City of Ramsey
Agenda
City Council Work Session
Monday, August 10, 2026
5:30 pm
Council Chambers, 7550 Sunwood Drive NW

Remote Attendance available at www.cityoframsey.com/meetings.
Those joining remotely and requesting to speak are asked to use a webcam when speaking.

1. Call to Order

2. Topics for Discussion

1. Wage Theft & Project Labor Requirements

2. Consider Support of Gap Assistance (Loan) for ARAA Sports Facility Project

3. Topics for Future Discussion

1. Review Future Topics/Calendar

4. Mayor/Council/Staff Input

5. Adjournment*

***Note: the City Council may motion to recess this Work Session meeting and reconvene after the regular City Council meeting if items on the agenda are not completed.**

CC Work Session

Meeting Date: 08/10/2026

Primary Strategic Plan Initiative:

Information

Title:
Wage Theft & Project Labor Requirements

Purpose/Background:
This discussion is a continuation of the May 26, 2026 and July 14, 2026 City Council Work Sessions that was originally requested by Councilmembers Buscher & Peters. Councilmember Buscher provided the attached information.

Recommendation:
Staff is seeking consensus direction from council on whether a draft policy or ordinance shall be created.

Outcome/Action:
Provide consensus direction of next steps.

Attachments

Impact of Responsible Bidder Laws on Union Contractors in Illinois and Indiana
Model Ordinance from Indiana
Belvidere Example
Rockford, IL Example
Harrisburg Example
St. Paul Example
Brooklyn Park Example
Bloomington Example
MN Prevailing Wage List
Wage Theft Facts
MC, PF, WT Primer DRAFT
The Public Cost of Low Wage Jobs in the US Construction Industry
2023 Subsidizing Abuse FINAL
Subsidizing Abuse One Page Final
10/22/25 Local Prevailing Wage Jurisdiction List Written Policy
10/22/25 Local Prevailing Wage Jurisdiction List Unwritten Policy
02/05/26 MC, PF, WT Primer for Local Officials
05/2018 MN PW Key Findings
Arik Forsman - Duluth City Council Letter of Support
FCF Comments on Development Agreement Language
NSPA Prevailing Wage Fact Sheet
Lynn Nephew Duluth City Council Letter of Support

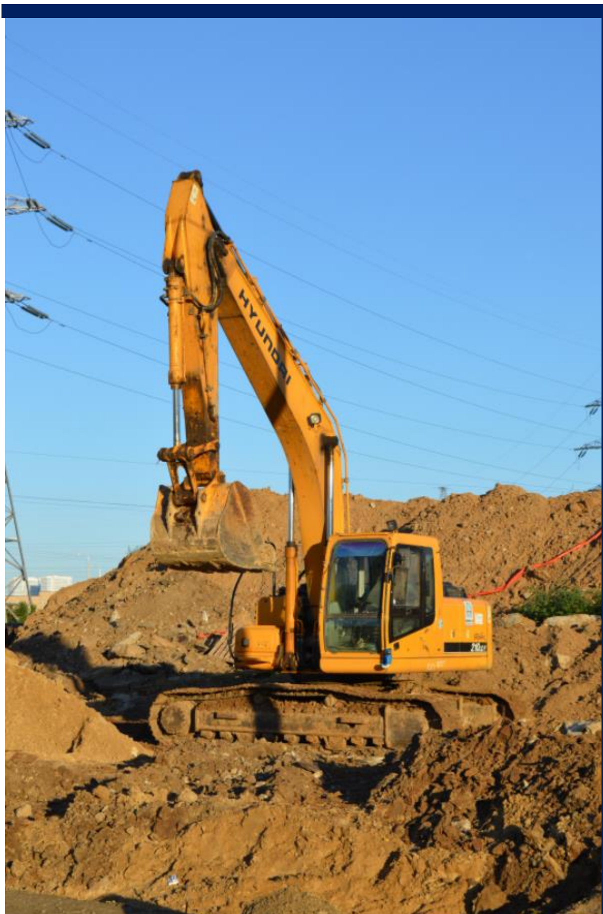
Form Review

Inbox	Reviewed By	Date
Brian Hagen	Brian Hagen	08/06/2026 09:25 AM
Form Started By: Brian Hagen		Started On: 08/04/2026 09:08 AM
Final Approval Date: 08/06/2026		

January 5, 2022

The Impact of Responsible Bidder Ordinances on Union Contractors in Illinois and Indiana

Evidence from a Natural Experiment of New Ordinances and a Local Case Study



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A Higher Road for a Better Tomorrow
MIDWEST ECONOMIC POLICY INSTITUTE

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Executive Summary

A responsible bidder ordinance (RBO) is a local construction market policy that ensures public expenditures reflect area standards of quality and craftmanship. By ensuring that contractors meet objective criteria and verifiable standards, RBOs guarantee that public construction projects are not awarded to unscrupulous contractors who cut corners or have poor track records. As a result, RBOs provide a qualifications-based approach that works within the low-bid system to ensure quality by using professional, competent contractors who complete projects safely, on time, and on budget.

Research shows that RBOs stabilize public construction costs and deliver value for taxpayers.

- A study of more than 300 school construction projects in Ohio found that RBOs have "no discernible statistical impact on construction bid costs."
- A study of more than 1,300 bids on public projects in two Kansas counties found that school construction costs were $67 cheaper per square foot when local RBOs were in effect.
- A study of more than 1,200 public projects in Illinois and Indiana found that projects covered by RBOs are no more costly than those that are not covered by RBOs.

Across Illinois and Indiana, RBOs tend to have common characteristics. Nearly all RBOs require:

- Evidence of participation in approved registered apprenticeship training programs (92 percent).
- Proof of certificates of insurance, such as workers' comp and liability insurance (90 percent).
- Accountability and transparency through certified payroll records (95 percent) and by allowing bid submissions to be obtained through Freedom of Information Act (FOIA) requests (96 percent).

Since 2019, 11 local government jurisdictions in Illinois and Indiana enacted RBOs *and* awarded projects both before and after passage.

- 5 jurisdictions passed new RBOs in Illinois: DuPage County, the DuPage County Forest Preserve District, the City of Moline, the City of Waukegan, and the Village of Forest Park.
- 6 jurisdictions passed new RBOs in Indiana: the City of LaPorte, the City of Rensselaer, the Town of Kouts, the Kankakee Valley School Corporation, the Knox Community School Corporation, and the South Bend Community School Corporation.
- An analysis of 145 public projects finds that the market share of union contractors increased by 9.3 percent, or $5.2 million, in just these 11 jurisdictions alone due to the passage of new RBOs.

Additionally, municipal projects awarded in the four Quad Cities from January 2018 through June 2021 provide a local case study on the impacts of RBOs within an integrated economic region.

- The Quad Cities include Rock Island and Moline in Illinois and Davenport and Bettendorf in Iowa.
- An analysis of 248 city-owned projects finds that the market share of union contractors is 13.1 percent higher on projects covered by RBOs in the Quad Cities area.
- The case study reveals that the effect of RBOs may be larger when paired with other high-road construction policies, such as a state prevailing wage law.

The data conclusively shows that union contractors are more likely than nonunion contractors to be responsible businesses that are good stewards of taxpayer dollars. That's why responsible bidder ordinances increase the market share of union contractors by between 9 percent and 13 percent. Responsible bidder ordinances deliver accountability and transparency for taxpayers, promote apprenticeship programs that produce skilled craftworkers for local businesses, and increase work for contractors who pay family-supporting wages and benefits.

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About the Authors

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Introduction

Responsible bidder ordinances (RBOs) are policy tools that establish objective criteria and verifiable standards for contractors bidding on public construction projects. They are designed to promote local standards of quality and craftsmanship. A responsible bidder ordinance acknowledges value as well as costs when it comes to projects. An RBO protects taxpayers by setting minimum standards, guaranteeing that public projects are not awarded to contractors who cut corners or have poor track records.

Responsible bidder ordinances, sometimes referred to as responsible contractor policies, provide a qualifications-based approach that works within the low-bid system to ensure quality by using professional, competent contractors who complete projects safely, on time, and on budget. RBOs may become particularly important as states and local government invest in public infrastructure with federal dollars from the Infrastructure Investment and Jobs Act of 2021 (Biden White House, 2021).

RBOs have become increasingly common across the United States. Many communities in states that have repealed prevailing wage laws—or do not have prevailing wage laws—have adopted RBOs to maintain local construction standards and minimize the negative consequences associated with a lack of standards on taxpayer-funded construction projects. For example, there are now more than 50 local RBOs in Indiana (III FFC, 2021). The southern cites of New Orleans, LA and St. Peterburg, FL have also passed RBOs since 2020 (Stein, 2021; Municode, 2021). RBOs have been passed in counties, townships, cities, towns, and special districts.

Even in states with prevailing wage laws and other high-road construction standards, there are legal reasons to enact RBOs at the local-level. To be considered a "responsible bidder" in Illinois, for example, the Illinois Procurement Code requires bidders to submit satisfactory evidence of compliance with the Illinois Prevailing Wage Act and equal employment opportunity requirements, valid business registrations and certificates of insurance, and participation in apprenticeship training programs approved by and registered with the U.S. Department of Labor. However, the Illinois Procurement Code *only* applies to state government contracts. The Illinois Municipal Code and the Illinois Counties Code, which apply to local government contracts, do not have these provisions. RBOs have thus become a way to address this lack of standards on public projects funded by local units of government.

This Illinois Economic Policy Institute (ILEPI) report evaluates the effect of 11 new responsible bidder ordinances that have been passed in Illinois and Indiana since 2019 on union contractors. It also explores a case study of the impact of RBOs in the Quad Cities area along the border between Illinois and Iowa. The report concludes by recapping key findings.

Economic Research on Responsible Bidder Ordinances

The most authoritative research on RBOs comes from school districts in Ohio. A peer-reviewed, academic study investigated the bid costs of over 300 elementary schools from 1997 to 2008 and found that responsible contracting policies have "no discernible statistical impact on construction bid costs" after controlling for geographic location. There was no evidence that RBO provisions raise construction costs. The study concluded that adopting RBOs "may be an effective way to improve employment conditions and living standards of construction workers without significantly raising costs for taxpayers" (Waddoups & May, 2014).

In April 2013, Kansas Governor Sam Brownback signed a bill into law that prohibited cities and counties from requiring contractors to pay locally prevailing wages "or offer an employee benefit other than those required by state or federal law," which included apprenticeship training contributions (HB 2069, 2013). This state pre-emption law invalidated local construction policies in Sedgwick County and Wyandotte County. A 2016 report investigated more than 1,300 bids on school construction and non-residential projects in those counties between 2005 and 2016. While the author concluded that there was no statistical difference in the total cost of non-residential construction projects due to the repeal of the local construction policies, the data did reveal that school construction costs were $67 cheaper per square foot during the years when the policies were in place (Kelsay, 2016).

The most recent research on RBOs reviewed more than 1,200 public projects in Illinois and Indiana (Manzo, 2020). The analysis found that RBOs encourage 8 percent more bid competition on taxpayer-funded projects and increase the market share of union contractors by between 9 percent and 12 percent—suggesting that nonunion contractors are less likely to contribute to apprenticeship training programs and less likely to comply with state, local, and federal laws. RBOs are also associated with more work for contractors who pay family-supporting wages, which helps attract and retain qualified workers. Because RBOs promote apprenticeship programs and produce skilled tradespeople, they have no statistical impact on total construction costs. Notably, when focusing on the nonunion segment of the construction industry, RBO-covered projects awarded to nonunion contractors were no more costly than nonunion projects that were not covered by RBOs (Manzo, 2020).

In addition to keeping construction costs stable, RBOs promote better labor market outcomes. A 2018 case study of county-level RBOs in Indiana found that all the countywide RBOs in Indiana required both contractors and subcontractors bidding on public projects to participate in U.S. Department of Labor-approved apprenticeship training programs. As a result, worker turnover in the heavy and civil engineering construction sector—which includes the construction of roads, bridges, bike lanes, utility lines, and public parks—was 2 percent lower in the counties with RBOs. Construction workers also earned 8 percent more in the counties with RBOs. Because they incentivize apprenticeship training, RBOs are associated with stable employment and middle-class careers for skilled construction workers (Manzo & Manzo, 2018).

RBOs ensure that reputable contractors with proven track records complete jobs efficiently. Contractors with workplace law violations are more than five times as likely to have a low performance rating as contractors with a clean record of workplace law compliance (Adler, 2003). By weeding out cut-rate contractors, RBOs ensure that public bodies get the quality they pay for and encourage successful projects that are on time and on budget. In fact, case studies from across the country have found that RBOs promote higher quality and more reliable services, increased competition among responsible contractors, and reduced back-end reconstruction and litigation costs (Sonn & Gebreselassie, 2010). Additionally, evidence suggests that 98 percent of construction owners using qualifications-based procurement models—like those in RBOs—report being satisfied with project quality (Kashiwagi et al., 2005)

Characteristics of RBOs in Illinois and Indiana

The vast majority of RBOs that have been enacted throughout Illinois and Indiana have seven consistent provisions based on objective criteria and verifiable standards (Figure 1). Nearly all RBOs in Illinois and Indiana establish prequalification programs (98 percent), require contractors to submit certified payroll records (95 percent), and allow contractor bid submissions to be obtained by the public through Freedom of Information Act (FOIA) requests or their equivalent (96 percent). Almost all RBOs explicitly state that the provisions apply to the prime bidder (97 percent), and about one-third of RBOs extend these expectations to all subcontractors hired by the prime bidder (30 percent).

Nearly all RBOs in Illinois and Indiana also ensure that contractors winning local government projects invest in training the next generation of skilled construction workers (Figure 1). More than nine out of every ten RBOs (92 percent) require "evidence of participation in apprenticeship and training programs, applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship." Nine out of every ten RBOs ensure that contractors provide proof of certificates of insurance through U.S. Department of Treasury-approved companies (90 percent) and another eight-in-ten ask contractors to provide proof that their workers are covered by health insurance plans and will earn retirement benefits (77 percent).

In addition to these seven common characteristics which ensure accountability and transparency while promoting skilled workers, RBOs also sometimes include provisions to promote community safety (Figure 1). For example, 24 percent of RBOs in Illinois and Indiana require a written plan for employee drug testing and another 18 percent guarantee that contractors are certified by the Occupational Safety and Health Administration (OSHA). Furthermore, 12 percent of RBOs in Illinois and Indiana require contractors to submit a statement of commitment to proper classification of workers, helping to weed out criminal contractors who engage in misclassification and wage theft. These criteria decrease the chances that local taxpayer dollars will be used by contractors who cut corners at the worksite while increasing the likelihood that the workers who build taxpayer-funded infrastructure projects are safe, reliable, and paid a wage commensurate with their craftsmanship and experience.

FIGURE 1: COMMON CHARACTERISTICS OF THE 163 RBOS THAT HAVE BEEN ENACTED IN ILLINOIS AND INDIANA

	Ten Common Criteria of Local RBOs Enacted in Illinois and Indiana	Share of RBOs with Criteria
1	RBO establishes prequalification program	98%
2	Requirements apply to prime bidder • *Requirements also apply to all subcontractors*	97% • *30%*
3	Contractor submissions subject to FOIA requests	96%
4	Certified payroll required	95%
5	Proof of participation in USDOL-approved registered apprenticeship programs	92%
6	Proof of insurance (e.g., workers comp, liability)	90%
7	Proof that workers will receive health and retirement benefits	77%
8	Proof of drug prevention program	24%
9	Proof of OSHA certification	18%
10	Statement of commitment to proper worker classification	12%

Source: Authors' analysis of responsible bidder ordinances as compiled by Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021). N = 163 RBOs passed in Illinois and Indiana, including 109 in Illinois and 54 in Indiana. For additional characteristics, see Table A in the Appendix.

The Impact of 11 New RBOs on Market Share Outcomes

The data utilized in this research was collected by the Indiana, Illinois, Iowa Foundation for Fair Contracting, a nonprofit labor-management organization (III FFC, 2021). The III FFC collects project data for 14 northern Indiana counties and 25 northern Illinois counties using bid software programs such as ConstructConnect and Dodge Data & Analytics as well as through public bid lettings and public documents. All projects in their proprietary reports include the date of the bid letting, the county of the project, the awarding agency, bid information, the union (or signatory) status of each bidder, and whether the project was covered by a local responsible bidder ordinance (RBO).

This study includes project bid data from January 2018 through June 2021. The 42 months represent the period of analysis. Since 2019, there have been 16 RBOs passed in Illinois and Indiana. One city—the City of Kewanee, IL—had a different RBO in effect starting in 2007. Four others, including two in Indiana and two in Illinois, did not have a project built either before or after passage of the RBO during the period of analysis. These four jurisdictions include a school district, library district, village, and forest preserve. It is not possible to ascertain the effect of adopting an RBO in these four jurisdictions because there is not a clear before-and-after picture. This leaves 11 jurisdictions with project bid data both before their RBOs were passed and after their RBOs went into effect—five in Illinois and six in Indiana. The full dataset includes 145 public projects involving the operating engineers craft, including 94 prior to passage of the local RBOs and 51 after passage.

Figure 2 presents summary statistics for all the projects awarded by these 11 local government jurisdictions in Illinois and Indiana between the beginning of January 2018 and the end of June 2021. On the projects that were awarded prior to passage of the local RBOs, union contractors won 76.6 percent of the projects and the union market share was 87.1 percent. By contrast, after RBOs were enacted and applied on projects funded by these same jurisdictions, union contractors were awarded 90.2 percent of the projects and the union market share totaled 97.9 percent. Accordingly, the union win rate was 13.6 percent higher and the union market share was 10.8 percent higher on the post-RBO projects than on the pre-RBO projects. This reveals that local businesses employing union construction workers are more significantly likely to be responsible contractors with proven track records of success than nonunion firms in the region. Bid competition was essentially unchanged, with about three and half contractors submitting bids on public projects regardless of whether or not they were covered by RBOs.

FIGURE 2: CHANGE IN UNION WIN SHARE AND UNION MARKET SHARE IN 11 ILLINOIS AND INDIANA JURISDICTIONS THAT HAVE PASSED RBOS SINCE 2019, WITH BEFORE-AND-AFTER DATA FROM JAN. 2018 THROUGH JUNE 2021

Column	11 Jurisdictions with Data Before-and-After	Math	Before RBOs	After RBOs	RBO Difference
A	Number of Projects		94	51	
B	Number of Bids		342	174	
C	**Bids Per Project**	**B ÷ A**	3.6	3.4	**-0.2**
D	Value of All Projects		$66,749,035.72	$56,246,096.58	
E	Projects Awarded to Unions		72	46	
F	**Union Win Share**	**E ÷ A**	**76.6%**	**90.2%**	**+13.6%**
G	Value of Projects Awarded to Unions		$58,154,683.02	$55,087,053.28	
H	**Union Market Share**	**G ÷ D**	**87.1%**	**97.9%**	**+10.8%**

Source: Authors' analysis of project bid data from the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021). For more, see Table B, Table C, and Table D in the Appendix.

However, it is important to note that the market share of union contractors in the 14 northern Indiana counties and 25 northern Illinois counties also increased during the period of analysis. Figure 3 investigates the entire region *except for* the 11 jurisdictions that passed new RBOs and had before-and-after data. This provides a "control group" of public projects to compare with the "treatment group" of local projects that experienced the RBO policy change. In 2018, before these 11 RBOs were passed, union contractors were awarded 96.9 percent of the entire market. In the years that have followed, union contractors won 98.4 percent of the market share.

FIGURE 3: OVERALL CHANGE IN UNION MARKET SHARE IN 25 NORTHERN ILLINOIS COUNTIES AND 14 NORTHERN INDIANA COUNTIES, EXCLUDING THE 11 JURISDICTIONS THAT PASSED RBOS, DATA FROM JAN. 2018 THROUGH JUNE 2021

Illinois and Indiana Market *(Excluding 11 Areas that Passed RBOs)*	Total Value	Union Value	Nonunion Value	Union Market Share
Pre-RBO (Jan. 2018-Dec. 2018)	$4,771,472,168	$4,622,849,093	$146,841,457	96.9%
Post-RBO (Jan. 2019-June 2021)	$15,171,633,497	$14,931,653,208	$220,619,613	98.4%
Difference				**+1.5%**

Source: Authors' analysis of project bid data from the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021).

The region has thus experienced a 1.5 percent increase in union market share in areas that did not otherwise change during this time (Figure 3). There are two implications of this finding. The first is that union contractors have become more competitive compared with their nonunion counterparts in the region since 2018. The second is that the market share of union contractors would have been expected to increase by an average of 1.5 percent in the 11 jurisdictions that passed RBOs even if they had not enacted the new ordinances. In other words, there is no reason to think that these 11 jurisdictions would deviate significantly from the rest of the regional construction market.

Figure 4 calculates how much RBOs increased the market share of union contractors above-and-beyond the general trend in the market. The net effect of RBOs on the union market share can be determined by subtracting the 1.5 percent overall gain in union market share across the region from the 10.8 percent gain in union market share on post-RBO projects relative to pre-RBO projects in the jurisdictions that passed the ordinances. Consequently, the 11 new responsible bidder ordinances in Illinois and Indiana since 2019 have boosted the market share of union contractors by an estimated 9.3 percent (Figure 4).

FIGURE 4: NET CHANGE IN UNION WIN SHARE AND UNION MARKET SHARE BASED ON THE DIFFERENCE-IN-DIFFERENCES IN THE 11 JURISDICTIONS THAT PASSED RBOS, WITH BEFORE-AND-AFTER DATA FROM JAN. 2018 THROUGH JUNE 2021

Net Impact of New RBOs in Illinois and Indiana	Pre-RBO Period	Post-RBO Period	RBO Difference
11 Jurisdictions with New RBOs	87.1%	97.9%	+10.8%
Illinois and Indiana (Excluding 11 Jurisdictions)	96.9%	98.4%	+1.5%
Difference	**-9.8%**	**-0.5%**	**+9.3%**

Source: Authors' analysis of project bid data from the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021).

This increase in the union market share mirrors the results of a 2020 study using similar data for northern Indiana and northern Illinois but excluding projects from the Chicago metropolitan area. That study compared projects that were covered by RBOs verses projects that were not and found that the RBOs increase union contractor win rates by between 9.2 percent and 11.9 percent, after accounting for the size of the project, location of the project, and other factors (Manzo, 2020). The current analysis builds upon that 2020 study by using the before-and-after "natural experiment" to directly assess the impact of enacting a responsible bidder ordinance.

Another way to interpret the data is that the passage of RBOs has lifted the union market share so that it is generally in line with the rest of the region (Figure 4). Before they enacted the policies, the 11 jurisdictions had a union market share below 90 percent. After passage, union contractors were awarded nearly 98 percent of the total project value. In the rest of the regional construction market, the union market share was also just over 98 percent.

The swing in market share due to the passage of responsible bidder ordinances has real-world effects on union contractors (Figure 5). In the 11 jurisdictions that enacted RBOs, a total of $56.2 million in value was awarded on post-RBO projects. Applying the 9.3 percent net change since RBOs have passed results in an estimated $5.2 million in value awarded to union contractors due to the passage of just these 11 RBOs. This also means that nonunion firms likely lost out on $5.2 million worth of construction projects because they did not participate in registered apprenticeship programs, did not have proof of insurance, or were otherwise not responsible. RBOs increase union market share.

FIGURE 5: ESTIMATED CHANGE IN VALUE AWARDED TO UNION CONTRACTORS IN JUST THE 11 JURISDICTIONS THAT HAVE PASSED RBOS SINCE 2019, BASED ON POST-RBO DATA FROM JAN. 2018 THROUGH JUNE 2021

Column	Estimating the Dollar Impact of the 11 Jurisdictions Passing RBOs	Math	Value
A	Total Value of Projects Awarded Since RBOs Passed		$56,246,096.58
B	RBO Impact on Union Market Share		+9.3%
C	**Estimated Value of Projects to Union Contractors Due to RBOs**	**B ÷ A**	**+$5,230,886.98**

Source: Authors' analysis of project bid data from the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021).

A Case Study: Municipal Projects Covered by RBOs in the Quad Cities

In addition to the before-and-after analysis of 11 jurisdictions that passed RBOs in Illinois and Indiana, the dataset includes information on municipal projects awarded by the four Quad Cities: Rock Island and Moline in Illinois and Davenport and Bettendorf in Iowa. The Quad Cities region offers a unique opportunity for a local case study on the impacts of RBOs since these four cities are geographically close and within the same integrated economic area. The City of Rock Island, IL has had an RBO in effect since November 21, 2016 and the City of Moline, IL recently implemented an RBO on January 19, 2021. By contrast, Iowa has a state pre-emption law prohibiting local governments from passing RBOs or similar policies.

Figure 6 presents the data. The full dataset for the Quad Cities case study—which also uses 42 months of project bid data from January 2018 through June 2021—contains 248 projects on city-owned projects, including 51 projects that were covered by RBOs and 197 projects that were not covered by RBOs. All projects involve the operating engineers craft. In the Quad Cities, municipal projects with operating engineers that are covered by RBOs have a union win rate of 86.3 percent and union contractors represent 67.1 percent of the total market. City-funded projects that are not covered by RBOs have a union win rate of just 46.7 percent and union contractors have a market share of only 54.0 percent. The difference is a 13.1 percent increase in union market share on projects covered by RBOs in this local metropolitan area.

The projects covered by RBOs are all on the Illinois side of the border. Illinois has a state prevailing wage law, supports workers' collective bargaining rights, and 97 percent of all construction apprentices are enrolled in joint labor-management programs that are cooperatively administered by labor unions and their signatory contractors (Manzo & Bruno, 2020). Iowa, on the other hand, has never had a state prevailing wage law, has a so-called "right-to-work" law that weakens collective bargaining, and only 55 percent of its construction apprentices are registered in joint labor-management programs (Manzo & Gigstad, 2021). The Quad Cities case study consequently reveals that the effect of RBOs *may* be larger when paired with high-road labor standards in construction.

FIGURE 6: THE DIFFERENCE IN UNION WIN SHARE AND UNION MARKET SHARE FOR PROJECTS THAT ARE AND ARE NOT COVERED BY RBOS IN THE QUAD CITIES OF ILLINOIS AND IOWA, DATA FROM JAN. 2018 THROUGH JUNE 2021

Quad Cities Projects	Total Projects	Total Value	Union Wins	Union Win Share	Union Value	Union Market Share
Covered by RBOs	51	$55,479,609.91	44	86.3%	$37,234,073.43	67.1%
Not Covered by RBOs	197	$85,403,882.83	92	46.7%	$46,121,313.97	54.0%
RBO Difference				**+39.6%**		**+13.1%**

Source: Authors' analysis of project bid data from the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021).

Conclusion

Responsible bidder ordinances (RBOs) are policy tools that establish objective criteria and verifiable standards for contractors bidding on public construction projects funded by local taxpayers. These policies are designed to promote quality infrastructure built by professional contractors and skilled workers while stabilizing construction costs. This guarantees that public projects are awarded to responsible local businesses that make efficient use of taxpayer dollars.

This report finds that responsible bidder ordinances increase the market share of union contractors by millions of dollars every year in Illinois and Indiana. In 11 local government jurisdictions that have passed RBOs in Illinois and Indiana since 2019, the union market share increased by 9 percent following the ordinance's implementation date. This corresponds to a gain of more than $5 million in work for union contractors in just these 11 jurisdictions alone over this time. Additionally, a local case study of the Quad Cities located along the Mississippi River on the Illinois-Iowa border reveals that RBOs may boost the market share of union contractors by as much as 13 percent when other high-road construction labor policies are present, such as a prevailing wage law.

The data conclusively shows that union contractors are more likely than nonunion contractors to be responsible businesses that are good stewards of taxpayer dollars. By ensuring that local governments hire only professional, competent contractors, responsible bidder ordinances deliver accountability and transparency for taxpayers, promote apprenticeship programs that produce skilled craftworkers for local businesses, and increase work for contractors who pay family-supporting wages and benefits.

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Appendix

TABLE A: SUMMARY OF CHARACTERISTICS OF THE 163 RBOS THAT HAVE BEEN ENACTED IN ILLINOIS AND INDIANA, AS OF DECEMBER 2021

Provisions or Criteria in Responsible Bidder Ordinances in Indiana and Illinois	Share with Provisions
Includes preamble for economic rationale	96%
Includes definition of public works construction	38%
Certified payroll required	95%
Requirements apply to prime bidder	97%
Requirements apply to all subcontractors	30%
RBO triggered by a project threshold	62%
RBO establishes its own prequalification program	98%
RBO requires bidder and / or subs to hold prequalification from a state agency or third party	12%
Contractor submissions subject to FOIA	96%
RBO contains bid credits or preference for local bidders	13%
RBO contains racial or gender diversity participation goals	7%
Provide proof of business registration / license to do business in the state	21%
Provide proof of insurance (workers comp, liability)	90%
Disclose past tax liens or delinquencies	19%
Disclose past violations of local / state / federal laws	13%
Provide past performance info / list of projects of similar size and scope / key resumes	33%
Bidder must disclose all subcontractors	21%
Provide proof of drug prevention program	24%
Provide statement of commitment to PW / DB compliance	91%
Provide statement of commitment to proper worker classification	12%
Provide proof of any professional or trade licenses required by law or ordinance	13%
Provide proof of contractor participation in applicable USDOL registered apprenticeship programs	92%
Provide proof that workers will receive health and retirement benefits	77%
Provide proof of OSHA certification	18%

Source: Authors' analysis of responsible bidder ordinances as compiled by Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021). N = 163 RBOs passed in Illinois and Indiana, including 109 in Illinois and 54 in Indiana.

TABLE B: FULL DATA ON THE LOCATION AND DATE OF PASSAGE OF RBOS, WITH INFORMATION ON THE NUMBER OF PROJECTS AWARDED, THE TOTAL VALUE OF PROJECTS AWARDED, AND THE UNION WIN SHARE AND UNION MARKET SHARE IN THE PERIODS *BEFORE* PASSAGE OF RBOS, DATA FROM JAN. 2018 THROUGH JUNE 2021

Area and Date of RBO Enactment			Pre-RBO Period					
Jurisdiction	State	RBO Date	Projects	Total Value	Union Wins	Union Win Share	Union Value	Union Market Share
DuPage County	IL	3/12/19	7	$7,631,077.40	6	85.71%	$7,612,977.40	99.76%
DuPage County Forest Preserve District	IL	2/2/21	23	$12,617,212.45	17	73.91%	$11,840,323.05	93.84%
City of Moline	IL	1/19/21	38	$19,509,376.87	26	68.42%	$13,432,395.57	68.85%
City of Waukegan	IL	1/22/19	3	$8,052,758.00	3	100.00%	$8,052,758.00	100.00%
Village of Forest Park	IL	1/15/19	2	$1,317,672.00	2	100.00%	$1,317,672.00	100.00%
Town of Kouts	IN	3/18/19	4	$635,226.00	2	50.00%	$545,676.00	85.90%
Kankakee Valley School Corporation	IN	8/13/19	3	$4,283,519.00	3	100.00%	$4,283,519.00	100.00%
City of Rensselaer	IN	1/27/20	1	$1,136,103.00	1	100.00%	$1,136,103.00	100.00%
City of LaPorte	IN	2/3/20	4	$5,362,189.00	3	75.00%	$3,729,357.00	69.55%
Knox Community School Corporation	IN	2/17/20	2	$3,538,264.00	2	100.00%	$3,538,264.00	100.00%
South Bend Community School Corporation	IN	6/1/20	7	$2,665,638.00	7	100.00%	$2,665,638.00	100.00%
TOTALS	**IL & IN**		**94**	**$66,749,035.72**	**72**	**76.60%**	**$58,154,683.02**	**87.12%**
No Pre-RBO Data								
Gary Community School Corporation	IN	9/21/20						
LaPorte County Library	IN	5/1/19						
Village of Pecatonica	IL	11/17/20						
Rock Island County Forest Preserve Dis.	IL	1/15/19						

Source: Authors' analysis of project bid data from the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021). The City of Kewanee, IL passed a new RBO during the period of analysis but had a different RBO in effect prior to 2019 that was passed in 2007. As a result, the City of Kewanee, IL is not included in the before-and-after analysis.

TABLE C: FULL DATA ON THE LOCATION AND DATE OF PASSAGE OF RBOS, WITH INFORMATION ON THE NUMBER OF PROJECTS AWARDED, THE TOTAL VALUE OF PROJECTS AWARDED, AND THE UNION WIN SHARE AND UNION MARKET SHARE IN THE PERIODS *AFTER* PASSAGE OF RBOS, DATA FROM JAN. 2018 THROUGH JUNE 2021

Area and Date of RBO Enactment			Post-RBO Period					
Jurisdiction	State	RBO Date	Projects	Total Value	Union Wins	Union Win Share	Union Value	Union Market Share
DuPage County	IL	3/12/19	11	$19,212,607.93	11	100.00%	$19,212,607.93	100.00%
DuPage County Forest Preserve District	IL	2/2/21	2	$216,550.00	2	100.00%	$216,550.00	100.00%
City of Moline	IL	1/19/21	8	$2,941,858.30	6	75.00%	$2,133,251.00	72.51%
City of Waukegan	IL	1/22/19	10	$16,016,946.35	9	90.00%	$15,936,946.35	99.50%
Village of Forest Park	IL	1/15/19	9	$10,644,722.00	9	100.00%	$10,644,722.00	100.00%
Town of Kouts	IN	3/18/19	4	$1,448,119.00	3	75.00%	$1,351,369.00	93.32%
Kankakee Valley School Corporation	IN	8/13/19	1	$1,998,000.00	1	100.00%	$1,998,000.00	100.00%
City of Rensselaer	IN	1/27/20	2	$989,212.00	1	50.00%	$815,526.00	82.44%
City of LaPorte	IN	2/3/20	1	$396,095.00	1	100.00%	$396,095.00	100.00%
Knox Community School Corporation	IN	2/17/20	2	$1,900,000.00	2	100.00%	$1,900,000.00	100.00%
South Bend Community School Corporation	IN	6/1/20	1	$481,986.00	1	100.00%	$481,986.00	100.00%
TOTALS	**IL & IN**		**51**	**$56,246,096.58**	**46**	**90.20%**	**$55,087,053.28**	**97.94%**
No Pre-RBO Data								
Gary Community School Corporation	IN	9/21/20						
LaPorte County Library	IN	5/1/19						
Village of Pecatonica	IL	11/17/20						
Rock Island County Forest Preserve Dis.	IL	1/15/19						

Source: Authors' analysis of project bid data from the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021). The City of Kewanee, IL passed a new RBO during the period of analysis but had a different RBO in effect prior to 2019 that was passed in 2007. As a result, the City of Kewanee, IL is not included in the before-and-after analysis.

TABLE D: FULL DATA ON THE LOCATION AND DATE OF PASSAGE OF RBOS AND THE CHANGE IN THE UNION WIN SHARE AND UNION MARKET SHARE BEFORE-AND-AFTER PASSAGE OF THE RBOS, DATA FROM JAN. 2018 THROUGH JUNE 2021

Area and Date of RBO Enactment			RBO Difference	
Jurisdiction	**State**	**RBO Date**	**Union Win Share**	**Union Market Share**
DuPage County	IL	3/12/19	+14.29%	+0.24%
DuPage County Forest Preserve District	IL	2/2/21	+26.09%	+6.16%
City of Moline	IL	1/19/21	+6.58%	+3.66%
City of Waukegan	IL	1/22/19	-10.00%	-0.50%
Village of Forest Park	IL	1/15/19	+0.00%	+0.00%
Town of Kouts	IN	3/18/19	+25.00%	+7.42%
Kankakee Valley School Corporation	IN	8/13/19	+0.00%	+0.00%
City of Rensselaer	IN	1/27/20	-50.00%	-17.56%
City of LaPorte	IN	2/3/20	+25.00%	+30.45%
Knox Community School Corporation	IN	2/17/20	+0.00%	+0.00%
South Bend Community School Corporation	IN	6/1/20	+0.00%	+0.00%
TOTALS	**IL & IN**		**+13.60%**	**+10.81%**
No Pre-RBO Data				
Gary Community School Corporation	IN	9/21/20		
LaPorte County Library	IN	5/1/19		
Village of Pecatonica	IL	11/17/20		
Rock Island County Forest Preserve Dis.	IL	1/15/19		

Source: Authors' analysis of project bid data from the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC, 2021). The City of Kewanee, IL passed a new RBO during the period of analysis but had a different RBO in effect prior to 2019 that was passed in 2007. As a result, the City of Kewanee, IL is not included in the before-and-after analysis.

ORDINANCE NO. _______

An Ordinance to Establish Responsible Bidding Practices and Submission Requirements on Public Works Projects

WHEREAS, ___________ is required by law to award capital improvement contracts to the "lowest responsive and responsible" bidder;

WHEREAS, ___________, based upon its experience, has determined that quality workmanship, efficient operation, safety, and timely completion of projects requires all bidders meet certain minimum requirements in order to be a "responsive and responsible" bidder;

WHEREAS, applicable state law also requires that bidders meet certain minimum requirements in order to be a "responsive and responsible" bidder;

WHEREAS, ___________ seeks to enhance its ability to identify "responsive and responsible" bidders on all ___________ public works construction projects by institution of more comprehensive submission requirements which are in compliance with Indiana State law;

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will preserve administrative resources by insuring that only qualified contractors and subcontractors are awarded contracts on public works construction projects;

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will assure efficient use of taxpayer dollars, will promote public safety and is in the public interest; and,

WHEREAS, the "Responsible Bidding Practices and Submission Requirements" Ordinance will help ensure that no contractor awarded work under this Ordinance or any subcontractor at any tier working on a project awarded pursuant to this ordinance engages in payroll fraud, including the misclassification of employees as independent contractors to avoid paying state, federal or local payroll taxes, workers compensation insurance, unemployment insurance premiums and failing to pay overtime and wages as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE
COMMON COUNCIL OF ____________________, INDIANA:

SECTION 1. This Ordinance No. ________, which is entitled "Responsible Bidding Practices and Submission Requirements for Submitting Bids to Perform Construction Work on Public Works Projects," is hereby enacted and shall read as follows:

I. Bid Submission Requirements

Contractors proposing to submit bids on any ____________ ("____") project estimated to be at least one-hundred fifty thousand dollars ($150,000.00) or amount specified under the Indiana bidding statute, in order to be considered a responsible bidder, prior to the opening of bids, submit a statement made under oath and subject to perjury laws, on a form designated by the _________ and must include:

(A) A copy of a print-out of the Indiana Secretary of State's on-line records for the bidder dated within sixty (60) days of the submission of said document showing that the bidder is in existence, current with the Indiana Secretary of State's Business Entity Reports, and eligible for a certificate of good standing. If the bidder is an individual, sole proprietor or partnership, this subsection shall not apply;

(B) A list identifying all former business names;

(C) Any determinations by a court or governmental agency for violations of federal, state, or local laws including, but not limited to violations of contracting or antitrust laws, tax or licensing laws, environmental laws, the Occupational Safety and Health Act (OSHA), or federal Davis-Bacon and related Acts;

(D) A statement on staffing capabilities, including labor sources;

(E) Evidence of participation in apprenticeship training programs applicable to the work to be performed on the project, which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization; and evidence that any applicable apprenticeship program has graduated at least five (5) apprentices in each of the past five (5) years for each of the construction crafts the bidder will perform on the project. Evidence of graduation rates are not required for apprenticeable crafts dedicated exclusively to the transportation of material and equipment to and from the public works project.

The required evidence includes but is not limited to a copy of all applicable apprenticeship standards and Apprenticeship Agreement(s) for any apprentice(s) who will perform work on the public works project; and documentation from each applicable apprenticeship program certifying that it has graduated at least five (5) apprentices in each of the past five (5) years for each construction craft the bidder will perform on the project. Additional evidence of participation and graduation requirements may be requested by the __________ at its discretion.

(F) A copy of a written plan for employee drug testing that: (i) covers all employees of the bidder who will perform work on the public works project; and (ii) meets, or exceeds, the requirements set forth in IC 4-13-18-5 or IC 4-13-18-6;

(G) The name and description of the management experience of each of the bidder's project managers and superintendents that bidder intends to assign to work on the project;

(H) Proof of any professional or trade license required by law for any trade or specialty area in which bidder is seeking a contract award; and disclosure of any suspension or revocation within the previous five years of any professional or trade license held by the company, or of any director, office or manager employed by the bidder;

(I) Evidence that the bidder is utilizing a surety company on the United States Department of Treasury's Listing of Approved Sureties;

(J) A written statement of any federal, state or local tax liens or tax delinquencies owed to any federal, state or local taxing body in the last five years;

(K) A statement that individuals who will perform work on the public works project on behalf of the bidder will be properly classified as either (i) an employee or (ii) an independent contractor, under all applicable state and federal laws and local ordinances;

(L) A list of projects of similar size and scope of work that the bidder has performed in the State of Indiana within three (3) years prior to the date on which the bid is due; and

(M) For contracts estimated to cost at least three hundred thousand dollars ($300,000), certification that the bidder and all subcontractors are qualified under IC 4-13.6-4 or IC 8-23-10.

(N) A written list that discloses the name, address, and type of work for each subcontractor the bidder intends to employ on any part of the public works project, including individuals performing work as independent contractors.

The __________ ___ reserves the right to demand supplemental information from the bidder, additional verification any of the information provided by the bidder, and may conduct random inquiries of the bidder's current and prior customers.

II. <u>Post-Bid Submissions from Subcontractors</u>

Each subcontractor of any tier shall be required to adhere to the requirements of Section I of this Ordinance, but subcontractors shall submit the required information to the successful bidder, who shall then submit said information to the __________ prior to the subcontractor’s first day of work on the public works project.

Failure of a subcontractor to submit the required information shall not disqualify the successful bidder from performing work on the project and shall not constitute a contractual default or breach by the successful bidder. However, payment shall be withheld from any subcontractor who fails to timely submit said information until such information is submitted and approved by the __________. Additionally, the __________ may require the successful bidder and/or relevant subcontractor to remove a subcontractor from the project and replace it with a responsive and responsible subcontractor.

The disclosure of a subcontractor by a bidder or a subcontractor shall not create any rights in the disclosed subcontractor. Thus, a bidder and/or a subcontractor may substitute another subcontractor for a disclosed subcontractor by giving the __________ written notice of the name, address, and type of work the substitute subcontractor will perform. The substitute subcontractor is subject to all of the obligations of a subcontractor under this Ordinance.

III. <u>Validity of Pre-Qualification Classification</u>

Upon designation by the __________ that a bidder's or subcontractor's submission is complete and timely, and upon any further consideration deemed necessary by the __________ , the bidder or subcontractor may be pre-qualified for future __________ public works projects. Pre-qualification shall exempt the bidder or subcontractor from the comprehensive submission requirements contained herein for a period of twelve (12) months. Thereafter, bidders or subcontractors who are pre-qualified must submit a complete application for continuation of pre-qualified standing, on a form provided by the __________, (i.e. a "short form") by

December 31st for the upcoming calendar year. Failure by any pre-qualified bidder or subcontractor to timely submit its complete application for continuation of pre-qualified standing shall result in automatic removal of the designation effective January 1 of the upcoming year. However, the removed bidder or subcontractor shall still be permitted to bid on or perform work on __________ public works projects.

Any material changes to a contractor's status, at any time, must be reported in writing within ten (10) days of its occurrence to the __________. The pre-qualification designation is solely within the discretion of the __________ and the __________ specifically reserves the right to change or revoke the designation for a stated written reason(s).

Denial of pre-qualification shall be in writing and shall be forwarded to the contractor within seven (7) working days of such decision. Any contractor denied or losing pre-qualification status may request reconsideration of the decision by submitting such request in writing to the __________ within five (5) business days of receipt of notice of denial.

IV. Incomplete Submissions by Bidders

It is the sole responsibility of the bidder to comply with all submission requirements herein no later than the public bid opening. Submissions deemed inadequate, incomplete, or untimely by the __________ shall result in the automatic disqualification of the bid.

V. Responsive and Responsible Bidder Determination

After its review of complete and timely submissions, taking into account all information in the submission requirements, the __________ shall in its sole discretion, determine whether a bidder or subcontractor is responsive and responsible. The __________ reserves the right to utilize all information provided in the bidder or subcontractor's submission or any information obtained by the __________ through its own independent verification of the information provided.

VI. Certified Payroll

For projects in which the cost is at least one-hundred fifty thousand dollars ($150,000), the successful bidder and all subcontractors working on a public works project shall submit a certified payroll report utilizing federal form WH-347 or its successor form, which must be prepared on a weekly basis and submitted to the __________ within ten (10) calendar days after the end of each week in which the successful bidder or subcontractor performed on the public works project. Certified payroll reports shall identify the job title and craft of each employee on the project, e.g. journeyman electrician or apprentice electrician. In the event any successful bidder or subcontractor uses independent contractors to perform work on the project, such individual must be identified on the federal form WH-347 or successor form with the same information as is required for employees.

The __________ may withhold payment due for work performed by a successful bidder or subcontractor for failure to timely submit their respective certified payroll reports until such time as the reports are submitted. The __________ shall not withhold payment to a successful bidder or subcontractor for failure of the successful bidder or one or more other subcontractors to timely submit their certified payroll reports.

VII. Public Records

All information submitted by a bidder or a subcontractor pursuant to this Ordinance, including certified payrolls, are public records subject to review pursuant to the Indiana Access to Public Records law (IC 5-14-3).

VIII. Penalties for False, Deceptive, or Fraudulent Statements/Information

Any bidder or subcontractor that willfully makes, or willfully causes to be made, a false, deceptive or fraudulent statement, or willfully submits false, deceptive or fraudulent information in connection with any submission made to the __________ shall be disqualified from bidding or working on all __________ projects for a period of three (3) years.

IX. Conflicting Ordinances

Any ordinance or provision of any ordinance in conflict with the provisions of this Ordinance is hereby repealed.

X. Severability

If any provision of this Ordinance is found to be invalid, the remaining provisions of this Ordinance shall not be affected by such a determination; such provisions shall remain in full force and effect.

SECTION 2. It is hereby found and determined that all formal actions of the Board relating to the passage of this Ordinance were adopted in open meeting(s) of the Board and that all deliberations of the Board and its committees that resulted in such formal actions, were meetings open to the public, in compliance with all legal requirements and that the reading and adoption of this Ordinance complies with the __________ Code, as amended.

SECTION 3. This Ordinance shall be in full force and effect from and after the date of adoption by the __________ Council of the __________ of ________________________, Indiana.

PASSED AND ADOPTED by the Common Council for the __________ of ______________________, ________ County, Indiana on the __ day of _______________, 2023.

____
Mayor

ATTEST:

____
Clerk-Treasurer

Presented to me by the Mayor of ______________, Indiana, this ____ day of ____________, 2023.

____
Clerk-Treasurer

Approved by me, the Mayor of _______________, Indiana, this ____________ day of ____, 2023.

____
Mayor

The City of Belvidere

Sec. 2-700. Purchasing guidelines and bidding procedures.

(a) *Formal contract procedure.* Any work or other public improvements and all purchases, orders or contracts for supplies, commodities, equipment or services, except as otherwise provided herein, when the estimated cost thereof shall exceed $20,000.00 shall be purchased from the lowest responsive and responsible bidder or proposer after due notice inviting bids, unless the city waives the competitive bidding process by a vote of two-thirds of the corporate authorities then holding office. Contracts for professional services within the meaning of the Local Government Professional Services Selection Act (50 ILCS 510/0.01 et seq.) as well as legal services, accounting services, auditing services and other similar professional services shall not be subject to this section.

(b) This section shall not apply in the event of an emergency declared by the corporate authorities pursuant to Section 8-10-5 of the Illinois Municipal Code (65 ILCS 5/8-10-5).

(c) *Public notice.* Public notice of a bid request shall be published at least ten days in advance of the date announced for the receiving of bids, in a newspaper of general circulation throughout the city. Additional announcements may also be placed in recognized trade journals and other publications, and/or sent directly to known providers. The public notice shall describe the character of the proposed contract or agreement in sufficient detail to enable the bidders thereon to know what their obligations will be, either in the advertisement itself, or by reference to detailed bid/for proposal packages on file at the time of the public notice. Such advertisement shall also state the date, time and place assigned for the opening of bids, and no bids shall be received at any time subsequent to the time indicated in the announcement. The city shall inform all parties that have received bid/proposal packages of any specification changes or bid opening extensions by written addendum thereof via mail or fax transmission as appropriate. The notice of bid, and contract documents, shall also provide that all contractors and subcontractors shall pay not less than the prevailing rate of wages, shall comply with the Illinois Prevailing Wage Act and shall comply will all other relevant statutes, regulations and ordinances.

(d) *Bid security.* Unless otherwise required by law, a cashier's check, a certified check or a bid bond issued by a surety company, which is listed and approved by the U.S. Department of the Treasury, in an amount of ten percent of the contract may be required of each bidder by the city. The bid security shall be returned to the unsuccessful bidders within such time as specified in the bid package. A successful bidder shall forfeit its bid security upon failure on its part to enter into a contract within 15 days after the award. The city shall retain the right to hold such successful bidder liable for any excess damage or costs incurred by reason of the failure to execute contracts over and above the bid security retained by the city.

(e) *Bid opening.* Competitive sealed bids shall be opened in the presence of one or more witnesses at the time and place designated in the public notice. The amount of each bid and name of each bidder shall be publicly read for competitive sealed bids. All information contained within the bids/proposals is the property of the city, and as such is not subject to public inspection until such time as the city council awards a contract, rejects all bids or abandons the project.

(f) *Award of contract.* Contracts shall be awarded to the lowest responsive and responsible bidder on the basis of the bid that is in the best interest of the city to accept. As a part of the evaluation process, and in addition to price, the city shall evaluate the responsiveness and responsibility of each bidder. To be judged responsible, a bidder must have the following capabilities in all respects to fully perform the contract requirements and will be judged against the following standards, at a minimum:

(1) Ability, capacity and skill to fulfill the contract as specified;

(2) Ability to supply the commodities, provide the services or complete the construction promptly, or within the time specified, without delay or interference;

(3) Character, integrity, reputation, judgment, experience and efficient;

(4) Quality of performance on previous contracts;

(5) Previous and existing compliance with laws and ordinance relating to the contract;

(6) Sufficiency of financial resources;

(7) Quality, availability and adaptability of the commodities, services or construction, the relation to the city's requirements;

(8) Ability to provide future maintenance and service under the contract;

(9) Number and scope of conditions attached to the bid/proposal;

(10) Record of payments for taxes, licenses or other monies due the city.

(g) For procurement of services, equipment and supplies, requests for proposals may be utilized in lieu of the procedures set forth in subsections (c), (d), and (e) above. In such event, the city shall request proposals from not less than three vendors. The city may award a contract under this subsection even if less than three of the vendors submit a proposal.

(h) *Award of construction contracts over $25,000.00.* In addition to the criteria set forth in subsection (e) above, to be judged responsible on a construction contract estimated to cost in excess of $25,000.00, a bidder must comply with the following requirements and submit evidence of such compliance, verified under oath on a form designated by the city:

(1) Documents evidencing compliance with all applicable laws pre-requisite to doing business in the state.

(2) A valid federal employer tax identification number or, if an individual, a valid Social Security number.

(3) A statement of compliance with the Illinois Prevailing Wage Act (820 ILCS 130/1 et seq.), and all rules and regulations therein for the past five years.

A contractor who has been found by the Illinois Department of Labor to be in violation of the Prevailing Wage Act twice within a three-year period may be deemed not to be a responsible bidder/proposer for two years from the date of the latest finding.

(4) Evidence of participation in apprenticeship and training programs applicable to the work to be performed on the project which are approved by and registered with the United States Department of Labor's Office of Apprenticeship, or its successor organization.

(5) Evidence of compliance with the Substance Abuse Prevention on Public Works Projects Act (820 ILCS 265/1 et seq.).

(6) A statement listing individuals who will perform work on the project on behalf of the contractor and evidence that:

a. Individuals are properly classified as an employee or independent contractor under applicable state and federal laws; and

b. Employees are covered under a workers' compensation insurance policy and properly classified under such policy.

(7) A list of sub-contractors from whom the contractor has accepted a bid and/or intends to hire on the project, if applicable.

(8) A statement as to past performance of the last three public works projects completed by the contractor. Such statements shall include the name of the public body and the project, original contract price, final contract price, the name of all sub-contractors used, if applicable, and a statement as to compliance with completion deadlines.

All contractors, including sub-contractors, must comply with the above requirements. The primary contractor shall submit: (1) all evidence of its compliance at the time it submits its bid to the county; and (2) evidence of all sub-contractors' compliance no later than the date and time of the contract award.

(i) *Lowest bidder not chosen.* When the award is not awarded to the lowest bidder, the city council shall state specific reasons for awarding the bid to other than the lowest bidder.

(j) *Multiple low bids.* When two or more responsible bidders submit the same low bid, the contract award shall be determined at the discretion of the city.

(k) *Insurance and indemnification.* All contractors performing construction shall be required to indemnify, defend and hold harmless the city and to carry such insurance as reasonably required by the city attorney.

(l) *Contract bond.* Contractors performing construction activities shall provide the city with a performance and payment bond. Certain other non-construction contractors, in cases where the city might be put at risk, may also be required to submit a contract bond to the city, as determined by the city. Contract bonds shall be issued by a surety company which is listed and approved by the U.S. Department of Treasury, and which shall guarantee the performance of the work by the contractor, the payment at the prevailing rate of hourly wages and the payment for all labor, materials, apparatus, fixtures and machinery necessary to complete the project. The city may allow bidders to provide a non-diminishing irrevocable bank letter of credit, in lieu of the bond, provided that any such bank letter of credit shall contain all the provisions required for bonds.

(Ord. No. 988G, § 1, 10-20-08; Ord. No. 42H, § 1, 12-21-09; Ord. No. 249H, § 1(Exh. A), 4-20-15; Ord. No. 318H, § 1, 12-5-16)

CITY OF ROCKFORD, ILLINOIS
CODE OF ORDINANCES,
Chapter 2 ADMINISTRATION,
Art. X. Department of Finance, Div. 6. Purchasing
Sec. 2-284. Rules governing purchasing, (b) Purchasing procedures

(16) ***Responsible bidder*** for purposes of construction contracts over fifty thousand dollars ($50,000.00) to require submission of proof of compliance with the following criteria:

a. All applicable laws prerequisite to doing business in Illinois.

b. Evidence of compliance with

1. Federal Employer Tax Identification Number or Social Security Number (for individuals).

2. Provision of Section 2000(e) of Chapter 21, Title 42 of the United States Code and Federal Executive Order No. 11246 as amended by Executive Order No. 11375 (known as the Equal Opportunity Employer provisions).

c. Certificates of insurance indicating the following coverages: general liability, workers' compensation, completed operations, automobile, hazardous occupation, product liability, and professional liability.

d. Compliance with all provisions of the Illinois Prevailing Wage Act, including wages, medical and hospitalization insurance and retirement for those trades as covered in the Act.

d. Participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training for all trades that will be in the contractor's (or his subcontractor's) employment, with each worker receiving the required apprenticeship/training appropriate to his trade.

AMENDED

BILL NO. ____ - 2021

Moved by: ______________________

An Ordinance of the City of Harrisburg establishing a new Part 2-1100 of the Codified Ordinances of Harrisburg entitled "Responsible Contracting"; providing for the adoption of certain procedures related to the solicitation and award of public contracts within the City; establishing a monetary threshold for applicable contracts; providing for certification requirements for public contractors; providing for certification requirements for subcontractors on applicable public contracts; and providing for review procedures.

WHEREAS, the City of Harrisburg is duly empowered to enact laws to protect its proprietary and financial interests relating to major capital investments made in public works contracts, and to protect the public health, safety and welfare of its residents; and

WHEREAS, the City recognizes the significant challenges arising in the planning and execution of public works construction and maintenance projects, especially those relating to the ability to ensure the use of qualified contractors and subcontractors and adequate numbers of skilled craft personnel who have industry-recognized training in the respective trades needed for public works projects; and

WHEREAS, in order to better meet those operational challenges and to ensure the continued responsible stewardship of public funds the City desires to establish rules for awarding public works contracts of financial significance; and

WHEREAS, the Council for the City of Harrisburg finds that the enactment of standards for responsible contracting should serve these purposes; and

WHEREAS, the Council further recognizes that the City remains in the midst of a process to secure a disparity study to better provide legislative parameters for disadvantaged business enterprises in the City and better promote ongoing local economic opportunities to our residents, the completion of which will require additional legislative action, including updates to this new Chapter to allow for a coordinated application of these important dual contracting objectives.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF HARRISBURG, AND IT IS HEREBY ENACTED BY AUTHORITY OF THE SAME, AS FOLLOWS:

Ch. 1-201.1.C PROVIDES "AMENDMENTS TO EXISTING LEGISLATION ARE TO BE UNDERLINED; DELETIONS ARE TO BE INDICATED BY [BRACKETING]. ADDITIONS TO PROPOSED LEGISLATION WHICH AMENDS EXISTING LEGISLATION SHALL BE CAPITALIZED; DELETIONS SHALL BE INDICATED BY STRIKING (—)."

SECTION 1. AMENDMENT TO THE ADMINISTRATIVE CODE.

Part 11 of Title 2 of the Codified Ordinances for the City of Harrisburg is hereby established as follows:

"TITLE 2, ADMINISTRATIVE CODE"

****

PART 11 (2-1100)

CHAPTER 2-1101

RESPONSIBLE CONTRACTING

§2-1101.1. Purpose

The City of Harrisburg ("the City") recognizes that there is a need to ensure that all work on public construction and maintenance contracts is performed by responsible, qualified firms that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully perform such contracts in a timely, reliable and cost-effective manner.

To effectuate the purpose of selecting responsible contractors for these public contracts and to protect the City's investments in such contracts, prospective contractors and sub-contractors should be required to meet pre-established, clearly defined, minimum qualification standards regarding past project performance in terms of competency, safety and law compliance, technical abilities, experience, and adequacy of resources.

Further, due to the critical impact that skilled craft labor has on the execution of public works projects, and the increasingly limited availability of such labor, it is necessary to require contractors and subcontractors to participate in proven apprenticeship training programs as a condition of bidding to promote successful project delivery and help ensure future workforce development.

Therefore, the City shall require compliance with the provisions of this ordinance by business entities seeking to provide services as specified herein. The requirements of this ordinance are intended to supplement, not replace, existing contractor qualification standards or other criteria currently required by the City.

§ 2-1101.2. Responsible Contractor Requirements

(a) This ordinance shall apply to public works projects undertaken by the City for construction, demolition, alteration, renovation, modernization, service or maintenance of buildings, structures or facilities valued at two hundred thousand dollars ($200,000.00) or more; excepting contracts necessary to immediately mitigate emergency conditions or otherwise protect public safety. All contractors and subcontractors of any tier that perform work on such projects, regardless of value of individual contract or subcontract packages shall meet the requirements of this ordinance.

(b) All firms engaged in public works contracts subject to this ordinance, including general contractors, construction managers, other lead or prime contractors, and subcontractors at any level, shall be qualified, responsible contracting firms that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills and qualifications, organizational resources, financial stability, and personnel resources. Firms bidding or otherwise participating in public works contracts shall also be required to have a satisfactory past performance record and a satisfactory record of law compliance, integrity and business ethics.

(c) The firm will pay all craft employees on the project, at a minimum, the applicable wage and fringe benefit rates, as established for the classification in which the worker is employed, in accordance with the Pennsylvania Prevailing Wage Act. 43 PA. CONS. STAT. § 165-1 *et seq.*, as amended or recodified. These wages shall also be paid to employees performing any custom fabrication work for the project. For purposes of this subsection, custom fabrication shall mean the fabrication, assembly modification or other production of non-standard goods, or materials, including components, fixtures, or parts thereof, that are fabricated assembled or modified offsite, but produced specifically for a project covered by this ordinance. This requirement shall include, but not be limited to custom fabrication for electrical, plumbing, mechanical, refrigeration, heating, cooling, ventilation, sheet metal or other duct systems, mechanical insulation, ornamental iron work or boiler systems. Fabrication shall also include the fabrication, assembly or other production of components or structures prefabricated to specifications for a particular project covered by this ordinance.

§ 2-1101.3. Contractor Responsibility Certifications

(a) As a condition of performing work on a public works contract subject to this ordinance, a general contractor, construction manager or other lead or prime contractor seeking award of a contract shall submit a Contractor Responsibility Certification as specified herein.

(b) The Contractor Responsibility Certification shall be completed on a form provided by the City and reference the project for which a bid is being submitted by name and contract or project number.

(c) In the Contractor Responsibility Certification, the construction manager, general contractor or other lead or prime contractor shall confirm the following facts regarding its past performance and work history and its current qualifications and performance capabilities:

(1) The firm and its employees have all licenses, registrations, certificates or other credentials required by federal and state law and the laws of the City with respect to the contract work it seeks to self-perform.

(2) The firm meets the bonding requirements for the contract required by law or contract specifications, as well as applicable insurance requirements for the contract, including general liability, workers compensation and unemployment insurance.

(3) The firm has not been debarred or suspended by any federal, state or local government agency or authority in the past three years.

(4) The firm has not defaulted on any project in the past three years.

(5) The firm has not had any type of business, contracting or trade license, registration or certification revoked or suspended in the past three years.

(6) The firm and its principals/owners have not been convicted of any crime relating to its contracting business in the past ten years.

(7) Within the past three years, the firm has not been found in violation of any law applicable to its contracting business, including, but not limited, to licensing laws, tax laws, wage and hour laws, prevailing wage laws, environmental laws or others, where the result of such violation was the payment of a fine, back pay damages or any other type of penalty in the amount of five thousand dollars ($5,000.00) or more.

(8) The firm will employ a sufficient number of craft labor personnel required to successfully perform any project work it self-performs or shall use qualified subcontractors to meet this requirement.

(9) The firm shall ensure that all craft labor it employs on the project will have completed, prior to working on the project, the OSHA 10-Hour training course for safety

established by the U.S. Department of Labor, or other substantially similar course approved by the City. Nothing herein is intended, however, to voluntarily enlarge the jurisdiction or authority of OSHA or the U.S. Department of Labor for public projects not otherwise subject to OSHA regulation.

~~**(10)** The construction manager, general contractor or other lead or prime contractor responsible for the project shall ensure that at least 70 percent of the craft labor workforce employed on the project workforce shall be comprised of either journeyperson, workers who have successfully completed an apprenticeship training program registered with and approved by the U.S. Department of Labor or a state apprenticeship agency or registered apprentices currently enrolled in such programs.~~

~~**A.** These craft labor requirements that the great majority of the craft labor personnel employed on the project have the requisite skills and qualifications to perform the project work as they will be participants in or graduates of bona fide apprenticeship training programs in each trade or craft in which their services are utilized.~~

~~**B.** For purposes of this subsection, apprenticeship training programs may include those which are subject to the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 *et seq.* ("ERISA"), or non-ERISA programs.~~

~~**C.** To demonstrate compliance with this section, the firm shall provide, with this certification, a list of all trades or classifications of craft employees it will employ on the project and the names and addresses of all applicable apprenticeship programs relating to craft personnel utilized on the project.~~

(10) THE FIRM, AND ALL SUBCONTRACTORS TO THE FIRM, PARTICIPATES IN A CLASS A APPRENTICESHIP TRAINING PROGRAM, AS DEFINED BELOW, FOR EACH SEPARATE TRADE OR CLASSIFICATION IN WHICH IT EMPLOYS CRAFT EMPLOYEES.

THIS APPRENTICESHIP REQUIREMENT ASSURES THAT WORKERS IN EACH TRADE OR CRAFT EMPLOYED ARE PARTICIPANTS IN OR

GRADUATES OF BONA FIDE APPRENTICESHIP TRAINING PROGRAMS IN EACH TRADE OR CRAFT IN WHICH THEIR SERVICES ARE UTILIZED, AS EVIDENCED BY THE FACT THAT THE PROGRAM IS REGISTERED WITH FEDERAL OR STATE GOVERNMENT AND HAS BEEN IN CONTINUOUS EXISTENCE FOR NO FEWER THAN FIVE (5) YEARS PRIOR TO THE PROJECT RELATING TO THE CERTIFICATION.

A. FOR PURPOSES OF THIS SECTION, A CLASS A APPRENTICESHIP PROGRAM IS AN APPRENTICESHIP PROGRAM REGISTERED WITH AND APPROVED BY THE U.S. DEPARTMENT OF LABOR OR A STATE APPRENTICESHIP AGENCY AND HAS GRADUATED APPRENTICES TO JOURNEY PERSON STATUS FOR AT LEAST THREE OF THE PAST FIVE YEARS. THIS MAY AN APPRENTICESHIP PROGRAM SUBJECT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974, 29 U.S.C. § 1001 ET SEQ. ("ERISA"), OR A NON-ERISA PROGRAM.

B. TO DEMONSTRATE COMPLIANCE WITH THIS SECTION, THE FIRM SHALL PROVIDE, WITH THIS CERTIFICATION, A LIST OF ALL TRADES OR CLASSIFICATIONS OF CRAFT EMPLOYEES IT WILL EMPLOY ON THE PROJECT AND DOCUMENTATION VERIFYING IT PARTICIPATES IN A CLASS A APPRENTICESHIP PROGRAM FOR EACH TRADE OR CLASSIFICATION LISTED.

(11) The firm shall assign workers to perform only work in their respective craft or trade for which they have sufficient skills and training, or shall use qualified subcontractors to meet this requirement.

(12) The firm shall comply with the wage requirements set forth in Section 2-1101.2(c) of this Ordinance. The minimum wage for custom fabrication work shall be the same as the wage paid for project work in accordance with each applicable trade or classification.

(13) The firm has all other technical qualifications and resources, including equipment, personnel and financial resources, to successfully perform the referenced contract and shall maintain such capabilities throughout the duration of the project, or will obtain same through the use of qualified, responsible subcontractors or vendors

(14) The firm shall notify the City of Harrisburg within seven (7) days of any material changes in its operation that relate to any matter attested to in this certification.

(d) Execution of the Contractor Responsibility Certification required by this ordinance shall not establish a presumption of contractor responsibility, and the City may require any additional information it deems necessary to evaluate a firm's status as a responsible contractor, including information regarding the firm's technical qualifications, financial capacity or other resources and performance capabilities. The City may require that such information be included in a separate Statement of Qualifications and Experience or as an attachment to the Contractor Responsibility Certification.

(e) The submitting firm shall stipulate in the Contractor Responsibility Certification that, if it receives a Notice of Intent to Award Contract, it will provide a Subcontractor List and required subcontractor information as specified in Section 2-1101.5.

(f) If the submitting firm has ever operated under another name or is controlled by another company or business entity or in the past five years controlled or was controlled by another company or business entity, whether as a parent company, subsidiary or in any other business relation, it shall attach an appendix to its Contractor Responsibility Certification that explains in detail the nature of any such relationship. Additional information may be required from such an entity if the relationship in question could potentially impact contract performance.

(g) If a firm fails to provide a Contractor Responsibility Certification required by this section, it shall be disqualified from bidding. No action of any nature shall lie against the City because of its refusal to accept a bid for this reason.

§ 2-1101.4. Notice of Intent to Award Contract

(a) After it has received bids for a project, the City shall issue a Notice of Intent to Award Contract to the firm that has submitted the lowest responsive bid.

(b) Such Notice shall be issued immediately or as soon as practicable after bids are opened and shall stipulate that the contract award is conditioned on the issuance of a written Contractor Responsibility Determination for the firm as required by Section 2-1101.6, compliance with Subcontractor Certifications required by Section 2-1101.5, and any other qualification standards required by the City, or by requirements of other laws.

§ 2-1101.5. Subcontractor Responsibility Requirements

(a) Within fourteen (14) days of receiving a Notice of Intent to Award Contract, the prospective awardee shall submit a Subcontractor List, which provides the name and address of the subcontractors it will use on the project, the scope of work assigned to each subcontractor, and Subcontractor Responsibility Certifications as required by this section.

(b) The prospective awardee shall not be permitted to use a subcontractor on any work performed for the City unless it has identified the subcontractor on its Subcontractor List and provided a Subcontractor Responsibility Certification in accordance with the requirements of Section 2-1101.5.

(c) At the time a prospective awardee submits the Subcontractor List it shall also submit Subcontractor Responsibility Certifications and applicable supporting information for all listed subcontractors to the City.

(d) A prospective awardee shall determine whether any firm on its Subcontractor List is organized as a sole proprietership owned and operated by a single person. This shall apply to subcontractors at any tier. For any such entity, the prospectivee awardee shall ensure that the sole proprietorship subcontractor is a legitimate business entity and not a misclassified employee by requiring the subcontractor to supplement its Subcontractor Certification with its Employer Identification Number and copies of any license, certificate or registration it is required to maintain in to do business in the state in which it is located.

(e) Subcontractor Responsibility Certifications shall be executed by the respective subcontractors on forms prepared by the City and contain the same information, representations and supporting information required in Contractor Responsibility Certifications, including verification of apprenticeship qualifications required by Section 2-1101.3(c)(11) for each trade or classification of craft workers it will employ on the project.

(f) Subcontractor Responsibility Certifications shall be executed by a person having sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

(g) A subcontractor listed on a firm's Subcontractor List shall not be substituted unless written authorization is obtained from the City and a Subcontractor Responsibility Certification is provided for the substitute subcontractor.

(h) In the event that the City determines that a subcontractor fails to meet the requirements of this ordinance or is otherwise determined to be non-responsible, it may, after informing the prospective awardee, exercise one of the following options:

(1) Permit the awardee to substitute a qualified, responsible subcontractor in accordance with the requirements of this section, upon submission of a completed Subcontractor Certification for the substitute and approval of the substitute by the City.

(2) Require the awardee to self-perform the work in question if the firm has the required experience, licenses and other qualifications to perform the work in question; or

(3) Disqualify the prospective awardee.

(i) In the event a subcontractor is disqualified under this ordinance, and the general contractor, construction manager or other lead or prime contractor is unable to cure the defect either by providing a qualified subcontractor or demonstrate that it can perform the work itself in a time deemed reasonable by the City, the entire bid shall be deemed non-responsive and the City shall issue a Notice of Intent to Award to the next lowest responsive bidder.

(j) Nothing in this section shall be deemed to waive any immunity, governmental or otherwise, to which the City is entitled.

§ 2-1101.6. Contractor Responsibility Review and Determination

(a) After the City has issued a Notice of Intent to Award Contract to the lowest responsive bidder, it shall undertake a contractor responsibility review process to determine whether the firm is a qualified, responsible firm in accordance with the requirements of this ordinance and other applicable laws and regulations. The time frame for conducting this review process shall be as determined by the City.

(b) As part of the review process, the City shall ensure that the Contractor Responsibility Certification and Subcontractor Responsibility Certifications and applicable supporting information comply with the requirements of this ordinance.

(c) The City may conduct any additional inquiries to verify that the prospective awardee and its subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the City may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.

(d) After the City determines that all responsibility certifications have been properly executed and has verified that all other relevant information requested for reviews indicates that the prospective awardee and its subcontractors are qualified, responsible firms, it shall issue a written Contractor Responsibility Determination for the prospective awardee.

(e) In the event a firm is determined to be non-responsible, the City shall notify the firm and proceed to conduct a responsibility review of the next lowest, responsive bidder or, if necessary, rebid the project. A Responsibility Determination may be revoked at any time if the City obtains relevant information warranting any such revocations.

(f) The City may engage or designate an internal or external construction or project manager to ensure compliance with necessary the reviews under this Chapter.

§ 2-1101.7. Execution of Final Contract

(a) A contract subject to this ordinance shall not be executed until all requirements of this ordinance have been fulfilled and until a Contractor Responsibility Determination has been issued by the City pursuant to Section 2-1101.6.

(b) Prior to the execution of a final contract under this section, the City shall publicly post the Notice of Intent to Award, Contractor and Subcontractor Responsibility Certifications, Subcontractor Lists, related supporting documentation and the Contractor Responsibility Determination on a publicly available website for public inspection for a period of ten (10) calendar days after the issuance of the Contractor Responsibility Determination.

§ 2-1101.8. False, Incomplete or Misleading Responsibility Certifications

If the City determines that a Contractor Certification, Subcontractor List or Subcontractor Responsibility Certification contains false or misleading information that was provided knowingly or with reckless disregard for the truth or omits material information knowingly or with reckless disregard of the truth, the firm for which the certification was submitted shall be disqualified from the project and shall be prohibited from performing work for the City for a period of three years. The City may withhold payment of any monies due to the firm as damages and impose other applicable penalties and sanctions, including contract termination, as permitted by law or contract.

§ 2-1101.9. Statutory Authority

This Chapter is enacted under the authority of Chapter 119 of the Third Class City Code governing contracts, authorizing the enactment provisions for and regulation of the procedures for the award of contracts, as provided by 11 Pa.C.S. §11901 (a).

§ 2-1101.10. Related Provisions

(a) Nothing in this legislation is intended to alter, diminish or impede any grant of legislative or executive authority provided in the Optional Third Class City Charter Law.

(b) In the event that any part of this Chapter is deemed to conflict with applicable provisions of any federal or state law or regulation, the federal or state provision shall control.

§ 2-1101.11. Implementation

The provisions of this Chapter shall be implemented by the appropriate City departments, as determined by the Mayor, within one (1) year from the effective date of this Chapter.

SECTION 2. DELEGATION. Appropriate City officials are authorized to take such actions as are necessary to effectuate this ordinance, including but not limited to, the implementation of rules and regulations to carry out the purpose of this ordinance.

SECTION 3. SEVERABILITY. If any provision, sentence, clause, section or part of this ordinance or the application thereof to any person or circumstance is for any reason found to be unconstitutional, illegal or invalid by a court of competent jurisdiction, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Council of the City of Harrisburg that this ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part not been included herein.

SECTION 4. REPEALER. All ordinances or provisions of ordinances in conflict with the provisions of this ordinance are hereby repealed in so far as they are inconsistent herewith.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect in accordance with the law.

Seconded by: ______________________________

Passed by Council: ______________________________

Signed by the Mayor: ______________

Sec. 82.07. Minimum wages on public contracts.

(a) *Policy.* It is the policy of the City of Saint Paul that all work for development, buildings, roads, and other works paid for with public funds be constructed and maintained by the best means and highest quality labor that is reasonably available and that persons working on public works be compensated according to the real value of the services they perform. Accordingly, it is the policy of the City of Saint Paul that the wages of workers on publicly-owned and publicly-funded projects be comparable to wages paid for similar work in the local community.

(b) *Definitions.*

(1) *Apprenticeship Program* means a bona fide apprenticeship program registered with the U.S. Department of Labor or with a state apprenticeship agency.

(2) *Certified Payroll Records* means payroll records furnished under oath signed by an owner or officer of an employer to the contracting authority and the project owner every week, including a certified payroll report with respect to the wages and benefits paid each employee during the preceding week specifying for each employee: name; identifying number; prevailing wage master job classification; hours worked each day; total hours; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs.

(3) *Department* means the Saint Paul Department of Human Rights and Equal Economic Opportunity.

(4) *Prevailing hours of labor* means not more than eight (8) hours per day or more than forty (40) hours per week.

(5) *Prevailing wage rate* means the rate of wages and benefits certified and published as prevailing by the Minnesota Department of Labor and Industry.

(6) *Project* means any new construction work, demolition work, or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, removal of public nuisances or any other improvement of public or private property.

(7) *Restitution* means an amount at least equal to the amount of underpayment of prevailing wages.

(8) *Relending or Regranting Program* means a program whereby public funds are either loaned or granted by the city or HRA to an intermediary such as a community development corporation, which serves as a pass-through agency for the award of public assistance.

(9) *End borrower* or *grantee* means the end borrower or grantee who receives public funds from an intermediary under a relending or regranting program and uses such funds to pay for project costs.

(c) *Application.* This section applies to all city or St. Paul Housing and Redevelopment Authority projects in the amount of twenty-five thousand dollars ($25,000.00) or more.

This section also applies to all projects in the amount of twenty-five thousand dollars ($25,000.00) or more involving the erection, construction, demolition, remodeling or repairing of a privately owned building, other facility or property where the city or the Saint Paul Housing and Redevelopment Authority provides financial assistance for the work to be performed in the form of a grant, loan, loan guarantee, tax increment financing, tax abatement, tax credit or revenue from bonds. With respect to a relending or regranting program, the threshold level of twenty-five thousand dollars ($25,000.00) of project costs is determined on an individual basis by the cost of the project of each end borrower or grantee.

This section does not apply to apprentices working on projects pursuant to a bona fide registered apprenticeship program for work performed in his or her trade. A trainee and a helper are not exempt under this provision; the contractor must assign the trainee or helper a job classification that is the "same or most similar" to the work being performed and compensate the trainee or helper for the actual work performed regardless of the trainee's or helper's skill.

For housing developments, this section incorporates and follows the same exemptions found in federal Davis Bacon statutes and their regulatory implementation.

(d) *Prevailing wage required.* All contractors and subcontractors must pay workers, at a minimum, the prevailing wage rate.

(e) *Prevailing hours of labor.* Workers employed directly on a project by a contractor or subcontractor, agent, or other person doing or contracting to do all or part of the work of the project, may not work more hours than the prevailing hours of labor, unless paid for all hours in excess of the prevailing hours at a rate of at least one and one-half (1½) times the prevailing hourly basic rate of pay.

(f) *Notice.* All contractors and subcontractors must post on the project the applicable prevailing wage rates in at least one (1) conspicuous place for the duration of the project. The posted information must include a breakdown of the hourly basic rates of pay as well as contributions for health and welfare benefits, vacation benefits, pension benefits, and any other economic benefit.

(g) *Compliance monitoring and enforcement.*

(1) The designated city compliance officer will monitor compliance and investigate complaints of violations of this section.

(2) All contractors must furnish copies of certified payroll records for all work on the project for which payment of prevailing wages is required under this section. Certified payrolls shall be submitted weekly to the city's designated compliance officer. Such certified payroll records must contain all of the information listed in section (b) of this section.

(3) The city's designated compliance officer may request additional records reasonably required to monitor compliance with this section.

(h) *Self-employed independent contractors, owners, supervisors and foremen.*

(1) Self-employed or independent contractors performing labor must be paid prevailing wages for the classification of work performed. Any vendor who plans to accomplish all or a portion of the work using self-employed, independent contractors, subcontractors, or partnership contractors must provide the city, as part of their contract bid, with bona fide demonstration of status of such entities. If there is a substitution of a self-employed independent contractor or subcontractor during the execution of the contract, the proof of status must be submitted to the city's designated compliance officer. All such self-employed, independent contractors, subcontractors, or partnership contractors must have executed a written contract or subcontract agreement for their work performance. The city will accept any four (4) of the following as a bona fide demonstration of status. If status cannot be determined clearly enough by submission of the below information or documentation, the subcontractor status will be disallowed and the individual(s) will be included on the engaging company's payroll as employees and will be entitled to receipt of the prevailing wage for all work performed.

a. Identification of a registered trade name and location of a telephone listing under that name;

b. A contractor's license;

c. A subcontractor's bond;

d. Proof of workers' compensation insurance coverage;

e. If the subcontractor is a partnership, a copy of the executed partnership agreement and Federal Tax Identification Numbers applicable to that partnership agreement;

f. A copy of the previous year's tax filing;

g. Any other determination regarding status as defined by the state or federal department of revenue.

(2) Owners, supervisors, and foremen performing labor under the contract must be paid prevailing wages for the classification of work performed.

(i) *Trucking.*

(1) For the purposes of this section, payment of prevailing wage and/or truck rental rates is required for work considered to be under the contract using the standards set forth in Minnesota Statutes section 177.41-177.44 and Minnesota Rules 5200.1000 to 5200.1120.

(2) A contractor acquiring trucking services from an independent truck owner, multiple truck owner, or truck broker to perform or provide covered hauling activities shall comply with the payment of the certified State of Minnesota truck rental rates.

(3) The prime contractor shall submit on its behalf and on behalf of all subcontractors a month-end trucking report and statement of compliance form along with each independent truck owner, multiple truck owner, and truck broker report to the city. The contractor must use month-end trucking report and statement of compliance forms and report forms approved by the city.

(4) A contractor with employee truck drivers shall adhere to the requirements established in sections (d), (e) (f) and (g) of this section.

(5) If the prime contractor fails to submit its month-end trucking reports and certification forms and those of any subcontractor, independent truck owner, multiple truck owner, or truck broker, the department may take such actions as prescribed in section (k).

(j) *Bid specifications and contract terms.* The obligations of this section are expressly incorporated into the bid specifications and requests for bids or proposals for all projects and are material and binding terms and conditions of all contracts and subcontracts for projects.

(k) *Prevailing wage violations.* Failure to pay the prevailing wage rate or to follow the prevailing hours of labor, as determined by the city, may result in an order for restitution to be paid, contract payment withholding sufficient to satisfy back wages or restitution assessed, contract payment delay, cancellation of the contract, debarment under chapter 95 of the Saint Paul Administrative Code, and/or withholding or payment of a fee equal to five (5) percent of the entire contract price to the city as liquidated damages. None of the foregoing remedies are intended to be exclusive of any other remedy, but each is in addition to every other remedy listed above or otherwise available.

(l) *Enforcement.* Orders for restitution issued pursuant to this section may be enforced in Ramsey County District Court.

(m) *Severability.* If any provision or application of this chapter is declared illegal, invalid, or inoperative, in whole or in part, by any court of competent jurisdiction, the remaining provisions and portions thereof and applications not declared illegal, invalid, or inoperative shall remain in force or effect.

(C.F. No. 92-1478, § 1, 11-5-92; C.F. No. 92-610, § 1, 11-24-92; Ord 12-75, § 1, 11-14-12)

City of Brooklyn Park
Request for Council Action

Agenda Item:	7.1	**Meeting Date:**	May 13, 2024
Agenda Section:	General Action Items	**Originating Department:**	Administration
Resolution:	N/A	**Prepared By:**	Zach Kramka, Asst to the City Manager
Ordinance:	SECOND READING		
Attachments:	1	**Presented By:**	Zach Kramka
Item:	Second Reading of the Prevailing Wage Ordinance		

City Manager's Proposed Action:

MOTION ________________, SECOND ______________, TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2024____ ADDING CHAPTER 43 TO THE BROOKLYN PARK CITY CODE, TITLE III: ADMINISTRATION, PERTAINING TO PREVAILING WAGE.

MOTION ______________, SECOND _______________, TO APPROVE THE SUMMARY OF ORDINANCE #2024-________ DETERMINING THAT IT CLEARLY INFORMS THE PUBLIC OF THE INTENT AND EFFECT OF THE ORDINANCE.

Overview:

During its June 5, 2023, work session, the City Council heard from several representatives from local organized labor organizations who underscored the importance of labor protections as a deterrent to wage theft and exploitation of workers. In response to the presentation, Council directed staff to develop a draft prevailing wage ordinance for consideration.

On September 5, 2023, staff had a discussion with the City Council regarding a proposed prevailing wage ordinance. After receiving feedback, it was decided to move the ordinance forward to a first reading. On October 23, 2023, the proposed ordinance was passed unanimously on a first reading.

The federal government, State of Minnesota, and several local governments across the region have instituted prevailing wage requirements. Prevailing wage levels are defined at the county level by job class. Prevailing wage regulations establish a price floor for wages in addition to fringe benefits that must be paid by contractors and sub-contractors to their employees who are performing work on behalf of the government entity funding the work.

The proposed ordinance would require prevailing wage on capital projects financed, in whole or in part, by City and Economic Development Authority (EDA) funds of $50,000 or greater.

This ordinance would institute both criminal and civil penalties on covered persons found to be in violation. Any covered persons in violation of the ordinance could be criminally charged with a misdemeanor offense. Civil penalties for violating this ordinance include an order for restitution to be paid, contract payment withholding to satisfy back wages, contract payment delay, withholding a fee equal to five percent of the entire contract price to the City or the EDA as liquidated damages, or the termination of the contract with the violating party.

Recommended changes being proposed to the ordinance between the first and second reading are identified below:

- Align the City and EDA spending threshold for triggering prevailing wage to $50,000.

- Exempt projects utilizing conduit revenue bonds from prevailing wage requirements.
- Exempt projects that received final approval by May 31, 2024 from prevailing wage requirements.
- Include protections for workers from retaliation for filing a complaint.
- Enable the payment of restitution to workers.
- Include additional language regarding how to manage projects with mixed funding sources (federal government, state government, City or EDA funds, private financing, etc.).

Primary Issues/Alternatives to Consider:

1. Approve the ordinance as presented.
2. Approve the ordinance with modifications.
3. Deny the ordinance keeping the existing regulations in place.

Budgetary/Fiscal Issues:

In between the first and second reading of this proposed ordinance, staff have had the chance to further evaluate potential implementation costs. While market forces may assist in keeping costs down in some cases, the development community and colleagues in other municipalities have suggested project costs could increase as much as ten to twenty percent due to increased labor expenses associated with prevailing wage. There are also expenses and staffing requirements associated with maintaining certified payroll for compliance/reporting that may not be possible for small companies. This cost dynamic may impact future subsidy requests from developers. In addition, future projections in the City’s Capital Improvement Plan document may be adjusted, and changes in scope for future capital projects may be required.

As with any ordinance, City staff must be fully equipped to implement associated regulations, and as a result, there will be costs to support the implementation of this ordinance. Staff are in the process of finalizing interim and long-term solutions to assist with both the planning of prevailing wage projects as well as any connected investigative or enforcement activities. These solutions will likely come in the form of contractual agreements with outside parties that can provide the necessary expertise to ensure staff, contractors, and workers are all aligned in their understanding of expectations.

Attachments:

7.1A ORDINANCE

ORDINANCE 2024-

AN ORDINANCE ADDING CHAPTER 43 TO THE BROOKLYN PARK CITY CODE, TITLE III: ADMINISTRATION, PERTAINING TO PREVAILING WAGE

~~Text with strikeout is proposed for deletion~~
Underlined text is proposed for insertion

The City of Brooklyn Park does ordain:

Section 1. The Brooklyn Park City Code, Title III, Administration, is amended to add Chapter 42, entitled "Prevailing Wage Required" to read:

§43.01 PURPOSE.

It is in the public interest that Projects as defined herein, be constructed, maintained and provided by the highest quality of labor that is reasonably available and that persons working on such Projects be compensated according to the real and equitable value of the work they perform and that the wages for such work are comparable to wages paid for similar work in the community as a whole.

§43.02 DEFINITIONS.

For the purposes of this Chapter, the following words and phrases have the meanings ascribed to them in this section:

Apprenticeship Program. A bona fide apprenticeship program registered with the U.S. Department of Labor or recognized by a governmental agency of the State of Minnesota.

Basic Hourly Rate. The hourly wage paid to any employee.

Certified Payroll Records. Payroll records furnished under oath signed by an owner or officer of an employer and provided to the Department named in the contract no more than five (5) working days after the submission of a written request by the Compliance Officer for such records. A certified payroll report includes information related to the wages and benefits paid to each employee during the requested time frame specifying for each employee: name; prevailing wage master job classification; number of hours worked each day; total hours worked in the week; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs.

City. The City of Brooklyn Park.

City Funds. Payment, financing, or financial assistance provided by the City in the form of contract payments, grants, loans, loan guarantees, tax increment financing, tax abatement, proceeds of bonds other than conduit revenue bonds, land write-downs, lease payments, loan payments, or contract for deed payments. With respect to a relending or regranting program, the threshold level of fifty-thousand dollars ($50,000) of project costs is determined on an individual basis by the cost of the project of each end borrower or grantee.

Compliance Officer. Those persons designated by the City Manager to monitor compliance and investigate complaints pertaining to this Ordinance on behalf of the City or EDA.

Covered Persons. Contractors, subcontractors, developers, holders of interests in real property, agents, or other persons regardless of the form of business entity used by the Covered Person, including but not limited to individuals, sole proprietorships, and independent contractors, performing all or part of work on Projects.

Department. The department or office of the City or EDA designated to undertake a Project.

EDA. The Brooklyn Park Economic Development Authority.

EDA Funds. Payment, financing, or financial assistance provided by the EDA in the form of contract payments, grants, loans, loan guarantees, tax increment financing, tax abatement, proceeds of bonds other than conduit revenue bonds, land write-downs, lease payments, loan payments, or contract for deed payments. With respect to a relending or regranting program, the threshold level of fifty-thousand dollars ($50,000) of project costs is determined on an individual basis by the cost of the project of each end borrower or grantee.

Laborers, Mechanics, and Workers. All persons utilized, employed, or working on a Project who are doing work usually done by Laborers, Mechanics, and Workers.

Prevailing Wage Rate. The meaning contained in Minnesota Statute, Section 177.42, Subd. 6, as determined from time to time by the Minnesota Department of Labor and Industry for the area where the Project is located. The Minnesota Department of Labor and Industry shall determine the prevailing wage rate in accordance with Minnesota Statutes, Sections 177.41-177.44, as amended from time to time, and applicable rules promulgated thereto, including but not limited to Minnesota Rules 5200.1000-5200.1120 as amended from time to time. In those instances where the Minnesota Department of Labor and Industry has not certified and published a prevailing rate of wages and benefits for a particular work classification, the minimum wage and benefit rate per hour to be paid for such work classification means the union wage and benefit rate in the locality of the Project as the case may be for such classification over which the union has jurisdiction.

Prevailing Hours of Labor. The hours of labor per day and per week worked within the area by a larger number of workers of the same class than are employed within the area for any other number of hours per day and per week.

Project. Any construction work, demolition work, maintenance work, remodeling work, or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, water infrastructure, removal of public nuisances or any other improvement of public or private property involving $50,000 or more in City Funds, or EDA Funds.

A project consists of all construction necessary to complete the work regardless of the number of contracts involved, so long as all the contracts awarded are closely related in purpose, time, and place, and includes, but is not limited to, multiple phases of work.

Restitution. Restitution may include, but is not limited to, an amount at least equal to the amount of underpayment of prevailing wages.

§43.03 PREVAILING WAGE RATE AND PREVAILING HOURS OF LABOR REQUIRED.

(A) *Prevailing Wage Required*. Except as otherwise provided below in 43.09, all Covered Persons shall pay Laborers, Mechanics, and Workers directly performing work on a Project, at a minimum, the Prevailing Wage Rate.

(B) *Prevailing Hours of Labor*. Laborers, Mechanics, and Workers employed directly on a Project by a Covered Person may not work more hours than the Prevailing Hours of Labor, unless paid for all hours in excess of the Prevailing Hours of Labor at a rate of at least one and one-half (1 ½) times the Basic Hourly Rate of pay.

(C) *Notice*. All Covered Persons must post a notice describing the applicable Prevailing Wage Rate in at least one conspicuous place located on the Project site for the duration of the Project.

(D) *Subcontractors and Independent Contractors*. Any contractor or subcontractor who plans to accomplish all or a portion of the work under a contract within the scope this Section using subcontractors or self-employed independent contractors may be required to provide the City with bona fide proof of the status of such entities before contract award. All such subcontractors and independent contractors must have executed a written contract/subcontract agreement for their work performance. The City will accept the following as a bona fide demonstration of subcontractor status:

1) Current business filing with the Minnesota Secretary of State along with the address and telephone number for that entity;
2) Proof of workers' compensation insurance coverage;
3) Proof of unemployment insurance.

If the status of subcontractors or self-employed independent contractors cannot be determined by submission of the above information or documentation, subcontractor or independent contractor status will be disallowed and the individual(s) performing the work will be included on the engaging company's payroll as employees and will be entitled to receipt of the prevailing wage from the engaging company for all work performed.

(E) *Combined Funding*. For projects funded in whole or in part with State funds, contractors and subcontractors may be subject to applicable State Prevailing Wage rates and rules for projects meeting state requirements. For projects funded in whole or in part with federal funds, contractors and subcontractors may be subject to federal rates, and regulations. for projects meeting federal requirements. For projects with multiple sources of funding (federal, state, and city), contractors and subcontractors may be subject to all applicable rules and regulations.

§43.04 CONRACT REQUIREMENTS.

The requirements and obligations contained in this Ordinance are deemed to be incorporated into the bid specifications and requests for bids or proposals for all Projects are material and binding in terms and conditions of all contracts and all subcontracts for Projects. The Prevailing Wage Rates, Prevailing Hours of Labor, and Hourly Basic Rates of pay must be set forth specifically in the contract. All contracts for Projects must include applicable schedules of Prevailing Wage Rates.

§43.05 MONITORING, COMPLIANCE AND ENFORCEMENT.

(A) *Collection of Certified Payroll Records*. Pursuant to this Chapter and Minn. Stat. Sec. 177.41-.44 and applicable rules as may be amended from time to time, all contractors and subcontractors on a Project must collect and/or furnish a statement on the wages paid to each employee during the prior week.

(B) *Submission of Certified Payroll Records*. Upon request of the City, the EDA, or a City or EDA designee, all Covered Persons shall, within five (5) working days, supply the City or EDA a copy of Certified Payroll Records for all work performed on the Project by Laborers, Mechanics, and Workers.

(C) *Compliance Officer*. A Compliance Officer, as designated by the City, will investigate all complaints, and monitor compliance upon receipt of a complaint regarding violations of this Ordinance. The Compliance Officer may request additional records reasonably required to monitor compliance or investigate complaints regarding this Ordinance. Upon request made by the Compliance Officer, all Covered Persons shall promptly provide additional records reasonably required to monitor compliance with this Ordinance. All Covered Persons shall permit the Compliance Officer physical access to the Project site at any time for the purpose of monitoring compliance with this Ordinance.

(D) *Project Completion*. Upon completion of the project, the City or the EDA shall have the right to require an appropriate audit of contractor's books and records to determine compliance or noncompliance with the provisions of this chapter. Each contractor and subcontractor shall retain the relevant bi-weekly payrolls for a period of not less than three (3) years after the completion of the work.

§43.06 VIOLATIONS AND PENALTIES.

(A) *Civil Enforcement*. In addition to pursuit of criminal sanctions as provided in Paragraph B of this Section, a violation of this Ordinance may result in the City or the EDA undertaking the following actions: seeking injunctive relief to compel specific performance of the requirements contained in this Ordinance; an order for restitution to be paid; contract payment withholding sufficient to satisfy back wages or restitution assessed; contract payment delay; the withholding of a fee equal to five (5) percent of the entire contract price to the City or the EDA as liquidated damages; or the termination of the contract with the violating party. None of the foregoing remedies are intended to be exclusive of any other remedy, but each is in addition to every other remedy listed above or otherwise available.

(B) *Criminal Enforcement*. Any Covered Person who violates the provisions of this Ordinance shall be guilty of a misdemeanor with each day of violation constituting a separate offense.

§43.07 RETALIATION.

(A) It shall be a violation of this chapter for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempted exercise of, any right protected under this chapter.

   (1) Such rights include but are not limited to: the right to make inquiries about the requirements of this chapter; the right to inform others about their rights; the right to inform the person's employer, union, or similar organization, and/or the person's legal counsel or any other person about an alleged violation; the right to file an oral or written

complaint with the appropriate authority; the right to cooperate with the City in its investigations; the right to testify in a proceeding under or related to a violation; the right to refuse to participate in an activity that would result in a violation of city, state, or federal law; and the right to oppose any policy, practice, or act that is prohibited under this chapter.

(2) No employer or any other person shall communicate to a person exercising rights protected under this chapter, directly or indirectly, the willingness to inform a government employee that the person is not lawfully in the United States, or to report, or to make an implied or express assertion of a willingness to report, suspected citizenship or immigration status of an employee or a family member of the employee to a federal, state, or local agency because the employee has exercised a right under this chapter.

(3) An employer shall not take any adverse employment action or in any other manner discriminate against an employee because the employee has exercised in good faith the rights protected under this section.

(4) A person injured by a violation of this section may avail themselves of any civil remedies available to them under the laws of the United States and the State of Minnesota.

(5) It shall be a rebuttable presumption of retaliation if an employer or any other person takes an adverse action against a person within ninety (90) days of the person's exercise of rights protected in this section. The employer may rebut the presumption with clear and convincing evidence that the adverse action was taken for a permissible purpose.

(6) Standard of proof. Proof of retaliation shall be sufficient upon a showing that an employer or any other person has taken an adverse action against a person and the person's exercise of rights protected was a motivating factor in the adverse action, unless the employer can prove that the action would have been taken in the absence of such protected activity.

(7) The protections afforded shall apply to any person who mistakenly but in good faith alleges violations.

(8) A complaint or other communication by any person triggers the protections of this section regardless of whether the complaint or communication is in writing or makes explicit reference to this chapter.

§43.08 EXCEPTIONS.

(A) This Chapter does not apply to apprentices working on Projects pursuant to a bona fide registered Apprenticeship Program for work performed in their trade. A trainee and a helper are not exempt under this provision; the Covered Person must assign the trainee or helper a job classification that is the “same or most similar” to the work being performed and compensate the trainee or helper for the actual work performed regardless of the trainee’s or helper’s skill.

(B) This Chapter does not apply to any Project that received final project approval from the City on or before May 31, 2024.

§43.09 NO CONFLICT WITH RELATED FEDERAL, STATE, COUNTY, OR MUNICIPAL LAWS, ORDINANCES, AND POLICIES.

Except as otherwise stated herein, no provision of this Ordinance is intended nor shall be construed as being in conflict with any federal, State of Minnesota, county or municipal laws, ordinances, rules, regulations, or policies related to the matters to be regulated herein. Further, the obligations and requirements contained in this Ordinance shall be deemed to be in addition to the obligations and requirements contained in any such federal, state county or municipal laws, ordinances, rules, or regulations.

§43.10 SEVERABILITY.

If any of the parts or provisions of this article or the application thereof to any person or circumstance is held invalid or unconstitutional by a decision of a court of competent jurisdiction, the remainder of this article, including the application of such part or provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this article are severable.

Section 2. Effective Date

This ordinance becomes effective thirty (30) days from and after its adoption and publication.

ORDINANCE NO. 2024-

AN ORDINANCE AMENDING CHAPTER 23 OF THE CITY CODE TO ESTABLISH PREVAILING WAGE

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 23 of the City Code is hereby amended by deleting those words that are contained in brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

CHAPTER 23: [~~EARNED SICK AND SAFE TIME~~] LABOR

***

ARTICLE II: PREVAILING WAGE

§ 23.30 FINDINGS AND PURPOSE.

The City Council finds that: It is in the public interest that Projects, as defined herein, be constructed, maintained and provided by the highest quality of labor that is reasonably available and that persons working on such Projects be compensated according to the real and equitable value of the work they perform and that the wages for such work are comparable to wages paid for similar work in the community as a whole.

§ 23.31 DEFINITIONS.

(a) TERMS. For the purposes of this article, the following words and phrases have the meanings ascribed to them in this section:

APPRENTICESHIP PROGRAM means a bona fide apprenticeship program registered with the U.S. Department of Labor or recognized by a governmental agency of the State of Minnesota.

BASIC HOURLY RATE means the hourly wage paid to any employee.

CERTIFIED PAYROLL RECORDS means payroll records furnished under oath signed by an owner or officer of an employer and provided to the City department, division, or office named in the contract no more than fourteen (14) days after the end of each pay period including a certified payroll report with respect to the wages and benefits paid each employee during the preceding week specifying for each employee: name; prevailing wage master job classification; number of hours worked each day; total hours worked in the week; rate of pay; gross amount earned; each deduction for taxes; total deductions; net pay for week; dollars contributed per hour for each benefit, including name and address of administrator; benefit account number; and telephone number for health and welfare, vacation or holiday, apprenticeship training, pension, and other benefit programs.

CITY means the City of Bloomington, the Housing and Redevelopment Authority in and for the City of Bloomington, and the Port Authority of the City of Bloomington.

CITY FUNDS means contract payments, grants, loans, loan guarantees, tax increment financing, tax abatements, tax credits, lease payments, loan payments, contract for deed payments, revenue from bonds, or any other financial assistance.

COMPLIANCE OFFICER means those positions designated by the City Manager to investigate complaints pertaining to this article on behalf of the City.

COVERED PERSONS means contractors, subcontractors, holders of interests in real property, agents, or other persons regardless of the form of business entity used by the Covered Person, including but not limited to individuals, sole proprietorships and independent contractors, performing all or part of the work on Projects.

DEPARTMENT means the department, division, or office of the City designated to undertake a Project.

PREVAILING WAGE RATE shall have the meaning contained in Minnesota Statutes, Section 177.42, Subd. 6, as determined from time to time by the Minnesota Department of Labor and Industry for the area where the Project is located. The Minnesota Department of Labor and Industry shall determine the prevailing wage rate in accordance with Minnesota Statutes, Sections 177.41-177.44, and applicable rules promulgated thereto, including but not limited to Minnesota Rules Parts 5200.1000-5200.1120.

PREVAILING HOURS OF LABOR means the hours of labor per day and per week worked within the area by a larger number of workers of the same class than are employed within the area for any other number of hours per day and per week. The prevailing hours of labor may not be more than eight hours per day or more than 40 hours per week.

PROJECT(S) means any construction work, demolition work, or repair work on any roads, bridges, sewers, streets, alleys, parks, parkways, buildings, removal of public nuisances or any other improvement of public or private property where (a) the Project is financed in whole or in part with City Funds and (b) the estimated cost of the Project exceeds $175,000.

§ 23.32 PREVAILING WAGE RATE AND PREVAILING HOURS OF LABOR REQUIRED.

(a) Prevailing Wage Required. Except as otherwise provided below in Section 23.36 [exceptions], all Covered Persons shall pay Laborers, Mechanics, and Workers directly performing work on a Project, at a minimum, the Prevailing Wage Rate.

(b) Prevailing Hours of Labor. Laborers, Mechanics and Workers employed directly on a Project by a Covered Person may not work more hours than the Prevailing Hours of Labor, unless paid for all hours in excess of the Prevailing Hours of Labor at a rate of at least one and one-half (1 ½) times the Basic Hourly Rate of pay.

(c) Notice. Each Covered Person must post a notice describing the applicable Prevailing Wage Rate in at least one conspicuous place located on the Project site for the duration of the Project.

§ 23.33 CONTRACT REQUIREMENTS.

The requirements and obligations contained in this article are deemed to be incorporated into the bid specifications and requests for bids or proposals for all Projects and are material and binding terms and conditions of all contracts and subcontracts for Projects. The Prevailing Wage Rates, Prevailing Hours of Labor and Hourly Basic Rates of pay must be set forth specifically in the contract. All contracts for Projects must include applicable schedules of Prevailing Wage Rates.

§ 23.34 MONITORING AND COMPLIANCE.

(a) Submission of Certified Payroll Records. Each Covered Person must furnish copies of Certified Payroll Records for all work performed on the Project no later than fourteen (14) calendar days after each pay period to the Department.

(b) Compliance Officer. The Compliance Officer will investigate all complaints and monitor compliance upon receipt of a complaint regarding violations of this article. The Compliance Officer may request additional records reasonably required to monitor compliance or investigate complaints regarding this article. Upon request made by the Compliance Officer, each Covered Person shall promptly provide additional records reasonably required to monitor compliance with this article. Each Covered Person shall permit the Compliance Officer physical access to the site where the Project is located at any time for the purpose of monitoring compliance with this article.

§ 23.35 VIOLATIONS AND PENALTIES.

(a) Civil Enforcement. In addition to pursuit of criminal sanctions as provided in clause (b), of this section, a violation of this article may result in the City undertaking the following actions: seeking injunctive relief to compel specific performance of the requirements contained in this article; withholding funds owed by the City to the violating party pursuant to an agreement in amounts sufficient to fully remedy and satisfy the violation together with the withholding of a fee equal to five (5) percent of the entire contract price to the City as liquidated damages; or the termination of the contract with the violating party. None of the foregoing remedies are intended to be exclusive of any other remedy, but each is in addition to every other remedy listed above or otherwise available.

(b) Criminal Enforcement. Any Covered Person who violates the provisions of this article shall be guilty of a misdemeanor with each day of violation constituting a separate offense.

(c) Administrative enforcement. As set forth in City Code Appendix A, the City Attorney may order any appropriate relief for a determination including, but not limited to back pay and fines.

§ 23.36 EXCEPTIONS.

This article does not apply to apprentices working on Projects pursuant to a bona fide registered Apprenticeship Program for work performed in their trade. A trainee and a helper are not exempt under this provision; the Covered Person must assign the trainee or helper a job classification that is the "same or most similar" to the work being performed and compensate the trainee or helper for the actual work performed regardless of the trainee's or helper's skill.

§ 23.37 NO CONFLICTS OR PREEMPTIONS INTENDED.

Except as otherwise stated herein, no provision of this article is intended nor shall be construed as being in conflict with any Federal, State of Minnesota, County or municipal laws, ordinances, rules, regulations or policies related to the matters to be regulated herein. Further, the obligations and requirements contained in this article shall be deemed to be in addition to the obligations and requirements contained in any such federal, state, county or municipal laws, ordinances, rules or regulations. Nothing in this article shall be interpreted or applied so as to create any power or duty in conflict with federal or state law.

§ 23.38 SEVERABILITY.

If any part, term, or provision of this article is held by a court of competent jurisdiction to be invalid or unconstitutional, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this article, which remaining portions shall continue in full force and effect.

Section 2. Effective Date. This Ordinance is effective [upon publication].

Passed and adopted this __________ day of _______________, 2024.

____

Mayor

ATTEST:

____

Secretary to the Council

APPROVED:

____

City Attorney

NOTE: Also need to amend Chapter 1 and Appendix A

Jurisdiction	Jurisdiction Type	Policy Type	Rates	Threshold	TIF Included
Andover	City	Ordinance	State	$150,000	No
Bloomington	City	Ordinance	State	$175,000	Yes
Brooklyn Park	City	Ordinance	State	$50,000	Yes
Coon Rapids	City	Ordinance	State	$100,000	No
Duluth	City	Ordinance	State	$2,000	Maybe
Fridley	City	Ordinance	State	$25,000	Maybe
Gem Lake	City	Ordinance	State	$15,000	No
Grand Rapids	City	Ordinance	State	$25,000	Maybe
Hastings	City	Ordinance	State	$175,000	No
Maplewood	City	Ordinance	State	None	No
Minneapolis	City	Ordinance	Federal	None	Yes
Minneapolis (Inclusionary Zoning and TIF Policy)	City	Ordinance	Federal	Subject to Inclusionary Zoning Ordinance	Yes
Oakdale	City	Policy	State	$50,000	No
Richfield	City	Ordinance	State	$300,000	Mostly no
Rochester	City	Ordinance	State	$175,000	Mostly yes
St. Cloud	City	Ordinance	Federal	$200,000	Unclear
St. Paul	City	Ordinance	State	$25,000	Yes
West St. Paul	City	Ordinance	Unspecified	$50,000	Yes
White Bear Lake	City	Ordinance	State	$15,000	Maybe
Carlton	County	Resolution	Unspecified	$150,000	No
Chisago	County	Resolution	State	$100,000	No
Dakota	County	Resolution	State	$25,000	No
Hennepin	County	Resolution	State	None	No
Itasca	County	Policy	Federal	$2,000	No
Ramsey	County	Ordinance	State	$25,000	Yes
St. Louis	County	Resolution	State	$2,500/$25,000	Unclear
Washington	County	Policy	State	$175,000	Unclear
Minneapolis Park Board	Park Board	Ordinance	Federal	None	NA
Duluth Port Authority	Port Authority	Policy	State	$2,500/$25,000	NA
Metropolitan Council	Regional Council	Resolution	State	$175,000	NA
Anoka-Hennepin #11	School District	Policy	State	$2,500/$25,000	NA
Duluth #709	School District	Policy	State/Federal	None	NA
Minneapolis Special District #1	School District	Policy	State	$2,500/$25,000	NA
St. Paul #625	School District	Policy	State	None	NA
White Bear Lake #624	School District	Policy	State	None	
State of Minnesota	State	Statute	State	$2,500/$25,000	

WAGE THEFT FACTS

Misclassification and Payroll Fraud in Construction

Updated October 2023

THIS IS A TOOLKIT ON ALL THINGS RELATED TO WAGE THEFT, MISCLASSIFICATION, AND PAYROLL FRAUD IN THE CONSTRUCTION INDUSTRY

This toolkit provides evidence-based fact sheets and informational tables, videos, and infographics intended to help deliver results for those fighting against worker misclassification and payroll fraud in construction.

(Please click on the information that YOU need)

ONE-PAGE FACTS

What Is Worker Misclassification, Payroll Fraud, and Wage Theft?

Payroll fraud is rampant in the U.S. construction industry. Employers misclassifying their workers as "independent contractors" and paying workers entirely "off-the-books" in cash-only arrangements are two of the primary ways in which payroll fraud occurs. In construction, employers—either knowingly or unknowingly—engage in this illicit activity to reduce total costs and bid prices (Ormiston, Belman, & Erlich, 2020). By classifying workers as independent contractors rather than as employees, businesses artificially reduce their labor costs by avoiding the payment of fringe benefits and by shifting their share of the tax burden onto workers. Employers who misclassify their workers do not pay their share of unemployment insurance, do not withhold income taxes for employees, and do not contribute to state workers' compensation systems. Misclassification also enables other forms of wage theft, such as minimum wage violations and overtime violations, as independent contractors are not protected by federal statutes such as the Fair Labor Standards Act (Erlich, 2020; Erlich & Gerstein, 2019; Cooper & Kroeger, 2017). Between 10% and 20% of employers misclassify at least one worker as an independent contractor (Carré, 2015).

Certain industries, like construction, are more prone to misclassification than others. In the past two decades, there have been at least 21 studies by academic professors, policy experts, and government agencies that have estimated the incidence of construction worker misclassification within the United States. These 21 studies cover 17 different U.S. states, six cities in the American South, and the United States as a whole. Although they each differ in methodology, the findings are clear and consistent: construction businesses are misclassifying blue-collar trades workers at alarmingly high rates.

A landmark national study released in 2020 estimated that between 12% and 21% of all construction workers are misclassified as independent contractors or paid "off-the-books" in cash (Ormiston, Belman, & Erlich, 2020). In Missouri, 21% of construction workers are misclassified or are working "off-the-books" in cash-only arrangements (Kelsay, 2023). In New York, 18% of all independent contractors who were identified as "low-paid" were working in construction (Moe, Parrot, & Rochford, 2020). In Massachusetts, 17% of audited construction companies were actively misclassifying employees (Juravich, Ormiston, & Belman, 2021). In Rhode Island, 12% of construction employers misclassify workers (Ormiston & Juravich, 2022). In Kentucky, 26% of audited construction companies were actively misclassifying employees; an identical percentage was found in Michigan (Kelsay & Sturgeon, 2011; Belman & Block, 2009). In Indiana, more than 47% of audited construction companies were actively misclassifying employees (Kelsay & Sturgeon, 2010). While some independent contractors are classified legitimately and by their own choice, the disproportionate representation of misclassified independent contractors in construction suggests a pervasive problem in the industry that contributes to economic inequality.

Fraudulent contractors who engage in employee misclassification underbid law-abiding, responsible competitors who properly classify their employees. This is especially true in low-bid models of construction, such as in lettings for public works projects. One study found that misclassification allowed unscrupulous employers to be awarded federal projects during the 2009 economic stimulus program after the Great Recession (Locke & Ordonez, 2015). This places compliant construction firms at a disadvantage and puts them in a situation where they would either lose market share or be forced to engage in similar illicit employment practices in order to match their competitors' bids. The result is an erosion of job quality for skilled trades workers, poorer infrastructure quality for communities, and less tax revenue and lower levels of funding for social insurance programs for state governments.

Sources Listed by Release Year

Kelsay, Michael. (2023). *Worker Misclassification and Wage Theft in the Construction Industry in Missouri.* University of Missouri-Kansas City.
Key Finding: In 2020, 21% of workers in Missouri's construction industry were either misclassified as independent contractors or working "off-the-books" in cash-only arrangements. Misclassification and wage theft in the construction industry cost construction workers between $334 million and $465 million in lost wages and fringe benefits annually. Payroll fraud also costs Missouri $69 million in lost workers' compensation contributions, $28 million in lost unemployment insurance contributions, and $45 million in forgone state income tax revenue.

Ormiston, Russell and Tom Juravich. (2022). *Worker Misclassification and Wage Theft in Rhode Island.* Allegheny College; University of Massachusetts-Amherst; Institute for Construction Employment Research (ICERES).
Key Finding: Rhode Island employers misclassified 4% of the state's workforce in 2019, representing more than 19,000 workers. In construction, 12% of construction employers are misclassifying workers, affecting 8% of the industry workforce. Payroll fraud costs taxpayers between $25 million and $54 million annually.

Juravich, Tom; Russell Ormiston; and Dale Belman. (2021). *The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts.* University of Massachusetts-Amherst; Allegheny College; Michigan State University; Institute for Construction Employment Research (ICERES).
Key Finding: Audits of employer payrolls from 2017 to 2019 indicate that more than one-in-six Massachusetts construction employers (17% to 18%) misclassify their workers as independent contractors. Utilizing a well-established empirical approach of indirectly estimating the full extent of misclassification, there were between 22,000 and 37,000 workers affected by wage and tax fraud in 2019, accounting for 9% to 16% of the industry's workforce. This was especially prevalent among building finishing contractors (e.g., drywall, finish carpentry, painting). This led to $41 million in lost unemployment insurance contributions $41 million in lost income taxes, and $78 million in lost workers' comp premiums in 2019.

Construction Industry Tax Fraud. (2021). *Construction Industry Insurance Fraud*. StopTaxFraud.net.
Key Finding: This one-page fact sheet describes workers' compensation insurance premium fraud, notes that losses are estimated at $2 billion nationwide, and tells people how they can help.

Construction Industry Tax Fraud. (2020). *Construction Industry Poor Safety Standards*. StopTaxFraud.net.
Key Finding: This one-page fact sheet notes that contractors who skirt workers' comp, wage, and tax laws often cut corners with safety and that tax fraud robs state and federal governments out of $8.4 billion per year.

Construction Industry Tax Fraud. (2020). *Construction Industry Wage Theft*. StopTaxFraud.net.
Key Finding: This one-page fact sheet describes wage theft, notes that construction workers have $946 million a year stolen from them, and tells people how they can help.

Ormiston, Russell; Dale Belman; and Mark Erlich. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College; Michigan State University; Harvard University.
Key Finding: In the average month in 2017, between 12% and 21% of construction industry workers were misclassified as independent contractors or working strictly off-the-books. Over the peak summer months, this increased to between 13% and 22%. Due to payroll fraud, contractors illegally reduce labor costs by between $6.2 billion and $11.7 billion per year. State workers' compensations programs experienced a $1.7 billion shortfall due to misclassification. State unemployment insurance plans experienced a shortfall of up to $725 million. State income tax revenues are $552 million lower. As much as $4.3 billion owed to Social Security and Medicare and $1.3 billion in federal income taxes was never paid in 2017 due to payroll fraud. Under federal wage statutes, workers are entitled to time-and-a-half for hours worked over 40 hours per week and to premium pay for work over holidays. Employers who misclassify workers as independent contractors can avoid paying these additional wages, resulting in $811 million to $1 billion in unpaid overtime and premium wages.

Erlich, Mark. (2020). "Misclassification in Construction: The Original Gig Economy." *Industrial and Labor Relations Review*, 1-29.

Key Finding: The misclassification of workers as independent contractors has predated the app-based gig economy, particularly in construction where a cash-based underground system of compensation has lowered standards and been among the major causes of the decline of union density.

Moe, Lina; James Parrott; and Jason Rochford. (2020). *The Magnitude of Low-Paid Gig and Independent Contract Work in New York State*. The New School.

Key Finding: 17.5% of low-wage independent contractors in New York worked in construction.

Erlich, Mark and Terri Gerstein. (2019). *Confronting Misclassification and Payroll Fraud: A Survey of State Labor Standards Enforcement Agencies*. Harvard Law School.

Key Finding: Misclassification, a tactic used by employers to reduce labor costs by depriving workers of protections, creates a non-competitive environment against law-abiding employers paying market-based wages and benefits.

Bureau of Labor Statistics (BLS). (2018). *Contingent and Alternative Employment Arrangement News Release*. U.S. Department of Labor.

Key Finding: In 2017, 19% of independent contractors worked in the construction industry. See Table 8.

Cooper, David and Teresa Kroeger. (2017). *Employers Steal Billions from Workers' Paychecks Each Year: Survey Data Show Millions of Workers Are Paid Less than the Minimum Wage, At Significant Cost to Taxpayers and State Economies*. Economic Policy Institute.

Key Finding: Nationwide, wage theft costs up to $15 billion. Misclassification is one tactic that enables wage theft.

Katz, Lawrence and Alan Krueger. (2016). *The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015*. Harvard University; Princeton University.

Key Finding: From 1995 to 2015, non-traditional employment rose from 11% to 16%, with online intermediary work, such as Uber and TaskRabbit, accounting for only 0.5% of workers as of 2015. Workers in non-traditional employment relationships earn less when compared to similar workers in traditional employment relationships.

Locke, Mandy and Franco Ordonez. (2015). "Taxpayers and Workers Gouged by Labor-Law Dodge." *McClatchy DC Bureau*.

Key Finding: Misclassification allows fraudulent contractors to underbid law-abiding businesses on publicly-funded construction projects, as evidenced by contracts awarded in the economic stimulus following the Great Recession.

Carré, Françoise. (2015). *(In)dependent Contractor Misclassification*. Economic Policy Institute.

Key Finding: State-level studies show that 10%-20% of employers misclassify workers independent contractors.

Kelsay, Michael and James Sturgeon. (2011). *The Economic Costs of Employee Misclassification in the Construction Sector in the Commonwealth of Kentucky*. University of Missouri-Kansas City.

Key Finding: 26% of construction employers in Kentucky were engaged in misclassification.

Kelsay, Michael and James Sturgeon. (2010). *The Economic Costs of Employee Misclassification in the State of Indiana*. University of Missouri-Kansas City.

Key Finding: Nearly half (47.5%) of audited employers in Indiana were engaged in misclassification.

Belman, Dale and Richard Block. (2009). *The Social and Economic Costs of Employee Misclassification in Michigan.* Michigan State University.

Key Finding: 26% of construction firms misclassified employees. Among those who did so, 19% of their employees were misclassified (i.e., 6% of the entire industry workforce), costing the state over $2 million in UI tax revenue.

Worker Misclassification Disproportionately Affects Vulnerable Populations

There is currently no federal law against worker misclassification. When the Department of Labor investigates misclassification cases, it is often by proxy of investigating Fair Labor Standards Act violations such as minimum wage violations, which frequently coincide with misclassification cases (GAO, 2009). As a result, worker misclassification is often an issue decided by state law, meaning those affected most by wage theft and payroll fraud are generally people who do not have federal avenues. Research has found that 43% of workers who have a legal complaint against their employers do not proceed with their complaints formally, citing lack of confidence in the claims or lack of legal knowledge and resources as the primary reasons (Alexander & Prasad, 2014). Additionally, a *CBS News* investigation of 650,000 complaints across the United States found that state agencies only ruled in favor of claimants about half the time—and claimants are not compensated in one-third of successful cases (Hacker et al., 2023). Lack of resources and unpunished violators lead to misclassification and payroll fraud among vulnerable workers.

Immigrants are a vulnerable group that is particularly susceptible to wage theft. Research shows that both authorized immigrants and undocumented workers are more likely to experience wage theft in their employment. However, it is estimated that more than 1-in-10 construction workers are undocumented workers (Isser, 2023). Immigrant workers may be forced to endure conditions that are exploitative for fear that their immigration status, or that of their co-workers, will be questioned (Cooper & Kroeger, 2017). Immigrants working in construction are often subject to misclassification and late payment of wages, and many do not engage in remedial paths as they have little hope that they will recover wages that were stolen. It is common that companies will completely liquidate to avoid repayment of stolen wages, leaving workers without compensation of any kind (Juravich, Ablavsky, & Williams, 2015). Some construction contractors have been convicted on charges of forced labor—recruiting undocumented workers from Mexico and then refusing to pay them while threatening them with violence or deportation so they would not complain (Slowey, 2019).

Immigrants are overrepresented in independent contractor populations, which is especially harmful because hiring independent contractors allows employers to bypass the Immigration Reform and Control Act (Moe, Parrot, & Rochford, 2020). By bypassing IRCA, employers do not verify the immigration status of their workers and benefit financially by exploiting those whom they suspect to be unauthorized (Carré, 2015). This puts migrant laborers in a precarious situation in which complaints that lead to federal investigations could result in personal consequences, especially when Memoranda of Understanding between the U.S. Department of Labor and the U.S. Immigration and Customs Enforcement expire (Hallett, 2018).

While vulnerable populations are particularly susceptible to misclassification, other demographic groups are not immune. Research indicates that during the growth of misclassification in the early 2000s, almost two-thirds of workers classified as independent contractors were white and had some college or higher-level education (GAO, 2007). Misclassification rates among construction workers in some states are as high as 40%, making it a practice most construction workers will encounter during their careers (Ruckelshaus, 2007). Steps can be taken to protect all workers—regardless of their citizenship or immigration status—from the problem of illegal misclassification and wage theft.

Sources Listed by Release Year

Hacker, Chris; Ash-Har Quraishi; Amy Corral; Ryan Beard. (2023). "Wage Theft Often Goes Unpunished Despite State Systems Meant to Combat It." *CBS News*.
Key Finding: Even when wage theft is reported, employers often manage to avoid paying back the wages they owe. CBS News submitted public records requests to nearly every state labor department in the country and built a database of more than 650,000 total complaints. Of those cases, state agencies ruled in favor of claimants only about half of the time. Even when workers won their claims, more than a third of those successful cases—totaling nearly $1 billion—showed no money was ever recovered. Finally, if wage theft was treated the same as felony theft (or the threshold at which a misdemeanor street crime becomes a felony), 177,000 wage theft cases in 25 states could have been felony cases. This includes over 25% of cases in New Jersey, Illinois, Massachusetts, New Hampshire, Kentucky, Indiana, Maryland, New York, Maine, Montana, Minnesota, Kansas, Utah, and Michigan.

Moe, Lina; James Parrott; and Jason Rochford. (2020). *The Magnitude of Low-Paid Gig and Independent Contract Work in New York State*. The New School.
Key Finding: 17.5% of low-wage independent contractors in New York worked in construction. The Immigration Reform and Control Act requires employers to verify each employee's eligibility to work in the United States to ensure that they are accounted for in payroll taxes and insurance coverage. Independent contractors, however, do not need their eligibility verified, allowing employers to hire undocumented workers and deprive them of benefits and insurance coverage.

Slowey, Kim. (2019). "Contractor Faces 20 Years in Prison for Forced Labor." *Construction Dive*.
Key Finding: An owner of several construction companies was convicted on charges of forced labor. The contractor recruited undocumented workers from Mexico and then refused to pay them. If they complained, he threatened them—and their families—with violence or with deportation.

Hallett, Nicole. (2018). "The Problem of Wage Theft." *Yale Law & Policy Review*, 37(1): 93.
Key Finding: A Memorandum of Understanding was in place between the Department of Labor and the Immigration and Customs Enforcement agency that prevented undocumented workers from being deported if their immigration status was uncovered as a result of investigations into labor violations. When these memoranda expire, they may face deportation, which disincentivizes immigrants from reporting labor violations.

Cooper, David and Teresa Kroeger. (2017). *Employers Steal Billions from Workers' Paychecks Each Year: Survey Data Show Millions of Workers Are Paid Less than the Minimum Wage, At Significant Cost to Taxpayers and State Economies*. Economic Policy Institute.
Key Finding: Nationwide, wage theft costs up to $15 billion. Misclassification is one tactic that enables wage theft. Due to fear of deportation, immigrant workers are more likely to endure harmful and exploitative working conditions without reporting them. They are also less aware of appropriate reporting avenues.

Alexander, Charlotte. (2017). "Misclassification and Antidiscrimination: An Empirical Analysis." *Minnesota Law Review*, 101. 907-962.
Key Finding: According to Census and Social Security Administration data, the industries where misclassification is most prevalent include real estate, construction, truck drivers, and barbers and cosmetologists. In the years 2005-2014, misclassification was brought as an argument in Title VII discrimination cases predominantly by physicians, surgeons, and insurance salespeople. This suggests the workers most affected do not pursue legal recourse due to lack of resources.

Carré, Françoise. (2015). *(In)dependent Contractor Misclassification*. Economic Policy Institute.
Key Finding: State-level studies show that 10%-20% of employers misclassify workers independent contractors. High workers' compensation premiums in injury-prone industries such as construction create a financial incentive for employers to hire workers, such as undocumented workers, who will not be covered by workers' compensation.

Juravich, Tom; Essie Ablavsky; and Jake Williams. (2015). *The Epidemic of Wage Theft in Residential Construction in Massachusetts*. University of Massachusetts Amherst.
Key Finding: Due to the transient nature of undocumented workers, many working in the construction industry never receive the wages they are owed.

Alexander, Charlotte and Arthi Prasad. (2014). "Bottom-Up Workplace Enforcement: An Empirical Analysis." *Indiana Law Journal*, 89: 1069-1131.
Key Finding: As worker power and stability decreases, so does their legal knowledge and ability to contest labor violations in the courts. 43% of workers who experience a workplace problem with their employer did not pursue the claim in court for fear of retaliation or lack of confidence in their claim. 43% of workers who did make a formal experienced retaliation in the form of termination, suspension, decreases in hours, or reporting the worker to law enforcement agencies.

Government Accountability Office (GAO). (2009). *Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention*.
Key Finding: Misclassification of workers enables other forms of wage theft, such as minimum wage theft. These minimum wage violations are investigated under the Fair Labor Standards Act, which does not address misclassification.

Government Accountability Office (GAO). (2007). *Employee Misclassification: Improved Outreach Could Help Ensure Proper Worker Classification*.
Key Finding: A majority of independent contractors in construction were white, middle-aged men with at least some college education. These demographic characteristics did not prevent them from being misclassified.

Ruckelshaus, Catherine. (2007). *Providing Fairness to Workers Who Have Been Misclassified as Independent Contractors*. National Employment Law Project (NELP). Testimony before the Subcommittee on Workforce Protections of the Committee on Education on Labor in the U.S. House of Representatives.
Key Finding: Research estimates that misclassification rates in the construction industry could be as high as 40%. Later research corroborated that misclassification was a growing practice at the time of this testimony.

Wage Theft is a Crime Against Construction Workers

Worker misclassification allows employers to avoid paying market-competitive wages and to bypass labor standards. This includes Davis-Bacon prevailing wage rates on federal projects, state prevailing wage laws, and federal and state minimum wage laws. Workers classified as independent contractors earn less in comparison to workers classified as employees doing similar work. Nationally, construction workers who are misclassified as independent contractors earn as much as $16,700 less per year, or 32% less, in income compared to what they would have earned as employees (Schmitt et al., 2023). Similarly, in Illinois, Wisconsin, and Minnesota, misclassified construction workers earned between 29% and 36% less than their properly classified co-workers in total wages and fringe benefits. The effect is staggering: misclassified construction workers were paid between $23,000 and $26,000 less in total annual compensation than they would have been paid if they were properly classified (Goodell & Manzo, 2021).

Misclassification harms workers by depriving them of benefits, such as overtime pay, workers' compensation, unemployment insurance, and paid leave. Nationwide, researchers estimate that between $811 million and $1 billion in owed overtime and premium pay goes unpaid to misclassified construction workers (Ormiston, Belman, & Erlich, 2020). State-level studies in Missouri, Rhode Island, Nevada, Massachusetts, New York, Tennessee, and Michigan confirm that misclassification deprives workers of these vital benefits (Kelsay, 2023; Ormiston & Juravich, 2022; Waddoups, Duncan, & Ormiston, 2021; Juravich, Ormiston, & Belman, 2021; Ormiston, Erlich, & Belman, 2021; Canak & Adams, 2010; Belman & Block, 2009). Estimates from the construction industries in Illinois, Wisconsin, and Minnesota indicate that misclassified workers experience a 62% to 66% decline in their non-monetary benefits (Goodell & Manzo, 2021). In a case study of the Austin, Texas construction industry, around 71% of poverty-wage workers had no access to workers' compensation coverage due to misclassification (Cox, Timm, & Tzintzún, 2009). When workers' compensation systems are underfunded due to the underground market, the premiums paid by law-abiding businesses must go up to make up the deficit, which can result in lower worker wages in the legal market as employers pay less to compensate for their increase in premiums (Goh, 2004).

Independent contractors are also not offered employer-sponsored health insurance plans. Even federally-funded jobs have not always provided benefits equally, with almost 20% of independent contractors unable to earn a living wage and without access to employer-sponsored health care coverage (Edwards & Filion, 2009). As a result, a large portion of construction workers and their families are dependent upon social safety net programs (Jacobs & Huang, 2021; Theodore & Doussard, 2006).

There are avenues for recovery for workers victimized by the crime of wage theft. State agencies may order unpaid wages be paid; however, unscrupulous employers are likely to avoid paying even after litigation. Research from California indicates that only 42% of stolen wages are recovered by victims of wage theft. Even worse, just 17% of workers who prevailed in a wage theft claim in California recovered any wages at all (Cho, Koonse, & Mischel, 2013). Similarly, a *CBS News* investigation of 650,000 complaints across the United States found that state agencies only ruled in favor of claimants about half the time—and claimants are not compensated in one-third of successful cases (Hacker et al., 2023). Despite these challenges, workers nationwide were able to recover $5.2 billion through the U.S. Department of Labor, state agencies, and class action lawsuits from 2015 through 2020 (McNicholas, Mokhiber, & Chalkof, 2017; Mangundayao et al., 2021).

Sources Listed by Release Year

Schmitt, John; Heidi Shierholz; Margaret Poydock; and Samantha Sanders. (2023). *The Economic Costs of Worker Misclassification.* Economic Policy Institute.

Key Finding: When employers misclassify workers as independent contractors, they deprive them of fundamental labor rights. In construction, an independent contractor loses out on as much as $16,729 per year in income (32%) from being misclassified as an independent contractor compared with what they would have earned as an employee. Revenue for social insurance programs—Social Security, Medicare, Workers' Compensation, and federal and state unemployment insurance—decreases by as much as $2,965 per construction worker per year due to misclassification as well (32%).

Hacker, Chris; Ash-Har Quraishi; Amy Corral; Ryan Beard. (2023). "Wage Theft Often Goes Unpunished Despite State Systems Meant to Combat It." *CBS News*.

Key Finding: Even when wage theft is reported, employers often manage to avoid paying back the wages they owe. CBS News submitted public records requests to nearly every state labor department in the country and built a database of more than 650,000 total complaints. Of those cases, state agencies ruled in favor of claimants only about half of the time. Even when workers won their claims, more than a third of those successful cases—totaling nearly $1 billion—showed no money was ever recovered. Finally, if wage theft was treated the same as felony theft (or the threshold at which a misdemeanor street crime becomes a felony), 177,000 wage theft cases in 25 states could have been felony cases. This includes over 25% of cases in New Jersey, Illinois, Massachusetts, New Hampshire, Kentucky, Indiana, Maryland, New York, Maine, Montana, Minnesota, Kansas, Utah, and Michigan.

Ormiston, Russell and Tom Juravich. (2022). *Worker Misclassification and Wage Theft in Rhode Island.* Allegheny College; University of Massachusetts-Amherst; Institute for Construction Employment Research (ICERES).

Key Finding: Rhode Island employers misclassified 4% of the state's workforce in 2019, representing more than 19,000 workers. In construction, 12% of construction employers are misclassifying workers, affecting 8% of the industry workforce. Payroll fraud costs taxpayers between $25 million and $54 million annually.

Waddoups, Jeffrey; Kevin Duncan; and Russell Ormiston. (2021). *Payroll Fraud in Nevada's Construction Industry: Extent and Fiscal Impact.* University of Nevada, Las Vegas; Colorado State University-Pueblo; Allegheny College; Institute for Construction Employment Research (ICERES).

Key Finding: There were about 12,700 workers who were either misclassified as independent contractors or employed off-the-books in Nevada's construction industry in 2018, representing 11% of the industry and 14% of blue-collar construction workforce. This resulted in $31 million in unpaid workers' comp premiums, a $12 million shortfall in the state UI fund, and $7 million in uncollected tax revenue via the Modified Business Tax.

Juravich, Tom; Russell Ormiston; and Dale Belman. (2021). *The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts.* University of Massachusetts-Amherst; Allegheny College; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: Audits of employer payrolls from 2017 to 2019 indicate that more than one-in-six Massachusetts construction employers (17% to 18%) misclassify their workers as independent contractors. Utilizing a well-established empirical approach of indirectly estimating the full extent of misclassification, there were between 22,000 and 37,000 workers affected by wage and tax fraud in 2019, accounting for 9% to 16% of the industry's workforce. This was especially prevalent among building finishing contractors (e.g., drywall, finish carpentry, painting). This led to $41 million in lost unemployment insurance contributions $41 million in lost income taxes, and $78 million in lost workers' comp premiums in 2019.

Jacobs, Ken and Kuochih Huang. (2021). *The Public Cost of Low-Wage Jobs in California's Construction Industry*. University of California, Berkeley.

Key Finding: 48% of families in which at least one adult who works in construction are enrolled in public safety net programs such as Medicaid, CHIP, EITC, and SNAP at an estimated annual cost of $3 billion.

Mangundayao, Ihna; Celine McNicholas; Margaret Poydock; and Ali Sait. (2021). *More Than $3 Billion in Stolen Wages Recovered for Workers Between 2017 and 2020.* Economic Policy Institute.

Key Finding: Between 2017 and 2020, $3.24 billion in stolen wages was recovered on behalf of workers by the U.S. Department of Labor, state departments of labor and attorneys general, and through class and collective action litigation—but this represents just a small portion of wages stolen from workers across the country. Potential policy options include increasing funding for the Department of Labor's Wage and Hour Division, engaging in proactive and strategic enforcement in industries where violations are especially rampant, enhancing civil monetary penalties for violations, protecting worker rights to unionize, and boosting funding for state and local enforcement.

Ormiston, Russell; Mark Erlich; and Dale Belman. (2021). *Payroll Fraud in New York's Construction Industry: Estimating its Prevalence, Severity and Economic Costs.* Allegheny College; Harvard University; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: There were between 76,000 and 126,000 workers who were either misclassified as independent contractors or employed off-the-books in New York's construction industry in 2017, representing 13% to 21% of all construction workers. This resulted in $289 million in unpaid workers' comp premiums and a $49 million shortfall in the state UI fund.

Goodell, Nathaniel and Frank Manzo IV. (2021). *The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois: Impacts on Workers and Taxpayers*. Midwest Economic Policy Institute.

Key Finding: When compared to employees doing similar work, independent contractors earn about 30% in total compensation in the construction industries of Wisconsin, Minnesota, and Illinois. This includes 13%-22% less in annual wages and 62%-66% in total benefits. Wage theft and payroll fraud cost a total of $362 million in lost state income taxes, unemployment insurance contributions, and workers' compensation premiums in these three states every year.

Ormiston, Russell; Dale Belman; and Mark Erlich. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College; Michigan State University; Harvard University.

Key Finding: In the average month in 2017, between 12% and 21% of construction industry workers were misclassified as independent contractors or working off-the-books. Due to payroll fraud, contractors illegally reduce labor costs by $6.2 billion to $11.7 billion per year. State workers' comp programs experienced a $1.7 billion shortfall due to misclassification. State UI plans experienced a shortfall of up to $725 million. State income tax revenues are $552 million lower. As much as $4.3 billion owed to Social Security and Medicare and $1.3 billion in federal income taxes was never paid in 2017 due to payroll fraud. Under federal wage statutes, workers are entitled to time-and-a-half for hours worked over 40 hours per week and to premium pay for work over holidays. Employers who misclassify workers as independent contractors can avoid paying these additional wages, resulting in $811 million to $1 billion in unpaid overtime and premium wages.

McNicholas, Celine; Zane Mokhiber; and Adam Chalkof. (2017). *Two Billion Dollars in Stolen Wages Were Recovered for Workers in 2015 and 2016 – and That's Just a Drop in the Bucket*. Economic Policy Institute.

Key Finding: In 2015 and 2016, $2 billion in stolen wages were repaid to victims of wage theft through litigation, state agency action, and class-action lawsuits. This figure is likely well below the amount actually stolen by wage theft yearly.

Cho, Eunice Hyunhye; Tia Koonse; and Anthony Mischel. (2015). *Hollow Victories: The Crisis in Collecting Unpaid Wages for California's Workers*. National Employment Law Project; University of California, Los Angeles.

Key Finding: Only 42% of unpaid wages due to wage theft were recovered after being awarded to victims by the California Department of Labor Standards Enforcement. The low chances of repayment combined with the exhaustive litigative process dissuades many from filing claims of wage theft.

Canak, William and Randall Adams. (2010). *Misclassified Construction Employees in Tennessee*. Middle Tennessee State University; Tennessee Technical University.

Key Finding: Between 12,000 and 39,000 construction workers are misclassified or unreported, affecting 11% to 21% of the construction workforce. Losses to state and federal programs were up to $15 million for the state's UI program, $92 million in worker's compensation premiums, $73 million in federal income tax, and $42 million in Social Security funding.

Belman, Dale and Richard Block. (2009). *The Social and Economic Costs of Employee Misclassification in Michigan.* Michigan State University.

Key Finding: 26% of construction firms misclassified employees. Among those who did so, 19% of their employees were misclassified (i.e., 6% of the entire industry workforce), costing the state over $2 million in UI tax revenue.

Edwards, Kathryn and Kai Filion. (2009). *Outsourcing Poverty: Federal Contracting Pushes Down Wages and Benefit*s. Economic Policy Institute.

Key Finding: From 2006 to 2007, the number of federal contract workers grew from 1.4 million to 2 million. Nearly 20% of these contract workers were unable to earn a living wage and did not have the same access to healthcare and retirement plans as provided to federal employees.

Cox, Lauren; Emily Timm; and Cristina Tzintzún. (2009). *Building Austin, Building Injustice*. Workers Defense Project; The University of Texas at Austin.

Key Finding: Access to workers' compensation is one aspect of total compensation and benefits and is especially valuable in injury-prone industries such as construction. Removing workers' access to workers' compensation places the financial burden of medical care on workers, as well as public hospitals and safety net programs like Medicaid.

Theodore, Nik and Marc Doussard. (2006). *The Hidden Public Cost of Low-Wage Work in Illinois*. University of Illinois at Chicago.

Key Finding: Low-wage jobs in 2001-2004 caused working families to rely on government assistance programs. These families constituted 37% of public benefits spending in Illinois, including $92 million on families with construction workers.

Goh, Yong Lee. (2004). *The Effect of Higher Workers' Compensation Premium Rates on Construction Worker Wages and the Reporting of Injuries*. University of Utah.

Key Finding: As workers' compensation premiums rise in construction, workers experience a significant decrease in wages as well as pressure from employers to not report injuries and utilize workers' compensation for medical care.

Wage Theft is a Crime Against the Taxpayer

Worker misclassification leads to shortfalls in government revenue. Employers withhold state and federal income taxes and make contributions to Social Security, Medicare, and state unemployment insurance and workers' compensation systems on behalf of all workers on their payrolls. By misclassifying employees as "independent contractors," fraudulent contractors leave workers fully responsible for reporting their incomes, paying taxes, and paying the full amount due to public programs like Social Security and Medicare.

Research indicates that misclassified workers would earn higher wages if they were correctly considered employees. That additional income would be subject to state taxes. Furthermore, if they were not illegally paid in cash, the earnings of "off-the-books" construction workers would be fully reported and would be taxed. The result is that the federal government loses up to $1.3 billion in income tax revenues and up to $4.3 billion in Social Security and Medicare revenues due to misclassification and payroll fraud in construction (Ormiston, Belman, & Erlich, 2020). States lose $1.7 billion in workers' compensation payments, over $700 million in unemployment insurance contributions, and $552 million in income tax revenues due to misclassification and payroll fraud in construction (Ormiston, Belman, & Erlich, 2020). Another national study estimates that revenue for Social Security, Medicare, workers' compensation, and federal and state unemployment insurance decreases by as much as $3,000 (or 32%) per construction worker who is misclassified as an independent contractor (Schmitt et al., 2023).

Numerous state-level studies confirm budget shortfalls caused by construction worker misclassification. In California, the unemployment insurance system is cheated of $63 million and workers' compensation system loses another $264 million every year due to misclassification and payroll fraud in construction (Liu, Flaming, & Burns, 2014). In the construction industries of Illinois, Wisconsin, and Minnesota, more than $360 million is lost each year in income taxes, unemployment insurance contributions, and workers' comp premiums (Goodell & Manzo, 2021). Studies in Missouri, Rhode Island, Nevada, Massachusetts, New York, Tennessee, and Michigan have found similar impacts (Kelsay, 2023; Ormiston & Juravich, 2022; Waddoups, Duncan, & Ormiston, 2021; Juravich, Ormiston, & Belman, 2021; Ormiston, Erlich, & Belman, 2021; Canak & Adams, 2010; Belman & Block, 2009).

Because misclassification reduces worker earnings and causes wage theft, fraudulent contractors create burdens on public services funded by taxpayers. Workers who have been misclassified are less likely to have private health insurance coverage—due to the drop in employer-sponsored health insurance coverage—and are more likely to rely on Medicaid (Greenstein, 2018). Underfunding of workers' compensation systems can shift the financial burden of treatment to public safety nets and local hospitals, with 20% of injured construction workers not being compensated for their injury in any way by their employers (Cox, Timm, & Tzintzún, 2009). In California, a recent study found that 48% of all families where at least one adult works in construction are enrolled in means-tested government assistance programs like Medicaid, the Earned Income Tax Credit (EITC), or Supplemental Nutrition Assistance Program (SNAP) food stamps. The cost to state public services is estimated at $3 billion per year (Jacobs & Huang, 2021).

All workers and law-abiding businesses are forced to pay more in taxes, unemployment insurance contributions, and workers' compensation premiums to cover the deficit caused by payroll fraud in construction. Because contractors with wage and safety violations produce lower-quality public works projects, taxpayers are also forced to pay more to maintain, repair, or replace infrastructure built by unscrupulous contractors who commit misclassification (Sonn & Gebreselassie, 2009). As a result, wage theft is a crime against taxpayers.

Sources Listed by Release Year

Schmitt, John; Heidi Shierholz; Margaret Poydock; and Samantha Sanders. (2023). *The Economic Costs of Worker Misclassification.* Economic Policy Institute.

Key Finding: When employers misclassify workers as independent contractors, they deprive them of fundamental labor rights. In construction, an independent contractor loses out on as much as $16,729 per year in income (32%) from being misclassified as an independent contractor compared with what they would have earned as an employee. Revenue for social insurance programs—Social Security, Medicare, Workers' Compensation, and federal and state unemployment insurance—decreases by as much as $2,965 per construction worker per year due to misclassification as well (32%).

Kelsay, Michael. (2023). *Worker Misclassification and Wage Theft in the Construction Industry in Missouri.* University of Missouri-Kansas City.

Key Finding: In 2020, 21% of workers in Missouri's construction industry were either misclassified as independent contractors or working "off-the-books" in cash-only arrangements. Misclassification and wage theft in the construction industry cost construction workers between $334 million and $465 million in lost wages and fringe benefits annually. Payroll fraud also costs Missouri $69 million in lost workers' compensation contributions, $28 million in lost unemployment insurance contributions, and $45 million in forgone state income tax revenue.

Juravich, Tom; Russell Ormiston; and Dale Belman. (2021). *The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts.* University of Massachusetts-Amherst; Allegheny College; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: Audits of employer payrolls from 2017 to 2019 indicate that more than one-in-six Massachusetts construction employers (17% to 18%) misclassify their workers as independent contractors. Utilizing a well-established empirical approach of indirectly estimating the full extent of misclassification, there were between 22,000 and 37,000 workers affected by wage and tax fraud in 2019, accounting for 9% to 16% of the industry's workforce. This was especially prevalent among building finishing contractors (e.g., drywall, finish carpentry, painting). This led to $41 million in lost unemployment insurance contributions $41 million in lost income taxes, and $78 million in lost workers' comp premiums in 2019.

Ormiston, Russell; Mark Erlich; and Dale Belman. (2021). *Payroll Fraud in New York's Construction Industry: Estimating its Prevalence, Severity and Economic Costs.* Allegheny College; Harvard University; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: There were between 76,000 and 126,000 workers who were either misclassified as independent contractors or employed off-the-books in New York's construction industry in 2017, representing 13% to 21% of all construction workers. This resulted in $289 million in unpaid workers' comp premiums and a $49 million shortfall in the state UI fund.

Jacobs, Ken and Kuochih Huang. (2021). *The Public Cost of Low-Wage Jobs in California's Construction Industry*. University of California, Berkeley.

Key Finding: 48% of families in which at least one adult who works in construction are enrolled in public safety net programs such as Medicaid, CHIP, EITC, and SNAP at an estimated annual cost of $3 billion.

Goodell, Nathaniel and Frank Manzo IV. (2021). *The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois: Impacts on Workers and Taxpayers*. Midwest Economic Policy Institute.

Key Finding: When compared to employees doing similar work, independent contractors earn about 30% in total compensation in the construction industries of Wisconsin, Minnesota, and Illinois. This includes 13%-22% less in annual wages and 62%-66% in total benefits. Wage theft and payroll fraud cost a total of $362 million in lost state income taxes, unemployment insurance contributions, and workers' compensation premiums in these three states every year.

Ormiston, Russell; Dale Belman; and Mark Erlich. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College; Michigan State University; Harvard University.
Key Finding: In the average month in 2017, between 12% and 21% of construction industry workers were misclassified as independent contractors or working strictly off-the-books. Due to payroll fraud, state workers' compensations programs experienced a $1.7 billion shortfall due to misclassification. State unemployment insurance plans experienced a shortfall of up to $725 million. State income tax revenues are $552 million lower. As much as $4.3 billion owed to Social Security and Medicare and $1.3 billion in federal income taxes was never paid in 2017 due to payroll fraud.

Greenstein, Robert. (2018). *Health Coverage Progress Stalls – Even as Economy Reduces Poverty, Boosts Income*. Center on Budget and Policy Priorities.
Key Finding: While poverty rates fell and median income rose in 2017, health insurance coverage did not increase nationally. 8.8% of the U.S. population, 28.5 million people, were not covered by health insurance in 2017, mostly being low wage working adults and their dependents.

Yen Liu, Yvonne; Daniel Flaming; and Patrick Burns. (2014). *Sinking Underground: The Growing Informal Economy in California Construction*. Economic Roundtable.
Key Finding: An analysis of California's construction industry found that 16% of construction workers were employed in the informal economy in 2011, including 104,100 construction workers who were not reported by their employers and 39,800 who were misclassified as independent contractors. The "informal tax gap" results in $774 million in lost revenue from payroll taxes alone—$301 million to the federal government and $473 million to California.

Canak, William and Randall Adams. (2010). *Misclassified Construction Employees in Tennessee*. Middle Tennessee State University; Tennessee Technical University.
Key Finding: Between 12,000 and 39,000 construction workers are misclassified or unreported, affecting 11% to 21% of the construction workforce. Losses to state and federal programs were up to $15 million for the state's UI program, $92 million in worker's compensation premiums, $73 million in federal income tax, and $42 million in Social Security funding.

Belman, Dale and Richard Block. (2009). *The Social and Economic Costs of Employee Misclassification in Michigan.* Michigan State University.
Key Finding: 26% of construction firms misclassified employees. Among those who did so, 19% of their employees were misclassified (i.e., 6% of the entire industry workforce), costing the state over $2 million in UI tax revenue.

Sonn, Paul and Tsedeye Gebreselassie. (2009). *The Road to Responsible Contracting: Lessons from States and Cities for Ensuring That Federal Contracting Delivers Good Jobs and Quality Services*. National Employment Law Project (NELP); University of California, Berkeley.
Key Finding: A 1983 Housing and Urban Development audit found an inverse relationship between wage violations and quality of projects for federally-funded construction.

Cox, Lauren; Emily Timm; and Cristina Tzintzún. (2009). *Building Austin, Building Injustice*. Workers Defense Project; The University of Texas at Austin.
Key Finding: Access to workers' compensation is one aspect of total compensation and benefits and is especially valuable in injury-prone industries such as construction. 20% of construction workers in Austin who experienced an injury were not able to take advantage of workers' compensation due to their status as independent contractors. This cost was largely absorbed by public hospitals caring for the injured workers.

Theodore, Nik and Marc Doussard. (2006). *The Hidden Public Cost of Low-Wage Work in Illinois*. University of Illinois at Chicago.
Key Finding: Low-wage jobs in 2001-2004 caused working families to rely on government assistance programs. These families constituted 37% of public benefits spending in Illinois, including $92 million on families with construction workers.

Ways to Combat Payroll Fraud and Wage Theft in Construction

The U.S. public believes that the misclassification of workers as independent contractors is a significant problem (NELP, 2016). In a national survey of 1,000 registered voters, 84% said that misclassification is a serious problem. Another 78% of voters favor proposals that would make it harder for companies to misclassify workers as independent contractors and increase fines and penalties for misclassification, including 73% of Republicans. Combatting misclassification can be a popular political issue (Erlich, 2020).

While worker misclassification can be addressed indirectly through Federal Labor Standards Act (FLSA) investigations, misclassification is not explicitly mentioned in federal labor laws (GAO, 2009). As a result, many states have enacted employee misclassification laws. Typically, state legislation increases the cost to employers that commit misclassification and wage theft by imposing fines or debarment. Research shows that this leads to a statistically significant decline in the practice, but only if paired with strong enforcement mechanisms (Galvin, 2016).

There are underutilized tactics that state agencies can use to deter misclassification. Many enforcement agencies rely heavily on formal complaints, which can be ineffective because vulnerable workers are hesitant to file complaints out of fear of retaliation (Erlich & Gerstein, 2019; Weil & Pyles, 2006). Pairing complaint-driven investigations with targeted, randomized investigations of employers in industries that are prone to misclassification can increase the chances of exposing fraudulent contractors. Additionally, stop-work orders can halt all work on construction sites until contractors turn over payroll records and comply with investigators. Some agencies have reported that response times drop as low as one to two days with the use of stop-work orders (Erlich & Gerstein, 2019). Another tool to help disenfranchised workers recover lost wages is to record a wage lien against contractors who are under investigation. Wage liens operate similarly to mechanic's liens by not allowing employers to escape payment of wages by dissolving their businesses (Cho, Koonse, & Mischel, 2013; Gleeson, Taub, & Noss, 2014).

Upstream liability laws hold general contractors liable for the nonpayment of wages and benefits, regardless of which subcontractor breaks the law (Ormiston et al., 2020). This form of multiemployer liability incentivizes self-policing in the industry by focusing efforts on upper-tier contractors that have authority to change practices through contractual agreements. California, Illinois, Maryland, New Jersey, New York, Nevada, and Virginia have enacted such policies targeted at primary contractors (Philips, 2021). Illinois' law applies *only* to general contractors who are not signatories to collective bargaining agreements on private projects that exceed $20,000 and excludes single family residential projects (Chen, 2022). Wisconsin's Task Force on Payroll Fraud and Worker Misclassification recommended enacting an upstream liability law (DWD, 2021). Fully 71% of voters support holding general contractors legally responsible if their subcontractors fail to pay earned wages, unemployment insurance contributions, workers' compensation premiums, and Social Security taxes—including 67% of Republicans (NELP, 2016).

Another legislative solution is to implement or strengthen prevailing wage laws (Hinkel, 2021). From 2010 through 2019, misclassification and off-the-books employment was 2% lower for construction workers in states with prevailing wage laws. That is because certified payroll records are typically used to survey local markets and ascertain prevailing wage rates for each craft, improving transparency and enforcement on public works projects. States with lower prevailing wage contract thresholds also had fewer construction workers who were misclassified or paid off-the-books because more projects were covered, making workers less vulnerable to illegal labor practices and taxpayers less vulnerable to fraud (Hinkel, 2021).

Another mechanism to increase the efficacy of state misclassification laws is greater involvement by state Attorneys General (AGs) and District Attorneys (DAs) (Gerstein, 2021). California, Massachusetts, New York, Illinois, Michigan, Minnesota, New Jersey, Pennsylvania, Virginia, and the District of Columbia have dedicated worker protection units within their AG offices that respond to workers' rights issues. Washington State's AG has also increased its involvement in labor enforcement. These units signal to employers that labor and employment laws will be enforced. They build connections with the labor movement and expand educational initiatives about workers' rights and reporting mechanisms for those most at risk of misclassification (Lawless, 2019; Gerstein, 2020; Gerstein & Wilpert, 2018).

Importantly, Attorneys General can bring criminal prosecution against unscrupulous contractors that commit illegal misclassification and payroll fraud. If the threshold for wage theft was treated the same as property theft, 27% of all wage theft cases in 25 states would have been felony cases (Hacker et al., 2023). New York's Wage Theft Accountability Act, signed into law in September 2023, made wage theft a felony, allowing prosecutors to charge larceny and to aggregate stolen wage amounts (James et al., 2023). Several other states have enacted laws that create criminal liability for illegal misclassification (Holt, 2021). In 2021, Pennsylvania's Attorney General recovered more than $20 million in stolen wages for nearly 1,300 construction workers who worked for Glenn O. Hawbaker, Inc. between 2003 and 2018, the largest prosecution for prevailing wage theft in history (Shapiro, 2021).

Additional state actions can be pursued. Increasing funding for enforcement efforts—for example, by hiring more prevailing wage compliance monitors and more unemployment insurance auditors, especially those who speak multiple languages—would make a difference. States can strengthen punitive measures by enacting larger fines, creating escalating penalties for repeat offenders, and debarring contractors from winning bids on publicly-funded construction projects. States can also reform labor laws to presume that workers are employees, with the burden of proving an independent contractor relationship placed on the employing party (Holt, 2021). These reforms generally include the "ABC test" in which workers are employees unless three criteria are met: [A] the worker is free from control and direction by the employing party, [B] the worker performs work outside of the course of the hiring party's typical business, and [C] the worker is engaged in an independently established trade or businesses aligning with the work they perform for the hiring party. After Illinois passed the Employee Classification Act with an ABC test, $1.3 million in penalties against misclassifying employers were generated in 3 years (Casey & Lewis, 2011).

The federal government has proposed updated rules that would make it more difficult for companies to claim that their workers are independent contractors under the Fair Labor Standards Act (WHD, 2022). Among other changes, these proposed rules would restore the multifactor, "totality-of-the-circumstances" analysis to employee or independent contractor status, rescind the 2021 Independent Contractor Rule, and return to the longstanding interpretation of "economic reality" factors.

The best way to combat wage theft is to expand unionization. When workers have a voice and are protected by unions, they are more likely to file complaints. Studies have shown that union members are more likely to be aware of misclassification and be familiar with reporting avenues (Cox, Timm, & Tzintzún, 2009; Construction Industry Tax Fraud, 2021). Additionally, in states with underfunded enforcement efforts, collective bargaining allows workers to organize for better treatment (Mattera, 2018). Finally, if passed by Congress, the Protecting the Right to Organize (PRO) Act would amend the National Labor Relations Act to make misclassification an unfair labor practice that can be federally investigated and would strengthen the ability of workers to collectively bargain by establishing stiffer penalties on employers for violating labor law and by invalidating anti-union state laws (Rhinehart et al., 2021).

Sources Listed by Release Year

Wage and Hour Division (WHD). (2022). "U.S. Department of Labor Announces Proposed Rule on Classifying Employees, Independent Contractors; Seeks to Return to Longstanding Interpretation." U.S. Department of Labor.

Key Finding: "The proposed rule would provide guidance on classifying workers and seeks to combat employee misclassification. Misclassification is a serious issue that denies workers' rights and protections under federal labor standards, promotes wage theft, allows certain employers to gain an unfair advantage over law-abiding businesses, and hurts the economy at-large."

Chen, Lori. (2022). "Illinois Governor Signs Bills Expanding Contractors' Liability for Unpaid Wages of Subcontractors' Workers." Ogletree Deakins.

Key Finding: Illinois Governor JB Pritzker signed House Bill 5412 and House Bill 4600 into law, which amend the Illinois Wage Payment and Collection Act to make certain primary contractors liable for any debt owed by a subcontractor (at any tier). HB 4600, the trailer bill, carves out two categories of contractors exempt from liability for such unpaid wages and benefits: (1) contractors who are signatories of collective bargaining agreements on projects where work is being performed and (2) primary contractors altering or repairing an existing single-family dwelling or single residential unit. Additionally, HB 4600 also limits the scope of the amendment to the WPCA, applying it only to contractors doing work in Illinois that exceeds $20,000 on private (i.e., nongovernment) projects, other than an owner acting as a primary contractor on the owner's primary residence.

Phillips, Zachary. (2021). "New York State Legislature Passes Construction Wage Theft Bill." *Construction Dive*.

Key Finding: The New York State Senate and State Assembly passed legislation Wednesday that shifts liability to general contractors for wage theft cases on private construction projects. It made New York the 6th state, in addition to Washington, D.C., to adopt this type of protective wage theft for construction workers.

Shapiro, Josh. (2021). "Hawbaker Sentenced, Will Pay Workers More than $20 Million in Stolen Wages." Pennsylvania Attorney General.

Key Finding: Attorney General Josh Shapiro sentenced Glenn O. Hawbaker, Inc. for theft relating to violations of the Pennsylvania Prevailing Wage Act and the federal Davis-Bacon Act. The plea includes paying $20,696,453 in stolen wages to 1,267 Pennsylvania workers. Hawbaker is one of the largest contractors to complete projects on behalf of the Commonwealth, receiving an estimated $1.7 billion in contracts between 2003 and 2018. The restitution is for the largest prevailing wage criminal case in U.S. history. Hawbaker pleaded to four felony counts of stealing wages from its workers.

Rhinehart, Lynn; Celine McNicholas; Margaret Poydock; and Ihna Mangndayao. (2021). *Misclassification, the ABC Test, and Employee Status: The California Experience and Its Relevance to Current Policy Debates*.

Key Finding: Federal and state policymakers should adopt the ABC test in their labor and employment laws to ensure workers are not misclassified, and are covered by important workplace rights and protections.

Department of Workforce Development (DWD). (2021). *Payroll Fraud and Worker Misclassification Report: 2021*. State of Wisconsin.

Key Finding: This is a report from the Task Force on Payroll Fraud and Worker Misclassification. In 2020, Wisconsin Unemployment Insurance (UI) Division auditors conducted nearly 1,300 audits and identified 8,900 misclassified workers, generating $2.34 million in UI taxes and interest. The task force recommends creating a new Insurance Fraud Bureau of Investigations and developing a statutory requirement of upstream liability, among other recommendations.

Gerstein, Terri. (2021). *How District Attorneys and State Attorneys General Are Fighting Workplace Abuses*. Economic Policy Institute.

Key Finding: District attorneys (DAs) and state attorneys general (AGs) have been bringing criminal prosecutions against law-breaking employers. This development is particularly important in light of limits in worker protection laws, underfunding of labor enforcement agencies, and employers' increasing use of forced arbitration clauses.

Holt, Josh. (2021). "Virginia Joins the Trend of States Cracking Down on Worker Misclassification in the Construction Industry." *Common Sense Contract Law*.

Key Finding: Virginia's 2020 employee classification law assumes all workers are employees unless the employer can prove they are contractors under the IRS's employment relationship test. The bill specifically targeted construction by barring known violators from bidding on public projects for two years.

Ormiston, Russell; Dale Belman; Julie Brockman; and Matt Hinkel. (2020). *Rebuilding Residential Construction.* In Paul Osterman (Ed.), *Creating Good Jobs: An Industry-Based Strategy,* 75-113. MIT Press.

Key Finding: An investigation of 71 drywall installers by Carpenters Local 525 in Kalamazoo, MI found 94% of contractors misclassified workers; 73% of 1,840 workers were misclassified or working off-the-books. Further, this book chapter describes the prevalence of illegal labor practices in residential construction and makes policy recommendations for incentivizing compliance with labor and employment law.

Gerstein, Terri. (2020). *Workers' Rights Protection and Enforcement by State Attorneys General: State AG Labor Rights Activities from 2018 to 2020*. Economic Policy Institute.

Key Finding: In Washington, D. C., Massachusetts, and New York, state attorneys general have established offices to focus on labor rights. Cases brought against employers for misclassification have generated multiple millions in settlements.

Erlich, Mark and Terri Gerstein. (2019). *Confronting Misclassification and Payroll Fraud: A Survey of State Labor Standards Enforcement Agencies*. Harvard Law School.

Key Finding: Misclassification, a tactic used by employers to reduce labor costs by depriving workers of protections, creates a non-competitive environment against law-abiding employers paying market-based wages and benefits. Statutes governing state wage enforcement agencies explicitly dictate that they must rely on complaint-driven investigations either wholly or mostly. Regulators believe this to be ineffective as workers are intimidated into not reporting, do not know how to report, or are unaware that their employer is acting illegally.

Lawless, Donald. (2019). "Michigan Employers Act Before the Payroll Fraud Enforcement Unit Comes Knocking." *The National Law Review*, 11(207).

Key Finding: State misclassification laws have caused employers to evaluate their practices for accidental or intentional misclassification and stop the practice before penalties were administered.

Gerstein, Terri and Marni von Wilpert. (2018). *State Attorneys General Can Play Key Roles in Protecting Workers' Rights*. Economic Policy Institute.

Key Finding: State attorneys general have the authority to direct regulatory agencies and build cases against employers in violation of wage and labor laws and to launch labor education programs in industries where misclassification is prevalent.

Mattera, Philip. (2018). *Grand Theft Paycheck: The Large Corporations Shortchanging Their Workers' Wages*. Good Jobs First.

Key Finding: Government enforcement of labor laws are subject to administrations hostile to workers and sympathetic to employers. Union representation allows more workers to recover stolen wages.

Galvin, Daniel. (2016). "Deterring Wage Theft: Alt-Labor, State Politics, and the Policy Determinants of Minimum Wage Compliance." *Perspectives on Politics*, 14(2): 324-350.

Key Finding: Employers base their wage theft strategies on the expected probability of detection and the monetary cost of a violation being detected. State laws that increase the costs of violations that are detected have led to statistically significant declines in wage theft, if coupled with equally strong enforcement mechanisms.

National Employment Law Project (NELP). (2016). *Contracted Out: Findings from a National Voter Survey*.

Key Finding: In a national survey of 1,000 registered voters, 84% of Americans said that companies misclassifying workers as independent contractors is a serious problem and 78% said that workers are better off when they are employees. 78% favor making it harder for companies to misclassify workers as independent contractors, including 73% of Republicans.

Cho, Eunice Hyunhye; Tia Koonse; and Anthony Mischel. (2015). *Hollow Victories: The Crisis in Collecting Unpaid Wages for California's Workers*. National Employment Law Project; University of California, Los Angeles.
Key Finding: Only 42% of unpaid wages due to wage theft were recovered after being awarded to victims by the California Department of Labor Standards Enforcement. In response to low rates of repayment of stolen wages, wage liens can be used to prevent employers from dissolving their company to avoid repayment. When a wage lien is in place, a company dissolving or declaring bankruptcy must retain funds to pay the lien before liquidating.

Gleeson, Shannon; Ruth Silver Taube; and Charlotte Noss. (2014). *Santa Clara County Wage Theft Report*. University of California, Santa Cruz; Santa Clara Law.
Key Finding: Filing wage liens is often the responsibility of local government officials. To bring successful wage theft claims, individuals and classes can engage with local government officials for support in ensuring repayment.

Ordonez, Franco and Mandy Locke. (2014). "IRS' 'Safe Harbor' Loophole Frustrates Those Fighting Labor Tax Cheats." *McClatchy D. C. Bureau*.
Key Finding: Due to the "safe harbor" provision in the Revenue Act, revenue officers charged with investigating worker misclassification and payroll fraud often find themselves unable to administer penalties or change employer practices. Some IRS examiners describe the provision as the "greatest impediment" to fighting worker misclassification.

Casey, Robert and Eva Lewis. (2011). *Independent Contractors and Employee Misclassification in the Construction Industry*. Ogletree, Deakins, Nash, Smoak & Stewart.
Key Finding: The Illinois Employee Classification Act assumes all construction workers are employees unless the employing party can prove they are independent contractors. In the first 3 years after enactment, $1.3 million in penalties was recovered for misclassified workers. This bill bars known violators from bidding on public project for up to 4 years.

Cox, Lauren; Emily Timm; and Cristina Tzintzún. (2009). *Building Austin, Building Injustice*. Workers Defense Project; The University of Texas at Austin.
Key Finding: Texas' so-called "right-to-work" law has severely reduced union density in construction. However, when surveyed, union construction workers were 58% more likely to know about their labor rights than non-unionized workers.

Government Accountability Office (GAO). (2009). *Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention*.
Key Finding: Misclassification of workers enables other forms of wage theft, such as minimum wage theft. These minimum wage violations are investigated under the Fair Labor Standards Act, which does not address misclassification.

Weil, David and Amanda Pyles. (2006). "Why Complain? Complaints, Compliance, and the Problem of Enforcement in the U.S. Workplace." *Comparative Labor Law and Policy Journal*, 27(59): 59-92.
Key Finding: For every 130 minimum wage violations in the United States, only one complaint is filed with the appropriate regulatory agency. Explanations for this gap include the fear of retaliation from employers and lack of unionization.

Example Op-Eds on Misclassification and Wage Theft in Construction

Solis, Hilda. (2017). "Opinion: Wage Discrimination in Construction Industry Makes Minimum Standards a Good Idea." *The Mercury News*.

Opinion: Wage Discrimination in Construction Industry Makes Minimum Standards a Good Idea

The Mercury News (San Francisco Bay Area) | By Hilda L. Solis | August 30, 2017

Equal pay for equal work remains elusive, even here in progressive California.

A recent study by Smart Cities Prevail showed that Latinos make up two thirds of the construction workforce, yet only make about 70 cents on the dollar of white workers with the same skills. The study noted that Latino construction workers also are significantly more likely to be uninsured and to struggle with housing affordability.

Low minimum wage standards are one factor that contributes to these types of disparities.

California legislators are soon expected to consider streamlining development of more housing across our state. At its core, the proposal involves removing certain regulatory hurdles in exchange for guarantees that a small percentage of new developments will include "affordable" units.

A similar effort failed last year when no agreement was reached on wage standards for workers on streamlined projects.

According to industry research, workers' wages and benefits are just 15 percent of the total cost of constructing housing. By comparison, profits for developers and contractors are 18 percent of costs and growing faster than the cost of labor.

And while inflation-adjusted construction wages are down 25 percent over the last 20 years, housing prices have soared as much as 54 percent in some markets. Declining wages mean more worker reliance on Medicaid, Food Stamps and other assistance programs.

And with labor standards being eroded, other problems have become more pervasive.

For example, wage theft occurs when employees are paid for fewer hours than they worked, less than legally required, or when their employer is paying in cash and cheating on payroll taxes. California's construction industry has seen a 400 percent increase in wage theft since the 1970s—a period that has also seen a dramatic increase in the share of immigrants in our construction workforce.

A recent study by the Economic Roundtable found that one in six California construction workers is now affected by these crimes. Construction wage theft's annual cost to California workers and taxpayers is in the billions of dollars.

By including things like prevailing wage in a housing streamlining package, California can take an important step in combatting this cycle of exploitation.

Prevailing wage requirements provide a livable, minimum pay rate for construction workers that is consistent with local market standards. By stabilizing the wage floor, the requirement closes pay gaps that disproportionately impact communities of color, decreases the likelihood of working people living in poverty, increases rates of health coverage and increases the probability of a non-white individual pursuing a career in construction.

Prevailing wage also increases participation in skilled trade apprenticeship programs. These programs not only expand a worker's lifetime earnings by as much as $240,000, but enable construction workers to acquire skills that improve safety, productivity and efficiency on the jobsite. These skills are essential if we hope to boost housing supply in sufficient quantities to close the affordability gap.

To formulate sound policy consistent with California's values, we need to have an honest conversation about how we arrived at our present crisis. By depressing wages and productivity and turning a blind eye to the growing wage theft epidemic, industry profits have exploded. But so has the income gap within the industry, as well as the number of Californians priced out of the housing market.

Something isn't working.

In housing reform, we are being asked to de-regulate one of our state's most lucrative industries. In return, aren't taxpayers entitled to ask that this industry do right by its workers?

Hilda L. Solis is a former member of Congress and was Secretary of Labor from 2009-2013. She now serves on the Los Angeles County Board of Supervisors. She wrote this for The Mercury News.

Sproule, William. (2023). "Opinion: The Deadly Serious Consequences of Illegal Employee Misclassification." *City & State Pennsylvania*.

Opinion: The Deadly Serious Consequences of Illegal Employee Misclassification

Low wages and employee misclassification often go hand-in-hand
with unsafe job sites where safety rules are sometimes ignored.
City & State Pennsylvania | By William Sproule | May 1, 2023

There are an estimated 2.16 million construction workers in the U.S. who are illegally paid and misclassified as independent contractors every year by thousands of unscrupulous contractors, intent on defrauding federal, state and local governments out of an estimated $8.4 billion. The Pennsylvania Joint Task Force on the Misclassification of Employees found that such misclassification resulted in an annual loss of $91 million to Pennsylvania's Unemployment Compensation Trust Fund.

Greed is the prime motivating factor that drives more and more contractors to underpay their workers, offer no benefits or medical coverage, and routinely use labor brokers to keep their employees off the books and avoid paying taxes, Social Security benefits and insurance coverage. This illegal practice allows those who cheat to substantially underbid their law-abiding competitors, who absorb all appropriate employee costs – including paying all required taxes, health insurance, retirement and workers' compensation benefits.

Misclassification puts ill-gotten gains in the pockets of tax cheats, while also defrauding the government. It encourages lawlessness and an environment where workers are exploited, taken advantage of, and endangered. The UC Berkeley Labor Center found that "28% of families of construction workers in Pennsylvania are enrolled in one or more safety net programs at a cost to the state and federal government of $428 million per year." Compared to all Pennsylvania workers, construction workers are more than twice as likely to lack health insurance (7% compared to 16%).

Low wages and employee misclassification often go hand-in-hand with unsafe job sites where OSHA safety rules are often ignored, if nonexistent. The failure to enforce job safety requirements has had deadly consequences – and law enforcement and local prosecutors are now paying attention and taking action.

One case involved a 27-year-old Irish immigrant with an American wife and an infant son. He tragically lost his life working as a misclassified subcontractor for a Delaware County company that was criminally charged with unlawful labor practices, including multiple counts of Workplace Misclassification, Deceptive Business Practices, and Insurance and Worker's Compensation Fraud.

Another recent case involved an immigrant from Belarus who left behind a wife and a three-month-old child after he was killed on a job where the contractor was cited by OSHA for general safety and health violations and a failure to provide fall protection.

Misclassification has severe consequences beyond the financial loss to federal, state and local government coffers. It is a symptom of an illegal business model that cuts corners, pays low wages, fails to play by the rules and is willing to risk workers' lives. It's time to increase enforcement and prosecution of those who willfully break the law and misclassify their workforce while ignoring job site safety requirements – all to enrich themselves.

William C. Sproule is Executive Secretary-Treasurer for the Eastern Atlantic States Regional Council of Carpenters where he represents over 43,000 carpenters from Pennsylvania, New Jersey, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia.

James, Letitia; Alvin Bragg; Catalina Cruz; and Joseph Geiger. (2023). "Commentary: Wage Theft Is a Serious Crime. We're Finally Treating It That Way." *The Times Union*.

Commentary: Wage Theft Is a Serious Crime. We're Finally Treating It That Way.

The Wage Theft Accountability Act is an important tool for protecting workers and holding employers accountable.

The Times Union | By Letitia James, Alvin Bragg, Catalina Cruz and Joseph Geiger | September 12, 2023

What do a deli in the Bronx, a car wash in Queens and a construction site in Manhattan have in common? These are among the thousands of businesses across the state facing complaints of wage theft, a pernicious practice in which employers refuse to pay workers what they are owed.

Every year, New York businesses cheat more than 2 million workers out of over $3.2 billion in wages, a third of which comes from those earning minimum wage. This is money that families rely on to put food on the table, yet wage theft — even when it amounts to tens of thousands of dollars in stolen pay — has been only a misdemeanor in New York, akin to trespassing or jumping a subway turnstile. As a result, prosecutors lack the tools to stop employers who line their pockets with money their employees worked hard to earn.

If it is wrong to steal from someone's house or a bank, it is just as wrong to steal a person's wages and labor; for many people, labor is all they have. But as misdemeanors, these cases are subject to limited discovery and a short statute of limitations, which do not reflect the seriousness of the crime. For busy law enforcement offices with limited resources, wage theft's status as a misdemeanor has meant this crime goes unprosecuted far too often.

It is clear we need stronger measures to hold the perpetrators of wage theft accountable. And New York took a crucial step in the right direction recently when Gov. Kathy Hochul signed the Wage Theft Accountability Act into law. Sponsored by Assemblymember Catalina Cruz and Sen. Neil Breslin, this legislation has made wage theft a felony, giving our prosecutors an important tool to hold employers accountable when these calls come in.

The bill, which went into effect immediately after the governor signed it on Wednesday, allows prosecutors to charge larceny for stolen wages and to aggregate stolen wage amounts, which will now provide much more effective deterrence and consequences for employers who cheat workers.

The Wage Theft Accountability Act recognizes wage theft for what it is: a criminal act. By signing this bill into law, Gov. Hochul has sent a clear message to unscrupulous employers that exploiting their employees will result in serious consequences. Furthermore, it gives workers the legal backing to fight against such exploitation and brings long-overdue justice to victims.

But this legislation goes beyond penalizing wrongdoing; it promotes economic fairness. Fair wages mean more consumer spending, greater job creation and stronger communities. Higher wages also lead to increased income tax revenue, providing additional resources for public services and infrastructure improvements.

This legislation is not just about punishing criminals; it's about protecting the workers who are the backbone of our economy. It's about justice, equity and economic prosperity.

For the people who have reached out for help to no avail, and in the name of countless others silently suffering the financial burden of wage theft, New York needed to take action once and for all. With this law, we have seized the opportunity to protect our workers, our communities and our economy by recognizing wage theft as the outrageous crime that it is.

Letitia James is attorney general of the state of New York. Alvin Bragg is the Manhattan district attorney. Assemblymember Catalina Cruz of Queens represents the 39th Assembly District. Joseph Geiger is executive secretary-treasurer of the New York City and Vicinity District Council of Carpenters.

Weidl, Evan. (2022). "Opinion: Wage Theft Needs More Attention." *The Daily Iowan*.

Opinion: Wage Theft Needs More Attention

The issue of wage theft needs more recognition to be properly combated.

The Daily Iowan | By Evan Weidl | December 11, 2022

If you are a worker in Iowa, there is a good chance you're being robbed, and you may not even know it.

The most common form of theft in the U.S. is not committed via petty crime. It's wage theft.

Every year, Iowa workers do not receive an estimated $900 million owed to them, according to Common Good Iowa. This includes overtime violations, minimum wage violations, forced work off the clock, and other violations.

Wage theft is one of the most serious and overlooked issues in the U.S. Law enforcement must do more to prevent wage theft, and our lawmakers must do more to protect workers.

Workers who are affected by wage theft are primarily low-wage workers. In the 10 most populous states, 2.4 million workers lose $8 billion annually to minimum wage violations, according to the Economic Policy Institute.

This averages out to about $3,300 per year per worker. The Economic Policy Institute estimates that wage theft affects 17 percent of low-wage workers.

Law enforcement must be more vigilant about preventing wage theft. Workers are protected from wage theft under the Fair Labor Standards Act. Even those who are not authorized to work in the U.S. are protected under this law.

The Fair Labor Standards Act was enacted to protect workers from exploitation from their employers. This includes establishing regulations such as minimum wage and requirements for overtime pay.

It is one problem that workers are being robbed of millions in plain sight. It is another that so little is being done to get it back and prevent it from happening again.

In Iowa, for every $1,000 stolen via wage theft, just $2 are recovered by public agencies. This loses the state over $190 million in tax revenue.

Wage theft is illegal in Iowa, and it's time for the government to start doing more to protect workers. The government must take measures to ensure wage theft does not happen in the first place, and if it does happen, enact strong punishments on those who rob their workers.

To prevent wage theft, the state should make it easier to file wage theft claims, make stronger anti-retaliation laws, and hire more investigators to look into claims.

Furthermore, the punishments for wage theft must be firmer. Many employers who get caught stealing from their workers do not face adequate penalties, which promotes further wage theft. The courts must hand out sentences of large fines and considerable jail time to those who are convicted of stealing from their employees, It is crucial to recognize that the government will not take these steps to protect workers willingly. In 2015, a Republican-led House shot down a bill that would have protected co-workers who testify against employers from retaliation and required employers to keep records on terms of employment, according to *The Cedar Rapids Gazette*.

The only way workers will get the protections they deserve is by putting pressure on the state and forcing the government's hand. This could be achieved through actions such as strikes and walk-outs.

Action from workers would also bring attention to the issue and shift the narrative. Many people who aren't getting paid what they are owed may not even realize it, or may think it's just an unfortunate reality of being a worker.

Workers stand up and take what they are owed.

It is beyond time for Iowa and the U.S. to stand up against predatory employers who steal from their own employees, but if the government is ever going to take such actions, it will only be because mass amounts of workers joined together and demanded they get what they deserve.

Evan Weidl is an Opinions Columnist at The Daily Iowan, the independent, student-run newspaper at the University of Iowa.

Other Op-Eds Listed by Release Year

LaBarbera, Gary. (2021). "Viewpoint: Measure Will Fight Wage Theft in Construction Industry." *Times Union*.
Key Finding: The President of the New York State Building & Construction Trades Council says that $300 million in stolen wages were recovered for exploited workers since 2011, but fraudulent contractors still retain hundreds of millions more.

Obernauer, Charlene. (2021). "Op-Ed: Wage Theft is a Crime – It's Time to Put an End to It." *amNY*.
Key Finding: The Executive Director of the New York Committee for Occupational Safety and Health says that a "tell-tale sign of unsafe working conditions are whispers of wage theft violations against workers on private construction projects."

Leberstein, Sarah. (2021). "The Next Big Step in Stopping Wage Theft in the Construction Industry." *Gotham Gazette*.
Key Finding: An employment attorney hears daily from construction workers cheated of their wages by subcontractors, especially those on nonunion and residential sites where many immigrant workers are employed.

Castro, Manuel. (2021). "Opinion: Wage Theft is Rampant in NY's Construction Industry. Albany Can Act Now to Curb It." *City Limits*.
Key Finding: Addressing wage theft and giving exploited workers a more secure path to recouping unpaid wages would represent a major step towards making sure that immigrant workers are given dignity though hard and important work.

Sproule, William. (2021). "Op-Ed: Construction Industry Tax Cheats Need to Be Held Accountable." *Metro Philadelphia*.
Key Finding: Construction industry tax cheats fail to pay their workers fair living wages and rarely provide medical coverage, while also evading federal, state, and local taxes, overtime, and workers' compensation premiums. This gives them a tremendous competitive edge when it comes to bidding on both public and private jobs against law-abiding contractors.

White, Victor. (2019). "Nashville is Being Built on a Pyramid of Payroll Tax Fraud: Opinion." *Tennessean*.
Key Finding: $2.6 billion in payroll tax fraud is lost annually. 45% of construction workers in the South reported they did not have workers' compensation. Workers who reported wage theft lost a median of $800.

Sanchez, Cesar. (2019). "Bay Area Governments Taking Action on Wage Theft." *East Bay Express*.
Key Finding: The City of Berkeley's "wage transparency" ordinance withholds a certificate of occupancy from projects where workers have alleged wage violations, requires contractors provide workers with detailed pay stubs outlining wage rates and deductions, and publicly posts contact information for state enforcement agencies at each jobsite.

Bonilla, Rick. (2017). "Op-Ed: Wage Theft is Preventable." *The Daily Journal*.
Key Finding: It is up to local cities to enact "wage transparency" ordinances to improve accountability.

Schoonmaker, Derek. (2016). "Suit Against Trump Spotlights All-Too-Common Wage Theft." *San Francisco Chronicle*.
Key Finding: Wage theft is a crime against workers, against taxpayers, and against honest businesses. It is prevalent in low-wage industries such as construction, food services, custodial services, and landscaping.

Skinner, Nancy. (2015). "Guest Commentary: Cities Can Play a Role in Stopping Wage Theft." *Marin Independent Journal*.
Key Finding: Wage theft cheats California taxpayers out of at least $8.5 billion a year in uncollected taxes.

TABLES

FIGURE 1: RESEARCH ON CONSTRUCTION WORKER MISCLASSIFICATION AND PAYROLL FRAUD, 2004-2023

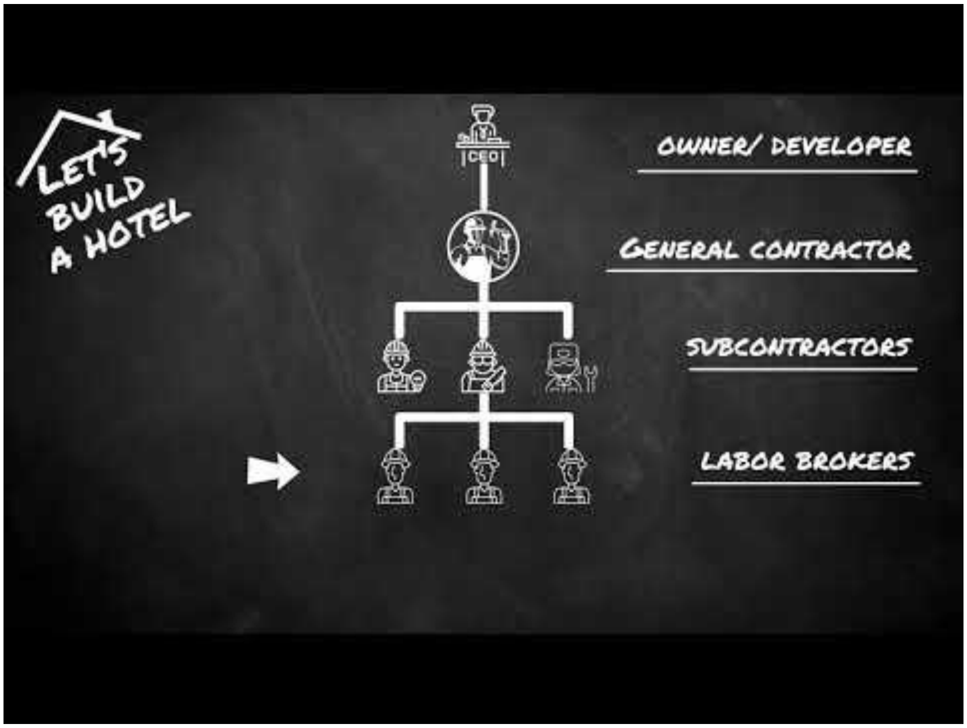
Authors	Year	Geography	Misclassification Estimates
Kelsay	2023	Missouri	21% of construction industry workers were either misclassified or working “off-the-books”
Ormiston & Juravich	2022	Rhode Island	12% of construction employers are misclassifying workers, affecting 8% of the industry workforce
Waddoups, Duncan & Ormistron	2021	Nevada	14% of blue-collar construction workers are misclassified or employed off-the-books
Juravich, Ormiston & Belman	2021	Massachusetts	More than one-in-six employers (17% to 18%) misclassify workers, affecting 9% to 16% of workers
Ormiston, Erlich & Belman	2021	New York	13% to 21% misclassified or working off-the-books
Goodell & Manzo	2021	Wisconsin, Minnesota, and Illinois	18% are misclassified or paid off the books, including 23% in MN, 20% in IL, and 10% in WI
Ormiston, Belman & Erlich	2020	United States	12%-21% estimated illegal employment rate nationally
Xu & Erlich	2019	Washington	19% estimated misclassification by employers
Waddoups, Duncan & Ormiston	2019	Nevada	11% of construction workforce misclassified or off-the-books (14% when excluding white-collar workers)
Theodore, Boggess, Cornejo & Timm	2017	Six Southern Cities	Survey of 1,435 construction workers found 32% were misclassified or working off-the-books
Cooke, Figart & Froonjian	2016	New Jersey	Estimated 144,000 workers were misclassified or unreported (16% of the labor force), with highest rates among helpers, painters, and laborers
Yen Liu, Flaming, & Burns	2014	California	16% of construction workers not reported or misclassified
Price, Timm, & Tzintzún	2013	Texas	Survey of 1,194 construction workers found 41% were misclassified or working off-the-books
Kelsay & Sturgeon	2011	Kentucky	8% of construction employees misclassified
Kelsay & Sturgeon	2010	Indiana	15% of construction employees misclassified
Canak & Adams	2010	Tennessee	Between 12,000 and 39,000 construction workers estimated to be misclassified or unreported
Belman & Block	2009	Michigan	26% of construction firms misclassified employees, misclassifying 6% of the entire industry workforce
Donahue, Lamare, & Kotler	2007	New York	15% of the construction workforce is misclassified
Office of Legislative Auditor	2007	Minnesota	15% of construction firms misclassified employees; rates were highest in roofing (38%) and drywall installation (31%)
Carre & Wilson	2005	Maine	11% of construction workers misclassified
Carre & Wilson	2004	Massachusetts	At least 5% misclassified as independent contractors

FIGURE 2: RESEARCH ON TAX FRAUD DUE TO CONSTRUCTION WORKER MISCLASSIFICATION, 2004-2023

Authors	Year	Geography	State Income Taxes	Unemployment Insurance	Workers' Compensation	Federal Income Tax	Social Security and Medicaid
Kelsay	2023	Missouri	$9.0-$45.2 million	$16.7-$27.8 million	$41.3-$68.9 million	$33.2-$104.1 million	$70.9-118.2 million
Ormiston & Juravich	2022	Rhode Island	$2-$7 million	$7-$10 million	$1-$2 million		
Waddoups, Duncan & Ormistron	2021	Nevada		$11.8 million	$31.1 million		
Juravich, Ormiston & Belman	2021	Massachusetts	$7-$41 million	$24-$41 million	$37-$78 million		
Ormiston, Erlich & Belman	2021	New York	$15-$56 million	$49 million	$289 million	$29-$109 million	$93-$297 million
Goodell & Manzo	2021	Wisconsin, Minnesota, and Illinois	$60 million (IL) $65 million (MN) $8 million (WI)	$23 million (IL) $13 million (MN) $6 million (WI)	$103 million (IL) $58 million (MN) $26 million (WI)		
Ormiston, Belman, & Erlich	2020	United States	$160-$552 million	$701-$725 million	$1.74 billion	$319 million - $1.3 billion	$1.4-$4.3 billion
Xu & Erlich	2019	Washington		$152 million	$54 million	$77 million	$60 million
Waddoups, Duncan & Ormiston	2019	Nevada	$7 million	$12 million	$31 million		
Cooke, Figart & Froonjian	2016	New Jersey	$20 million	$3-7 million			
Yen Liu, Flaming, & Burns	2014	California		$63 million	$264 million		$301 million
Price, Timm, & Tzintzún	2013	Texas		$55 million			
Kelsay & Sturgeon	2011	Kentucky	$6-$12 million	$2 million	$3-$5 million	$18-$30 million	$11-$18 million
Kelsay & Sturgeon	2010	Indiana	$11-$18 million	$2 million	$4-$8 million		
Canak & Adams	2010	Tennessee		$14.9 million	$91.6 million	$73.4 million	$42.1 million
Belman & Block	2009	Michigan		$2.5 million			
Kelsay, Sturgeon, & Pinkham	2006	Illinois	$9-$15 million	$2 million	$23-$35 million		
Carre & Wilson	2005	Maine	$3 million	$0.3 million	$7 million		
Carre & Wilson	2004	Massachusetts	$4-$7 million	$1-$4 million	$7 million		

VIDEOS

What is Misclassification and Payroll Fraud?



The Low-Road Business Model Explained

Impacts on the Construction Industry

Impacts on Workers

Impacts
on All
Contractors

Impacts
on a
Law-Abiding
Business

Impacts
on
Taxpayers

Explainer
for
Business
Owners

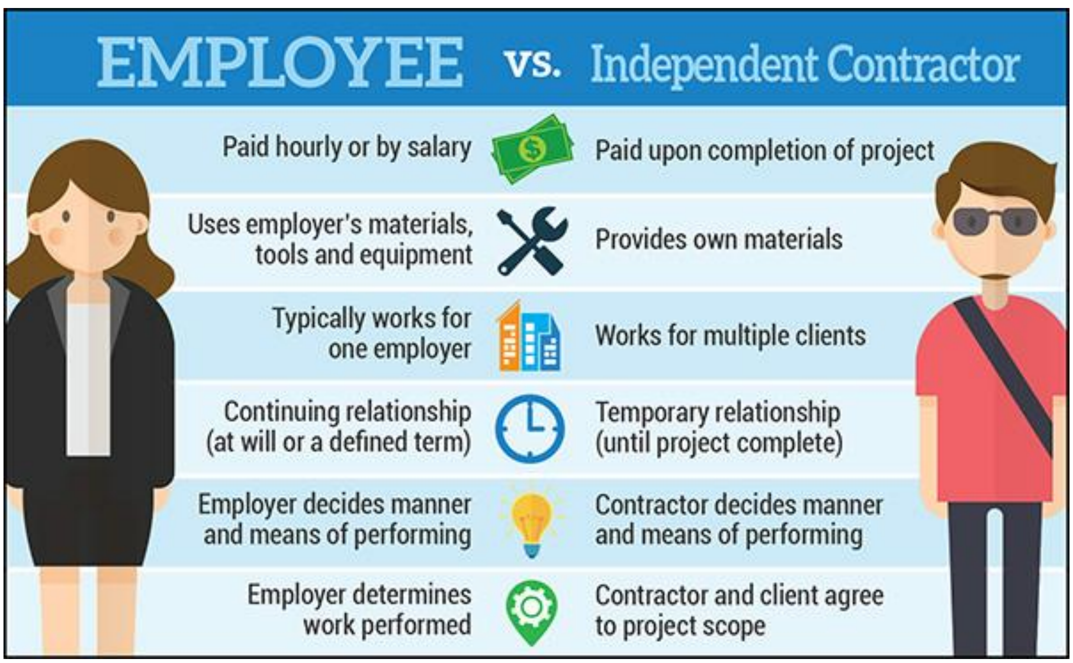
INFOGRAPHICS

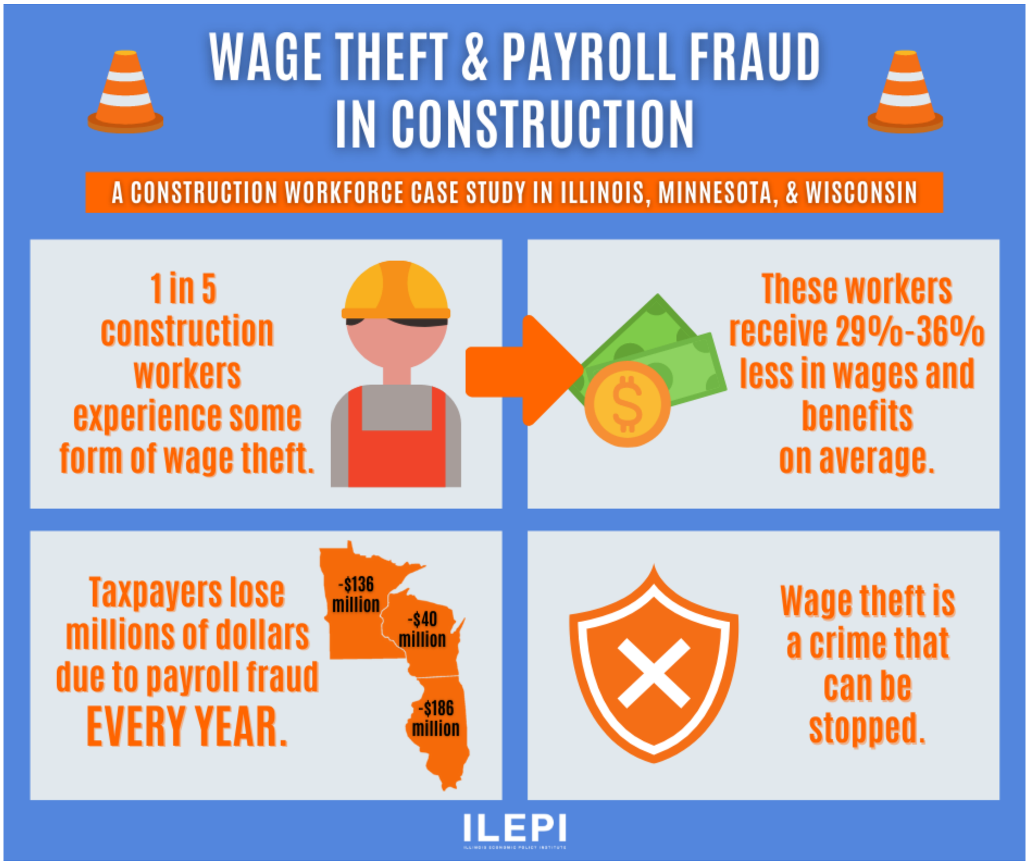
Under the law, there's a big difference between what employees and independent contractors get

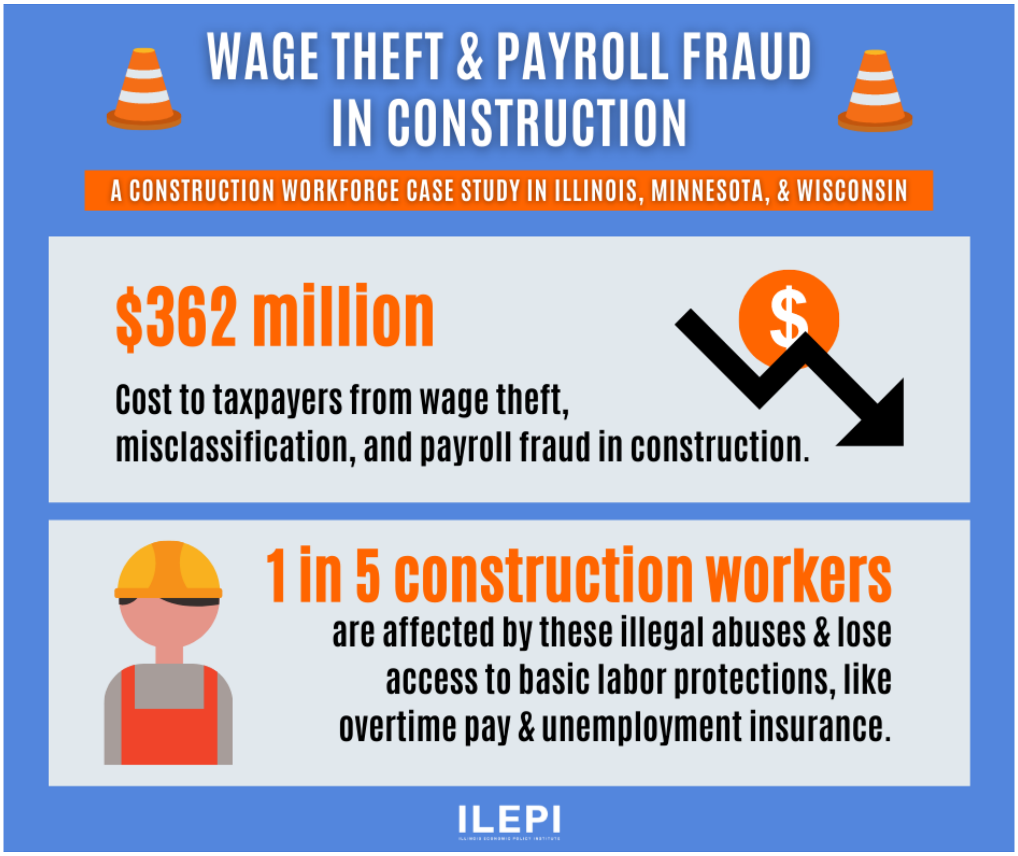
	Employees	Independent contractor
Minimum wage	☑	☐
Overtime pay	☑	☐
Unemployment insurance	☑	☐
Workers' compensation	☑	☐
Paid sick days	☑	☐
Paid family leave	☑	☐
Right to a union	☑	☐
Health and safety protections	☑	☐
Discrimination and sexual harassment protections	☑	☐

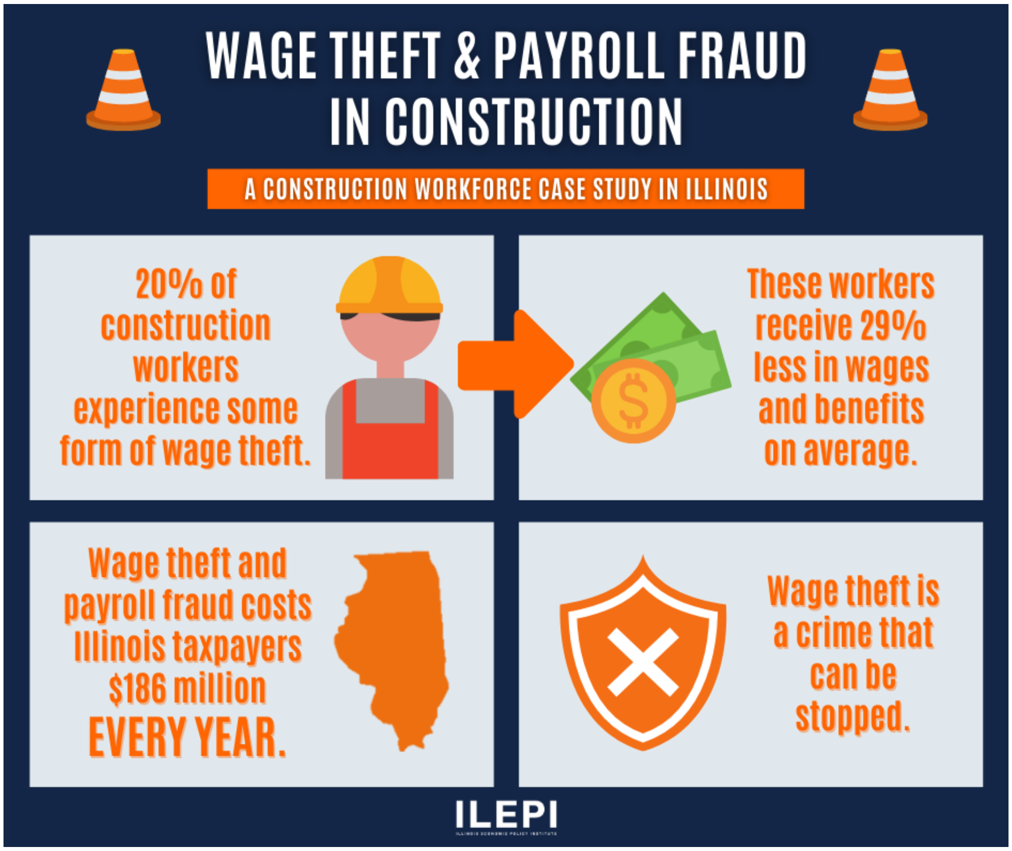
Source: EPI analysis of federal and state laws. Employees receive these protections in places where they are statutorily prescribed.

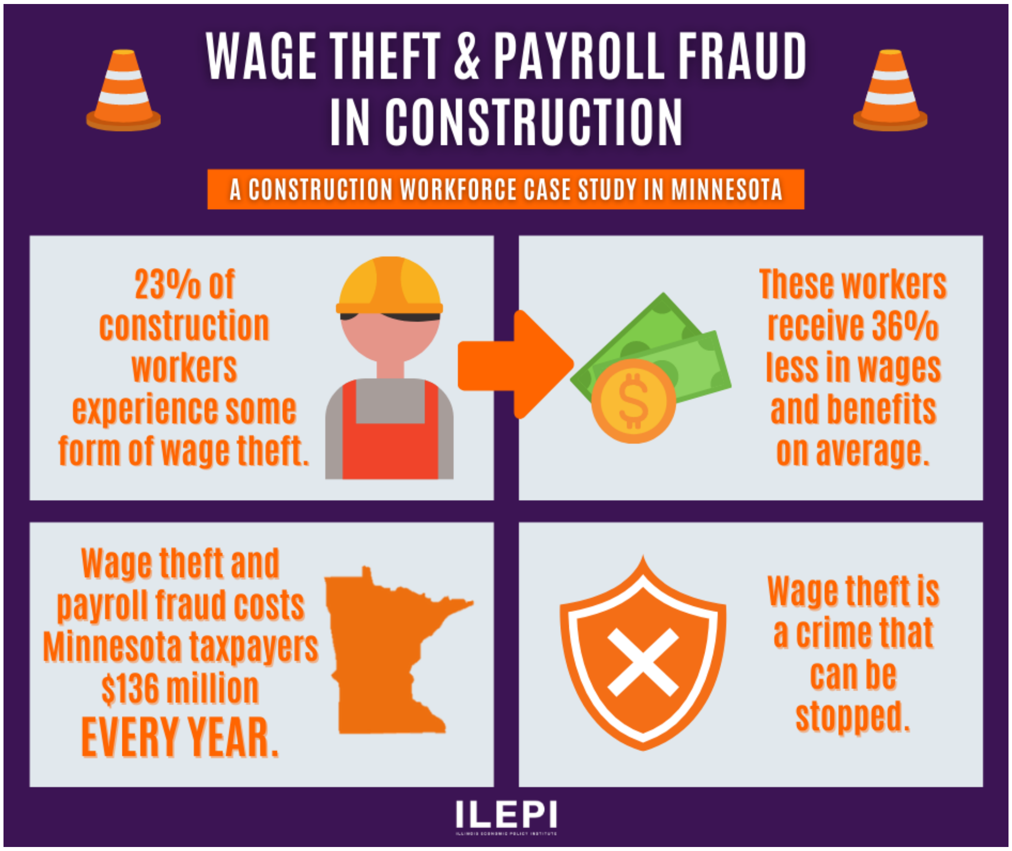
Economic Policy Institute

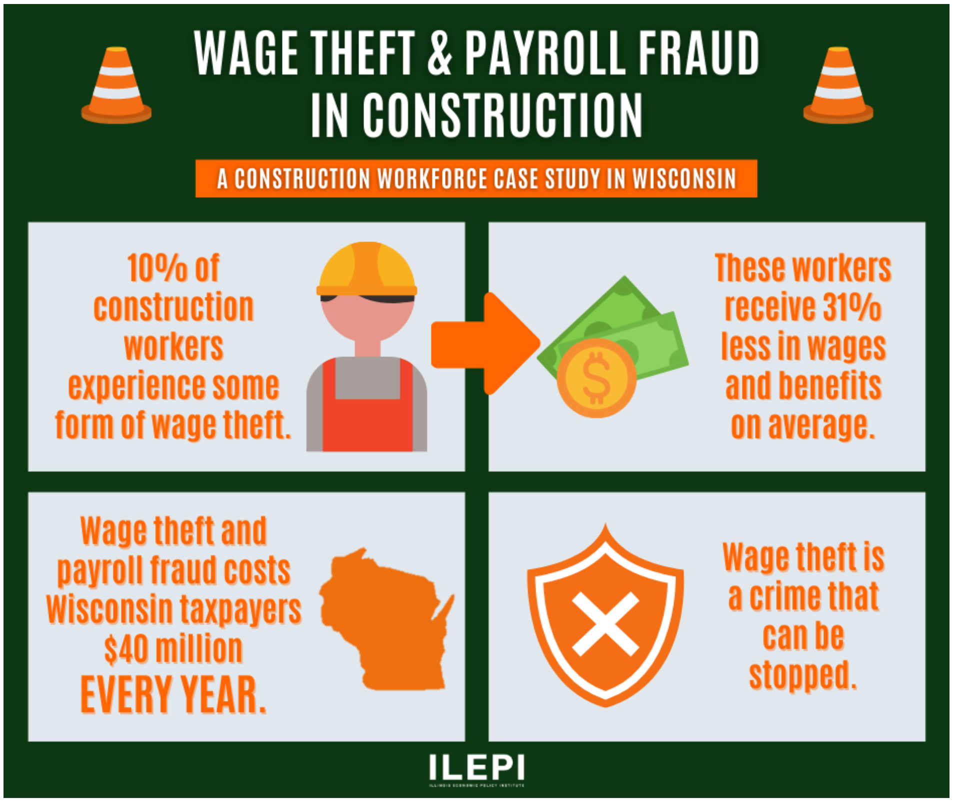



WAGE THEFT & PAYROLL FRAUD
IN CONSTRUCTION
A CONSTRUCTION WORKFORCE CASE STUDY IN ILLINOIS, MINNESOTA, & WISCONSIN
1 in 5 construction workers experience some form of wage theft.
These workers receive 29%-36% less in wages and benefits on average.
Taxpayers lose millions of dollars due to payroll fraud EVERY YEAR.
-$136 million
-$40 million
-$186 million
Wage theft is a crime that can be stopped.
ILEPI

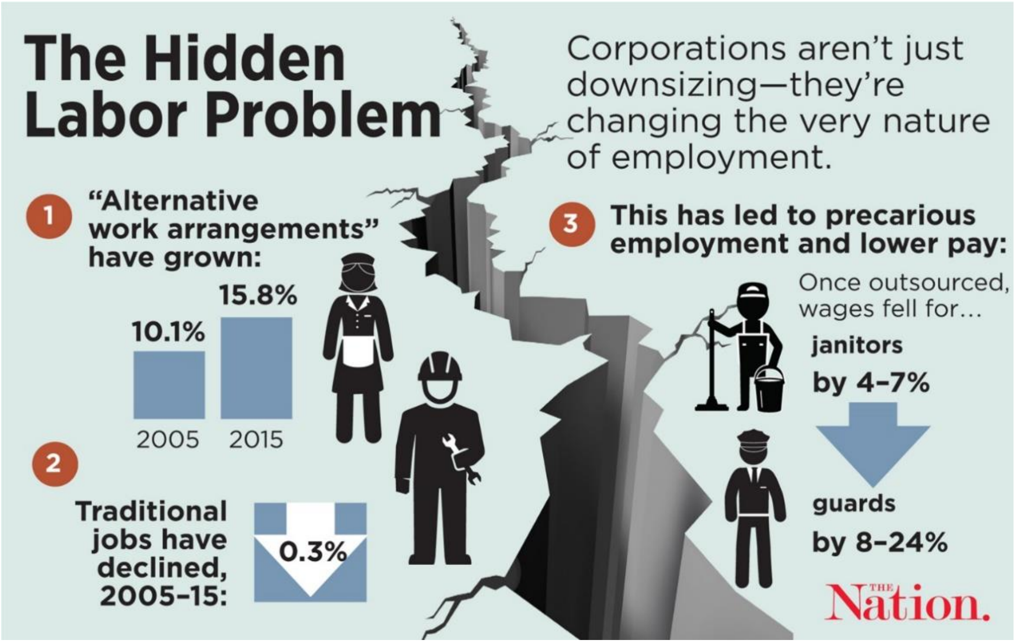

WAGE THEFT & PAYROLL FRAUD
IN CONSTRUCTION
A CONSTRUCTION WORKFORCE CASE STUDY IN ILLINOIS, MINNESOTA, & WISCONSIN
$362 million
Cost to taxpayers from wage theft, misclassification, and payroll fraud in construction.
1 in 5 construction workers
are affected by these illegal abuses & lose access to basic labor protections, like overtime pay & unemployment insurance.
ILEPI


WAGE THEFT & PAYROLL FRAUD IN CONSTRUCTION
A CONSTRUCTION WORKFORCE CASE STUDY IN ILLINOIS
20% of construction workers experience some form of wage theft.
These workers receive 29% less in wages and benefits on average.
Wage theft and payroll fraud costs Illinois taxpayers $186 million EVERY YEAR.
Wage theft is a crime that can be stopped.
ILEPI

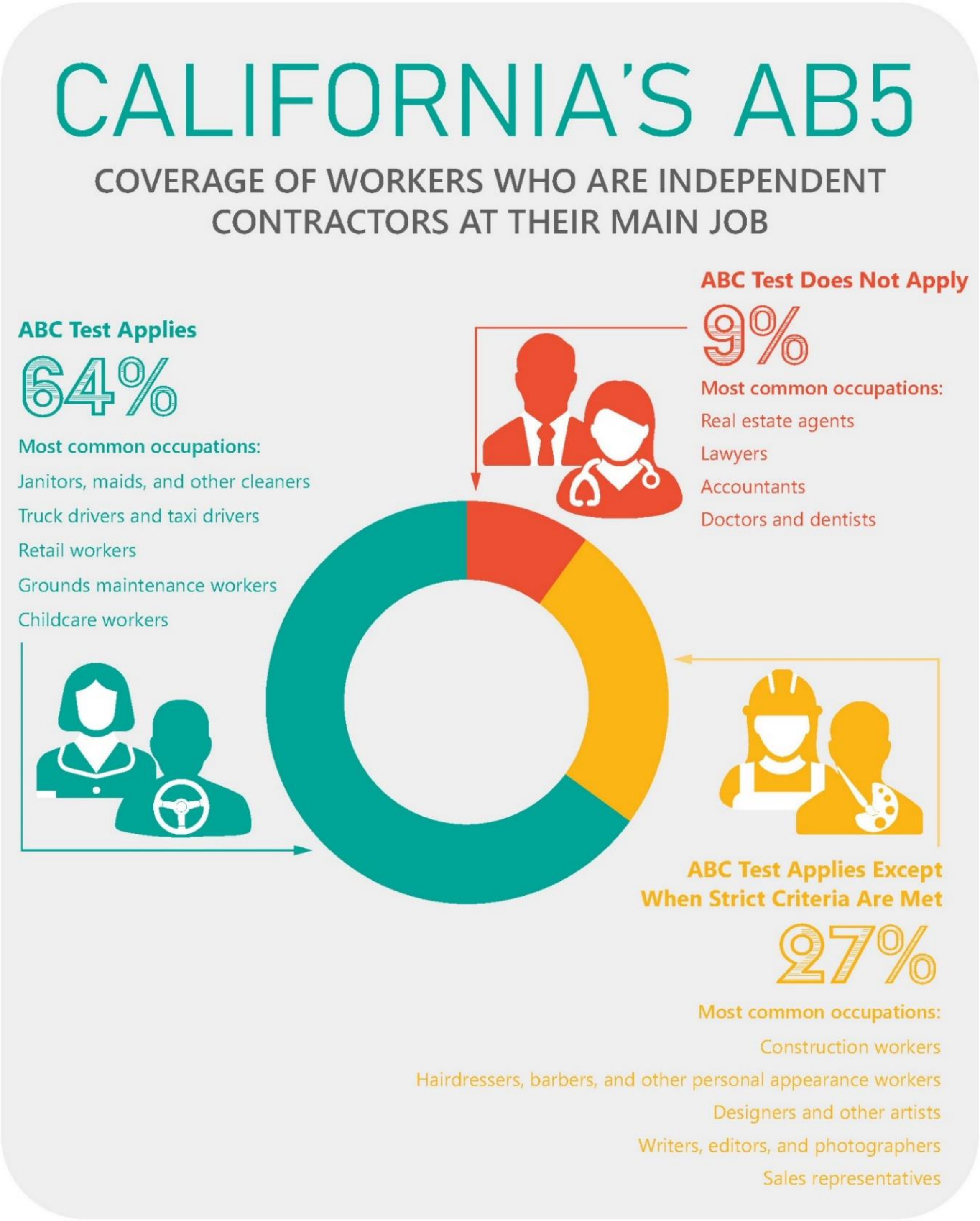

WAGE THEFT & PAYROLL FRAUD IN CONSTRUCTION
A CONSTRUCTION WORKFORCE CASE STUDY IN MINNESOTA
23% of construction workers experience some form of wage theft.
These workers receive 36% less in wages and benefits on average.
Wage theft and payroll fraud costs Minnesota taxpayers $136 million EVERY YEAR.
Wage theft is a crime that can be stopped.
ILEPI


WAGE THEFT & PAYROLL FRAUD
IN CONSTRUCTION
A CONSTRUCTION WORKFORCE CASE STUDY IN WISCONSIN
10% of construction workers experience some form of wage theft.
These workers receive 31% less in wages and benefits on average.
Wage theft and payroll fraud costs Wisconsin taxpayers $40 million
EVERY YEAR.
Wage theft is a crime that can be stopped.
ILEPI


OVER 15,000
WI CONSTRUCTION WORKERS
ARE ILLEGALLY
UNDERPAID OR UNINSURED
BY THEIR EMPLOYERS
FIGHTTHEFRAUD
SOURCE: MIDWEST ECONOMIC POLICY INSTITUTE


The Hidden Labor Problem
Corporations aren't just downsizing—they're changing the very nature of employment.
1
"Alternative work arrangements" have grown:
10.1%
15.8%
2005
2015
2
Traditional jobs have declined, 2005–15:
0.3%
3
This has led to precarious employment and lower pay:
Once outsourced, wages fell for...
janitors
by 4–7%
guards
by 8–24%
The Nation.


CONSTRUCTION INDUSTRY
TAX
FRAUD
DESTROYS
COMMUNITIES


CALIFORNIA'S AB5
COVERAGE OF WORKERS WHO ARE INDEPENDENT CONTRACTORS AT THEIR MAIN JOB
ABC Test Does Not Apply
9%
Most common occupations:
Real estate agents
Lawyers
Accountants
Doctors and dentists
ABC Test Applies
64%
Most common occupations:
Janitors, maids, and other cleaners
Truck drivers and taxi drivers
Retail workers
Grounds maintenance workers
Childcare workers
ABC Test Applies Except When Strict Criteria Are Met
27%
Most common occupations:
Construction workers
Hairdressers, barbers, and other personal appearance workers
Designers and other artists
Writers, editors, and photographers
Sales representatives


5 REASONS WHY YOUR INDEPENDENT CONTRACTORS MAY BE EMPLOYEES
INSTRUCTION
If your staff members are receiving instructions from you about when, where and how they are to provide pet sitting or dog walking services—they tend to be employees.
TRAINING
Providing training to staff members is another strong indicator that they may be an employee.
RELATIONSHIP
A continued relationship between your business and the staff member is another indicator. If you continue to use the same IC regularly—they may be considered an employee.
EXCLUSIVE
If an IC only provides services for your business—that is one more indicator that they may be an employee.
BUSINESS SUCCESS
If the success or continuation of your business is dependent on your staff members—that indicates an employer/employee relationship. Would your business remain successful if your ICs no longer provided services?
TimeToPet.com


Employee OR Independent Contractor?
EMPLOYEE
W-2
CONTRACTOR
1099
You should classify workers as employees if they:
Are paid by the week or month
Get training and day-to-day supervision
Work full time on a regular basis
Perform most of their job tasks on the premises
Can be fired at any time (rather than falling under contractual terms)
Provide services that are an essential part of your normal operations
Workers are most likely independent contractors if they:
Use their own equipment to perform the job
Work on a temporary basis and are paid "per project"
Service other clients, often at the same time
Work under an individual business license
Work at an offsite location (occasional meetings at your business location are OK)
Have flexibility to set their own hours and schedule
ComplyRight
ComplyRight.com

STATE ENFORCEMENT AGENCIES

Alaska

Enforcement Unit: Alaska Department of Labor and Workforce Development, Labor Standards and Safety Division
Address: 1111 W. 8th St. Rm 302, Juneau, Alaska 99811
Mailing: PO Box 111149, Juneau, Alaska 99811-1149
Phone: (907) 465-4842
Email: statewide.wagehour@alaska.gov
Website: https://labor.alaska.gov/lss/whhome.htm

Arkansas

Enforcement Unit: Arkansas Division of Workforce Services
Address: #2 Capitol Mall, Little Rock, AR 72201
Mailing: P.O. Box 2981, Little Rock, AR 72203
Phone: (501) 682-2121
Email: ADWS.Info@arkansas.gov
Website: https://www.dws.arkansas.gov/employers/worker-misclassification/

California

Enforcement Unit: California Department of Industrial Relations
Address: 1515 Clay Street, Room 1302, Oakland, CA 94612 (Headquarters)
Phone: (833) 526-4636
Email: Available at https://www.dir.ca.gov/dlse/DistrictOffices.htm
Website: https://www.dir.ca.gov/dlse/howtofilewageclaim.htm

Enforcement Unit: Worker Rights and Fair Labor Section within the California Department of Justice's (DOJ) Division of Public Rights
Address: P.O. Box 944255, Sacramento, CA 94244-2550
Phone: (916) 210-6276
Email: Use https://oag.ca.gov/contact
Website: https://oag.ca.gov/news/press-releases/attorney-general-becerra-establishes-worker-rights-and-fair-labor-section

Colorado

Enforcement Unit: Colorado Department of Labor and Employment, Unemployment Insurance Employer Services
Address: P.O. Box 46538, Denver, CO 80201
Phone: (303) 318-9100
Website: https://cdle.colorado.gov/misclassification

Connecticut

Enforcement Unit: Connecticut Department of Labor, Division of Wage and Workplace Standards
Address: 200 Folly Brook Blvd., Wethersfield, CT 06109
Phone: 860-263-6000

- Minimum Wage/Overtime: (860) 263-6790
- Wage Payment: (860) 263-6790
- Public Contract Compliance (Prevailing Wage): (860) 263-6790
- Workplace Standards (Employment Regulation/Minors): (860) 263-6791

Website: https://www.ctdol.state.ct.us/wgwkstnd/Contact.htm

Hawaii

Enforcement Unit: Hawaii Department of Labor and Industrial Relations, Wage Standards Division
Address: 830 Punchbowl Street, Room 340, Honolulu, Hawaii 96813 (Capitol)
Phone: (808) 586-8777
Email: dlir.wages@hawaii.gov
Website: https://labor.hawaii.gov/wsd/contact/

Illinois

Enforcement Unit: Office of the Illinois Attorney General, Workplace Rights Bureau
Address: 100 W. Randolph Street, Chicago, IL 60601
Phone: (844) 740-5076
Website: https://illinoisattorneygeneral.gov/rights/labor_employ.html

Enforcement Unit: Office of the Illinois Attorney General, Labor Law Unit
Address: 100 W. Randolph Street, Chicago, IL 60601
Website: https://illinoisattorneygeneral.gov/rights/labor_employ.html

Indiana

Enforcement Unit: Indiana Attorney General
Address: 302 W. Washington St., 5th Floor, Indianapolis, IN 46204
Phone: (317) 232-6201
Email: wagehour@dol.in.gov
Website: https://www.in.gov/dol/wage-and-hour/worker-misclassification/

Iowa

Enforcement Unit: Iowa Workforce Development, Iowa Worker Misclassification Unit
Address: 1000 East Grand Avenue, Des Moines, IA 50319
Phone: (515) 725-3893
Email: misclassification@iwd.iowa.gov
Website: https://www.iowaworkforcedevelopment.gov/misclassification-workers-iowa

Kentucky

Enforcement Unit: Kentucky Office of Unemployment Insurance, Tax Audit Branch
Mailing: PO Box 948, Frankfort, KY 40601
Phone: (502) 564-6838
Email: desauditors@ky.gov
Website: https://kewes.ky.gov/Employertax/Misc_report.aspx

Maine

Enforcement Unit: Maine Department of Labor, Bureau of Labor Standards
Address: 45 State House Station, Augusta, Maine 04333-0045
Phone: (207) 623-7900
Email: mdol@maine.gov
Website: https://www.maine.gov/labor/bls/

Maryland

Enforcement Unit: Maryland Department of Labor, Division of Labor and Industry, Employment Standards Service
Address: 1100 N. Eutaw Street, Room 607, Baltimore, MD 21201
Phone: (410) 767-2357
Email: dldliemploymentstandards-labor@maryland.gov
Website: https://www.dllr.state.md.us/labor/wages/

Massachusetts

Enforcement Unit: Massachusetts Attorney General's Fair Labor Division
Phone: (617) 727-3465
Email: Use https://www.mass.gov/how-to/file-a-workplace-complaint
Website: https://www.mass.gov/orgs/the-attorney-generals-fair-labor-division

Michigan

Enforcement Unit: Michigan Attorney General's Office, Payroll Fraud Enforcement Unit
Address: 525 W. Ottawa St., Lansing, MI 48906
Phone: (833) 221-1099
Website: https://www.michigan.gov/ag/initiatives/payroll-fraud

Minnesota

Enforcement Unit: Office of Minnesota Attorney General Keith Ellison, Wage Theft Unit
Address: 445 Minnesota Street, Suite 1400, St. Paul, MN 55101
Phone: (651) 296-3353
Website: https://www.ag.state.mn.us/Consumer/Publications/WageTheft.asp

Enforcement Unit: Minnesota Department of Labor and Industry
Address: 443 Lafayette Road North, St. Paul, MN 55155
Phone: (651) 284-5070
Email: dli.laborstandards@state.mn.us
Website: https://www.ag.state.mn.us/Consumer/Publications/WageTheft.asp

Address: Minnesota Department of Employment and Economic Development
Mailing: 332 Minnesota Street, Suite E200, St. Paul, MN 55101
Phone: 332 Minnesota Street, Suite E200, St. Paul, MN 55101
Email: DEED.CustomerService@state.mn.us
Website: https://www.ag.state.mn.us/Consumer/Publications/Misclassification.asp

Address: Minnesota Department of Revenue, Tax Evasion or Tax Fraud Tips
Mailing: 600 N. Robert Street, St. Paul, MN 55146
Phone: (651) 297-5195
Email: tax.fraud@state.mn.us
Website: https://www.ag.state.mn.us/Consumer/Publications/Misclassification.asp

Missouri

Enforcement Unit: Missouri Department of Labor & Industrial Relations, Division of Labor Standards
Address: 3315 W. Truman Blvd., Rm 205, Jefferson City, MO 65102
Mailing: P.O. Box 449, Jefferson City, MO 65102-0449
Phone: (573) 751-3403
Email: laborstandards@labor.mo.gov
Website: https://labor.mo.gov/DLS

Montana

Enforcement Unit: Montana Department of Labor & Industry, Employment Relations Division, Compliance and Investigations Bureau
Address: 1805 Prospect Avenue, Helena, MT 59601
Mailing: PO Box 201503, Helena, MT 59620-1503
Phone: (406) 444-6543
Email: DLIERDWage@mt.gov
Website: https://erd.dli.mt.gov/labor-standards/

New Hampshire

Enforcement Unit: New Hampshire Department of Labor, Inspection Division
Address: Spaulding Building, 95 Pleasant St, Concord, NH 03301
Phone: (603) 271-3176
Email: InspectionDiv@dol.nh.gov or WorkersComp@dol.nh.gov
Website: https://www.nh.gov/labor/contact-us/index.htm

New Jersey

Enforcement Unit: New Jersey Division of Wage & Hour Compliance, Wage Collection Section
Mailing: PO Box 389, Trenton, NJ 08625-0389
Phone: (609) 292-3658
Email: WHWC@dol.nj.gov
Website: https://www.nj.gov/labor/wageandhour/

New Mexico

Enforcement Unit: New Mexico Department of Workforce Solutions, Labor Relations Division
Address: 401 Broadway Blvd NE, Albuquerque, NM 87102
Phone: (505) 841-4400
Website: https://www.dws.state.nm.us/en-us/Labor-Relations/Labor-Information/Wage-and-Hour

New York

Enforcement Unit: Labor Bureau of the New York State Attorney General's Office
Address: 28 Liberty Street, New York, NY 10005
Phone: (212) 416-8700
Email: Labor.Bureau@ag.ny.gov
Website: https://ag.ny.gov/bureau/labor-bureau
Tip Hotline Phone: (888) 469-7365
Tip Hotline Form: https://www.ny.gov/content/report-suspected-workplace-violations

Nevada

Enforcement Unit: Nevada Department of Business & Industry, Office of the Labor Commissioner
Address: 1818 College Parkway, Suite 102, Carson City, NV 89706
Phone: (775) 684-1890
Email: mail1@labor.nv.gov
Website: https://labor.nv.gov/Contact/Contact_Us/

North Carolina
Enforcement Unit: North Carolina Department of Labor, Standards and Inspections Division
Address: 4 West Edenton St., Raleigh, NC 27601
Mailing: 1101 Mail Service Center, Raleigh, NC 27699-1101
Phone: (800) 625-2267
Website: https://www.labor.nc.gov/about-ncdol/divisions/standards-and-inspections-division#wage-and-hour-bureau

North Dakota

Enforcement Unit: North Dakota Department of Labor and Human Rights
Address: 600 East Boulevard Avenue Bismarck, ND 58505-0340
Phone: (701) 328-2660
Email: labor@nd.gov
Website: https://www.nd.gov/labor/wage-and-hour-topics

Oklahoma

Enforcement Unit: Oklahoma Department of Labor, Wage and Hour Unit
Address: 3017 North Stiles Avenue, Oklahoma City, Oklahoma 73105
Phone: (405) 521-6100
Email: wageclaims@labor.ok.gov
Website: https://www.ok.gov/Labor/WORKPLACE_RIGHTS/Wage_and_Hour/index.html

Pennsylvania

Enforcement Unit: Pennsylvania Office of Attorney General
Address: 16th Floor, Strawberry Square, Harrisburg, PA 17120
Phone: (717) 787-3391
Email: wagetheft@attorneygeneral.gov
Website: https://www.attorneygeneral.gov/taking-action/press-releases/hawbaker-sentenced-will-pay-workers-more-than-20-million-in-stolen-wages/
Philadelphia District Attorney Unit: https://www.inquirer.com/news/district-attorney-larry-krasner-employer-crimes-prosecution-wage-theft-20191008.html

Rhode Island

Enforcement Unit: Rhode Island Department of Labor and Training, Task Force on the Underground Economy and Employee Misclassification
Address: 1511 Pontiac Ave, Cranston, RI 02920
Phone: (401) 574-8785
Email: philip.dambra@tax.ri.gov
Website: https://dlt.ri.gov/misclassification/

South Carolina

Enforcement Unit: South Carolina Department of Labor, Licensing and Regulation, Office of Wages and Child Labor
Address: 110 Centerview Dr., Columbia SC 29210
Phone: (803) 896-7756
Website: https://llr.sc.gov/wage/paymentofwages.aspx

Tennessee

Enforcement Unit: Tennessee Department of Labor & Workforce Development, Labor Standards Unit
Address: 220 French Landing Drive, Nashville, Tennessee 37243
Phone: (844) 224-5818
Website: https://www.tn.gov/workforce/employers/safety---health/regulations-compliance/regulations---compliance-redirect/labor-standards-unit.html

Vermont

Enforcement Unit: Vermont Department of Labor, Wage and Hour Program
Address: 63 Pearl Street, Burlington, VT 05401-4331
Phone: (802) 951-4083
Email: Labor.WageHour@vermont.gov
Website: https://labor.vermont.gov/wage-and-hour/contact-wage-and-hour

Washington

Enforcement Unit: Washington State Office of the Attorney General
Address: 1125 Washington Street SE, PO Box 40100, Olympia, WA 98504-0100
Phone: (360) 753-6200
Website: https://www.atg.wa.gov/news/news-releases/attorney-general-s-legislation-strengthening-wage-theft-laws-and-increasing

Enforcement Unit: Seattle City Attorney, The Civil Division
Address: 701 Fifth Avenue, Suite 2050 , Seattle , WA , 98104-7095
Phone: (206) 684-8200
Website: https://www.seattle.gov/cityattorney/about-us/civil-division

Enforcement Unit: Washington State Department of Labor & Industries
Address: 7273 Linderson Way SW, Tumwater, WA 98501-5414
Phone: (360) 902-5800
Email: Use https://secure.lni.wa.gov/wagecomplaint/#/
Website: https://www.atg.wa.gov/news/news-releases/attorney-general-s-office-labor-industries-secure-more-89k-wages-and-interest

Wisconsin

Enforcement Unit: Wisconsin Department of Workforce Development
Address: 201 E Washington Ave; Room A100, Madison, WI 53703
Mailing: PO Box 8928, Madison, WI 53708-8928
Phone: (608) 266-6860
Email: erinfo@dwd.wisconsin.gov
Website: https://dwd.wisconsin.gov/er/contacts.htm

Wyoming

Enforcement Unit: Wyoming Department of Workforce Services, Labor Standards Office
Address: 5221 Yellowstone Road, Cheyenne, WY 82002 (Main Office)
Phone: (307) 777-7261
Website: http://wyomingworkforce.org/workers/labor/

RESEARCH SORTED BY YEAR

Ormiston, Russell; Dale Belman; and Mark Erlich. (2020). *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*. Allegheny College; Michigan State University; Harvard University.

Key Finding: In the average month in 2017, between 12% and 21% of construction industry workers were misclassified as independent contractors or working strictly off-the-books. Over the peak summer months, this increased to between 13% and 22%. Due to payroll fraud, construction companies illegally reduce labor costs by between $6.2 billion and $11.7 billion per year. State workers' compensations programs experienced a $1.7 billion shortfall due to misclassification. State unemployment insurance plans experienced a shortfall of up to $725 million. State income tax revenues are also $160 million to $552 million lower. Between $1.4 billion and $4.3 billion owed to Social Security and Medicare and $319 million and $1.3 billion in federal income taxes was never paid in 2017 due to payroll fraud. Under federal wage statutes, workers are entitled to time-and-a-half for hours worked over 40 hours per week and to premium pay for work over holidays. Employers who misclassify workers as independent contractors can avoid paying these additional wages, resulting in $811 million to $1 billion in unpaid overtime and premium wages.

Schmitt, John; Heidi Shierholz; Margaret Poydock; and Samantha Sanders. (2023). *The Economic Costs of Worker Misclassification.* Economic Policy Institute.

Key Finding: When employers misclassify workers as independent contractors, they deprive them of fundamental labor rights. In construction, an independent contractor loses out on as much as $16,729 per year in income (32%) from being misclassified as an independent contractor compared with what they would have earned as an employee. Revenue for social insurance programs—Social Security, Medicare, Workers' Compensation, and federal and state unemployment insurance—decreases by as much as $2,965 per construction worker per year due to misclassification as well (32%).

Kelsay, Michael. (2023). *Worker Misclassification and Wage Theft in the Construction Industry in Missouri.* University of Missouri-Kansas City.

Key Finding: In 2020, 21% of workers in Missouri's construction industry were either misclassified as independent contractors or working "off-the-books" in cash-only arrangements. Misclassification and wage theft in the construction industry cost construction workers between $334 million and $465 million in lost wages and fringe benefits annually. Payroll fraud also costs Missouri $69 million in lost workers' compensation contributions, $28 million in lost unemployment insurance contributions, and $45 million in forgone state income tax revenue.

Hacker, Chris; Ash-Har Quraishi; Amy Corral; Ryan Beard. (2023). "Wage Theft Often Goes Unpunished Despite State Systems Meant to Combat It." *CBS News*.

Key Finding: Even when wage theft is reported, employers often manage to avoid paying back the wages they owe. CBS News submitted public records requests to nearly every state labor department in the country and built a database of more than 650,000 total complaints. Of those cases, state agencies ruled in favor of claimants only about half of the time. Even when workers won their claims, more than a third of those successful cases—totaling nearly $1 billion—showed no money was ever recovered. Finally, if wage theft was treated the same as felony theft (or the threshold at which a misdemeanor street crime becomes a felony), 177,000 wage theft cases in 25 states could have been felony cases. This includes over 25% of cases in New Jersey, Illinois, Massachusetts, New Hampshire, Kentucky, Indiana, Maryland, New York, Maine, Montana, Minnesota, Kansas, Utah, and Michigan.

Siegelbaum, Max; Agnel Philip; and Lam Thuy Vo. (2023). "127,000 New York Workers Have Been Victims of Wage Theft." *ProPublica*.

Key Finding: Analyzing federal and state databases of labor violations obtained from the U.S. Department of Labor and the New York State Department of Labor, investigative reporters found that more than $203 million in wages had been stolen from 127,000 workers in New York from 2017 through 2021. About 1,600 construction companies stole wages from more than 7,700 New York workers from 2017 through 2021. The article notes that "the amount of wage theft is almost certainly a significant undercount."

Sproule, William. (2023). "Opinion: The Deadly Serious Consequences of Illegal Employee Misclassification." *City & State Pennsylvania*.
Key Finding: The Pennsylvania Joint Task Force on the Misclassification of Employees found that such misclassification resulted in an annual loss of $91 million to Pennsylvania's Unemployment Compensation Trust Fund. Misclassification puts ill-gotten gains in the pockets of tax cheats, while also defrauding the government. It encourages lawlessness and an environment where workers are exploited, taken advantage of, and endangered. The UC Berkeley Labor Center found that "28% of families of construction workers in Pennsylvania are enrolled in one or more safety net programs at a cost to the state and federal government of $428 million per year."

James, Letitia; Alvin Bragg; Catalina Cruz; and Joseph Geiger. (2023). "Commentary: Wage Theft Is a Serious Crime. We're Finally Treating It That Way." *The Times Union*.
Key Finding: The Wage Theft Accountability Act has made wage theft a felony, giving prosecutors an important tool to hold employers accountable. The law, which went into effect immediately after signing, allows prosecutors to charge larceny for stolen wages and to aggregate stolen wage amounts, which will now provide much more effective deterrence and consequences for employers who cheat workers. The Wage Theft Accountability Act recognizes wage theft for what it is: a criminal act.

Isser, Mindy. (2023). "Employers Steal Up to $50 Billion From Workers Every Year. It's Time to Reclaim It." *In These Times*.
Key Finding: Wage theft is particularly common in nonunion construction, which often operates "underground," with workers either being misclassified or being paid in cash. The industry operates under very little oversight, with regulators not having the resources to enforce laws or not being able to pinpoint responsible parties due to multiple layers of subcontracting. And because more than 1-in-10 construction workers are undocumented immigrants, employers are often more likely to engage in abuse, as workers may not know their rights or fear retribution if they assert them.

Ormiston, Russell and Tom Juravich. (2022). *Worker Misclassification and Wage Theft in Rhode Island.* Allegheny College; University of Massachusetts-Amherst; Institute for Construction Employment Research (ICERES).
Key Finding: Rhode Island employers misclassified 4% of the state's workforce in 2019, representing more than 19,000 workers. In construction, 12% of construction employers are misclassifying workers, affecting 8% of the industry workforce. Payroll fraud costs taxpayers between $25 million and $54 million annually.

Wage and Hour Division (WHD). (2022). "U.S. Department of Labor Announces Proposed Rule on Classifying Employees, Independent Contractors; Seeks to Return to Longstanding Interpretation." U.S. Department of Labor.
Key Finding: "The proposed rule would provide guidance on classifying workers and seeks to combat employee misclassification. Misclassification is a serious issue that denies workers' rights and protections under federal labor standards, promotes wage theft, allows certain employers to gain an unfair advantage over law-abiding businesses, and hurts the economy at-large."

Chen, Lori. (2022). "Illinois Governor Signs Bills Expanding Contractors' Liability for Unpaid Wages of Subcontractors' Workers." Ogletree Deakins.
Key Finding: Illinois Governor JB Pritzker signed House Bill 5412 and House Bill 4600 into law, which amend the Illinois Wage Payment and Collection Act to make certain primary contractors liable for any debt owed by a subcontractor (at any tier). HB 4600, the trailer bill, carves out two categories of contractors exempt from liability for such unpaid wages and benefits: (1) contractors who are signatories of collective bargaining agreements on projects where work is being performed and (2) primary contractors altering or repairing an existing single-family dwelling or single residential unit. Additionally, HB 4600 also limits the scope of the amendment to the WPCA, applying it only to contractors doing work in Illinois that exceeds $20,000 on private (i.e., nongovernment) projects, other than an owner acting as a primary contractor on the owner's primary residence.

Finn, Sean. (2022). *A Heist in Plain Sight.* Common Good Iowa.

Key Finding: Each year, employers steal wages from 1-in-7 Iowa workers, amounting to $900 million in stollen wages ($300 each week for victims) and $190 million in lost tax revenue. Wage theft is most common in construction, food service, hospitality, nursing, and childcare jobs. When low-road employers steal wages to cut costs, responsible businesses lose out.

Weidl, Evan. (2022). "Opinion: Wage Theft Needs More Attention." *The Daily Iowan*.

Key Finding: In Iowa, for every $1,000 stolen via wage theft, just $2 are recovered by public agencies. This loses the state over $190 million in tax revenue.

Waddoups, Jeffrey; Kevin Duncan; and Russell Ormiston. (2021). *Payroll Fraud in Nevada's Construction Industry: Extent and Fiscal Impact.* University of Nevada, Las Vegas; Colorado State University-Pueblo; Allegheny College; Institute for Construction Employment Research (ICERES).

Key Finding: There were about 12,700 workers who were either misclassified as independent contractors or employed off-the-books in Nevada's construction industry in 2018, representing 11% of the industry and 14% of blue-collar construction workforce. This resulted in $31 million in unpaid workers' comp premiums, a $12 million shortfall in the state UI fund, and $7 million in uncollected tax revenue via the Modified Business Tax.

Mangundayao, Ihna; Celine McNicholas; Margaret Poydock; and Ali Sait. (2021). *More Than $3 Billion in Stolen Wages Recovered for Workers Between 2017 and 2020.* Economic Policy Institute.

Key Finding: Between 2017 and 2020, $3.24 billion in stolen wages was recovered on behalf of workers by the U.S. Department of Labor, state departments of labor and attorneys general, and through class and collective action litigation—but this represents just a small portion of wages stolen from workers across the country. Potential policy options include increasing funding for the Department of Labor's Wage and Hour Division, engaging in proactive and strategic enforcement in industries where violations are especially rampant, enhancing civil monetary penalties for violations, protecting worker rights to unionize, and boosting funding for state and local enforcement.

Juravich, Tom; Russell Ormiston; and Dale Belman. (2021). *The Social and Economic Costs of Illegal Misclassification, Wage Theft, and Tax Fraud in Residential Construction in Massachusetts.* University of Massachusetts-Amherst; Allegheny College; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: Audits of employer payrolls from 2017 to 2019 indicate that more than one-in-six Massachusetts construction employers (17% to 18%) misclassify their workers as independent contractors. Utilizing a well-established empirical approach of indirectly estimating the full extent of misclassification, there were between 22,000 and 37,000 workers affected by wage and tax fraud in 2019, accounting for 9% to 16% of the industry's workforce. This was especially prevalent among building finishing contractors (e.g., drywall, finish carpentry, painting). This led to $41 million in lost unemployment insurance contributions $41 million in lost income taxes, and $78 million in lost workers' comp premiums in 2019.

Ormiston, Russell; Mark Erlich; and Dale Belman. (2021). *Payroll Fraud in New York's Construction Industry: Estimating its Prevalence, Severity and Economic Costs.* Allegheny College; Harvard University; Michigan State University; Institute for Construction Employment Research (ICERES).

Key Finding: There were between 76,000 and 126,000 workers who were either misclassified as independent contractors or employed off-the-books in New York's construction industry in 2017, representing 13% to 21% of all construction workers. This resulted in $289 million in unpaid workers' comp premiums and a $49 million shortfall in the state UI fund.

Morgenson, Gretchen and Lisa Cavazuti. (2021). "The Hidden Scourge of 'Wage Theft': When Higher Profits Come Out of Workers' Pockets." *NBC News*.

Key Finding: In this piece of investigative journalism, reporters highlight a wage theft case from Cedar Rapids, Iowa in which out-of-state workers were brought in following a natural disaster to rebuild. One company—BluSky Restoration Contractors from Colorado—has a history of wage theft and once again stole from workers on the Iowa project.

Phillips, Zachary. (2021). "New York State Legislature Passes Construction Wage Theft Bill." *Construction Dive*.
Key Finding: The New York State Senate and State Assembly passed legislation Wednesday that shifts liability to general contractors for wage theft cases on private construction projects. It made New York the 6th state, in addition to Washington, D.C., to adopt this type of protective wage theft for construction workers.

Shapiro, Josh. (2021). "Hawbaker Sentenced, Will Pay Workers More than $20 Million in Stolen Wages." Pennsylvania Attorney General.
Key Finding: Attorney General Josh Shapiro sentenced Glenn O. Hawbaker, Inc. for theft relating to violations of the Pennsylvania Prevailing Wage Act and the federal Davis-Bacon Act. The plea includes paying $20,696,453 in stolen wages to 1,267 Pennsylvania workers. Hawbaker is one of the largest contractors to complete projects on behalf of the Commonwealth, receiving an estimated $1.7 billion in contracts between 2003 and 2018. The restitution is for the largest prevailing wage criminal case in U.S. history. Hawbaker pleaded to four felony counts of stealing wages from its workers.

Department of Workforce Development (DWD). (2021). *Payroll Fraud and Worker Misclassification Report: 2021*. State of Wisconsin.
Key Finding: This is a report from the Task Force on Payroll Fraud and Worker Misclassification. In 2020, Wisconsin Unemployment Insurance (UI) Division auditors conducted nearly 1,300 audits and identified 8,900 misclassified workers, generating $2.34 million in UI taxes and interest. The task force recommends creating a new Insurance Fraud Bureau of Investigations and developing a statutory requirement of upstream liability, among other recommendations.

Jacobs, Ken and Kuochih Huang. (2021). *The Public Cost of Low-Wage Jobs in California's Construction Industry*. University of California, Berkeley.
Key Finding: 48% of families in which at least one adult who works in construction are enrolled in public safety net programs such as Medicaid, CHIP, EITC, and SNAP at an estimated annual cost of $3 billion.

Goodell, Nathaniel and Frank Manzo IV. (2021). *The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois: Impacts on Workers and Taxpayers*. Midwest Economic Policy Institute.
Key Finding: When compared to employees doing similar work, independent contractors earn about 30% in total compensation in the construction industries of Wisconsin, Minnesota, and Illinois. This includes 13%-22% less in annual wages and 62%-66% in total benefits. Wage theft and payroll fraud cost a total of $362 million in lost state income taxes, unemployment insurance contributions, and workers' compensation premiums in these three states every year.

Hinkel, Matthew. (2021). *The Effect of Prevailing Wage Laws on Informal Construction Employment*. Alma College.
Key Finding: From 2010 through 2019, worker misclassification and off-the-books employment was 2% lower for construction workers in states with prevailing wage laws. Lower prevailing wage contract coverage thresholds were also linked with significant decreases in misclassification and off-the-books employment because more state and local projects are covered, leaving fewer workers vulnerable to exploitative practices and governments less vulnerable to payroll tax fraud. By improving transparency, accountability, and enforcement on public works projects, prevailing wage laws protect workers from illegal labor practices.

Rhinehart, Lynn; Celine McNicholas; Margaret Poydock; and Ihna Mangndayao. (2021). *Misclassification, the ABC Test, and Employee Status: The California Experience and Its Relevance to Current Policy Debates*.
Key Finding: Federal and state policymakers should adopt the ABC test in their labor and employment laws to ensure workers are not misclassified, and are covered by important workplace rights and protections.

Gerstein, Terri. (2021). *How District Attorneys and State Attorneys General Are Fighting Workplace Abuses*. Economic Policy Institute.
Key Finding: District attorneys (DAs) and state attorneys general (AGs) have been bringing criminal prosecutions against law-breaking employers. This development is particularly important in light of limits in worker protection laws, underfunding of labor enforcement agencies, and employers' increasing use of forced arbitration clauses.

Holt, Josh. (2021). "Virginia Joins the Trend of States Cracking Down on Worker Misclassification in the Construction Industry." *Common Sense Contract Law*.
Key Finding: Virginia's 2020 employee classification law assumes all workers are employees unless the employer can prove they are contractors under the IRS's employment relationship test. The bill specifically targeted construction by barring known violators from bidding on public projects for two years and allows the Department of Taxation to impose penalties between $1,000-$5,000 per offense.

LaBarbera, Gary. (2021). "Viewpoint: Measure Will Fight Wage Theft in Construction Industry." *Times Union*.
Key Finding: The President of the New York State Building & Construction Trades Council says that $300 million in stolen wages were recovered for exploited workers since 2011, but fraudulent contractors still retain hundreds of millions more.

Obernauer, Charlene. (2021). "Op-Ed: Wage Theft is a Crime – It's Time to Put an End to It." *amNY*.
Key Finding: The Executive Director of the New York Committee for Occupational Safety and Health says that a "tell-tale sign of unsafe working conditions are whispers of wage theft violations against workers on private construction projects."

Leberstein, Sarah. (2021). "The Next Big Step in Stopping Wage Theft in the Construction Industry." *Gotham Gazette*.
Key Finding: An employment attorney hears daily from construction workers cheated out of their wages by subcontractors, especially those on nonunion and residential sites where many immigrant workers are employed.

Castro, Manuel. (2021). "Opinion: Wage Theft is Rampant in NY's Construction Industry. Albany Can Act Now to Curb It." *City Limits*.
Key Finding: Addressing wage theft and giving exploited workers a more secure path to recouping unpaid wages would represent a major step towards making sure that immigrant workers are given dignity though hard and important work.

Sproule, William. (2021). "Op-Ed: Construction Industry Tax Cheats Need to Be Held Accountable." *Metro Philadelphia*.
Key Finding: Construction industry tax cheats fail to pay their workers fair living wages and rarely provide medical coverage, while also evading federal, state, and local taxes, overtime, and workers' compensation premiums. This gives them a tremendous competitive edge when it comes to bidding on both public and private jobs against law-abiding contractors.

Construction Industry Tax Fraud. (2021). *Construction Industry Insurance Fraud*. StopTaxFraud.net.
Key Finding: This one-page fact sheet describes workers' compensation insurance premium fraud, notes that losses are estimated at $2 billion nationwide, and tells people how they can help.

Construction Industry Tax Fraud. (2020). *Construction Industry Poor Safety Standards*. StopTaxFraud.net.
Key Finding: This one-page fact sheet notes that contractors who skirt workers' comp, wage, and tax laws often cut corners with safety and that tax fraud robs state and federal governments out of $8.4 billion per year.

Construction Industry Tax Fraud. (2020). *Construction Industry Wage Theft*. StopTaxFraud.net.
Key Finding: This one-page fact sheet describes wage theft, notes that construction workers have $946 million a year stolen from them, and tells people how they can help.

Ormiston, Russell; Dale Belman; Julie Brockman; and Matt Hinkel. (2020). *Rebuilding Residential Construction.* In Paul Osterman (Ed.), *Creating Good Jobs: An Industry-Based Strategy,* 75-113. MIT Press.
Key Finding: An investigation of 71 drywall installers by Carpenters Local 525 in Kalamazoo, MI found 94% of contractors misclassified workers; 73% of 1,840 workers were misclassified or working off-the-books. This book chapter describes the prevalence of illegal labor practices in residential construction and makes policy recommendations for incentivizing compliance with labor and employment law.

Erlich, Mark. (2020). "Misclassification in Construction: The Original Gig Economy." *Industrial and Labor Relations Review*, 1-29.
Key Finding: The misclassification of workers as independent contractors has predated the app-based gig economy, particularly in construction where a cash-based underground system of compensation has lowered standards and been among the major causes of the decline of union density.

Moe, Lina; James Parrott; and Jason Rochford. (2020). *The Magnitude of Low-Paid Gig and Independent Contract Work in New York State*. The New School.
Key Finding: 17.5% of low-wage independent contractors in New York worked in construction. The Immigration Reform and Control Act requires employers to verify each employee's eligibility to work in the United States to ensure that they are accounted for in payroll taxes and insurance coverage. Independent contractors, however, do not need their eligibility verified, allowing employers to hire undocumented workers and deprive them of benefits and insurance coverage.

Gerstein, Terri. (2020). *Workers' Rights Protection and Enforcement by State Attorneys General: State AG Labor Rights Activities from 2018 to 2020*. Economic Policy Institute.
Key Finding: In Washington, D. C., Massachusetts, and New York, state attorneys general have established offices to focus on labor rights. Cases brought against employers for misclassification have generated multiple millions in settlements. In total, 8 states plus D.C. had units within AGs offices dedicated to workers' rights at the time of this study.

National Employment Law Project (NELP). (2020). *Independent Contractor Misclassification Imposes Huge Costs on Workers and Federal and State Treasuries*.
Key Finding: State-level studies have shown an increase in employee misclassification but are likely underestimating its true scope. Construction is one of the most affected industries, with misclassification being 7 percentage points higher in construction than other industries in certain states. Includes a table of estimated losses to tax revenue.

Erlich, Mark and Terri Gerstein. (2019). *Confronting Misclassification and Payroll Fraud: A Survey of State Labor Standards Enforcement Agencies*. Harvard Law School.
Key Finding: State agencies reported they are constrained from abandoning complaint-based enforcement in favor of proactive enforcement due to statutory mandates and historical tradition. Additionally, limited resources prevent state agencies from being able to take proactive action except for in industries where misclassification is a known problem. Audits have been becoming more targeted rather than random for agencies administering unemployment insurance. Agencies have started using stop-work orders in cases where violations are found. When stop-work orders are issued, corrective action is taken, and the reported turnaround is roughly a day and a half. In response to misclassification enforcement, some companies pay employees in cash. Agencies are relying more and more on community partnerships with unions, worker centers, and immigrant rights groups to investigate employers.

Waddoups, Jeff; Kevin Duncan; and Russell Ormiston. (2019). *Payroll Fraud in Nevada's Construction Industry: Extent and Fiscal Impact*. University of Nevada, Las Vegas; Colorado State University-Pueblo; Allegheny College.
Key Finding: Across Nevada, 11% of the state's construction workforce was either misclassified or working off-the-books in 2018 (and 14% when excluding white-collar workers). These illegal labor practices likely reduced labor costs of offending contractors by over $90 million; these costs are borne directly by workers and taxpayers.

Xu, Lisa and Mark Erlich. (2019). *The Economic Consequences of Misclassification in the State of Washington*. Harvard University.
Key Finding: This analysis of wage theft in Washington in 2017 found a rate of worker misclassification of 19% and estimated a $48 million cost to the state government and $85 million cost to the federal government annually.

Thomason, Sarah; Ken Jacobs; and Sharon Jan. (2019). *Estimating the Coverage of California's New AB 5 Law*. University of California, Berkeley.
Key Finding: Estimates that 91% of independent contractors in California would have been classified as employees under the ABC test in California's Assembly Bill No. 5.

Belman, Dale; Aaron Sojourner. (2019). "Economic Analysis: Economic Analysis of Incentives to Fraudulently Misclassify Employees in District of Columbia Construction." In *Illegal Worker Misclassification: Payroll Fraud in the District's Construction Industry*. Attorney General for the District of Columbia.
Key Finding: Worker misclassification can reduce a contractor's labor expenses by 17% in the Washington, D.C. area. Accompanied with other forms of wage theft, a contractor can easily reduce their labor costs by 27% illegally.

Sinroja, Ratna; Sarah Thomason; and Ken Jacobs. (2019). *Misclassification in California: A Snapshot of the Janitorial Services, Construction, and Trucking Industries*. University of California, Berkeley.
Key Finding: Independent contractors in construction earn 67% of the wages of properly classified workers. Roughly ¼ of construction workers in California are classified as independent contractors. 40% of workers live in low-wage households.

Lawless, Donald. (2019). "Michigan Employers Act Before the Payroll Fraud Enforcement Unit Comes Knocking." *The National Law Review*, 11(207).
Key Finding: State misclassification laws have caused employers to evaluate their practices for accidental or intentional misclassification and stop the practice before penalties were administered.

Slowey, Kim. (2019). "Contractor Faces 20 Years in Prison for Forced Labor." *Construction Dive*.
Key Finding: An owner of several construction companies was convicted on charges of forced labor. The contractor recruited undocumented workers from Mexico and then refused to pay them. If they complained, he threatened them—and their families—with violence or with deportation.

White, Victor. (2019). "Nashville is Being Built on a Pyramid of Payroll Tax Fraud: Opinion." *Tennessean*.
Key Finding: $2.6 billion in payroll tax fraud is lost annually. 45% of construction workers in the South reported they did not have workers' compensation. Workers who reported wage theft lost a median of $800.

Sanchez, Cesar. (2019). "Bay Area Governments Taking Action on Wage Theft." *East Bay Express*.
Key Finding: The City of Berkeley's "wage transparency" ordinance withholds a certificate of occupancy from projects where workers have alleged wage violations, requires contractors provide workers with detailed pay stubs outlining wage rates and deductions, and publicly posts contact information for state enforcement agencies at each jobsite.

Hallett, Nicole. (2018). "The Problem of Wage Theft." *Yale Law & Policy Review*, 37(1): 93.
Key Finding: A Memorandum of Understanding was in place between the Department of Labor and the Immigration and Customs Enforcement agency that prevented undocumented workers from being deported if their immigration status was uncovered as a result of investigations into labor violations. When these memoranda expire, they may face deportation, which disincentivizes immigrants from reporting labor violations.

Gerstein, Terri and Marni von Wilpert. (2018). *State Attorneys General Can Play Key Roles in Protecting Workers' Rights*. Economic Policy Institute.
Key Finding: State attorneys general have the authority to direct regulatory agencies and build cases against employers in violation of wage and labor laws and to launch labor education programs in industries where misclassification is prevalent.

Bureau of Labor Statistics (BLS). (2018). *Contingent and Alternative Employment Arrangement News Release*. U.S. Department of Labor.
Key Finding: In 2017, 19% of independent contractors worked in the construction industry. See Table 8.

Mattera, Philip. (2018). *Grand Theft Paycheck: The Large Corporations Shortchanging Their Workers' Wages*. Good Jobs First.
Key Finding: Across 4,220 wage theft claims against large employers in 2017, $9 billion in penalties was generated. Women and people of color were disproportionately observed to be victims of wage theft. Misclassification was the second most common offense cited. Government enforcement of labor laws are subject to administrations hostile to workers and sympathetic to employers. Union representation allows more workers to recover stolen wages.

Greenstein, Robert. (2018). Health Coverage Progress Stalls – Even as Economy Reduces Poverty, Boosts Income. Center on Budget and Policy Priorities.
Key Finding: Workers who have been misclassified are less likely to have private health insurance coverage—due to the drop in employer-sponsored health insurance coverage—and are more likely to rely on Medicaid.

Theodore, Nik, Bethany Boggess, Jackie Cornejo and Emily Timm. (2017). *Build a Better South: Construction Working Conditions in the Southern U.S*. University of Illinois at Chicago; Workers Defense Project; Partnership for Working Families.
Key Finding: A survey of 1,435 construction workers in six Southern cities discovered 32% were misclassified as independent contractors or working off-the-books, 11% experienced wage theft in their career, and 43% said their employer had no workers' compensation policy.

Cooper, David and Teresa Kroeger. (2017). *Employers Steal Billions from Workers' Paychecks Each Year: Survey Data Show Millions of Workers Are Paid Less than the Minimum Wage, At Significant Cost to Taxpayers and State Economies*. Economic Policy Institute.
Key Finding: Nationwide, wage theft costs up to $15 billion. Misclassification is one tactic that enables wage theft. Due to fear of deportation, immigrant workers are more likely to endure harmful and exploitative working conditions without reporting them. They are also less aware of appropriate reporting avenues. Victims are underpaid an average of 25% of their earnings. Women, young workers, and immigrants report minimum wage violations at a higher rate.

Alexander, Charlotte. (2017). "Misclassification and Antidiscrimination: An Empirical Analysis." *Minnesota Law Review*, 101. 907-962.
Key Finding: According to Census and Social Security Administration data, the industries where misclassification is most prevalent include real estate, construction, truck drivers, and barbers and cosmetologists. Industries where misclassification is most prevalent also disproportionately employ women and people of color, increasing the risk that marginalized populations experience misclassification that can result in discrimination from a lack of Title VII protections. Most court cases that argue misclassification are brought by individuals not in the highly-misclassified industries, suggesting misclassified workers often do not engage in litigation. In the years 2005-2014, misclassification was brought as an argument in Title VII discrimination cases predominantly by physicians, surgeons, and insurance salespeople.

McNicholas, Celine; Zane Mokhiber; and Adam Chalkof. (2017). *Two Billion Dollars in Stolen Wages Were Recovered for Workers in 2015 and 2016 – and That's Just a Drop in the Bucket*. Economic Policy Institute.
Key Finding: In 2015 and 2016, $2 billion in stolen wages were repaid to victims of wage theft through litigation, state agency action, and class-action lawsuits. This figure is likely well below the amount actually stolen by wage theft yearly. Workers do not report instances of wage theft because of fear of retaliation, lack of resources, and uncertain remedies.

Philips, Peter and David Blatter. (2017). *Two Roads Diverge: Hidden Costs of the Low Wage Approach to Construction*. University of Utah.
Key Finding: Doubling the percentage of construction subbed out to independent contractors leads to a 13.5% decline in payroll taxes and a 11% decline in workers' compensation and unemployment insurance. Employers engaged in payroll fraud and misclassification undercut the larger construction labor market by discouraging laborers to invest in training and encouraging casual attachments to the industry.

Solis, Hilda. (2017). "Opinion: Wage Discrimination in Construction Industry Makes Minimum Standards a Good Idea." *The Mercury News* (San Francisco Bay Area).
Key Finding: One-in-six California construction workers are affected by misclassification and payroll fraud.

Bonilla, Rick. (2017). "Op-Ed: Wage Theft is Preventable." *The Daily Journal*.
Key Finding: It is up to local cities to enact "wage transparency" ordinances to improve accountability.

National Employment Law Project (NELP). (2016). *Contracted Out: Findings from a National Voter Survey*.
Key Finding: In a national survey of 1,000 registered voters, 84% of Americans said that companies misclassifying workers as independent contractors is a serious problem and 78% said that workers are better off when they are employees. 78% favor making it harder for companies to misclassify workers as independent contractors, including 73% of Republicans. Respondents of both political party affiliations support policies that make misclassification more difficult or shift legal liability to employers for contractors who do not pay their full amount due in taxes.

Cooke, Oliver; Deborah Figart; and John Froonjian. (2016). *The Underground Construction Economy in New Jersey.* Stockton University.
Key Finding: An estimated 35,000 workers were misclassified or unreported (roughly 16% of the state's payroll labor force in construction), with unreported wages totaling between $284 and $528 million. This amounted to $20 million in lost state income tax revenue and up to $7 million in lost UI premiums.

Galvin, Daniel. (2016). "Deterring Wage Theft: Alt-Labor, State Politics, and the Policy Determinants of Minimum Wage Compliance." *Perspectives on Politics*, 14(2): 324-350.
Key Finding: Employers base their wage theft strategies on the expected probability of detection and the monetary cost of a violation being detected. State laws that increase the costs of violations that are detected have led to statistically significant declines in wage theft, if coupled with equally strong enforcement mechanisms.

Katz, Lawrence and Alan Krueger. (2016). *The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015*. Harvard University; Princeton University.
Key Finding: From 1995 to 2015, non-traditional employment rose from 11% to 16%, with online intermediary work, such as Uber and TaskRabbit, accounting for only 0.5% of workers as of 2015. Workers in non-traditional employment relationships earn less when compared to similar workers in traditional employment relationships.

Duncan, Kevin and Jeffrey Waddoups. (2016). *The Release of Davis-Bacon Certified Payroll Records, Exemption 4 of the Freedom of Information Act, and the Question of Competitive Harm to Contractors*. Colorado State University-Pueblo; University of Nevada, Las Vegas.
Key Finding: Labor is a relatively minor portion of overall costs (14%-27%) in construction, so subcontractors making payroll information public will likely not allow competitors to outbid them. Trade secrets are not revealed in any meaningful way through payroll information. Making payroll information public would not put an employer in a less competitive position in future bids but would assist government regulators in enforcing labor laws related to wage theft.

Schoonmaker, Derek. (2016). "Suit Against Trump Spotlights All-Too-Common Wage Theft." *San Francisco Chronicle*.
Key Finding: Wage theft is a crime against workers, against taxpayers, and against honest businesses. It is prevalent in low-wage industries such as construction, food services, custodial services, and landscaping.

Juravich, Tom; Essie Ablavsky; and Jake Williams. (2015). *The Epidemic of Wage Theft in Residential Construction in Massachusetts*. University of Massachusetts Amherst.
Key Finding: Due to the transient nature of undocumented workers, many working in the construction industry never receive the wages they are owed. Employers in the examined construction projects reduced their building costs by 30% by engaging in wage theft. Many employers liquidated their businesses to avoid repayment of stolen wages.

Cho, Eunice Hyunhye; Tia Koonse; and Anthony Mischel. (2015). *Hollow Victories: The Crisis in Collecting Unpaid Wages for California's Workers*. National Employment Law Project; University of California, Los Angeles.
Key Finding: Only 42% of unpaid wages due to wage theft were recovered after being awarded to victims by the California Department of Labor Standards Enforcement. The low chances of repayment combined with the exhaustive litigative process dissuades many from filing claims of wage theft. In response to low rates of repayment of stolen wages, wage liens can be used to prevent employers from dissolving their company to avoid repayment. When a wage lien is in place, a company dissolving or declaring bankruptcy must retain funds to pay the lien before liquidating.

Carré, Françoise. (2015). *(In)dependent Contractor Misclassification*. Economic Policy Institute.
Key Finding: State-level studies show that 10%-20% of employers misclassify workers independent contractors. High workers' compensation premiums in injury-prone industries such as construction create a financial incentive for employers to hire workers, such as undocumented workers, who will not be covered by workers' compensation. Misclassification weakens the bargaining power of labor in a workplace as contractors are not protected by the NLRA. Misclassification harms employers who properly classify employees as they incur higher payroll costs.

Locke, Mandy and Franco Ordonez. (2015). "Taxpayers and Workers Gouged by Labor-Law Dodge." *McClatchy DC Bureau*.
Key Finding: Misclassification allows fraudulent contractors to underbid law-abiding businesses on publicly-funded construction projects, as evidenced by contracts awarded in the economic stimulus following the Great Recession.

Williams, Erica; Michael Leachman; Marlana Wallace; and Nicholas Albares. (2015). *For States, Inclusive Approach to Unauthorized Immigrants Can Help Build Better Economies*. Center on Budget and Policy Priorities.
Key Finding: This report details policies that may benefit immigrants in the labor market. Strengthened labor law enforcement preventing misclassification and wage theft would boost state economies and increase tax revenue.

Weil, David. (2015). *The Application of the Fair Labor Standards Act's "Suffer or Permit" Standard in the Identification of Employees Who Are Misclassified as Independent Contractors*. Wage and Hour Division. U.S. Department of Labor.
Key Finding: This memo details the varying definitions of "employee" that allow misclassification to continue and describes the factors courts have drafted to weigh when considering the employee-employer relationship.

Leyh, Chelsea. (2015). "Getting a Fair Shake: Reducing the Perils of Worker Misclassification on Federally Funded Construction Projects." *Public Contract Law Journal*, 44(2): 307-325.
Key Finding: This study details legal actions against misclassification in construction and the legal precedents they set. Policy recommendations are provided, such as allowing the USDOL and IRS to share information on misclassification cases to reduce their prevalence by eliminating certain employers from the bidding process.

Miller, Scott. (2015). "Combatting Wage Theft in Illinois: Administering and Enforcing the IWPCA." *The Urban Lawyer*, 47(4): 665-716.
Key Finding: This history of Illinois Wage Payment and Collection Act discusses 2010 amendments that made it one of the strongest anti-wage theft laws in the U.S., such as giving IDOL the power of administrative judgment on wage theft claims of $3,000 or less, enabling private or class actions against employers, increased criminal penalties for employers guilty of wage theft (up to a Class 4 felony), and enabling private actions against employers for retaliation.

Prakash, Anna and Brittany Skemp. (2015). "Beyond the Minimum Wage: How the Fair Labor Standards Act's Broad Social and Economic Protections Support Its Application to Workers Who Earn a Substantial Income." *ABA Journal of Labor & Employment Law*, 30(3): 367-388.
Key Finding: Under FLSA, employers act as tax collectors in some capacity by deducting taxes from employee paychecks. This efficiency is lost when employees are misclassified. The lost income tax revenue affects the federal government's ability to fund defense, public aid, disease control, veteran's benefits, and law enforcement. Deductions mandated by FLSA also ensure social programs like Social Security, Medicare, and unemployment insurance.

Skinner, Nancy. (2015). "Guest Commentary: Cities Can Play a Role in Stopping Wage Theft." *Marin Independent Journal*.
Key Finding: Wage theft cheats California taxpayers out of at least $8.5 billion a year in uncollected taxes.

Siffler, Chris. (2014). *Wage Nonpayment in Colorado: Workers Lost $750 Million Per Year*. Colorado Fiscal Institute.
Key Finding: Wage theft in Colorado disproportionately affects the construction and hotel services industries. Construction accounts for 6% of Colorado's employment, but 21% of FLSA violations. Across the whole state, the research estimates $750 million is stolen each year. This results in $5 million in lost income tax for the state.

Yen Liu, Yvonne; Daniel Flaming; and Patrick Burns. (2014). *Sinking Underground: The Growing Informal Economy in California Construction*. Economic Roundtable.
Key Finding: An analysis of California's construction industry found that 16% of construction workers were employed in the informal economy in 2011, including 104,100 construction workers who were not reported by their employers and 39,800 who were misclassified as independent contractors. The "informal tax gap" results in $774 million in lost revenue from payroll taxes alone—$301 million to the federal government and $473 million to California.

Alexander, Charlotte and Arthi Prasad. (2014). "Bottom-Up Workplace Enforcement: An Empirical Analysis." *Indiana Law Journal*, 89: 1069-1131.
Key Finding: As worker power and stability decreases, so does their legal knowledge and ability to contest labor violations in the courts. 43% of workers who experience a workplace problem with their employer did not pursue the claim in court for fear of retaliation or lack of confidence in their claim. 43% of workers who did make a formal experienced retaliation in the form of termination, suspension, decreases in hours, or reporting the worker to law enforcement agencies.

Gleeson, Shannon; Ruth Silver Taube; and Charlotte Noss. (2014). *Santa Clara County Wage Theft Report*. University of California, Santa Cruz; Santa Clara Law.
Key Finding: Filing wage liens is often the responsibility of local government officials. To bring successful wage theft claims, individuals and classes can engage with local government officials for support in ensuring repayment. Local governments can also suspend permits for violators and prosecute violators through the District Attorney.

Ordonez, Franco and Mandy Locke. (2014). "IRS' 'Safe Harbor' Loophole Frustrates Those Fighting Labor Tax Cheats." *McClatchy D. C. Bureau*.
Key Finding: Due to the "safe harbor" provision in the Revenue Act, revenue officers charged with investigating worker misclassification and payroll fraud often find themselves unable to administer penalties or change employer practices. Some IRS examiners describe the provision as the "greatest impediment" to fighting worker misclassification.

Price, Amy; Emily Timm; and Cristina Tzintzún. (2013). *Build a Better Texas: Construction Conditions in the Lone Star State.* Workers Defense Project; University of Texas at Austin.
Key Finding: A survey of 1,194 construction workers found 41% were misclassified or working off-the-books (a loss of $55 million in UI tax revenue), 22% had experienced wage theft, and 32% said their employers had no workers' comp policy.

National Employment Law Project (NELP). (2013). *Winning Wage Justice: A Summary of Research on Wage and Hour Violations in the United States*.
Key Finding: This brief summarizes different wage theft studies by geographic regions and industries in the United States.

Gordon, Colin; Matthew Glasson; Jennifer Sherer; and Robin Clark-Bennett. (2012). *Wage Theft in Iowa*. Iowa Policy Project.
Key Finding: Misclassification is the second-most-cited wage theft offense in Iowa and enables multiple other forms of wage theft such as overtime violations, break time violations, and underpayment of wages. At the time, Iowa had only a single investigator dedicated to wage theft.

Casey, Robert and Eva Lewis. (2011). *Independent Contractors and Employee Misclassification in the Construction Industry*. Ogletree, Deakins, Nash, Smoak & Stewart.
Key Finding: The Illinois Employee Classification Act assumes all construction workers are employees unless the employing party can prove they are independent contractors. In the first 3 years after enactment, $1.3 million in penalties was recovered for misclassified workers. This bill bars known violators from bidding on public project for up to 4 years.

Kelsay, Michael and James Sturgeon. (2011). *The Economic Costs of Employee Misclassification in the Construction Sector in the Commonwealth of Kentucky*. University of Missouri-Kansas City.
Key Finding: 26% of construction employers in Kentucky were engaged in misclassification. The rate peaked in 2010 with 40%. Employee misclassification led to $2 million lost each year to the unemployment insurance system, up to $5 million lost in workers' compensation premiums, and up to $12 million lost in state income tax revenues.

Wayne, Richard. (2011). *AGC of America's 2011 Labor and Employment Law Symposium: Davis-Bacon Act – Misclassification and Compliance*. Hinckley Allen Snyder LLP.
Key Finding: This is a PowerPoint presentation on Davis-Bacon Act and ways to avoid accidental misclassification.

Kelsay, Michael and James Sturgeon. (2010). *The Economic Costs of Employee Misclassification in the State of Indiana*. University of Missouri-Kansas City.
Key Finding: Nearly half (47.5%) of audited employers in Indiana were engaged in misclassification. An estimated 15% of construction workers were misclassified, costing the state $2 million in lost unemployment insurance and $4-$8 million in lost workers' compensation premiums.

Canak, William and Randall Adams. (2010). *Misclassified Construction Employees in Tennessee*. Middle Tennessee State University; Tennessee Technical University.
Key Finding: Between 12,000 and 39,000 construction workers are misclassified or unreported, affecting 11% to 21% of the construction workforce. Losses to state and federal programs were up to $15 million for the state's UI program, $92 million in worker's compensation premiums, $73 million in federal income tax, and $42 million in Social Security funding.

Theodore; Nik; Mirabai Auer; Ryan Hollon; Sandra Morales-Mirque; Annette Bernhardt; Ruth Milkman; Douglas Heckathorn; James DeFilippis; Ana Luz González; Victor Narro; Jason Perelshteyn; Diana Polson; and Michael Spiller (2010). *Unregulated Work in Chicago: The Breakdown of Workplace Protections in the Low-Wage Labor Market*. University of Illinois at Chicago; Cornell University; University of California, Los Angeles; Rutgers University; Centers for Disease Control and Prevention.
Key Finding: In this 2008 survey data of front-line workers in Chicago, 26% were victims of minimum wage violations, 17% were not paid legally required overtime, and 10% experienced retaliation when complaining or attempting to unionize. 20% of injured workers experienced an illegal employer reaction. The average worker in the survey lost 16% of earnings to various forms of wage theft, resulting in $7 million stolen per week in Chicago from low-wage workers.

Belman, Dale and Richard Block. (2009). *The Social and Economic Costs of Employee Misclassification in Michigan.* Michigan State University.
Key Finding: 26% of construction firms misclassified employees. Among those who did so, 19% of their employees were misclassified (i.e., 6% of the entire industry workforce), costing the state over $2 million in UI tax revenue.

Government Accountability Office (GAO). (2009). *Employee Misclassification: Improved Coordination, Outreach, and Targeting Could Better Ensure Detection and Prevention*.
Key Finding: Misclassification of workers enables other forms of wage theft, such as minimum wage theft. These minimum wage violations are investigated under the Fair Labor Standards Act, which does not address misclassification. State officials believe misclassification has generally increased. The Employment and Training Administrations reported the number of misclassified workers uncovered by state audits had risen, but likely underestimated how much. The Department of Labor has generally investigated misclassification indirectly as a result of investigating broader FLSA violations. Recommendations include coordination between federal and state agencies, outreach to workers on proper classification, and a voluntary IRS settlement program that enables employers to correct their misclassifications.

Edwards, Kathryn and Kai Filion. (2009). *Outsourcing Poverty: Federal Contracting Pushes Down Wages and Benefits*. Economic Policy Institute.

Key Finding: From 2006 to 2007, the number of federal contract workers grew from 1.4 million to 2 million. Nearly 20% of these contract workers were unable to earn a living wage and did not have the same access to healthcare and retirement plans as provided to federal employees.

Cox, Lauren; Emily Timm; and Cristina Tzintzún. (2009). *Building Austin, Building Injustice*. Workers Defense Project; The University of Texas at Austin.

Key Finding: 71% of poverty-wage workers had no access to workers' compensation. When surveyed, union construction workers were 58% more likely to know about their labor rights than non-unionized workers. Access to workers' compensation is one aspect of total compensation and benefits and is especially valuable in injury-prone industries such as construction. 20% of construction workers in Austin who experienced an injury were not able to take advantage of workers' compensation due to their status as independent contractors. This cost was largely absorbed by public hospitals caring for the injured workers. Removing workers' access to workers' compensation places the financial burden of medical care on workers, as well as public hospitals and safety net programs like Medicaid. 71% of poverty-wage workers had no access to workers' compensation.

Sonn, Paul and Tsedeye Gebreselassie. (2009). *The Road to Responsible Contracting: Lessons from States and Cities for Ensuring That Federal Contracting Delivers Good Jobs and Quality Services*. National Employment Law Project (NELP); University of California, Los Angeles; University of Illinois at Chicago; City University of New York; Cornell University; Rutgers University.

Key Finding: A 1983 Housing and Urban Development audit found an inverse relationship between wage violations and quality of projects for federally-funded construction. Recommendations include instituting more rigorous criteria for being a responsible contractor, establishing a preference for employers that provide good jobs with living wages, and strengthening monitoring and enforcement.

Bernhardt, Annette; Ruth Milkman; Nik Theodore; Douglas Heckathorn; Mirabai Auer; James DeFilippis; Ana Luz González; Victor Narro; Jason Perelshteyn; Diana Polson; and Michael Spiller. (2008). *Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities*. National Employment Law Project (NELP); University of California, Berkeley.

Key Finding: 26% of workers in low-wage industries had experienced a minimum wage violation in the week before. 9% experienced retaliation when complaining to supervisors or attempting to unionize. 50% who reported injury on the job experienced an illegal employer reaction. The respondents who were judged to be in an employment relationship but were classified as contractors (mostly in-home childcare workers) faced higher rates of violations, including 89% of them earning less than minimum hourly wages. Workers paid in cash on daily or weekly rates rather than hourly rates saw the highest percentage of minimum wage violations. Recommendations include proactive investigative enforcement of labor laws specifically regarding misclassification, and stronger legislation to address new strategies to evade liability.

Donahue, Linda; James Ryan Lamare; Fred Kotler. (2007). *The Cost of Worker Misclassification In New York State*. Cornell University.

Key Finding: Nearly 15% were construction employers, resulting in nearly 15% of the New York construction workforce being misclassified. Over $175 million was lost to the unemployment insurance system.

Government Accountability Office (GAO). (2007). *Employee Misclassification: Improved Outreach Could Help Ensure Proper Worker Classification*.

Key Finding: 22% of independent contractors in the United States worked in construction in 2007. A majority of independent contractors in construction were white, middle-aged men with at least some college education. These demographic characteristics did not prevent them from being misclassified.

Parrott, James. (2007). *Building Up New York, Tearing Down Job Quality: Taxpayer Impact of Worsening Employment Practices in New York City's Construction Industry*. Fiscal Policy Institute.
Key Finding: An estimated 50,000 of over 200,000 New York City construction workers are misclassified or paid entirely off-the-books. In 2005, illegal construction industry practices resulted in a loss of $489 million to the state. In 2008, this rose to $557 million, showing these practices are becoming more common and impactful.

Parrott, James. (2007). *New York State Workers' Compensation: How Big Is the Coverage Shortfall?* Fiscal Policy Institute.
Key Finding: In New York State, misclassification across all industries leads to a loss between $506 million and $1.0 billion each year in unpaid workers' compensation premiums.

Office of the Legislative Auditor. (2007). *Misclassification of Employees as Independent Contractors.* State of Minnesota.
Key Finding: 15% of Minnesota construction firms misclassified employees. The rates were highest in roofing (38%) and drywall installation (31%) and lowest in road and bridge construction (10%) and site preparation (5%).

Ruckelshaus, Catherine. (2007). *Providing Fairness to Workers Who Have Been Misclassified as Independent Contractors*. National Employment Law Project (NELP). Testimony before the Subcommittee on Workforce Protections of the Committee on Education on Labor in the U.S. House of Representatives.
Key Finding: Research estimates that misclassification rates in the construction industry could be as high as 40%. Later research corroborated that misclassification was a growing practice at the time of this testimony.

Theodore, Nik and Marc Doussard. (2006). *The Hidden Public Cost of Low-Wage Work in Illinois*. University of Illinois at Chicago.
Key Finding: Low-wage jobs in 2001-2004 caused working families to rely on government assistance programs. These families constituted 37% of public benefits spending in Illinois, including $92 million on families with construction workers.

Weil, David and Amanda Pyles. (2006). "Why Complain? Complaints, Compliance, and the Problem of Enforcement in the U.S. Workplace." *Comparative Labor Law and Policy Journal*, 27(59): 59-92.
Key Finding: For every 130 minimum wage violations in the United States, only one complaint is filed with the appropriate regulatory agency. Explanations for this gap include the fear of retaliation from employers and lack of unionization.

Valenzuela, Abel; Nik Theodore; Edwin Melendez; Ana Luz González. (2006). *On the Corner: Day Labor in the United States*. University of California, Los Angeles; University of Illinois at Chicago; New School University.
Key Finding: Day laborers are predominantly Hispanic, foreign-born men. Nearly half of all surveyed day laborers were victims of wage theft, either in nonpayment or underpayment.

Carré, Françoise and Randall Wilson. (2005). *The Social and Economic Costs of Employee Misclassification in the Maine Construction Industry.* University of Massachusetts Boston.
Key Finding: 14% of construction firms misclassified workers; among employers who misclassify, 45% of workers are misclassified. Overall, 11% of all construction employees are misclassified. State loses $314,319 annually in lost UI tax revenues, $2.6 million in lost income tax revenue, and $6.5 million in lost workers' comp contributions.

Carré, Françoise and Randall Wilson. (2004). *The Social and Economic Cost of Employee Misclassification in Construction*. University of Massachusetts Boston.
Key Finding: In Massachusetts from 2001 to 2003, between 14% and 24% of construction employers were estimated to have workers misclassified as independent contractors. These employers misclassified around 40% of their workforce, meaning at least 5% of the total construction workforce in Massachusetts may have been misclassified. Up to $4 million in unemployment insurance and up to $7 million in income tax revenues are lost per year.

Goh, Yong Lee. (2004). *The Effect of Higher Workers' Compensation Premium Rates on Construction Worker Wages and the Reporting of Injuries*. University of Utah.

Key Finding: As workers' compensation premiums rise in construction, workers experience a significant decrease in wages as well as pressure from employers to not report injuries and utilize workers' compensation for medical care.

Misclassification, Payroll Fraud, & Wage Theft: A Primer for Local Government Officials & Candidates

Misclassification, Payroll Fraud, and Wage Theft are three interrelated issues that have unfortunately become pervasive throughout the construction industry. While not unique to construction, these issues are particularly acute because about a quarter of annual industry spending comes from public sources (*i.e.*, taxpayers). In other words, without proper regulatory safeguards, public spending on infrastructure can unintentionally subsidize these exploitative business practices.

Misclassification is the act of redefining an employee as an independent contractor. A misclassified worker is deprived of many protections that are attached through the employee-employer relationship, including unemployment insurance, health insurance, overtime, and worker's compensation. Employers who misclassify workers shift all of the liability for paying payroll taxes (Social Security, Medicare/Medicaid, etc.) and other legal obligations onto the individual workers. This allows employers to "save" up to 20-30% of their labor costs.

Payroll Fraud occurs when employers do not fulfill their obligations to pay taxes and fund social safety net programs via payroll taxes and normal business overhead (such as carrying workers' compensation insurance). It occurs when workers are misclassified, but can also occur in situations where workers are being paid in cash or otherwise "off the books," (because payments to those workers are not easily traceable by regulatory and tax authorities), and when workers experience wage theft (because it reduces taxable wages and income).

Wage Theft occurs when workers are not paid in full for work they perform, and this can take a multitude of different forms: not paying for all hours worked, not paying the stated wage, not paying overtime, requiring workers to perform tasks "off the clock" (such as cleaning), etc. Since 2019, Minnesota has treated wage theft as a felony crime, but prosecutions have remained relatively few and far between.

Taken together, these violations have systemic effects of depriving workers of the ability to earn a fair and steady income from their labor, depriving lawful contractors of a fair competitive business environment, depriving project owners and developers of a healthy industry and workforce to build their projects, and depriving taxpayers and communities of a properly-funded social safety net. Victims of wage theft and other fraudulent business practices face housing instability, food insecurity, and increased dependence on public assistance programs, compounding the burden on taxpayers, lawful employers, and communities.

In 2025, public sector construction in the United States was a little more than $517 billion, according to the Federal Reserve Bank of St. Louis. Why that matters for public officials is the fact that most of this funding was required to be awarded to the lowest bidder. Low bid requirements certainly play a role in helping contain costs on public projects, but they have the unintentional side effect of incentivizing contractors to seek any advantage that will increase their odds of submitting the winning low bid. And unfortunately, more than a century of hard experience has taught us that some contractors will choose to employ schemes like misclassification, payroll fraud, and wage theft in order to increase their chances of winning low bids.

And research backs this up, showing how prevalent these issues have become within the construction industry:

23% of Minnesota construction workers experience wage theft, reducing their wages and benefits by 36% on average.[1] This reduces state tax revenues from the construction industry by about $136 million each year ($65 million in income taxes, $13 million in unemployment insurance contributions, and $58 million in workers' compensation premiums).

Across all industries, 316,000 Minnesota workers are victims of wage theft each year, losing about $6.2 billion. This also deprives government entities of about $1.3 billion in tax revenue annually, putting more strain on crucial public safety net programs like Social Security, Medicare/Medicaid, unemployment insurance, and workers' compensation. *[I grabbed these figures from Aaron's presentation — can we add citations for these figures?]*

[1] Goodell, N., & Manzo IV, F. (2021). *The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois*. Midwest Economic Policy Institute. https://dwd.wi.gov/misclass-taskforce/pdf/meetings/210114/costs-of-payroll-fraud.pdf

UC BERKELEY LABOR CENTER

Research Brief

RESEARCH BRIEF

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The Public Cost of Low-Wage Jobs in the US Construction Industry

By Ken Jacobs, Kuochih Huang, Jenifer MacGillvary, and Enrique Lopezlira

Summary

Construction in the United States was historically known as an industry where workers without a college education could find family-supporting jobs. Now, job quality for some construction workers has deteriorated to the point that they earn wages too low to make ends meet and therefore fall back on the public safety net to make up the difference. In this paper we look at the use by construction workers and their families in the United States of five means-tested safety net programs. ***We find that 39% of families of construction workers are enrolled in one or more safety net program at a cost of almost $28 billion per year. In comparison, 31% of all workers have a family member enrolled in a safety net program. Three times as many construction workers as all workers lack health insurance (31% compared to 10%).***

Introduction

Construction is one of the largest industries in the United States. There are approximately 10 million people employed in the construction industry, about 1 in 16 workers nationally.[1] Just prior to the COVID-19 pandemic, in 2019, construction contributed $903.6 billion, or 4.2%, of U.S. GDP.[2] It accounted for $812 billion in personal income, or $1 out of every $23 in total national earnings in 2019.[3]

The construction industry is bifurcated into low-road and high-road sectors, which have strikingly different working conditions. For many non-college-educated blue-collar workers in many parts of the country, the construction industry provides a high-road, viable path to the middle class: workers are paid family-supporting wages and benefits, receive good training, and are provided with safe worksites backed by workers' compensation protection. The low-road sector of construction, however, "feature[s] some of the worst labor practices in the United States"—low wages, no benefits, exploitation, and often illegalities including wage theft and payroll fraud.[4]

This split into high-road and low-road sectors in construction began in the late 1960s and tracked with sharp declines in unionization in the industry.[5] In 1971, 42% of construction workers were union members; by 2019 the rate had fallen to 12.6%.[6] Erlich and Grabelsky (2005) explain major regional differences in unionization: building trades unions have a relatively strong presence in urban areas of the Northeast, Midwest, and West Coast. However, the number of such markets is shrinking and, even in these markets, there are "large and growing segments of the industry [that] are outside the union sphere of influence."[7] In residential construction specifically, according to Ormiston et al. (2020), unionization was as high as 50% in 1950, but it fell swiftly to around 20% in the 1970s. "Currently in the single digits industry-wide, the residential sector operates virtually union-free in many trades and regions."[8] Significantly, these union-free cities, primarily in the Sunbelt, are some of the fastest growing in the country.[9] The low-road model is not confined to residential construction, however; it has spread into the commercial and industrial sectors as well.[10]

The decline in union density significantly eroded the quality of construction jobs overall. Between 1973 and 2006, there was a 17% drop in average real hourly earnings for all construction workers.[11] From 1980 to 1991, the percent of construction workers with employer-provided health insurance declined from 55% to 45%.[12] Participation in employment-based retirement plans went from 39% in 2000 to 27% in 2015.[13] Unionized construction workers are in a far better situation than nonunion workers; in 2015, their wages were 42% higher and their total compensation 78% higher than their non-union counterparts.[14] Regionally, blue-collar construction workers in the South earn wages around 18% lower than those in the West, 20% lower than wages in the Midwest, and 21% lower than wages in the Northeast.[15] A survey of construction workers in six major Southern cities found that over half (57%) earn less than $15 per hour.[16]

Besides depressing wages and benefits in the industry, the decline of unionization also diminished the role unions have been able to play in protecting against exploitative labor practices. This is an especially problematic development given the weakness at all levels of government in enforcement of labor standards, combined with structural incentives that put lawful construction employers at a significant competitive disadvantage. Throughout the country, construction is a highly competitive industry in which projects are frequently awarded on the sole basis of the lowest bid.[17] One of the most effective ways to minimize costs and win contracts is to "reduce labor costs through whatever means possible."[18] The primary strategies to this end are paying low wages without benefits, misclassifying employees as independent contractors, and paying workers under the table.

Mark Erlich calls construction "the original gig economy," noting that while independent contractors comprise 7% of the national workforce, around 20% of all independent contractors are construction workers.[19] A significant portion of these workers are misclassified. State-level studies have found misclassification rates in construction of almost 15% in New York and 30% in Virginia.[20] In 2011 an estimated 19% of California construction workers who were independent contractors were misclassified; these workers earned only 67 cents for every dollar earned by comparable workers with employee status.[21] An investigation by McClatchy news found that more than a third of construction workers in Southern states were misclassified.[22] The reason for the excessive use of independent contractors and the high levels of misclassification is obvious. Around one-third of labor costs can be eliminated by classifying workers as independent contractors; employers do not have to pay unemployment insurance, Social Security, Medicare, or workers' compensation premiums.[23]

Even larger than the problem of misclassification in construction is the practice of paying workers completely off the books. The Alliance for Construction Excellence reported in 2019 that there are fully four times as many construction workers being paid off the books as the number being misclassified as independent contractors (1.2 million to 300,000).[24] The cash-only nature of under-the-table work leaves workers particularly vulnerable to wage theft, though misclassified workers and even legally employed workers can be subject to this as well. A 2009 study of three cities found over 70% of residential construction workers had experienced not being paid overtime or for work done off the clock.[25] Ormiston et al. (2020) estimate that throughout the country in 2017 workers lost between $811 million and over $1 billion in overtime and premium pay due to payroll fraud.[26] A study of construction workers in California found that workers paid under the table earn just 52 cents for every dollar earned by workers with employee status.[27]

The practices of misclassification and paying off the books are most likely to occur in industries where it is most profitable and most easily hidden, both true of the construction industry. Employers in construction can accrue tremendous savings by avoiding employment taxes and workers' compensation premiums, and the layers and layers of subcontracting characteristic of the industry make these practices easy to conceal.[28] In most states, general and subcontractors are not liable for—and in fact benefit from—payroll fraud found further "down the chain" of subcontractors; these practices continue "with or without the knowledge, assistance or willful ignorance of the owners, developers, general contractors, or construction managers."[29] Overall, between 12.4 and 20.5% of construction workers are either misclassified or paid under the table.[30]

More than one in five of the construction workers in the six Southern cities study did not have enough money for groceries or bills at some point in the previous year.[31] The impact of low wages and lack of benefits in low-road construction goes beyond the direct effects on workers and their families. It also has costs to society at large. When workers do not earn enough money to meet their basic needs, they often turn to safety net programs to make up the difference.

In this brief we will estimate the public cost to the states and the federal government from the use of safety net programs by construction workers and their families as a result of the low-road practices that are becoming more and more commonplace in the industry.

Data and Definitions

We examine construction workers' and their families' utilization of the five largest means-tested safety net programs for which data are available: Medicaid; Children's Health Insurance Program (CHIP); basic household income assistance under Temporary Aid for Needy Families (TANF); Earned Income Tax Credit (EITC); and Supplemental Nutrition Assistance Program (SNAP). Responsibility for funding the health programs is shared by the states and the federal government. We include only the cash assistance portion of TANF, and this program too receives funding from both the states and the federal government. While there are state-level EITC programs in over half of the states, in this analysis we include only the federal EITC. The federal government alone funds SNAP. We analyze only programs that function as income supplements, omitting job-training, housing cost assistance, educational, and other programs that indirectly assist low-income families.

To calculate the numbers of working families who participated in safety net programs, we restrict the sample to those who work 27 or more weeks per year and 10 or more hours per week in all industries. We exclude workers who live in institutional group quarters. To identify construction workers, we further use the 1990 Census Bureau industrial code All Construction (60), and the 2010 Census Bureau occupation codes from First-Line Supervisors of Construction Trades and Extraction Workers (6200) to Construction Workers, n.e.c. (6765), and we include W2 workers and the not-incorporated self-employed but exclude the incorporated self-employed.

Results

Table 1 shows the annual enrollment in safety net programs of construction workers and their families between 2015 and 2019. We estimate that 39% of construction working families are enrolled in at least one program, significantly more than the 31% of all working families. Construction working families have higher enrollment than all working families in every program except TANF, where both groups have a low enrollment of 1%.

Nationwide, construction working families are overall 26% more likely than all working families to participate in one or more means-tested safety net program. These families are 36% more likely to be enrolled in Children's Medicaid and 38% more likely to be enrolled in EITC.

Table 1. Annual Enrollment in Safety Net Programs for Working Families, United States, 2015-2019

Program	Number of Construction Working Families Enrolled	Share of Construction Working Families Enrolled	Share of ALL Working Families Enrolled
Adult Medicaid	1,321,000	17%	15%
Children's Medicaid/CHIP	1,218,000	15%	11%
EITC	2,288,000	29%	21%
TANF	61,000	1%	1%
SNAP	1,173,000	15%	12%
Any program	**3,087,000**	**39%**	**31%**

Source: Authors' calculations based on the 2015-2019 American Community Survey, 2016–2020 March Current Population Survey, 2019 Occupational Employment Statistics, and administrative data from Medicaid, CHIP, EITC, SNAP, and TANF programs.

Note: The analysis is restricted to workers who work at least 27 weeks in a year and 10 or more hours per week.

Table 2 presents the combined annual expenditures by states and the federal government on the safety net programs for construction working families and all working families, again averaged over the years 2015-2019. In total, $28 billion is spent on safety net program utilization annually by construction working families in the United States, compared to $275 billion for all working families.

Construction working families account for 10% of the total safety net expenditures for all working families nationwide.

Table 2. Annual State and Federal Spending on Safety Net Programs for Working Families, United States, 2015-2019 (2019 dollars)

Program	Amount Spent on Construction Working Families	Amount spent on ALL Working Families
Adult Medicaid	10,808,000,000	116,867,000,000
Children's Medicaid/CHIP	7,766,000,000	63,400,000,000
EITC	6,212,000,000	60,682,000,000
TANF	210,000,000	2,696,000,000
SNAP	2,933,000,000	31,269,000,000
All Programs	**27,930,000,000**	**274,913,000,000**

Source: Authors' calculations based on the 2015-2019 American Community Survey, 2016–2020 March Current Population Survey, 2019 Occupational Employment Statistics, and administrative data from Medicaid, CHIP, EITC, SNAP, and TANF programs.

Notes: The analysis is restricted to workers who work at least 27 weeks in a year and 10 or more hours per week. Numbers may not add due to rounding.

Table 3 presents the health insurance coverage status of construction workers and all workers. Almost one-third (31%) of construction workers lack insurance coverage. ***The rate at which construction workers lack health insurance is three times the rate for all workers nationally (10%).***

Table 3. Health Insurance Coverage of All Workers and Construction Workers, United States, 2015-2019

	Construction Workers	All Workers
No health insurance coverage	31%	10%
With health insurance coverage	69%	90%

Source: Authors' analysis of 2015-2019 IPUMS American Community Survey (ACS) data.

Note: The analysis is restricted to workers who work at least 27 weeks in a year and 10 or more hours per week.

Determining the full cost of uninsurance, let alone the cost for uninsured construction workers, is beyond our scope. But in addition to causing hardship for uninsured construction workers, uninsurance creates significant expenses for states, counties, and the federal government. The Kaiser Family Foundation reports that in the years 2015-2017, uncompensated health care costs for the uninsured nationwide averaged $42.4 billion per year, with the public picking up around 80% of these costs.[32]

Discussion

Construction was once an industry that could reliably provide family-supporting jobs to its blue-collar workforce. Conditions in the industry have deteriorated so much that construction workers are now more likely than the average worker to utilize public safety net programs. Importantly, the numbers provided in this analysis do not fully reflect the deprivation among this workforce. Undocumented immigrants currently comprise 13% of the construction workforce (compared to 5% of the overall US workforce),[33] and with rare exceptions they are ineligible for state and federal assistance.[34] Their working conditions, among the worst in the industry, are not reflected in this analysis.

The low wages and exploitative practices in the construction industry that cause profound hardship for many workers and their families also cost the public. When employers misclassify their workers or pay them under the table, they are defunding and defrauding government programs, including workers' compensation, Social Security, and Medicare. Ormiston et al. (2020) conservatively estimate that fraud in the construction industry yields Social Security and Medicare shortfalls of between $1.36 and $4.28 billion annually; federal income tax losses of $319 million to $1.26 billion; and state income tax revenue losses of $160 to $552 million.[35] Overall, misclassification is estimated to cost state and federal coffers at least $3,000 annually for every worker that is misclassified.[36] The lack of both employer-provided insurance and access to workers' compensation leaves many construction workers unprotected and uninsured. And, as found in this analysis, low-road employment practices cause above-average utilization of safety net programs by construction working families.

The labor standards enforcement void created by declining unionization in the industry has not been filled. Without government intervention, construction workers should expect to continue to be exploited and cheated, and lawful contractors should expect to find it more and more difficult to remain in operation.

Appendix: Methods

We mainly rely on four sources of data: the US Census Bureau's American Community Survey (ACS), the March Supplement of the US Bureau of Labor Statistics Current Population Survey (CPS), the US Bureau of Labor Statistics Occupational Employment Statistics (OES), and administrative data from the Medicaid, CHIP, TANF, EITC, and SNAP programs. Medicaid figures exclude aged, blind, and disabled enrollees. The ACS surveys a large number of respondents and asks them about their work history, income, and family structure. The March Supplement of CPS, also known as the Annual Demographic Supplement, asks respondents about receipts of cash and noncash transfer payments during the past year and includes questions about the programs we examine in this analysis.

Survey databases like the ACS and CPS frequently have safety net program utilization counts that differ from program administrative data. We adjusted the CPS so that its program utilization estimates match the program administrative data. The CPS does not provide a large enough sample size to accurately estimate program utilization for construction workers at the state or county levels. The ACS does have sufficient sample size for this analysis but lacks specific questions about program utilization, and its occupational employment counts differ from more accurate data like the OES. On the other hand, while the OES has accurate employment counts for wage workers, it does not include independent contractors. To overcome these issues, we built a model using CPS data to predict program utilization based on income, demographics, and family structure. We then used that model to impute program utilization onto the ACS data. We calculated the ratio of wage workers to non-incorporated self-employed workers based on the ACS and used it to adjust the OES data for non-incorporated self-employed workers, and then adjusted the employment counts in the ACS to match the adjusted OES data. Finally, we used that imputed and adjusted ACS data to analyze safety net program utilization in families of construction workers.

For a detailed explanation of methodology, please see Appendix A: Methodology from *Fast Food, Poverty Wages: The Public Cost of Low-Wage Jobs in the Fast-Food Industry*.[37]

Endnotes

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Subsidizing Abuse:

How Public Financing Fuels Exploitation in Affordable Housing Construction

NorthStar
POLICY ACTION

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ABOUT NORTH STAR POLICY ACTION

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Executive Summary

Minnesota faces a significant shortage of affordable housing. Middle and low income Minnesotans are finding it increasingly difficult to rent or buy a home. The supply of low-cost rental housing in Minnesota has actually fallen by a quarter over the last decade, while the cost of buying a home has more than doubled between 2012 to 2022.

In recent years, state and local governments have taken steps to fund new affordable housing while promoting development of market-rate housing to help ease a shortage that is pushing up prices for all Minnesotans. Yet without stronger oversight over the use of Low Income Housing Tax Credits and Tax Increment Financing programs, there is a danger that new housing projects will be built on the backs of vulnerable workers who earn too little to live in the homes they build.

This report details the extent of taxpayer support for low-road construction practices that exploit immigrants and other at-risk workers. The report explores how public financing flows to a handful of private for-profit housing developers that employ contractors that have been charged with or face allegations of exploitation according to interviews with workers and industry experts.

Key Findings:

- Minnesota faces a severe housing crisis caused by a shortage of affordable homes, and the problem is getting worse. The supply of low-cost rental housing in Minnesota has decreased by a quarter over the last decade, from 408,599 affordable units in 2011 to 308,733 units in 2021.
- State and local governments are making unprecedented investments in new housing development. In 2023, lawmakers earmarked a record $1 billion for housing affordability.
- Unfortunately, use of contractors that have a record of cheating workers or face allegations of exploitation is far too common on affordable housing projects.
- While some sources of affordable housing development funding include robust labor standards, two leading sources of funding, the Low-Income Housing Tax Credit (LIHTC) program and local use of tax increment financing (TIF), often lack robust labor standards. Our research found evidence that, since 2016, workers on 25 projects that received approximately $31 million in LIHTC funding were potentially at risk of exploitation by problem contractors.
- Our research further uncovered that, since 2018, workers on 14 projects that received approximately $53 million in TIF subsidies were potentially at risk of exploitation by problem contractors.

- In total, we have documented the use of contractors tied to proven or alleged exploitation of workers on affordable housing projects that have received over $84 million in taxpayer subsidies.
- Three of the largest for-profit recipients of LIHTC and TIF funding - Dominium, MWF and Roers - repeatedly used contractors that have records of labor law violations or face serious allegations of worker exploitation.
- Affordable housing projects sponsored by Dominium, MWF and Roers were awarded over $47 million in taxpayer-funded subsidies across the Twin Cities metropolitan area between 2016 to 2021 to build 30 projects. This includes housing tax credits issued by Dakota County, Washington County and Minnesota Housing Finance Authority; TIF funding from the cities of Richfield and St. Louis Park; and gap funding from Dakota County.

Wage theft and exploitation remain persistent problems in the construction industry. This report highlights widespread use of contractors that have a record of wage theft or other abuses on publicly financed affordable housing projects. We can prevent exploitation by increasing transparency, adopting responsible contractor standards, holding project owners accountable for abuses that occur on their watch, and investing in enforcement and worker education.

Introduction

Minnesota faces a significant shortage of affordable housing. Middle and low income Minnesotans are finding it increasingly difficult to rent or buy a home. The supply of low-cost rental housing in Minnesota has actually fallen by a quarter over the last decade, while the cost of buying a home has more than doubled between 2012 to 2022.[1] In recent years, state and local governments have taken steps to fund new affordable housing while promoting development of market-rate housing to help ease a shortage that is pushing up prices for all Minnesotans. Yet without stronger oversight over the use of Low Income Housing Tax Credits and Tax Increment Financing programs, there is a danger that new housing projects will be built on the backs of vulnerable workers who earn too little to live in the homes they build.

Worker advocacy organizations have documented cases of wage theft, disturbing safety lapses, and the use of irresponsible contractors on affordable housing projects. While tax incentives and direct public financing are critical tools for addressing our housing shortage, we cannot afford to allow public dollars to fund worker exploitation. We can better protect vulnerable workers by tying robust labor standards to eligibility for grant and tax incentive programs.

This report seeks to fill a significant gap in our understanding of the prevalence of worker exploitation in affordable housing construction. Our goal is to document the extent of worker exploitation in the industry, examine how public investments inadvertently exacerbate the problem, and to provide a roadmap for policy changes to ensure that affordable housing is not built on the backs of vulnerable workers.

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Section 1: Minnesota's Housing Crisis

Minnesota is in the midst of a severe housing crisis and the problem is getting worse. According to the Joint Center for Housing Studies of Harvard University, the supply of low-cost rental housing in Minnesota has fallen by a quarter over the last decade, while demand for affordable housing grew.[2] In 2011, there were 408,599 units available for less than $1,000 a month. In 2021, that number decreased to 308,733.[3]

As a result, Minnesota families have been forced to devote a growing share of their household budget to housing. More than 10% of Minnesotans, or 590,530, are cost burdened, which is defined as housing costs that exceed 30% of household income.[4] Over 250,000 children live in these cost-burdened households.[5] As Minnesota's population ages, this problem will only get worse. Nearly two in every three seniors who rent are cost burdened.[6]

As costs continue to rise, the number of Minnesotans who are evicted from their homes has increased substantially compared to pre-COVID-19 levels. In 2022, 22,455 evictions were filed around the state, which is a 33% increase over pre-pandemic historic state filings.[7] Of those evictions, 13,137 were filed in Hennepin and Ramsey counties, which accounts for 53% of the statewide total.[8]

The pain isn't only being felt by renters in the Minneapolis-St. Paul metro area either. According to the Minnesota Housing Project, Minnesotans need to earn a salary of $85,620 in order to afford the median-priced home,[9] while the median household income in the state is $77,706.[10] One in five Minnesota homeowners (19%) is currently considered cost-burdened.[11] Minnesota also has a large racial disparity in homeownership: 78% of white Minnesotans are homeowners while only 31% of black Minnesotans own their home.[12] This is particularly damaging because of the historic role of homeownership in generational wealth-building.

Minnesota needs to increase the pace of new home construction at all levels of affordability, from subsidized low-income housing to single family homes for homeownership. Government support for new housing is critical. Unfortunately, in some cases government support also fuels abusive practices in affordable housing construction.

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5 "2023 Minnesota State Housing Profile," *Minnesota Housing Partnership (MHP)*, https://mhponline.org/minnesota-state-housing-profile/.

6 Ibid.

7 "Minnesota | Eviction Tracking System," *Eviction Lab*, https://evictionlab.org/eviction-tracking/minnesota/.

8 "2023 Minnesota State Housing Profile," *n.d. Minnesota Housing Partnership (MHP)*, https://mhponline.org/minnesota-state-housing-profile/.

9 Ibid

10 "U.S. Census Bureau QuickFacts: Minnesota," *U.S. Census*, https://www.census.gov/quickfacts/fact/table/MN/INC110221#INC110221.

11 "2023 Minnesota State Housing Profile," *Minnesota Housing Partnership (MHP)*, https://mhponline.org/minnesota-state-housing-profile/.

12 Ibid.

Section 2: Public Money Fueling Worker Exploitation

Despite recent efforts by the Legislature and enforcement agencies to curb the practices, wage theft and exploitation remain persistent problems in Minnesota's construction industry. Recent media coverage has surfaced troubling allegations of construction firms cutting corners and abusing workers on projects in Rochester,[13] Eagan[14] and Minneapolis.[15] These accounts are consistent with research documenting the scale of wage theft and misclassification in the industry. The problems are especially acute in the multi-family housing industry.

The high-profile conviction of Ricardo Batres revealed horrific practices that immigrant workers and advocates say are all too common in the construction industry. Batres – a labor broker and owner of American Contractors and Associates LLC – supplied workers and worked as a subcontractor for two prominent Twin Cities developers. In August of 2019, Batres's company was observed working on the TIF-subsidized Lyndale Gardens apartment project in Richfield, Minnesota. He was ultimately charged by the Hennepin County Attorneys' Office with "severe abuse of workers including threatening people with deportation when they complained about problems in the workplace, stealing wages by withholding them, failing to take basic safety precautions, and more."[16] In another high-profile case, a worker told members of the Minnesota House of Representatives Labor Committee in February of 2019 that a subcontractor on a major affordable housing project insisted on paying him in drugs instead of the wages they were owed.[17]

These abuses are unfortunately all-too-common in Minnesota's multi-family housing construction industry.[18] Intense downward pressures on costs and extreme fissuring of the industry create pressure for developers and contractors to cut corners.[19] While some developers assert that they have implemented internal controls to prevent exploitation, these measures have often proved to be insufficient according to worker advocates.[20]

According to a recent report from the Midwest Economic Policy Institute, about 30,100 Minnesota construction workers are misclassified or are paid off-the-books, accounting for 23 percent of the workforce. These illegally employed construction workers earn 36 percent less ($29,700 annually) in combined wages and

13 Annalise Johnson, "Rochester Wage Theft Law is First Investigation Under New Law," *KIMT 3 News*, July 9, 2019, https://www.kimt.com/content/news/rochester-wage-theft-case-is-the-first-under-a-new-law-512502382.html.

14 Dee DePass, "Subcontractors on Wilf's Viking Lakes project accused of wage theft," *Star Tribune*, May 6 2022, https://www.startribune.com/subcontractors-on-wilfs-viking-lakes-project-accused-of-wage-theft/600171135/.

15 Paul Walsh, "Charges: Twin Cities contractor threatened to report his undocumented workers if they complained," *The Star Tribune*, September 28, 2018, https://www.startribune.com/charges-twin-citis-contractor-threatened-to-report-his-undocumented-workers-if-they-complained/494386221/.

16 Penelope Kyritsis and Sean Sellers, "Building Dignity and Respect: The Case for Worker-driven Social Responsibility in the Twin Cities Construction industry," *Worker-Driven Social Responsibly Network*, November 2019, https://indd.adobe.com/view/ef11f675-0a66-41fb-9146-f673cf999531.

17 February 6, 2019, testimony by Arturo Hernandez in front of the Minnesota State House Legislature available here starting at 32 minutes and 25 seconds: https://youtu.be/wttVvPg_xI0.

18 See citations above including stories from Annalise Johnson, Dee DePass and Paul Walsh for examples.

19 Learn more about workplace fissuring, the challenges of labor law enforcement and the lack of employer accountability in: David Weil, *The Fissured Workplace: Why Work Became So Bad for So Many* (Boston: Harvard University Press, 2014), February 17.

20 Penelope Kyritsis and Sean Sellers, "Building Dignity and Respect: The Case for Worker-driven Social Responsibility in the Twin Cities Construction industry," *Worker-Driven Social Responsibly Network*, November 2019, https://indd.adobe.com/view/ef11f675-0a66-41fb-9146-f673cf999531.

fringe benefits.[21] The state annually loses $136 million in state tax revenues due to construction payroll fraud. Victims of wage theft are also often victims of other forms of exploitation like human trafficking.

A survey of construction workers in the Twin Cities area by a worker advocacy non-profit, Centro de Trabajadores Unidos en la Lucha (CTUL), revealed the widespread nature of the abuse and exploitation in the Twin Cities construction market.[22] Among those surveyed by CTUL, 48% reported experiencing wage theft, 44% reported that their employer does not provide them with proper safety equipment and 30% said that they fear retaliation if they complain to their supervisors.[23] The findings corroborate national research on wage theft,[24] workplace safety,[25] and workplace retaliation.[26] Unfortunately, the use of irresponsible contractors occurs far too often on publicly financed affordable housing projects.

21 Nathaniel Goodell and Frank Manzo IV, "The Costs of and Wage Theft Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois Impacts on Workers and Taxpayers," *Midwest Economic Policy Institute*, 2021, https://midwestepi.files.wordpress.com/2020/10/mepi-ilepi-costs-of-payroll-fraud-in-wi-mn-il-final.pdf

22 The survey was conducted between January and March 2019. Researchers surveyed 76 construction workers on and off job sites about wages, benefits, training, and workplace health and safety. Respondents worked on a diverse range of project types including commercial buildings, multi-family residences (e.g. apartments, condominiums, senior housing, etc.), single-family residences (remodeling as well as new construction). Additional survey methodology details can be found on page 4 of the previously cited Building Dignity and Respect study: https://indd.adobe.com/view/ef11f675-0a66-41fb-9146-f673cf999531.

23 Ibid, pages 8-10.

24 David Cooper and Teresa Kroeger, "Employers steal billions from workers' paychecks each year," Economic Policy Institute, May 10, 2017, https://www.epi.org/publication/employers-steal-billions-from-workers-paychecks-each-year/.

25 Beth Braverman, "The 10 most dangerous jobs in America," *CNBC*, December 28, 2019, https://www.cnbc.com/2019/12/27/the-10-most-dangerous-jobs-in-america-according-to-bls-data.html.

26 Annette Bernhardt et al., "Broken Laws, Unprotected Workers: Violations of Employment and Labor Laws in America's Cities," Center for Urban and Economic Development, National Employment Law Project and UCLA Institute for Research on Labor and Employment, 2009, https://www.nelp.org/wp-content/uploads/2015/03/BrokenLawsReport2009.pdf.

2.1 FORMS OF EXPLOITATION

Construction employers are increasingly relying on multiple tiers of subcontracting, including the use of so-called "independent contractors" who are often nothing more than employees who have been illegally misclassified by employers' payment of "piece rate" which can result in loss of overtime and safety lapses and the use of temporary staffing firms or labor brokers to meet short term labor needs. These employment practices obfuscate employment relationships, offload risk to individual workers and hinder enforcement of health, safety and employment laws.

The situation is made worse when project owners fail to take responsibility for labor abuses on their projects. Developers and other project owners frequently assert that any misconduct that occurs on projects that they control is the sole responsibility of contractors, while contractors often seek to displace responsibility to lower-tier subcontractors.

Yet it is intense downward cost pressure imposed by developers seeking to maximize profits that pushes contractors to offload responsibility through the use of multi-tier subcontracts and so-called independent contractors who are often nothing more than labor brokers. These employment practices lead to what experts describe as a fissuring of the workplace. This fissuring shifts the "basic terms of employment such [as] hiring, evaluation, pay, supervision, training [and] coordination" to multiple organizations, and thus "responsibility for [workplace] conditions [and worker safety] has blurred."[27] These employment models shift risk off employers, while making it increasingly difficult to hold employers accountable for workplace standards.

27 David Weil, "The Fissured Workplace: Why Work Became So Bad for So Many" (Boston: Harvard University Press, 2014), February 17, 7.

GET THE FACTS: PREVAILING WAGE

Research overwhelmingly shows that prevailing wage requirements have little to no impact on project costs

- Three in four peer-reviewed studies conducted between 2000-2018 found that prevailing wage laws have no effect on the cost of public construction projects.[28]
- A 2018 analysis by the Midwest Economic Policy Institute of 640 contractor bids on school construction projects in Minnesota found that winning bids based on the payment of prevailing wages are no more costly than bids that do not require prevailing wages.[29]
- Prevailing wage laws increase apprenticeship training, boost worker productivity, and reduce injury rates – helping to address the skilled labor shortage in construction.[30] This may help explain why the cost of prevailing wage construction is comparable to non-prevailing wage construction: increased reliance on highly trained workers leads to fewer costly mistakes and greater efficiencies.

Prevailing wage policies support the development of a skilled construction workforce and provide pathways into the middle class and boost job opportunities for local workers

- Economic research finds that prevailing wage laws foster middle class careers that attract talented young workers to the construction trades.[31]
- Minnesota's prevailing wage law increases blue-collar construction worker incomes by 5.2 percent, expands health insurance coverage by 5.0 percentage points and increases the share of construction workers with pension plans by 5.3 percentage points.[32]
- Minnesota's prevailing wage law reduces the share of construction workers who receive food stamp assistance by 2.1 percentage points.[33]
- Compared to Indiana, which recently repealed its prevailing wage law, per-worker productivity has grown 7.7 percentage-points faster and worker turnover rates have fallen further in Minnesota.[34]

Prevailing wage policies ensure work opportunities for local workers and contractors

- Prevailing wage laws set the wage and benefit floor based on local survey data of the going rate for particular crafts. This ensures that work on government financed projects do not undercut area standards. It levels the playing field for local workers and local contractors.
- For example, "when school districts in the Twin Cities area include prevailing wages on projects, local contractors account for a 10 percent higher market share– with tax dollars staying in the local economy."[35]

Prevailing wage policies boost the positive impacts of infrastructure investments

- "By protecting work for in-state contractors and their employees, Minnesota's prevailing wage law creates 7,200 jobs in Minnesota, improves the state economy by $981 million, and generates $37 million in state and local tax revenue every year."[36]
- By leveling the playing field for local contractors, prevailing wage policies increase opportunities for local workers. Local workers spend 3-4 times more in a local economy creating positive socio-economic ripple effects throughout regional economies.[37]

28 Frank Manzo and Kevin Duncan. "An Examination of Minnesota's Prevailing Wage Law Effects on Costs, Training, and Economic Development," *Midwest Economic Policy Institute*, July 2018, https://midwestepi.files.wordpress.com/2018/07/mepi-csu-examination-of-minnesotas-prevailing-wage-law-final.pdf, 1.

29 Ibid.

30 Ibid.

31 Ibid.

32 Ibid.

33 Ibid.

34 Ibid.

35 Ibid.

36 Ibid.

37 Katie Hatt and Lucas Franco, "Catching the Wind: The impact of local vs. non-local hiring practices on construction of Minnesota wind farms," *North Star Policy Institute*, June 2018, https://northstarpolicy.org/catching-the-wind-the-impact-of-local-vs-non-local-hiring-practices-on-construction-of-minnesota-wind-farms.

Fortunately, some sources of public financing for affordable housing employ robust labor standards that reduce the risk of wage theft and exploitation on construction projects. Prevailing wage standards, for example, play a key role in preventing exploitation and minimizing the risk of irresponsible conduct on publicly financed projects.

A prevailing wage requirement reduces the risk of wage theft and exploitation in two key ways. First, it discourages a race-to-the-bottom between contractors in highly competitive bidding processes by setting a wage floor based on the going rate for workers performing similar work within a geographic labor market. Second, prevailing wage requirements increase transparency and reduce the risk of misclassification on a project. Collection of certified payroll reports, which is a key feature of prevailing wage policies, helps to minimize the reliance on informal employment relationships and off-the-books payments on a construction site by requiring contractors to provide accurate data and monitor job sites.

Prevailing wage policies are effective tools to reduce the risk of worker exploitation and other misconduct on housing projects, but they require strong enforcement and additional tools may be needed to protect workers and taxpayers. In general, the public funding sources with prevailing wage requirements are built with responsible contractors adhering to high employment standards. On the other hand, we have found numerous issues on projects built without prevailing wage protections.

The most consistent issues occur on low-income housing tax credit (LIHTC) and tax increment financing (TIF) projects. These are two of the most common sources of public financing for affordable housing projects. They are also two programs that rarely include robust labor standards such as prevailing wage requirements.

2.2 PUBLIC FUNDING WITHOUT SAFEGUARDS

The Low-Income Housing Tax Credit (LIHTC) program was established in 1986 to provide tax credits for affordable housing development. Congress authorizes each state to allocate a certain number of LIHTCs and issues up to a specified amount of tax-exempt bond financing annually. States receive their allocation annually.

There are certain federal requirements for the funding including requirements for how long a property must remain affordable. On top of the baseline federal requirements, state allocating agencies can establish additional criteria through the Qualified Allocation Plan process. In Minnesota, the Minnesota Housing Finance Agency is primarily responsible for determining which housing projects should receive credits and the dollar amount allocated. There are also a number of suballocators of LIHTCs, including Duluth, Minneapolis, Rochester, St. Paul and Washington and Dakota Counties, that apply their own conditions to projects.

TIF is a tool used by cities, counties and other units of government to finance real estate development. TIF is a tool to capture additional property taxes paid as a result of development in the district to pay for development costs. The TIF is calculated based on increased property tax values resulting from the construction of a new building. In 2021, 385 development authorities submitted reports for 1,668 TIF districts including 576 housing TIF districts.[38]

METHODOLOGY

This report brings together evidence of the extent to which contractors that have a record of cheating workers or face serious allegations of exploitation have benefited

38 Julie Blaha, "Tax Increment Financing Legislative Report," *Office of the State Auditor*, 2021, www.osa.state.mn.us/media/f12hihdy/tiflegislative_21_report.pdf.

from public subsidies and been employed on affordable housing projects. The authors reviewed public evidence from court rulings, publicly-available legal settlements, and media reports, and we also interviewed construction workers and worker advocates.

Over recent years, worker advocacy organizations including Centro De Trabajadores Unidos En La Lucha (CTUL), the North Central States Regional Council of Carpenters (NCSRCC) and the Laborers International Union of North America (LIUNA) have uncovered numerous cases in which public housing dollars have apparently fueled worker exploitation. While the focus of our analysis is on publicly funded projects, the scale of wage theft and other forms of abuse is often worse in non-subsidized segments of the industry. What we detail below is sadly just the tip of the iceberg.

THE DANGER OF WORKER EXPLOITATION ON PUBLICLY FINANCED AFFORDABLE HOUSING PROJECTS

In recent years, contractors that have a record of cheating workers or face serious allegations of exploitation have worked on 33 affordable housing projects across the Twin Cities metropolitan area, including 25 LIHTC-funded projects since 2016 and 14 TIF-funded projects since 2018.[39] In total, these projects have received taxpayer-funded subsidies in excess of $84 million. The following are among the more egregious case studies that we have uncovered in the subsidized affordable housing industry.

Painting America
Hudson, Wisconsin

Painting America is a drywall and painting contractor based in Hudson, Wisconsin. They have worked on commercial and residential projects in Minnesota and Wisconsin. The company also hired Douglas Drywall, a labor broker, to supply and manage labor. On December 27, 2017, the Minnesota Department of Labor and Industry issued findings that Painting America violated Minnesota law, acting together with its labor broker, by misclassifying employees as independent contractors.[40]

Painting America has a history of wage theft complaints. In 2019, construction worker Arturo Hernandez testified before the Minnesota House of Representatives Labor Committee alleging Painting America failed to pay him the full wages they owed him. Hernandez testified that he worked for Painting America for three weeks without pay, and when he demanded the money he was owed, the company offered to pay him in drugs.[41]

We have documented Painting America on the following publicly financed projects:

- Amundson Flats - MWF Properties (Edina)
- Ellie Apartments - United Properties (Eden Prairie)
- Legends of Minnetonka - Dominium (Minnetonka)
- Legends of Spring Lake Park - Dominium (Spring Lake Park)
- Legends of Woodbury - Dominium (Woodbury)
- Lexington Flats - MWF (Eagan)
- Preserve at Shady Oak - Dominium (Minnetonka)
- Red Rock Square - MWF (Newport)
- Rosemary Apartments - MWF (Hugo)
- Texa-Tonka - Paster Properties (St. Louis Park)

39 Some of these projects had both TIF and LIHTC funding.

40 State of Minnesota Department of Labor and Industry, Licensing Order with Penalty issued to Painting America. REG1608-00028/JOR. December 27, 2017. See also: State of Minnesota Commissioner of Labor and Industry, Consent Order issued to Painting America. REG1608-00028/JOR. January 8, 2019. ("[Painting America] acknowledges that it engaged in the conduct leading to the allegations herein"). Full consent order https://lims.minneapolismn.gov/Download/FileV2/23097/416-420-Hennepin-Ave-E-REzoing-Public-Comment.pdf.

41 February 6, 2019, testimony by Arturo Hernandez in front of the Minnesota State House Legislature available here starting at 32 minutes and 25 seconds: https://youtu.be/wttVvPg_xIo.

ARTURO'S STORY

House Labor Committee Testimony [42]

"Last year I worked for Painting America. A supervisor drove me to the jobsite [and] put me in contact with Eduardo Venezuela, my Foreman. I worked for these guys for almost three weeks. I showed up to get paid and he gave me the address to get to his home. The guys don't want to pay me in money. He wants to give me drugs to sell. He says we make way more money if we sell these drugs. I say no way. I need the money because I need to feed my family. I'm a worker.

[This] basically happened to the Spanish [speaking] people because we don't know the laws…we workers. We work hard to make our money to feed the family and pay the rent.

I reported these guys to the [Department of Labor]. This isn't supposed to happen. This thing. The company supports these guys to do this. To steal the money from these people.

[I spoke to Painting America] to give me an application. They don't do it. They told me Eduardo is in charge. I don't fill out any job application because the guys don't give me any. This case, this doesn't only happen to me. It happened to other guys, other Spanish guys. The guys don't want to make the report or anything because they are scared. I hope you pass the law and help the Spanish people because they are scared to report they stole the money."

42 February 6, 2019, testimony by Arturo Hernandez in front of the Minnesota State House Legislature available here starting at 32 minutes and 25 seconds: https://youtu.be/wttVvPg_xIo.

Absolute Drywall
Lakeville, Minnesota

Absolute Drywall is a drywall construction company based in Lakeville, Minnesota.

Government investigations have found that Absolute Drywall deprived workers of more than $126,000 in wages, violated child labor laws, misclassified workers, and submitted false and misleading information during the course of an investigation.[43]

In 2022, Norma, a former Absolute Drywall worker, told investigators that she had been sexually assaulted on multiple occasions by her co-worker, Juan Diego Medina Cisnerso, on the job at construction sites where Absolute Drywall had been hired to install drywall. Norma reported that, on May 20, 2021, she was sexually assaulted while working for Absolute Drywall on a construction project in Eagan, Minnesota. Norma reported that she was again assaulted on another construction project in Roseville, Minnesota.

Norma shared her story of abuse with her supervisor, Absolute Drywall's owner, Daniel Ortega, according to an original report published in the Minnesota Reformer article.[44] Ortega claimed that the relationship was consensual. Norma "told police Ortega threatened to fire her if she continued complaining."[45] Shortly after reporting the incident, Ortega laid Norma off, informing her there was no more work available.

We have documented Absolute Drywall on the following public projects:

- Birdtown Flats - The Beard Group (Robbinsdale)
- Oaks Landing - Dominium (New Brighton)
- Legends of Apple Valley - Dominium (Apple Valley)
- Legends of Cottage Grove - Dominium (Cottage Grove)
- Twin Lakes Family Apartments - Dominium (Roseville)

Environmental StoneWorks (ESW)
North Branch, Minnesota

Environmental StoneWorks is a national stone manufacturer and installer. Environmental StoneWorks is owned by CornerStone Building Brands, one of the largest manufacturers of exterior building products in North America. CornerStone was acquired by private equity firm Clayton, Dubilier & Rice in 2022.

In September 2021, a worker named Marco fell off a six-foot stepladder while installing stone veneer on an Environmental StoneWorks project and broke his ankle. Marco's boss reportedly told him to go to the hospital and present himself as the boss in order to receive treatment.

Marco explained that, after he refused to participate in the scheme, his boss was outraged and threatened to call immigration enforcement and police if Marco or his coworker Mario ever showed up on one of his projects. The boss later told Mario that he could charge them $10,000 for alleged defects in past stone installation work.

43 All relevant documentation: 1.Minnesota Department of Labor and Industry Licensing Order issued to Absolute Drywall. Reg1505-00021/MG. August 18, 2016. 2. Case ID 1794218. 3. Child Labor, Wage and Hour Division Overview. U.S Department of Labor. Case ID 1800777. Investigative period between August 20, 2014 to July 19, 2016. 4. Minnesota Department of Labor and Industry Licensing Order issued to Absolute Drywall. REG1702-0083/MG. May 21, 2018.

44 Max Nesterak, "She reported sexual abuse on the job. The boss told her it was consensual," *Minnesota Reformer*, October 4, 2022, https://minnesotareformer.com/2022/10/04/she-reported-sexual-abuse-on-the-job-the-boss-told-her-it-was-consensual/.

45 Ibid

Only after Marco obtained the assistance of a workers' compensation lawyer who intervened did Environmental StoneWorks take responsibility for paying Marco's medical bills through the company's insurance provider.

Marco's mistreatment is just the tip of the iceberg for immigrants that make their living on Environmental StoneWorks projects according to workers interviewed. For example, Mario reported that a previous boss shorted him on pay and had a stated practice of paying immigrants who could not provide a social security number less per square foot of stone installed.

We have documented Environmental StoneWorks (ESW) on the following public projects:

- Legends of Blaine - Dominium (Blaine)
- Risor of Apple Valley - Roers (Apple Valley) - subsidized through Dakota County gap financing[46]

46 The Risor of Apple Valley received "$2.4 million in gap financing to help subsidize the affordable component" according to the following source: Brian Johnson, "Roers pays $3 million for housing site in Apple Valley," *Finance and Commerce*, April 27, 2021, https://finance-commerce.com/2021/04/roers-pays-3-million-for-housing-site-in-apple-valley/.

Wolf Construction Services, LLC
West Des Moines, Iowa

Lower tier Wolf Construction Services subcontractors and/or labor brokers have been charged, and in some cases convicted, for conduct that ranges from misclassification[47] to retaliation[48] to sex trafficking.[49] As recently as March 30, 2023, a lower tier subcontractor for Wolf Construction, Giron Construction LLC, was charged with insurance fraud.[50]

We have documented Wolf Construction Services on the following publicly financed projects:

- Amundson Flats - MWF (Edina)
- Ellie Apartments - United Properties (Eden Prairie)
- Legends of Cottage Grove - Dominium (Cottage Grove)
- Legends of Minnetonka - Dominium (Minnetonka)
- Legends of Spring Lake Park - Dominium (Spring Lake)
- Legends of Woodbury - Dominium (Woodbury)
- Preserve at Shady Oak - Dominium (Minnetonka)
- Rosemary Apartments - MWF (Hugo)
- Twin Lake Apartments - Dominium (Roseville)
- Wooddale Apartments - Real Estate Equities (St. Louis Park)

47 MNDOLI Licensing Order: https://drive.google.com/file/d/1ayo5yiTtDvHKXKXrr3_KtZLibyiReDsP/view?usp=sharing.

48 MNDOLI Administrative Order: https://drive.google.com/file/d/1v2ZweCuRz7jlRws_U2B6csCIzwmbiORm/view?usp=sharing.

49 Charging documents for Humberto Rangel-Torres: https://drive.google.com/file/d/1VnZdZMZ-RYZMAbcQfM8VkI7swDSDgJ2l-/view?usp=sharing.

50 Charging documents for Giron Construction LLC: https://drive.google.com/file/d/1zAX-033ytdkHTphIJipiWxNHkSZ8N1oy8/view?usp=sharing.

MARCO'S STORY [51]

"My name is Marco Antonio Ramirez Jimenez. I come from Mexico. I have been in the U.S. for three years. I came here for a better life. I have two children, 10 and 15.

Being here in the U.S. is not what everyone tells us because once I was there everything was different. Things are different. I have worked with bosses that don't care. They don't worry if we don't eat. They don't worry if we aren't well.

They don't care if we are sick. They just want us to work. They obligate us to work because if we don't work they don't pay us. When I came here I had issues coming to the country because I came with people that sold me. They sold me to other people. When I got here I already owed $11,000 that I had to pay from my salary.

I was living in Pennsylvania when I arrived (in the U.S.). I was there for three months. After that, I went to Ohio. I was working (for a woman). She required us to work. She exploited us. Sometimes she didn't give us any food, but she wanted us to work.

Also, she took our money. She wanted us to pay her taxes. She took 10% of our money. From our salaries, she took our money. Not if we wanted. She just took it. Sometimes she used to tell us that she didn't get paid and then she said she couldn't pay us.

After I was able to not owe her any money, I left and went to Chicago. I was there for four months. Once again, I worked for a Latino and the same thing, he didn't take care of us. He just wanted us to work and work and work. He'd spend all of the money on alcohol. Today he still owes us money. He didn't pay us and he's not thinking about paying us.

After that, I came to Minnesota. I have been here for approximately one year. I was working for Environmental StoneWorks. I had an accident with the contractor I was working for. I was working on a house. I fell from a ladder. I broke my foot. I called the boss so he could do something, but he didn't do anything.

He didn't take care of me. I called him. He threatened me saying if we look for him or if we go to his house to get him or if we went to his job sites he will call the cops on us.

He (former boss) hasn't done anything for what has happened. I have a plate on my foot (ankle) and I can't be in the cold or run. I cannot put weight (on it) when I walk. I had to stop doing heavy things because of it.

That is why I am fighting, so all of this can end. We need for this to end because we are only obligated to work, but they don't take care of us."

51 Transcription from April 2022 video.

Merit Drywall
Clearwater, Minnesota

On November 23, 2020, the former owners of Merit Drywall, LeRoy and Joyce Mehr, were sentenced for a fraud scheme that bilked an insurance company out of more than $300,000 in unpaid workers' compensation insurance premiums. The Mehrs were fined $30,000 and ordered to pay Federated Insurance $309,000. The couple was also sentenced to 180 days of electronic home monitoring and, five years of probation, and 30 days of community service.[52]

The Minnesota Department of Commerce's Fraud Bureau found that the Mehrs and their company, Merit Drywall, fraudulently treated employees as independent contractors, allowing them to save hundreds of thousands of dollars in workers' compensation premiums. These practices, in turn, put Merit in a position to underbid honest contractors.[53]

- Merit Drywall was observed on the TIF subsidized Moline Apartments - Doran (Hopkins)

Stone Pro Masonry
Eau Claire, Wisconsin

For years, Stone Pro Masonry company has faced allegations of exploiting immigrant workers, including guest workers employed under the H-2B visa program. Use of H-2B visas has been described as rife with abuses and as a form of indentured servitude by the Southern Poverty Law Center, because immigrant workers are shackled to a single employer, have little recourse when they are cheated or abused, and enforcement of program rules is lax.[54] The accounts of former Stone Pro employees seem to support the Southern Poverty Law Center's conclusions.

Over the past several years, Stone Pro has obtained permission to employ dozens of what the company referred to as "carpenter helpers" on H-2B visa workers in the Twin Cities and Western Wisconsin. The H-2B program requires employers to pay minimum wage rates based on the location and type of work performed in order to protect immigrant workers from exploitation and prevent the program from displacing local workers or eroding area wage standards. But worker testimony and field observations suggest that Stone Pro H-2B employees have been underpaid and mistreated.

For example, one H-2B visa worker interviewed by LIUNA described performing masonry and concrete work that evidently should have earned them roughly $8 to $12 in additional hourly pay.[55] The worker also indicated that company representatives were well aware that they were hiring skilled block masons and concrete laborers, but encouraged them to conceal that fact from the U.S. Consulate in Monterrey. The worker also detailed other pay irregularities, including being shorted pay for driving the company van and working in the shop and being paid in cash, and he described being crammed into a residential home in Eau Claire, Wisconsin, with more than a dozen other workers.

52 Kate Raddatz, Hennepin Co. Attorney Mike Freeman Announces Felony Charges Against Former Owners Of Merit Drywall, *WCCO News*, January 21, 2020, available here: https://www.cbsnews.com/minnesota/news/hennepin-co-attorney-mike-freeman-announces-felony-charges-against-former-owners-of-merit-drywall/.

53 Estefan Saucedo, Former owners of Merit Drywall charged with insurance fraud and theft by swindle, *Kare 11 News*, January 21, 2020, available here: https://www.kare11.com/article/news/local/former-owners-of-merit-drywall-charged-with-insurance-fraud-and-theft-by-swindle/89-9541fc84-dc3b-4e7d-b219-eacf0a0d5515.

54 "Close to Slavery: Guestworker Programs in the United States," *Southern Poverty Law Center*, Feb. 19, 2013, https://www.splcenter.org/20130218/close-slavery-guestworker-programs-united-states

55 Construction workers that place concrete are classified as Laborers under Federal and state prevailing wage laws, and have been consistently designated as Construction Laborers by other area concrete contractors that employ H-2B workers. The applicable rates can be found in U.S. Foreign Wage Certification Data Center Online Wage Library "Mean Wage (H-2B"} listing for the Minneapolis-St. Paul-Bloomington Metropolitan Statistical Area:: https://flcdatacenter.com/OesQuickResults.aspx?code=47-2061&area=33460&year=19&source=1

Field observations by LIUNA indicated that workers who identified themselves as H-2B visas performed masonry or concrete work that clearly should have entitled them to much higher rates of pay. Another immigrant worker formerly employed by Stone Pro who was not on an H-2B visa confirmed that H-2B employees performed concrete work and said that workers referred to the H-2B lodgings as "Casa de los Espantos" ("Fright House") due to the poor living conditions.

It should probably come as no surprise, given the company's evidently poor treatment of immigrant workers, that Stone Pro owner Gerald Manning apparently has hostile views of immigrants based on a review of Facebook content.[56] It is troubling, however, given the worker accounts described above that Gerald Manning and Stone Pro are apparently benefiting from public housing subsidies.

We have documented Stone Pro Masonry on the following publicly financed projects:

- Lexington Flats - MWF (Eagan)
- Lake Isabel Flats - Stencil Group (Hastings)

Stone Pro is not the only contractor involved in apparent exploitation of H-2B visa workers in Minnesota. LIUNA have also identified H-2B guest workers employed by Rosales Masonry on a Roers multi-family housing project in Oakdale, Minnesota.

In the case of Rosales, workers who were observed setting block appear to have been misclassified as "mason helpers" rather than masons – a designation that potentially allows the employer to substantially underpay H-2B employees for their work. Further, based on a search of the national H-2B visa database, Rosales apparently failed to obtain H-2B visa certifications to work in Minnesota, raising the possibility that the company is not only underpaying workers but also violating program rules and cheating local masons of job opportunities that should first be made available to them.

Ed Lunn Construction Rochester, Minnesota

Ed Lunn has been accused of misclassifying workers, failing to pay payroll taxes, and of systematically underpaying employees. According to a July 6, 2019, Star Tribune article, advocates allege that the company's business model relies on wage theft and worker misclassification.[57]

According to Nick Wille, with North Central States Regional Council of Carpenters: "Contractors like Ed Lunn Construction are hiring subcontractors and independent contractors and paying them off-the-books in cash and under the table."

In some cases, workers allege that they simply weren't paid for their work. For example, workers accused Ed Lunn of failing to pay thousands of dollars in back wages for work on the River Glen Apartments in Rochester. "Trouble began…when the men didn't get paid and approached Lunn's representative, Josh Tinker. Tinker told them they had to finish building garages first… but agreed to give the men $1,000 each to tide them over. Later, the men were told they had to finish some porches, but when they finished the work, they still didn't get their money."

56 See examples from a Facebook page identified as belonging to a Gerald Manning of Eau Claire, Wisconsin and listed as the owner of Stone Pro Masonry, including, among others, a video titled "Father's Story About His Son Is A Perfect Example of Why We Need A Wall"; a purported photo of a sign in Dearborn Michigan that reads "Advancement Of Islamic Agenda For America; Allah Be Praised. American We Will Kill You All And Nothing You Can Do To Stop It. Allah Be Praised."; and a statement that reads "If you cross the U.S. border illegally you get a job, a drivers license, food stamps, a place to live, health care housing & child benefits, education, & a tax-free business for 7 yrs …No wonder we are a country in debt. Re-post if you agree!!!!"

57 Matt McKinney, "Rochester case is first test of new wage theft law," *Star Tribune*, July 6, 2019, https://www.startribune.com/workers-claim-they-were-shorted-wages-on-rochester-apartment-project/512305452/.

"You know they kept kind of saying 'Oh, you know your check will come later, oh we'll pay you,' but that was a lie. It didn't come on time," Adalid Zavala said through translator Ruth Schultz, with Centro de Trabajadores Unidos en la Lucha.

- Ed Lunn was observed on the TIF subsidized River Glen Apartments - Village Capital Corporation (Rochester)

PUBLIC MONEY FUELING THE GROWTH OF CONCERNING BUSINESS PRACTICES

Our research highlights a troubling lack of oversight or accountability for recipients of public funding with respect to labor standards on affordable housing projects. Dominium, Roers and MWF are three of the largest private recipients of LIHTCs and frequent recipients of TIF. All three have used contractors that have a record of cheating workers or face allegations of exploitation on multifamily housing projects.

Since 2016, these three developers have received at least $47 million to build affordable housing projects across the Twin Cities metropolitan area. The total includes housing tax credits backed by Dakota County, Washington County and Minnesota Housing Finance Agency; TIF funding from the City of Richfield and the City of St. Louis Park; and gap funding from Dakota County.

Project developers have the power to select the contractors they want to use on their projects.

Public financing should not flow to developers that consistently use irresponsible contractors. Developers that receive public funding should be held to the highest standards.

BAD FOR WORKERS, BAD FOR TENANTS

Discussion of labor conditions in affordable housing construction can pit workers against tenants, but all too often, projects that are built using exploitative practices end up being managed in ways that exploits tenants. Dominium, one of the largest developers of affordable housing in the country, also manages more than 30,000 apartments in 22 states. In Minnesota, Dominium managed one of the largest apartment complexes in the state until it was sold in 2019. A MinnPost article about that sale found that "residents for years have reported safety issues, unfair treatment from management and poor living conditions, including mold and asbestos in the walls." [58]

Last year, residents of senior-living apartments complained about a 12.5% rent hike and sued Dominium, alleging they were illegally charging parking fees after using federal tax credits to cover the cost of building the parking lot.[59] Other news reports have alleged "bed bugs, a lack of heat and hot water and unsafe living conditions" at Dominium managed properties.[60] We believe this is an area ripe for further investigation.

58 "Why the Possible Sale of a Massive Brooklyn Park Apartment Complex Matters," *MinnPost*, November 21, 2019. https://www.minnpost.com/metro/2019/11/one-of-the-states-largest-and-most-controversial-apartment-complexes-is-expected-to-be-sold-why-it-matters/.

59 "KARE 11 Investigates: Affordable Senior Apartment Developer Accused of 'Double-Dipping,'" *Kare 11*, 2022, https://www.kare11.com/article/news/investigations/kare-11-investigates-senior-apartment-developer-accused-double-dipping/89-5256e3b1-8106-44d2-8c6e-f2ad8b7d6464.

60 "Unsafe Living Conditions Reported at Senior Living Apartment Complex," *KSDK*, February 14, 2018, https://www.ksdk.com/article/news/local/unsafe-living-conditions-reported-at-senior-living-apartment-complex/63-518992827.

Section 3: A Roadmap to High-Road Affordable Housing

Minnesota recently adopted one of the strongest wage theft laws in the country, and this law has the potential to be a powerful tool to punish employers that steal from workers. Punishment after a crime has occurred, however, is not sufficient. Greater emphasis on prevention is needed to root out the problem.

Prevailing wage policies are an important tool for preventing exploitation of vulnerable workers. Greater employment transparency and a fair wage floor vastly reduce the risk of problems on publicly-subsidized projects. In fact, almost all of the evidence that we have gathered is tied to projects that do not carry prevailing wage requirements. Expanding and fully enforcing prevailing wage requirements would be an important first step.

TIF "clawback" policies are another critical tool in the fight against worker exploitation on publicly financed projects. These allow local units of government to force recipients to repay TIF subsidies when the terms of the TIF agreement are violated. For example, in Richfield, "fail[ure] to comply with labor laws" is considered an Event of Default for a TIF agreement.[61] This is a critically important policy and should serve as a model for other TIF authorities. This creates a substantial disincentive for exploitation.

Prevailing wage and TIF clawback policies are vital tools in the effort to root out exploitation, but they are not enough. Contractors that violate the law frequently go unpunished because many workers are too afraid for their jobs or residency status or, in the worst cases, their safety to file a complaint or provide testimony. Further, developers that routinely employ such contractors almost never face legal consequences for the mistreatment of workers on their projects. Exploitation of vulnerable workers is unlikely to end until state and local governments begin to hold project developers accountable for conduct that occurs on their jobsites.

While our policy recommendations primarily focus on increasing standards tied to public financing, we also suggest important actions municipal leaders can take to prevent wage theft on all construction projects. Minor policy changes at the permitting level to increase transparency and oversight of projects could have a major impact on preventing crime on multi-family housing projects.

3.1 PREVENTION AT THE STATE LEVEL

Affordable housing developers that repeatedly allow wage theft and human trafficking and fail to maintain safe workplaces need to be held accountable. It is far too easy for them to pass the buck to construction contractors on publicly financed projects where labor exploitation occurs. Additionally, we should not allow contractors that cheat or exploit workers to profit from publicly financed projects.

To increase public transparency on publicly financed projects and to prevent wage theft and exploitation, the legislature should make modifications to increase transparency and create a framework for disqualification from receiving funds for egregious behavior.

61 Article IX 9 from example TIF agreement under Events of Default, *City of Richfield*, document https://drive.google.com/file/d/170LQe0Sxj2G71ZY6R55DApPM7CvaxQSO/view?usp=drive_link.

TRANSPARENCY

First, the Project Owner should be required to disclose incidents of wage theft, human trafficking, misclassification fraud, child labor and workplace safety violations on all past projects. This would provide critically needed transparency to disincentivize the use of contractors with a track record of issues.

Second, the project owner should maintain and make available, directly or via the General Contractor, a list of all contractors and subcontractors that have been or are expected to be employed, is currently employed, or is expected to be employed on a housing project. Many elected officials and members of the public are surprised to learn that project owners are not typically required to provide local officials, agency funders, or interested members of the public with lists of contractors and subcontractors that are employed on construction projects. This lack of transparency makes it easy for contractors to misclassify workers as third- and fourth-tier subcontractors, and difficult for workers to prove or sometimes even know who employed them – leaving the public and sometimes even the developer in the dark. A requirement to list contractors would help to prevent misclassification by making it easier to recognize the illegal use of independent contractors.

RESPONSIBLE CONTRACTING

Irresponsible contractors that cheat workers or engage in other serious misconduct should not be allowed to work on taxpayer-funded housing projects any more than they should be allowed to participate in public works construction projects. Minnesota's Responsible Contractor Act (RCA) establishes clear guidelines for determining contractor responsibility that could also be applied to taxpayer financed projects to minimize the risk of publicly-subsidized misconduct.

PREFERENCE FOR HIGH-ROAD CONTRACTING

MHFA uses a wide range of criteria to evaluate funding proposals, including applications for LIHTC funding. But these criteria do not currently include any metrics related to the past performance or present commitments to contracting practices designed to maximize the benefits of construction jobs and careers to low-income communities and residents, or to minimize the risk of wage theft and other forms of exploitation on subsidized projects. MHFA should consider incorporating metrics that recognize the value of family-supporting jobs, health and retirement benefits, registered apprenticeship career pathways, and worker protections resulting from collective bargaining and worker-driven social responsibility programs.

3.2 PREVENTION AT THE LOCAL LEVEL

Municipalities also have a vital role to play in wage theft prevention on multi-family housing construction projects since local governments grant permits and zoning approvals for new development. Municipal leaders often adopt policies designed to prevent other types of criminal activity in their cities, and they should take wage theft just as seriously. Municipalities could require applicants for construction permits to disclose information on a developer's track record with respect to wage theft and other forms of misconduct, and they could also require transparent reporting on the contractors and subcontractors used during construction.

Finally, cities should look for creative ways to increase their enforcement capacity. This is a critical need at the local level. Policy changes alone are insufficient alone without more robust investment in enforcement. One way to increase enforcement capacity is to expand cooperation with neighboring communities through joint enforcement efforts and co-enforcement models. Another approach is to empower workers to know their rights and establish effective reporting avenues through a worker-driven social responsibility framework such as the Building Dignity and Respect (BDR) Program.

BDR requires developers to enter into legally binding participation agreements that require all contractors and subcontractors at every tier of a project to abide by basic standards that protect against wage theft and payroll fraud and guarantee the rights of workers to fair treatment, a safe workplace, and a voice in their working conditions. In addition to providing independent monitoring to verify compliance, workers are educated and empowered as frontline monitors and defenders of their own rights, with protections against retaliation. This type of worker education and compliance monitoring could be a vital tool to ensure compliance.

Conclusion

We have seen too many instances of publicly-subsidized affordable housing projects that were built with the help of workers who could not afford to live in them due to low pay, lack of benefits, and wage theft by unscrupulous employers. Beyond undermining efforts to address Minnesota's affordable housing crisis, awarding public subsidies to developers that facilitate or allow wage theft, misclassification fraud, or other forms of worker exploitation that disproportionately affect vulnerable Latino and immigrant workers encourages the spread of abusive practices in the construction industry and undermines the State's commitment to equity.

This report has shown how the failure to condition access to key affordable housing financing sources on responsible conduct allows taxpayer money to flow to unscrupulous developers and contractors. This fuels abuse not only on publicly financed projects, but it fosters low-road practices throughout the multi-family housing industry.

Minnesota can meet its ambitious affordable houseing development goals without sacrificing worker dignity and safety. The use of irresponsible contractors should not be tolerated on publicly financed projects. Greater transparency, a responsible contractor standard, systems of accountability for issues on a developer's past projects and investments in enforcement are all important concrete steps that elected and appointed officials can take at all levels of government to ensure high-road affordable housing development.

NorthStar
POLICY ACTION

Subsidizing Abuse: How Public Financing Fuels Exploitation in Affordable Housing Construction

NorthStar Policy Action

Minnesota faces a significant shortage of affordable housing, and too often, new housing projects are being built on the backs of vulnerable workers who earn too little to live in the homes they build. Our "Subsidizing Abuse" report details the extent of taxpayer support for construction practices that exploit immigrants and other at-risk workers, and reveals how public financing flows to a handful of private for-profit housing developers who employ contractors that have been charged with or face allegations of exploitation. Examples of worker exploitation include **wage theft, payroll fraud, lack of safety equipment and standards, threats of deportation, and fear of retaliation.**

MINNESOTA HOUSING CRISIS

- Minnesota faces a severe housing crisis caused by a shortage of affordable homes, and the problem is getting worse.
- The supply of **low-cost rental housing in Minnesota has decreased by a quarter** over the last decade.
- In 2022, **evictions rose 33%** from historic pre-pandemic numbers, and over half of those evictions were in Hennepin and Ramsey counties.
- State and local governments are making unprecedented investments in new housing development, with a record **$1 billion earmarked for housing affordability** in 2023.

PUBLIC MONEY FUELING WORKER EXPLOITATION

- Two leading sources of affordable housing development funding (LIHTC and TIF) often lack robust labor standards.
- Since 2016, workers on 25 projects that received approximately **$31 million in LIHTC funding** were at risk of exploitation by problem contractors.
- Since 2018, workers on 14 projects that received approximately **$53 million in TIF subsidies** were at risk of exploitation by problem contractors.
- In total, **over $84 million in taxpayer subsidies** have gone to contractors with **proven or alleged labor violations.**

A ROADMAP TO HIGH-ROAD AFFORDABLE HOUSING

- We can prevent exploitation by increasing transparency, adopting responsible contractor standards, holding project owners accountable for abuses that occur on their watch, and investing in enforcement and worker education.
- Legislation is being proposed in the 2024 legislative session that would:
  - Expand **prevailing wage policies** to LIHTC and TIF projects.
  - **Increase transparency** by requiring developers to report who is actually working on their projects and disclose incidents of wage theft, human trafficking, misclassification fraud, child labor and workplace safety violations on past projects.
  - **Increase developer accountability** for abuses committed by contractors on their projects, including disqualifying them from further public assistance for up to three years after multiple egregious cases of wage theft.

To view the full report, scan the QR code, or visit northstarpolicy.org.

QUESTIONS? CONTACT EXECUTIVE DIRECTOR JAKE SCHWITZER AT JAKE@NORTHSTARPOLICY.ORG OR 651-300-9974.

Jurisdiction	Jurisdiction Type	Policy Type	Rates	Threshold	TIF Include	Code	Ordinance/	Enforcement	Penalties	Date Passed	Other Notes

Andover	City	Ordinance	State	$150,000	No	[illegible]	[illegible]	[illegible]	11/6/2007

Bloomington	City	Ordinance	State	$175,000	Yes	Chapter 21	Ordinance	City Manager	[illegible]	6/17/2024

Brooklyn Park	City	Ordinance	State	$50,000	Yes	[illegible]	[illegible]	[illegible]	5/23/2011

Coon Rapids	City	Ordinance	State	$100,000	No	Chapter 12	Ordinance l	Complaint-	Limited 4	3/8/2000	Initial threshold was $25,000- changed to $100,000 in 2008 (Ordinance 1988)

Duluth	City	Ordinance	State	$2,000	Maybe	[illegible]	18-038-O	Unclear	[illegible]	1/1/1959	Project Labor Agreements required on city projects over $150,000 (see Code 2-29). Most recent an

Fridley	City	Ordinance	State	$25,000	Maybe	Not found	[illegible]	Unclear	[illegible]	5/5/1997	Exempts some types of residential work (e.g., 8 or fewer units); Cannot find the PW requirement in

Gem Lake	City	Ordinance	State	$15,000	No	Not found	Ordinance	Unclear	Unclear	4/19/2022	No penalties listed within ordinance

Grand Rapids	City	Ordinance	State	$25,000	Maybe	Division 3.1	Code 1079	Unclear	Violations	Unclear	Code indicates any projects funded by the city or with funds administered by the city (includes TIF?

Hastings	City	Ordinance	State	$175,000	No	Notfound	[illegible]	[illegible]	[illegible]	8/9/2008

Maplewood	City	Ordinance	State	None	No	[illegible]	Unclear	[illegible]	1/1/1982	Project must be financed wholly by city funds

Minneapolis	City	Ordinance	Federal	None	Yes	[illegible]	[illegible]	[illegible]	########	Withholding payment allowed; liquidated damages; default bars future contracts

Minneapolis (Inclusionary Zoning and TIF Policy)	City	Ordinance	Federal	Subject to In	Yes	NotFound	Ordinance?	Sponsorship	Sponsorship	########	Policy does not require submission of certified payroll records, policy was amended in 2022

Oakdale	City	Policy	State	$50,000	No	NotFound	ER-016	[illegible]	[illegible]	2008

Richfield	City	Ordinance	State	$300,000	Mostly no	[illegible]	[illegible]	[illegible]	[illegible]	9/8/2020	TIF projects not included, unless city is direct party to the contract

Rochester	City	Ordinance	State	$175,000	Mostly yes	Not found	Link	Unclear	Unclear	########	Rochester passed PW for city projects in 2020, for TIF in 2021, and then removed PW for single-f

St. Cloud	City	Ordinance	Federal	$200,000	Unclear	Notfound	Unclear	Unclear	########

St. Paul	City	Ordinance	State	$25,000	Yes	[illegible]	[illegible]	[illegible]	[illegible]	11/5/1992

West St Paul	City	Ordinance	Unspecified	$50,000	Yes	[illegible]	[illegible]	Unclear	[illegible]	1/1/2001

White Bear Lake	City	Ordinance	State	$15,000	Maybe	[illegible]	Unclear	[illegible]	9/12/1989	Code indicates any projects funded by the city or with funds administered by the city (includes TIF?

Carlton	County	Resolution	Unspecified	$150,000	No	NA	Resolution	Unclear	Unclear	2/13/2007	Not exactly a PW requirement. Rather, requires a Project Labor Agreement; $150,000 threshold is tie

Chicago	County	Resolution	State	$100,000	No	NA	Unclear	Unclear	1/19/2005

Dakota	County	Resolution	State	$25,000	No	Notfound	[illegible]	Unclear	[illegible]	1/24/1995	Resolution is an update on previous ones- dropped threshold from $250,000 to $25,000 and adc

Hennepin	County	Resolution	State	None	No	Notfound	Resolution 9	County Adm	Unclear	7/8/1997	Specifies work must be related to construction, maintenance, remodeling, or repair

Itasca	County	Policy	Federal	$2,000	No	Not found	"	Unclear	Unclear	########	Appears to be limited to contracts that contain some federal awards

Ramsey	County	Ordinance	State	$25,000	Yes	[illegible]	[illegible]	1/17/1977	Originally passed in 1977, updated in 2013

St. Louis	County	Resolution	State	[illegible]	Unclear	[illegible]	Unclear	Unclear	3/12/1973	Resolution stipulates all contracts made by the County - TIF included? Project labor agreements requir

Washington	County	Policy	State	$175,000	Unclear	Not found	Link	[illegible]	Unclear	8/22/2023	Projects include any funded in whole or part by County - TIF included?

Minneapolis Park Board	Park Board	Ordinance	Federal	None	NA	[illegible]	Park Board	City?	Unclear	7/11/1984	RFP from Park Board appears to suggest contract can be cancelled with liquidated damages (see https

Duluth Port Authority	Port Authority	Policy	State	[illegible]	NA	Not Found	Purchasing and Contracting Policy 4.3	Unclear	Threshold requirements appear to be tied to St. Louis County; Project labor agreements required on

Metropolitan Council	RegionalCouncil	Resolution	State	$175,000	NA	NotFound	[illegible]	Unclear	Unclear	6/24/2020	

Anoka-Hennepin #11	School District	Policy	State	[illegible]	NA	Not found	[illegible]	Unclear	[illegible]	9/28/1992

Duluth #709	School District	Policy	State/Federal	None	NA	Not found	[illegible]	Unclear	Unclear	6/9/1970	Requires higher of state or federal wage; Revised in 1982, 1995, and 1997

Minneapolis Special District #1	School District	Policy	State	[illegible]	NA	Not found	[illegible]	Unclear	Unclear	5/26/1990	Revised in 2009; Stipulates possibility of civil or criminal penalties without further detail

St. Paul #625	School District	Policy	State	None	NA	Not found	[illegible]	Unclear	Unclear	4/18/1995	Revised in 2008; District administrators charged with implementation, but unclear who is responsible

White Bear Lake #624	School District	Policy	State	None

State of Minnesota	State	Statute	State	$2,500/$25,000	[illegible]	DLI	[illegible]	1/1/1973

None	DistrictPolicy 715

$2,500-$25,000	Port Authority Purchasing Policy, Sec. 4

None	Park Board Ordinances Chapter 6	Withholding payment allowed

ed to inflation, so would be higher today; committee formed in 2021 to review PLA requirement, but can find no record of next steps (https://www.pinejournal.com/news/carlton-county-forms-committee-to-review-project-labor-agreements)

Jurisdiction Type

Atkin #1 School District

Atwater-Co School District

Bagley #16 School District

Bemidji #31 School District

Big Lake #7 School District

Bloomingto School District

Barnesville-I School District

Centennial# School District

Chicago Hts School District

Columbus II School District

Cook Coun School District

Esko #99 School District

Forest Lake School District

Fridley #14 School District

Grand Raps School District

Hayfield #2 School District

Hermantow School District

Hibbing #7 School District

Jordan #71 School District

Lake Super School District

Mankato #7 School District

Milaca #912 School District

Minnetonka School District

Monticello # School District

Moose Lake School District

Mounds View School District

Mountain Ir School District

Nashwauk- School District

North St. Pa School District

Ossuo #275 School District

North Bran School District

Prior Lake- School District

Robbinsdale School District

Rochester # School District

Roxana #68 School District

Rosemount School District

Roseville #6 School District

South Wasl School District

St Anthony School District

St. Cloud #7 School District

St Francis # School District

St Louis Co School District

St Louis Pa School District

Stillwater #8 School District

Warroad #6 School District

Jurisdiction	**Jurisdiction Type**
Aitkin #1	School District
Atwater-Cosm	School District
Bagley #162	School District
Bemidji #31	School District
Big Lake #72	School District
Bloomington	School District
Burnsville-Ea	School District
Centennial #1	School District
Chisago Heigl	School District
Columbia Hei	School District
Cook County	School District
Esko #99	School District
Forest Lake #	School District
Fridley #14	School District
Grand Rapids	School District
Hayfield #203	School District
Hermantown	School District
Hibbing #701	School District
Jordan #717	School District
Lake Superior	School District
Mankato #77	School District
Milaca #912	School District
Minnetonka #	School District
Monticello #8	School District
Moose Lake #	School District
Mounds View	School District
Mountain Iror	School District
Nashwauk-Ke	School District
North St. Paul	School District
Osseo #279	School District
North Branch	School District
Prior Lake-Sa	School District
Robbinsdale #	School District
Rochester #53	School District
Roseau #682	School District
Rosemount-A	School District
Roseville #62	School District
South Washin	School District
St. Anthony-N	School District
St. Cloud #74	School District
St. Francis #1	School District
St. Louis Cou	School District
St. Louis Park	School District
Stillwater #83	School District
Warroad #690	School District

Misclassification, Payroll Fraud, & Wage Theft:

A Primer for Local Government Officials

Misclassification, Payroll Fraud, and Wage Theft are three interrelated issues that have unfortunately become pervasive throughout the construction industry. While not unique to construction, these issues are particularly acute because about a quarter of annual industry spending comes from public sources (*i.e.,* taxpayers). In other words, without proper regulatory safeguards, public spending on infrastructure can unintentionally subsidize these fraudulent and exploitative business practices.

Misclassification is the act of redefining an employee as an independent contractor. A misclassified worker is deprived of many protections that are attached through the employee-employer relationship, including minimum wage, unemployment insurance, health insurance, overtime, and worker's compensation. Employers who misclassify workers shift all of the liability for paying payroll taxes (Social Security, Medicare/Medicaid, etc.) and other legal obligations onto the individual workers. This allows employers to "save" up to 20-30% of their labor costs.

Payroll Fraud occurs when employers do not fulfill their obligations to pay taxes and fund social safety net programs via payroll taxes and normal business overhead (such as carrying workers' compensation insurance). It occurs when workers are misclassified, but can also occur in situations where workers are being paid in cash or otherwise "off the books," (because payments to those workers are not easily traceable by regulatory and tax authorities), and when workers experience wage theft (because it reduces taxable wages and income).

Wage Theft occurs when workers are not paid in full (or at all) for the work they perform, and this can take a multitude of different forms: not paying for all hours worked, not paying the stated wage, not paying overtime, requiring workers to perform tasks "off the clock" (such as cleaning), demanding "kickbacks" from workers, etc. Since 2019, Minnesota has treated wage theft as a felony crime, but prosecutions have remained relatively few and far between.

Taken together, these violations have systemic effects of depriving workers of the ability to earn a fair and steady income from their labor, depriving lawful contractors of a fair competitive business environment, depriving project owners and developers of a healthy industry and workforce to build their projects, and depriving taxpayers and communities of a properly-funded social safety net. Victims of wage theft and other fraudulent business practices face housing instability, food insecurity, and increased dependence on public assistance programs, compounding the burden on taxpayers, lawful employers, and communities.

In 2025, public sector construction in the United States was a little more than $517 billion, according to the Federal Reserve Bank of St. Louis. Most of this funding was required to be awarded to the lowest bidder. Low bid requirements certainly play a role in helping contain costs on public projects, but they have the unintentional side effect of incentivizing contractors to seek any advantage that will increase their odds of winning the low bid. Consequently, some contractors will choose to employ exploitative schemes like misclassification, payroll fraud, and wage theft in order to do so.

And research backs this up, showing how prevalent these issues have become within the construction industry:

23% of Minnesota construction workers are misclassified or paid off the books, reducing their wages and benefits by 36% on average.[1] This reduces state tax revenues from the construction industry by about $136 million each year ($65 million in income taxes, $13 million in unemployment insurance contributions, and $58 million in workers' compensation premiums).[2]

Across all industries, 316,000 Minnesota workers are victims of wage theft each year, losing about $6.2 billion. This also deprives government entities of about $1.3 billion in tax revenue annually, putting more strain on crucial public safety net programs like Social Security, Medicare/Medicaid, unemployment insurance, and workers' compensation.

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[1] Goodell, N., & Manzo IV, F. (2021). *The Costs of Wage Theft and Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois*. Midwest Economic Policy Institute. https://dwd.wi.gov/misclass-taskforce/pdf/meetings/210114/costs-of-payroll-fraud.pdf
[2] *Ibid.*

An Examination of Minnesota's Prevailing Wage Law

Effects on Costs, Training, and Economic Development

A Higher Road for a Better Tomorrow

MIDWEST ECONOMIC POLICY INSTITUTE

May 2018

By Frank Manzo IV, M.P.P. and Kevin Duncan, Ph.D.

Key Findings

At a time when unemployment is historically low and 72% of contractors are having trouble filling craft positions, one policy has helped recruit and retain skilled workers into Minnesota's construction industry: the Minnesota Prevailing Wage Act. The policy provides local minimum wages for construction workers employed on public projects and levels the playing field for contractors.

The Minnesota Prevailing Wage Act keeps construction costs stable.

- The vast majority studies find that prevailing wage laws have no effect on public construction costs.
- Labor costs are a low and historically declining share of total project costs– about 23%.
- A new analysis of 640 bids on school construction projects in Minnesota finds that winning bids on projects with prevailing wages are no more costly than bids on projects without prevailing wages.

The Minnesota Prevailing Wage Act is an effective job skills advancement policy.

- Prevailing wage laws increase apprenticeship training, boost worker productivity, and reduce injury rates– helping to address the skilled labor shortage in construction.
- 93% of all registered apprentices in Minnesota are enrolled in joint labor-management programs.
- In 2015, the 10 largest joint labor-management apprenticeship programs had $29.8 million in annual revenue and $68.5 million in total assets while the program associated with the employer-only Associated Builders and Contractors had just $297,000 in revenue and $290,000 in total assets.

The Minnesota Prevailing Wage Act provides pathways into the middle class and boosts the economy.

- Minnesota's prevailing wage law increases annual incomes by 5.2%, expands health insurance coverage by 5.0%, and improves pension coverage by 5.3% for blue-collar construction workers.
- Prevailing wage reduces the share of construction workers receiving food stamps by 2.1%.
- When school districts in Minnesota include prevailing wages on projects, local contractors account for a 10% higher market share– with tax dollars staying in the local economy.
- By protecting work for in-state contractors, Minnesota's prevailing wage law improves the state economy by $981 million and generates $37 million in state and local tax revenue.
- Compared to Indiana, which recently repealed its prevailing wage law, construction worker productivity has grown 7.7% faster and worker turnover rates have fallen further in Minnesota.

Minnesota's prevailing wage law produces positive impacts on the economy. By protecting local standards, prevailing wage supports work for local contractors and makes it easier for contractors to recruit, train, and retain skilled workers. The Minnesota Prevailing Wage Act is the best deal for taxpayers.

Dear fellow community leaders,

As elected officials, we are entrusted with making decisions that meet the immediate needs of our community while laying a strong foundation for future generations. In Duluth, one policy that consistently delivers long-term value on publicly funded construction projects is our commitment to prevailing wage standards and Project Labor Agreements (PLAs).

These policies extend beyond line-item construction costs. They represent an intentional investment in people, local craftsmanship, and the overall health of our regional economy.

By prioritizing prevailing wage and PLAs on public projects, Duluth has built a collaborative partnership with our local Building Trades. This approach ensures that taxpayer investments directly support highly trained, skilled workers who take immense pride in delivering quality infrastructure designed to serve our city for decades.

Fair wages and quality benefits allow local workers to thrive, buy homes, support small businesses, and raise their families right here in the communities where they work. Those dollars stay local, creating sustained economic benefits that reach well beyond the job site.

These policies also support workforce development. Not every young person follows a traditional four-year college path, and skilled trades provide competitive wages, solid benefits, and rewarding careers without significant student debt. Prioritizing prevailing wage sends a clear message to the next generation: these career paths are valued, respected, and essential to our community's future.

There is also a deep sense of pride that comes with building your own community. Workers should be able to pass a local school, park, or bridge and proudly tell their families, "I helped build that." That pride is earned when workers are compensated fairly and respected for their craftsmanship.

Public infrastructure should leave behind more than just physical buildings: it should leave behind stronger, more resilient communities. In Duluth, prevailing wage standards and PLAs help us strengthen the local economy, build a skilled workforce, and deliver high-quality public projects.

I encourage you to view prevailing wage not merely as a construction rule, but as a strategic, long-term investment in your workforce and local economy. Public incentives for economic development projects are a tool for growth, and our experience has been that they can be effectively utilities to also ensure ongoing community benefits like prevailing wages and PLA's.

Sincerely,

Arik Forsman

Duluth City Councilor At Large

Here are FCF’s thoughts on the Trident development agreement and lack of clear enforcement:

1) In Sec. 3.8 generally, the terms "Subcontractor Addendum" and "Subcontract Addendum" are seemingly used interchangeably. Exhibit C is the document that appears to be referred to and also seems to use both. We'd recommend that a single term be used throughout.

2) Sec. 3.8(8): This section should be more expansive to include investigations by any labor law agency and filed by whomever. An example edit could be:

"The Developer shall cooperate fully with any investigation initiated by labor enforcement agencies (e.g. MNDLI, MNDOT, MN AGO, USDOL, USDOT, etc.) regarding any contractor or subcontractor performing work on the Development Property, including taking any action required by the pertinent enforcement agency or that teh Developer otherwise elects to take."

3) The last sentence of Sec. 3.8(8) seems to be repetitive of the first sentence of Sec. 3.8(9), though the first sentence of Sec. 3.8(9) appears to soften the requirement with regard to the Developer so that could be removed, or strengthened to remove the "best efforts" and "reasonable steps" language to just say "The Developer shall require the General Contractor to use and enforce the Subcontractor Addendum with all subcontractors, and shall require the General Contractor and all subcontractors to cooperate with any labor enforcement agencies regarding any claim filed with the pertinent labor enforcement agency, including taking any action required by that agency or that the Developer otherwise elects to take."

4) In Exhibit C (the Subcontractor Addendum), the last sentence of paragraph H seems to be an attempt for General Contractors to absolve themselves of down-chain liability. This appears to directly conflict with the Construction Worker Wage Protection Act (Minn. Stat. § 181.165, subd. 2), which specifically states that contractors cannot have agreements that indemnify themselves from liability from a sub under the Act.

NorthStar POLICY ACTION

Prevailing Wage Policies: Preventing Workplace Abuses Before They Happen

What are prevailing wage laws?

- For nearly 100 years, the federal Davis-Bacon Act has helped to ensure that local contractors can compete on a level playing field for federally funded projects. The law was co-sponsored by two Republican senators (James Davis - PA and Robert Bacon - NY) based on concerns about contractors from low-wage markets undercutting contractors from their respective states.
- Prevailing wage laws set the wage and benefit floor based on local survey data of the going rate for particular crafts. This ensures that work on government-financed projects does not undercut area standards. It levels the playing field for local workers and local contractors.
- Publicly funded projects generally award bids to contractors who have the lowest-cost bid to do the work by the government's standards. Without prevailing wage requirements, a simple way to cut bid costs is by cutting worker pay and benefits, creating a race-to-the-bottom which can encourage practices like wage theft and other payroll fraud.

Worker exploitation and tax fraud are common in the construction industry; prevailing wage policies prevent it.

- Prevailing wage policies protect construction workers from wage theft and exploitation, and ensure that responsible contractors are not put out of business by unfair competition.
    - Our *Subsidizing Abuse* report found 33 publicly subsidized housing projects that have employed contractors tied to proven or alleged exploitation of workers. In total, these 33 projects have received over $84 million in taxpayer subsidies.
    - These cases are just the tip of the iceberg. Midwest Economic Policy Institute estimates that 30,100 Minnesota construction workers are misclassified or are paid off the books, accounting for 23 percent of the workforce. These illegally employed construction workers earn 36 percent less ($29,700 annually) in combined wages and fringe benefits [1], while Minnesota loses $136 million in state tax revenues due to payroll fraud.
    - Prevailing wage policies increase payroll transparency reducing the risk of misclassification on a project. Certified payroll collection is a mechanism to minimize the reliance on informal employment relationships and off-the-books payments on a construction site. It encourages accurate data and sufficient employer monitoring of a jobsite, which prevents the types of crimes found in *Subsidizing Abuse*.

Research overwhelmingly shows that prevailing wage requirements do not increase construction costs.

- 18-of-24 peer-reviewed studies conducted between 2000-2022 found that prevailing wage laws have no effect on the cost of public construction projects. [2]
- A 2018 analysis by the Midwest Economic Policy Institute of 640 contractor bids on school construction projects in Minnesota found that winning bids based on the payment of prevailing wages are no more costly than bids that do not require prevailing wages. [3]
- Recent rigorous peer-reviewed research has found, at most, slight project cost impacts from prevailing wage policies on housing projects. [4] A 2021 study in the *International Journal of Employment Relations* found modest impacts of prevailing wage on overall project cost, and that any cost impacts are likely explained by the widespread prevalence of "illegal and undesirable practices" in the construction industry. [5]
- Economic research finds that prevailing wage laws increase apprenticeship training, boost worker productivity, and reduce injury rates – helping to address the skilled labor shortage in construction. [6] This may help explain why the cost of prevailing wage construction is comparable to non-prevailing wage construction: increased reliance on highly trained workers leads to fewer costly mistakes and greater efficiencies.

QUESTIONS? CONTACT EXECUTIVE DIRECTOR JAKE SCHWITZER AT JAKE@NORTHSTARPOLICY.ORG OR 651-300-9974.

NOTES

[1] Nathaniel Goodell and Frank Manzo IV, "The Costs of and Wage Theft Payroll Fraud in the Construction Industries of Wisconsin, Minnesota, and Illinois Impacts on Workers and Taxpayers," *Midwest Economic Policy Institute*, 2021, available here: https://midwestepi.files.wordpress.com/2020/10/mepi-ilepi-costs-of-payroll-fraud-in-wi-mn-il-final.pdf

[2] Manzo, Frank and Kevin Duncan. "An Examination of Minnesota's Prevailing Wage Law Effects on Costs, Training, and Economic Development." Midwest Economic Policy Institute. July 2018. https://midwestepi.files.wordpress.com/2018/07/mepi-csu-examination-of-minnesotas-prevailing-wage-law-final.pdf (Accessed February 5, 2023). i.

[3] Manzo and Duncan 2018, i.

[4] See attached table of peer-reviewed studies. The 7.94% cost impact figure is the average of the five studies which found cost impacts, excluding the Palm & Niemeier results of 16.0%; averaging the results of all six studies finds an average impact of 9.28%

[5] Hinkel, Matthew, and Dale Belman. "Should prevailing wages prevail? Re-examining the effect of prevailing wage laws on affordable housing construction costs." British Journal of Industrial Relations 60, no. 4 (2022): 761-783.

[6] Ibid.

To our fellow community leaders,

As elected officials, we are entrusted with making decisions that not only meet the needs of today but also strengthen our communities for generations to come. One policy that has consistently delivered long-term value in Duluth is our commitment to prevailing wage and Project Labor Agreements (PLAs) on publicly funded construction projects.

Our experience has shown that these policies are about far more than construction costs. They are an investment in people, quality workmanship, and the long-term health of our local economy.

Duluth has developed a collaborative and productive relationship with our local Building Trades. By requiring prevailing wage and PLAs on projects that utilize public dollars, we help ensure that taxpayer investments are matched with highly trained, skilled workers who take pride in delivering quality projects that will serve our community for decades.

Prevailing wage helps local families thrive, not simply survive. When workers earn fair wages and receive quality benefits, they are able to buy homes, support local businesses, raise families, and invest in the communities where they live. Those dollars circulate through the local economy, creating lasting economic benefits that extend well beyond the construction site.

These policies also create pathways to opportunity. Not every young person chooses a four-year college, and the skilled trades provide an excellent alternative. Apprenticeships and careers in the trades offer competitive wages, strong benefits, and opportunities for lifelong careers without the burden of significant student debt. By supporting prevailing wage, communities send a clear message that these careers are valued and that there is a future for young people who choose to build with their hands.

There is also an important sense of pride that comes with building your own community. Workers should be able to look at a school, park, bridge, or public building years later and proudly tell their children or grandchildren, "I helped build that." That pride grows when workers know they were treated fairly, compensated appropriately, and respected for their skills and craftsmanship.

Public projects should leave more than buildings behind—they should leave stronger communities. In Duluth, we have found that prevailing wage and Project Labor Agreements help us achieve that goal by supporting local workers, strengthening our economy, encouraging workforce development, and delivering high-quality public infrastructure.

We encourage your community to view prevailing wage not simply as a construction policy, but as a long-term investment in your workforce, your families, and your local economy. Our experience has demonstrated that when communities invest in skilled workers, everyone benefits.

Lynn Marie Nephew - Duluth City Council President

CC Work Session
Meeting Date: 08/10/2026

Primary Strategic Plan Initiative: Promote economic growth and development.

Information

Title:
Consider Support of Gap Assistance (Loan) for ARAA Sports Facility Project

Purpose/Background:
The purpose of this case is to review a proposed revised Financing Structure to provide financial assistance (loan) to Anoka Ramsey Athletic Association (ARAA) for construction of a 100,000 square foot athletic facility.

ARAA Project History / Finance
In February 2023, the Anoka Ramsey Athletic Association (ARAA) received site plan and plat approval to construct a sports dome structure at 14600 Ferret St. NW. ARAA eventually withdrew their landuse application, and therefore, never constructed the dome. Since that time, Ramsey staff have continued to work with representatives from ARAA as they sought out a new solution for an indoor sports facility to serve their organization. ARAA has progressed through new plans to construct a facility at a different location within Ramsey. The City Council met with ARAA at the January 13, 2026 work session and reached a consensus to provide up to 2.3M in financial assistance, primarily in the form of a low interest loan.

The City subsequently met at a Council Work Session on March 10th and reviewed a revised financing proposal that included a 75%/25% Debt Structure without the need for a financial guaranty with a proposed City Loan of approximately $1.43M. 2 days after the March 10 CC Work Session formal bank approval was obtained but included a requirement for a 5M financial guaranty. This guaranty was a deal killer for parties involved. ARAA has worked with 3 other banks to obtain additional financing options and received 3 proposals. The option proposed for Council consideration is included as an attachment to this case. In short, the 75/25 shifted to a 70/30 LTV ratio and the City loan and loans by other was considered equity for ARAA. The proposed City participation under the proposed financing structure would be an HRA loan of approximately $1.877M, which is still below the initial consensus of the Council supporting up to $2.3M of total assistance In January 2026. Understanding project costs could fluctuate, at the Council has previously provided consensus supporting the proposed financing structure and to give staff flexibility to go up to 2M for an HRA loan.

The City has explored the use of its Ramsey HRA dollars levied in Ramsey by Anoka County in the form of a loan. In order to use the HRA funds the City must create a Redevelopment Plan for a designated area which allows the fund to be expended for eligible costs. Taft Law has put together a revised schedule showing what this process and timing would look like. The County process to access the HRA funds is separate and will be worked into the schedule. This process involves a simple resolution requesting the funds and an explanation of what the funds will be used for which was approved on May 26.

On June 9, 2026, City Council by consensus at a work session supported the City entering into an Assumption Agreement on ARAA's loan. This agreement would be enforced should ARAA become unable to meet their debt obligations, and the City would assume the remainder of the debt obligation. Following the consensus, staff worked with our bond counsel, but learned that State law prohibits such agreements.

Changes to the Financing Structure
CORTrust Bank has revised their approved financing of the ARAA project **contingent** on a private third party assuming the Mortgage in the event of a default by ARAA and an inability to cure that default. The third party Assumption of Mortgage is not optional, it would be required as part of the proposed financing structure. By assuming the ARAA Mortgage the third party would become the building owner. Staff has met with ARAA and the third party to review currently approved zoning regulations as they relate to other allowed uses for the site. The third party is satisfied with these uses and feels ownership of the site acceptable to them should the Assumption Agreement take effect. This change to the financing removes future financial obligations on the City to purchase the property.

A component to the financing plan is the HRA Loan. To satisfy the third party entering into the Assumption Agreement, they have requested City Council consider a waiver of the HRA Loan should they be required to assume debt obligation.

Time Frame/Observations/Alternatives:

Staff is looking for council consensus on whether or not to proceed with the proposed revised financing structure, specifically supporting the waiver of any remaining balance of the HRA Loan should the Assumption Agreement be enacted. All terms and conditions of the loan will ultimately need to be formally approved by City Council action at a later date. If consensus is reached on approval of the financing, staff is asking for direction to begin working with the bank to draft the Mortgage Assumption Agreement and City Loan documents for the City HRA Loan to be formally approved by the Council. Key Terms of the City HRA Loan are below:

City EDA HRA Loan

- Amount – Up to 2M, Current 1.88M proposed
- Collateral – 100,000 SF Building and Real Estate
- Term – 5 year
- Amortization – 25 year
- Interest Rate – indexed to 10 year Treasury Note (currently 4.53%)
- Payments for loan (deferred one year)
- Paid in full, or refinanced when Balloon Payment is due for COR Trust Loan.
- IF Third Party Assumes the ARAA Loan and ownership of property, the remaining balance of the HRA Loan is forgiven. This would adhere to state law eligible uses of the funds.

Funding Source:
10K Escrow Account by ARAA to start TAFT Law Redevelopment Area process. (received)
Balance of Legal work by City of Ramsey (HRA/EDA).
Staff has reviewed City financing options and has recommended an HRA Loan (up to 2M) from Ramsey HRA funds held by Anoka County.

Recommendation:
Based on Discussion

Outcome/Action:
Council consensus on whether or not to proceed with the proposed financing structure waiving the balance of the HRA Loan should the assumption agreement be enacted. All terms and conditions of the loan will ultimately need to be formally approved by City Council/EDA Action at a later date.

Attachments

Site Location Map

Form Review

Inbox	Reviewed By	Date
Brian Hagen	Brian Hagen	08/06/2026 03:25 PM
Form Started By: Brian Hagen		Started On: 08/06/2026 09:29 AM
Final Approval Date: 08/06/2026		

Site Location Map - ARAA

3/5/2026, 12:32:10 PM

1:4,800

0 225 450 900 ft

0 65 130 260 m

Web AppBuilder for ArcGIS

CC Work Session

Meeting Date: 08/10/2026

Primary Strategic Plan Initiative: Enhance City's communication through transparency and accountability.

Information

Title:
Review Future Topics/Calendar

Purpose/Background:
The attachment is the current list of future topics for work session discussions. Items are drawn from Council requests at meetings, or are related to topics that have been identified in the City's strategic plan.

Recommendation:
For Council review - no formal action necessary.

Outcome/Action:
For Council review.

Attachments

Future Topics List

Form Review

Inbox	Reviewed By	Date
Brian Hagen	Brian Hagen	08/06/2026 09:26 AM

Form Started By: Katie Schmidt — Started On: 08/04/2026 10:43 AM

Final Approval Date: 08/06/2026

	Tentative City Council Future Work Session Topics	
Proposed Date	Topic	Minutes (Estimate)
2026		
08/25	Budget	90
08/25	Union Negotiations – Closed to the Public	
09/08	Budget	90
09/22	Facility Tour	
10/13	Facility Tour	
10/27	Quarterly Police & Fire Update	
10/27	CIP	
10/27	Review 2027 Proposed Rates, Fees and Charges	
11/10	Facility Tour	
TBD	Comp Plan	
TBD	Discuss Commercial Property Public Utility Connection Program	
TBD	Subdivision Code	