

**BACH ATLAS SAMPLE MEMO**

# Miami-Dade Construction Compliance / Prevailing Wage

Sample Bach Atlas memo on certified payroll failures, Davis-Bacon, Miami-Dade responsible wage rules, 1099 misclassification, prime contractor exposure, and corrective action planning.

<b>Original research question</b>	Under federal and Florida law, including Davis-Bacon, FAR certified payroll provisions, and Miami-Dade prevailing wage requirements, what obligations and corrective actions apply when crane subcontractors fail to provide certified payroll and may have misclassified workers as 1099 independent contractors?
<b>Jurisdiction / facts</b>	Miami-Dade County project involving crane subcontractors with multiple weeks of missing certified payroll.
<b>Bach Atlas generation time</b>	193 seconds (about 3 minutes 13 seconds).
<b>Illustrative manual research estimate</b>	Approximately 4-8+ attorney/paralegal hours, depending on familiarity with Davis-Bacon, Miami-Dade responsible wage rules, and project documents.
<b>Research support disclaimer</b>	Sample only. Not legal advice. Verify authorities and apply professional judgment.

<b>Micro answer</b>	On a Miami-Dade County-covered construction project, workers performing covered trade work generally cannot be treated as 1099 independent contractors to avoid prevailing wages. Both Davis-Bacon, where applicable, and Miami-Dade Code Section 2-11.16 require certified payrolls, payment of base plus fringe at the correct classification, and expose the prime contractor to joint liability, back wages, escalating penalties, withholding, and debarment risk.
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## Confidence, Coverage & Methodology

- Confidence - Miami-Dade local framework: High. Miami-Dade Strategic Procurement and official Responsible Wages and Benefits supplemental conditions were used directly [6].
- Confidence - Federal Davis-Bacon framework: Moderate. The question identifies 40 U.S.C. Sec. 3141 et seq. and FAR provisions; federal discussion is framed at a general compliance level rather than pinpoint regulatory citations.
- Coverage limitation: No Eleventh Circuit, Florida DCA, or Florida Supreme Court decision specifically on Davis-Bacon misclassification or Miami-Dade Section 2-11.16 enforcement was located in the available case-law sources.
- HB 705 caveat: Miami-Dade materials indicate Section 2-11.16 now applies only to specific categories after July 1, 2024. Whether the crane project fits one of those categories must be confirmed before assuming local coverage.

## Direct Answer

Coverage threshold first. Before applying any prevailing wage regime, counsel should confirm whether the project is federally funded or federally assisted such that Davis-Bacon applies, and whether it falls within the post-HB 705 scope of Miami-Dade Code Section 2-11.16. Both regimes may apply concurrently; if so, the contractor must satisfy the higher or more protective requirements.

Workers cannot be reclassified out of coverage by labeling them 1099. Miami-Dade requires listed wages to be paid regardless of the contractual relationship between the contractor and workers, and workers must be paid based on the classification of work actually performed [6]. Davis-Bacon likewise focuses on laborers and mechanics performing

covered work, not the label assigned in paperwork.

The certified payroll failure is a separate compliance problem from any wage shortfall. Miami-Dade requires electronic certified payroll and labor compliance documentation through LCPtracker by the 10th of each month for the prior month [6]. Davis-Bacon work has the parallel weekly payroll and Statement of Compliance framework, often submitted on Form WH-347 or equivalent.

## Jurisdiction Snapshot

Layer	Authority
Project location	Miami-Dade County, Florida
Federal framework	Davis-Bacon Act, 40 U.S.C. Sec. 3141 et seq. (if federally funded/assisted); FAR 22.4 / 29 C.F.R. Parts 1, 3, 5
State framework	Florida wage statutes; Fla. Stat. Sec. 95.11(4)(c) - two-year limitations period for wage actions [6]
Local framework	Miami-Dade Code Sec. 2-11.16; Implementing Order 3-24; Ordinance No. 18-33 (LCPtracker) [6]
Enforcement body	Miami-Dade Office of Small Business Development (SBD) [6]

## Federal Authority - Davis-Bacon Framework

- Coverage: Applies to federal and certain federally assisted construction contracts over \$2,000 for public buildings or public works.
- Classification rule: Covered laborers and mechanics must be paid at least the wage determination base rate plus fringe for the classification of work actually performed.
- Certified payroll: Contractors and subcontractors submit weekly payrolls, commonly on Form WH-347, with a signed Statement of Compliance.
- Back wages: Calculate hours in each classification, required combined hourly rate, actual wages paid, and any overtime under CWHSSA where applicable.
- Enforcement: Withholding, cross-withholding, back wages, debarment risk, and potential False Claims Act exposure where knowingly false certifications are submitted.

## Miami-Dade Responsible Wages and Benefits - Key Local Rules

1. No 1099 work-around. Miami-Dade requires payment of listed rates regardless of contractual relationship [6].
2. Classification follows work actually performed. Crane operators and related classifications must be mapped to the correct wage schedule [6].
3. Certified payroll mechanics. Each contractor and lower-tier subcontractor must submit certified payroll and labor compliance documentation electronically in LCPtracker by the 10th of every month for the prior month [6].
4. Back-wage calculation. The County may withhold amounts needed to pay workers the difference between required combined wages/benefits and amounts actually received [6].
5. Penalty tiers. Underpayments may trigger escalating 20% / 40% / 60% penalties; non-wage violations may trigger \$500 per week while outstanding [6].
6. Prime contractor liability. The prime is responsible for submission, record maintenance, access, flow-down, and underpayment exposure for subcontractor employees [6].
7. Withholding mechanism. The County may stop payment to cover wages and penalties [6].
8. Hearing rights. A contractor or subcontractor has 30 days from notice of non-compliance to request a hearing with the required filing fee [6].
9. Anti-retaliation. Workers may not be terminated for filing underpayment complaints [6].

10. Private right of action. A worker may sue for back pay, benefits, attorney fees, costs, and statutory damages, subject to the applicable limitations period [6].

# Recommended Corrective Action Roadmap

## Step 1 - Stop the bleed and document

- Issue a written cure notice to the crane subcontractor citing certified payroll obligations and flow-down requirements.
- Withhold subcontractor payments to the extent necessary to cover potential back wages, penalties, and compliance cure costs.

## Step 2 - Reconstruct missing payrolls

- Collect timesheets, daily reports, crane logs, sign-in sheets, gate logs, and equipment tickets for each missing week.
- For each worker, identify name, address, last four of SSN, classification, hours per day, and hours over 40 per week.
- Build certified payroll records and prepare WH-347 or equivalent submissions where Davis-Bacon applies.

## Step 3 - Reclassify and recompute

- Treat covered crane workers as employees for prevailing wage purposes regardless of 1099 status.
- Apply the correct Operating Engineers or related classification rate for each hour worked.
- Compute shortfalls as required combined wage minus wages actually paid, with overtime handled under the applicable federal/state/local framework.

## Step 4 - Address tax and employment-law exposure

Corrected payroll treatment may create collateral exposure under FLSA, IRS rules, unemployment, workers compensation, and subcontract indemnity provisions. Those issues should be handled separately from the prevailing wage cure.

## Step 5 - File, post, and calendar deadlines

- Upload reconstructed certified payrolls to LCPtracker for local compliance [6].
- Confirm wage schedules and notices are posted at the jobsite where required [6].
- If SBD issued a non-compliance notice, calendar the 30-day hearing-request deadline immediately [6].

## Liability Exposure Summary

Party	Potential exposure
Crane subcontractor	Back wages; penalties; non-wage violation fines; debarment risk; contract suspension or termination [6]
Prime contractor	Joint liability for subcontractor underpayments; County withholding; default/termination exposure; flow-down and policing obligations [6]
Upstream parties	Generally protected through withholding, but federal contracting officers may cross-withhold where federal rules apply
Workers	Administrative process or private action for back pay, benefits, attorney fees, costs, and statutory damages [6]

## Does Miami-Dade Add Requirements Beyond Federal Law?

Yes, where Section 2-11.16 applies. Miami-Dade adds a local wage schedule, mandatory LCPtracker submission, local penalties, a County hearing process, explicit prime-contractor liability, and separate County debarment procedures. But the post-HB 705 coverage threshold must be confirmed before relying on the local framework [6].

## Suggested Follow-Up Questions

- Is the project federally funded/assisted, a Miami-Dade County contract awarded before July 1, 2024, a surtax-funded project, or a lease for privately funded construction on County-owned land?
- Has Miami-Dade SBD issued a notice of non-compliance, and if so, when?
- Does the crane subcontract include Section 2-11.16 flow-down language, indemnity, and withholding rights?

## Sample Use Note

This sample is provided to show the structure of a Bach Atlas research memo. Source labels such as [6] reflect the original Bach Atlas source index for the research run and are not a substitute for independent verification of authorities.