

Section III.D.2. Purchasing of Goods and Services Prevailing Wage Compliance Procedures

These procedures supplement and clarify Section III.D.2. of the Lone Star College System District Board Policy Manual (“Policy Manual”) last revised by the Board of Trustees on **July 10, 2017**—setting out the College’s policies regarding the purchasing of goods and services.

The Policy Manual controls when a conflict arises between it and the procedures below. These procedures were last updated on July 23, 2019. The notice and comment period was open online to the public from June 22, 2019 through July 22, 2019.

Lone Star College’s Chief Financial Officer (“CFO”) ensures compliance with applicable prevailing wage laws through the procurement and construction processes. Other College personnel may support the CFO, but the CFO remains accountable to the Chancellor.

1. **Scope of Procedures.** These procedures apply to public work construction projects paid for, in whole or in part, with public funds and governed by the Davis-Bacon Act or the Texas Prevailing Wage Statute. These procedures ensure the College, its contractors, and subcontractors comply with applicable prevailing wage laws during the procurement and construction processes. The College’s maintenance projects are not governed by these procedures.
2. **Definitions.**
 - a. **Covered worker** means a laborer or mechanic employed on a public work project.
 - b. **Maintenance** means the ordinary upkeep and repair necessary to preserve an item’s good condition. Maintenance includes: (1) the replacement of components with items of the same rating, type, or grade as the existing installation and (2) ordinary, periodic, scheduled repairs.
 - c. **Prevailing wage** means the rate of per diem or hourly wages, including legal holidays and overtime, for work of a similar character in the locality in which the applicable public work construction project is performed.
 - d. **Public Work Construction Project** means the construction, alteration, or repair of a public building, highway, road, excavation, or other project development or improvement for the College. A public work construction project includes, but is not limited to, any remodeling, modifying, upgrading, restoring, or performance of major repairs.
3. **Applicability of Federal or State Prevailing Wage Laws.** The Davis-Bacon & Related Acts apply to the College’s federally funded or assisted public work construction projects. The Texas Prevailing Wage Statute applies to the College’s public work construction projects paid for, at least in part, with public funds and

without the assistance of federal grants or funds.

The determination of whether the Davis-Bacon Act or the Texas Prevailing Wage Statute applies—for any project—may require consultation with the Office of the General Counsel when a project is not clearly within or outside the parameters of applicable law. It is the CFO's responsibility to bring legal questions to the Office of the General Counsel's attention.

- a. Expenditure of \$100,000 or more. During the development of any solicitation for a College construction project with a proposed expenditure of \$100,000 or more, the individual responsible for issuing a solicitation will ask the Associate Vice Chancellor ("AVC") of Facilities and Construction, or the CFO's designee, to determine whether the Davis-Bacon Act or the Texas Prevailing Wage Statute applies.
- b. Expenditure of less than \$100,000. The individual responsible for issuing a solicitation will ask the Executive Director of Construction, or the CFO's designee, to determine whether the Davis-Bacon Act or the Texas Prevailing Wage Statute applies to construction projects with a proposed expenditure of less than \$100,000.

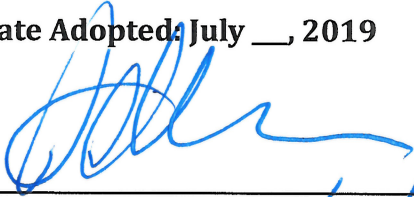
The prevailing wage rate determination must be written before the procurement solicitation occurs for any College facility—including campus-based projects.

4. **Prevailing Wage Rate Determination and Adoption.** The CFO will annually propose prevailing wage rates to the Chancellor for adoption by the Board or its designee. Conducting a local survey of wages paid on comparable projects or adopting the published U.S. Department of Labor's wage rates pursuant to the Davis-Bacon Act will determine the proposed prevailing wage rates.
5. **Procurement.** Key documents such as procurement solicitations, sample contract documents, and all contracts and subcontracts for public work construction projects subject to the prevailing wage laws must include specific language addressing the College's prevailing wage rates for the project, compliance requirements under applicable law, and penalties for noncompliance.
 - a. **Procurement solicitations, including RFPs, RFQs, competitive bids, or any other process permitted by state law and local policy.** The individual responsible for issuing a solicitation will ensure inclusion of the applicable prevailing wage rates, and other required language, in all appropriate procurement solicitation documents. The AVC for Facilities and Construction or the AVC for Supply Management will request from the Office of the General Counsel legal language for inclusion in procurement solicitation documents.
 - b. **Contracts.** The Office of the General Counsel will include appropriate language regarding prevailing wage law compliance in applicable contracts submitted for

review.

6. **Compliance and Monitoring.** The CFO will designate personnel within the Facilities and Construction Department to periodically request from contractors evidence of compliance with applicable prevailing wage laws. Evidence requested may include payroll records displaying the name, occupation, and actual per diem wage paid to each covered worker employed on the project.
 - a. **Projects governed by Davis-Bacon.** Facilities and Construction Department personnel—responsible for approving payments—must obtain a statement of compliance and certified payroll records from a contractor before approving any payment to the contractor for work performed on a public work construction project governed by the Davis-Bacon Act.
 - b. **Projects governed by the Texas Prevailing Wage Statute.** Facilities and Construction Department personnel—responsible for approving payments—must obtain from contractors seeking payment a written certification that all amounts due to covered workers have been paid before approving any payment for work performed on a public work construction project governed by the Texas Prevailing Wage Statute.
 - c. **Payment Denial.** Any individual who denies payment to a contractor for failure to provide required compliance documentation must notify the AVC for Facilities and Construction within three working days of completing the required documentation review.
7. **Addressing Complaints.** The prevailing wage statute contains specific provisions and timelines regarding complaints. The College has a duty to recognize all complaints of violations of the prevailing wage statute. The CFO will ensure that business processes are in place for this purpose, including identification of a means by which complaints can be registered with the College. Upon receipt of a complaint by the College, the CFO will work with the Office of the General Counsel to initiate appropriate proceedings as required by state or federal law.
8. **Audits.** Unless otherwise specified, the Purchasing and Facilities and Construction Departments, within the Financial Operations and Facilities Division, shepherd and organize this process. The Office of Governance, Audit, and Compliance will ensure process fidelity through audits and investigations where appropriate. All participants are required to fully cooperate with the Office of Governance, Audit, and Compliance.

Date Adopted: July __, 2019



Stephen C. Head
Chancellor

07/29/19