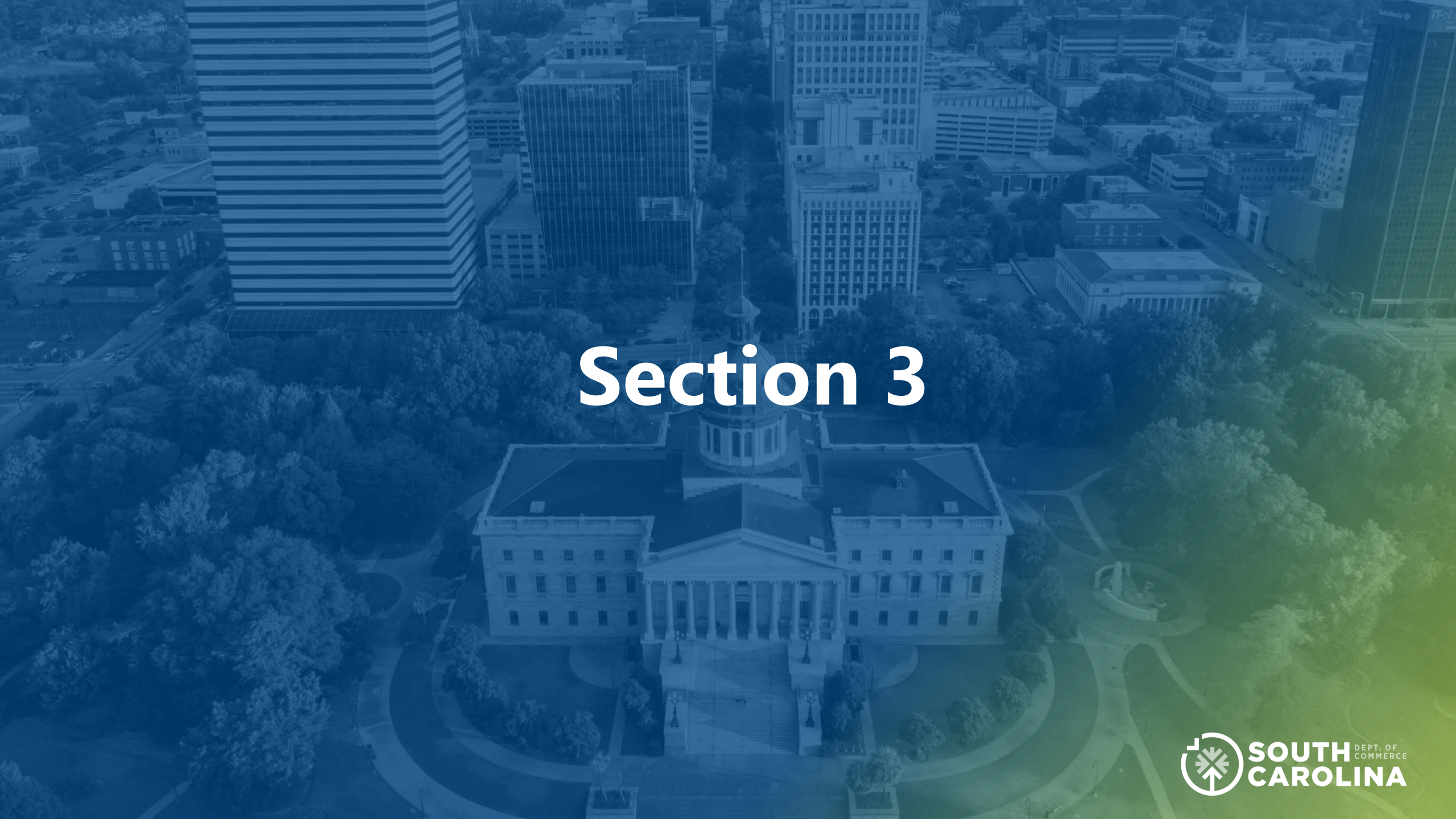
*****Attach signed Statement of Compliance to correction payroll; employee signatures and payment receipts generally not required for documentation.***



Calculating Interest

- Davis-Bacon Final Rule now requires interest to be paid on restitution (effective October 23, 2023)
- Restitution must include **daily compounded interest** from the date of underpayment until payment is made.
- The applicable rate is the **IRS Underpayment Rate** (IRC § 6621).
- Rates are published by the **IRS** and available on the [DOL website](#)
- Current rate: 7% (annual)
- Daily rate = $7\% \div 365 = 0.02\%$

Davis Bacon Case Study



Section 3



Section 3 Overview

Purpose

Ensure that community development projects are also providing employment opportunities in the low-income neighborhoods they are assisting.

Threshold

Public construction and housing rehabilitation projects with **\$200,000** of housing and community development financial assistance.

Section 3 Key Outcomes

Key Outcome Metrics: Updated Benchmarks

Safe Harbor Benchmarks

- 25% of all labor hours must be performed by a **Section 3 Worker**
- 5% of all labor hours must be performed by **Targeted Section 3 Workers**
- A labor hour = hours worked by all workers employed on a Section 3 project
- Set by Notice and amended periodically as necessary

$$\frac{\text{Section 3 labor hours}}{\text{Total labor hours}} = 25\% \text{ AND } \frac{\text{Targeted Section 3 labor hours}}{\text{Total labor hours}} = 5\%$$



Section 3 Business Concern:

A contractor may qualify as a Section 3 business if:



> 75% labor hours performed over prior three-month period are performed by low- or very low-income workers

Tip for meeting Targeted Section 3 benchmarks:

- Check payroll hours: If Davis-Bacon payrolls show that 75% or more of total project hours were worked by Section 3 workers, the contractor may qualify as a Section 3 Business Concern.
 - **ALL** labor hours worked by Section 3 Business Concern employees are considered Targeted Section 3 Workers
- Provide the contractor with a memo explaining potential eligibility and encourage them to submit certification if applicable.

Recordkeeping Requirements

Recipients must maintain documentation, or ensure that a subrecipient, contractor, or subcontractor maintains documentation, to ensure workers meet the definition of a Section 3 worker or Section 3 targeted worker:

Section 3 Worker Record Requirements

- ✓ Worker's self-certification that their income is below the income limit from the prior calendar year ([HUD Form 4736C](#) & [D](#))
- ✓ Worker's self-certification of participation in a means-tested program such as public housing or Section 8 ([HUD Form 4736C](#) & [D](#))
- ✓ Certification from a PHA or Section 8 program manager that the worker is a participant in such a program ([HUD Form 4736](#))
- ✓ Employer's certification that the worker's income from that employer is below the income limit ([HUD Form 4736A](#) & [B](#))
- ✓ Employer's certification that the worker is employed by a Section 3 business concern ([HUD Form 4736A](#) & [B](#))

Targeted Section 3 Worker Record Requirements

- ✓ Worker's self-certification that they live within the service area or the neighborhood of the project
- ✓ Employer's certification that the worker Lives within the service area or the neighborhood of the project
- ✓ Employer's certification that the worker is employed by a Section 3 business concern
- ✓ Worker's certification that the worker is a YouthBuild participant

Using Davis Bacon Payroll Reports to Generate Section 3 Hours

[illegible]

1. Transcribe workers & hours worked from Davis Bacon Certified Payroll Reports into HUD's [Section 3 Labor Hours Tracking Form](#)
2. Annualize income for each worker based on hourly pay rate to determine if they qualify as Section 3 Worker
3. Request Certification for all workers identified as Section 3 Workers
 1. Section 3 & Targeted Section 3 Worker: Employer Certification (HUD-4736A)
 2. Section 3 & Targeted Section 3 Worker: Self Certification (HUD-4736C)



Resources

[24 C.F.R. Part 75](#)

[Section 3 HUD Exchange](#)

[Section 3 Guidebook](#)

[HCD Neighborhood Service Area Tool](#)

[Sample Section 3 Certification Forms \(HUD-4736 Series\)](#)

[Sample Section 3 Utilization Forms \(HUD-4737 Series\)](#)

[Section 3 HUD Compliance Review Checklist](#)

[Section 3 Resource Hub](#)

Discussion & Questions?

