

October 30, 2023

The Honorable Lloyd Smucker
U.S. House of Representatives
302 Cannon House Office Building
Washington, DC 20515

Dear Congressman Smucker:

The undersigned diverse group of construction and business associations respectfully express our support for your Congressional Review Act resolution to repeal the U.S. Department of Labor final rule, Updating the Davis-Bacon and Related Acts Regulations,¹ which will make drastic revisions to the regulations implementing the Davis-Bacon Act and Related Acts that apply to federal and federally assisted construction projects funded by taxpayers.

The members of the undersigned organizations are often required to follow Davis-Bacon Act regulations on critical construction projects or would more frequently be subject to the Act under the new regulations. The new DOL rule and ongoing use of this flawed policy

- x Weakening the definition of “prevailing wage” to a wage paid to at least 30% of workers in a locality, down from 50%.⁶
- x Revoking a Reagan-era rule separating metropolitan and rural wage data, ensuring any future wage calculation will overcount inflated urban wages as prevailing in smaller rural areas.⁷
- x Undermining the procedural due process rights of contractors and increasing administrative costs by expanding the DOL’s debarment powers.⁸
- x Imposing Davis-Bacon Act obligations through “operation of law,” regardless of contract language, deterring many small and minority-owned construction firms without administrative resources from bidding on contracts.⁹
- x Expanding the term “site of work” to include material suppliers and off-site construction in certain fact-based circumstances.¹⁰ This contradicts the plain language of Davis-Bacon Act and legally binding D.C. Circuit Court precedent.
- x Arbitrarily increasing non-collectively bargaining wage determinations via the U.S. Bureau of Labor Statistics’ Employment Cost Index.¹¹
- x Expanding Davis-Bacon Act coverage beyond activities authorized by Congress in statute, particularly with regard to the services of land survey crewse cac46ID 84 BDC -0.004 Tc 0.004 Tw 6.96 -0 0

and artificial inflation of construction costs imposed by this new Davis-Bacon Act rule will only exacerbate these headwinds and undermine taxpayer investments in much-needed infrastructure.

Sincerely,

American Concrete Pumping Association
American Fire Sprinkler Association
American Pipeline Contractors Association
Associated Builders and Contractors
Construction Industry Round Table
Construction Leadership Council
Independent Electrical Contractors
National Federation of Independent Business (NFIB)
National Society of Professional Surveyors
National Precast Concrete Association
Power and Communication Contractors Association
Precast/Prestressed Concrete Institute
Small Business & Entrepreneurship Council
U.S. Geospatial Executives Organization