

# Why Inflation Reduction Act (IRA) is not the same as Davis-Bacon

Complying with [prevailing wage and apprenticeship \(PW&A\)](#) requirements under the Inflation Reduction Act (IRA) can significantly enhance the value of tax credits for qualifying energy projects, a five times multiplier. However, unlike Davis-Bacon, compliance with these requirements is complex and challenging to verify. While Davis-Bacon is a labor law, PW&A falls under tax law, necessitating compliance submissions to the Internal Revenue Service (IRS) along with stringent, extended record-keeping requirements.

For contractors, this means continuously addressing noncompliance issues, paying penalties and maintaining extensive records. Manual record-keeping, such as using Excel, is not enough. Project owners and credit seekers for clean energy projects face significant risk and are looking to contractors to comply with PW&A requirements to maximize their tax credit value.

## Let's compare Davis-Bacon and prevailing wage and apprenticeship requirements



	DAVIS-BACON (LABOR LAW)	IRA (TAX LAW)
Qualifying projects	Projects greater than \$2,000 that receive federal funding	Any size project, public or private-owned, that is seeking IRA energy credits IRA is not a related act
Wage determination	Agency <ul style="list-style-type: none"> <li>Select proper wage determination</li> <li>Establish start of construction (date of general contractor (GC) contract)</li> <li>Request supplemental wage determinations</li> </ul>	Taxpayer <ul style="list-style-type: none"> <li>Select proper wage determination</li> <li>Beginning of construction not clearly defined. Consult a tax expert.</li> </ul> Taxpayer, contractor or subcontractor: <ul style="list-style-type: none"> <li>Request supplemental wage determinations to <a href="mailto:IRAPrevailingWage@dol.gov">IRAPrevailingWage@dol.gov</a> including proposed rate and rationale</li> </ul>
Prevailing wage (PW) compliance	All laborers and mechanics Copeland Act requires weekly certified payroll Post Davis-Bacon (DB) poster and wage determination on work site Agency has responsibility for administration and enforcement of DB provisions Conduct worker interviews Conduct investigations Submit enforcement reports to Department of Labor (DOL)	All laborers and mechanics, including those employed by taxpayer Copeland Act does not apply. Requirement to pay prevailing wages is binding when credit is filed Certified payroll recommended Post wage determination on work site Taxpayer has responsibility for administration and enforcement of DB provisions Exception for projects less than one megawatt (1 MW) or projects that met 'Begun Construction' by 1/29/23

	DAVIS-BACON (LABOR LAW)	IRA (TAX LAW)
Apprenticeship requirements	Ratio requirement	Labor hour requirement (10-15%) Participation requirement Ratio requirement
PW Non-compliance	Contract payments may be withheld to satisfy the liability of the contractor for unpaid wages Prime contractors have a contractual obligation to cover unpaid wages or liability Potential debarment from future contracts Cure as non-compliance is identified	30-day grace period once taxpayer is aware if <ul style="list-style-type: none"> <li>Not more than 10% of payroll periods</li> <li>Not greater than 2.5% less than PW</li> </ul> Employee paid back pay + interest (federal short-term rate + 6%) \$5,000/worker per calendar year taxpayer penalty for non-compliance Intentional disregard <ul style="list-style-type: none"> <li>3x back pay + interest</li> <li>\$10,000/worker per calendar year taxpayer penalty</li> </ul>
Apprentice non-compliance	Ratio violation: apprentice paid full prevailing wage rate	Project labor hour: \$50/unmet apprentice hour taxpayer penalty Participation requirement: \$50/unmet apprentice hour taxpayer penalty Ratio violation: apprentice paid full prevailing wage rate plus interest Intentional disregard <ul style="list-style-type: none"> <li>\$500/unmet apprentice hour taxpayer penalty</li> </ul>
Alteration or repair	PW required for construction, alteration or repair	PW required for construction, alteration or repair through 5-10 year recapture period after placed in service
Record keeping	Agency retains for 3 years after prime contract is completed	Taxpayer maintains with tax records for 5-10 years
Audit	Audited by Department of Labor (DOL)	Audited by Internal Revenue Service (IRS)
EO 14026	Federal minimum wage applies	Not addressed
EO 13706	Paid sick leave for federal contractors applies	Does not apply

## Our solution

To address these challenges, Baker Tilly and LCPTracker have developed a comprehensive solution for contractors. This end-to-end system ensures complete data-set coverage while protecting proprietary payroll data from customers. It establishes, monitors, and documents compliance with prevailing wage, apprenticeship, and penalty requirements.

[Learn more](#)

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