

Project 2025: The Damaging Effects It Will Have on Federal Labor Policy

It is essential for all voting Americans to understand what is included in Project 2025 and the detrimental effects it could have on federal labor policy. This policy framework would possibly be implemented under a potential second Trump administration.

So, what does Project 2025 have to say about federal labor policy? It's not good:

- **Repeal Davis-Bacon** – Sen. Mike Lee (R-UT) introduced a bill to repeal Davis-Bacon in March of this year. It is co-sponsored by Sens. Ted Cruz (R-TX), Rick Scott (R-FL), and Ted Budd (R-NC). This has been a longstanding goal of prevailing wage opponents, and Project 2025 is explicit about its intent to follow through.
- **End Project Labor Agreements** – This would end Pres. Biden's executive order requiring PLAs on all federal projects over \$35 million, as well as prevent agencies from requiring PLAs on any federal projects.
- **Re-Implement Industry-Recognized Apprenticeship Program (IRAPs)** –

The attempt to allow self-regulated apprenticeship programs to compete with registered apprenticeships was partially defeated in 2019 (by exempting the construction industry) and overturned by the Biden administration in 2022. Project 2025 would start this fight all over again.

- **Independent contractor misclassification** – Project 2025 seeks to undo the Biden administration's tougher rules against independent contractor misclassification, allowing employers to misclassify employees (and evade payroll taxes) much more easily.
- **Allow state & local waivers from FLSA & NLRA** – To encourage "experimentation and reform," Project 2025 seeks to grant waivers to state and local governments from well-established labor law. The document claims that new rules will "not take away any current rights held by workers or employers," but the vagueness of the proposed replacements suggests this is little more than a veiled attempt to evade labor law.

New MN Highway/ Heavy Rates & Reminder To Submit Surveys

Expect new highway/heavy prevailing wage rates to be published by MNDLI in October or November. Following publication, it is expected that USDOL will update the Davis-Bacon highway and heavy wage determinations to reflect these new rates. Look for commercial rates to be published in December.

You have 30 days from the publication date of the new rates to contact MNDLI with requests for rate reviews. It often helps to review survey data prior to requesting a rate review. Survey data should be available about ten days from publication of rates. Affiliates should contact FCF if you need assistance interpreting survey data.

As we await the publication of the 2024-25 prevailing wage rates, FCF would like to remind affiliates that now they can collect and submit survey data for the 2025-26 rates. MNDLI began accepting prevailing wage surveys in July of 2024.

USDOL Adopts State Prevailing Wage Rates

On June 7, 2024, the Branch of Wage Surveys at the Wage and Hour Division of USDOL adopted MNDLI's commercial and highway/heavy prevailing wage rates for the building, heavy, and highway federal Davis-Bacon wage determinations. This means that, going forward, the federal prevailing wage rates for these categories of construction should match the corresponding state prevailing wage rates.

In the past, the federal Davis-Bacon rates were surveyed infrequently. The adoption of the state rates by USDOL provides an opportunity for rates to be updated annually with each state survey. This enhances the importance of active participation in the state's prevailing wage survey.

Active participation in the survey increases the likelihood of setting rates across federal and state-funded projects that reflect our area standards. Conversely, limited participation in the state survey can have detrimental impacts and potentially result in wage rates that are much lower than our area standards.

FCF encourages affiliates to actively participate in the state survey, and to contact FCF with any questions or concerns regarding reporting work.

Importantly, USDOL did not adopt the state's residential rates for the federal residential wage determination. The state and federal residential rates will continue to be set separately by each agencies' survey.

Trades workers prepare a Highway 61 bridge over the CP rail line south of Red Wing for a concrete pour. Once this part of the bridge is completed, crews will switch traffic to the new part and the demolish the old part. The \$10.2 million project is scheduled to be completed by late October.



Photo Credit: FCF-Vince Muzik



Fair Contracting Foundation

353 W. 7th Street, Suite 204
St. Paul, MN 55102
www.fcfn.org

Presorted
First Class
U.S. Postage
PAID
Permit #
St. Paul, MN



Austin Westling, member of Pile Drivers Local 1847, puts his back (and his entire body) into stripping framework from a cantilever retaining wall on the Gold Line bus route in Maplewood. The Gold Line starts in Woodbury and ends in downtown St. Paul at the Union Depot.

Photo Credit: FCF-Vince Muzik



Fair Contracting
Foundation

FCF Attends 2024 NAFC Conference

In September, FCF attended the 2024 National Alliance for Fair Contracting (NAFC) Annual Conference in Nashville. NAFC is a labor-management alliance of fair contracting organizations, contractors, and labor unions committed to promoting fairness in public construction contracting across the nation. More than 450 people from organizations across the nation attended this year's conference, which was the largest turnout ever.

Topics discussed during the two-day conference included:

- Methods for monitoring compliance of the prevailing wage and apprenticeship requirements for projects receiving support under the federal Bipartisan Infrastructure Law, the Inflation Reduction Act, and the CHIPS and Science Act
- A variety of state and local initiatives to promote labor standards compliance and prevent fraud on public sector construction projects
- Presentations about best practices from federal, state, and local officials responsible for labor standards, investigations and enforcement
- Efforts from the Building Trades to reach out to historically disadvantaged communities with apprenticeship and career opportunities in the trades

- Recognition of the accomplishments of the various NAFC affiliates in the last year

Minnesota was well represented at this year's conference with FCF's Executive Director Mike Wilde, being elected to serve on the board of directors for NAFC. Additionally, presenters at the conference included Administrator Jessica Looman of USDOL's Wage and Hour Division, and Lee Atakpu, wage theft division manager at the Minnesota attorney general's office.

Lucas Franco, Research Manager for LIUNA MN & ND, provided an update on the recent legislative accomplishments in Minnesota over the last year. Conference attendees also learned about USDOL's adoption of the Minnesota state prevailing wage rates for the federal Davis-Bacon wage determinations. FCF was proud to share with other NAFC affiliates our state's nationwide leadership in promoting fairness in our construction industry.



(L-R) Jacob Shawback, Nate Gurol, Mike Wilde, Administrator Jessica Looman of the Wage and Hour Division of USDOL, Tim Watkins, and Gary Johnson. Not pictured: Vince Muzik (he is behind the camera).

Photo Credit: FCF-Vince Muzik

Elections Have Consequences: The Importance of Local Votes

While much of the political discourse centers on the upcoming presidential election, we should not lose sight of the importance of local elections. Municipal government touches our lives in a myriad of ways — think of schools and parks and streetlights — and this increasingly includes labor standards and worker protections.

In our October 2023 newsletter, we celebrated Washington County's enactment of a prevailing wage policy. In 2024, two cities passed prevailing wage ordinances: Brooklyn Park in May and Bloomington in June. Both ordinances were passed unanimously by their city councils, demonstrating the interest that local leaders have in ensuring that local tax dollars are spent responsibly and don't fuel worker exploitation.

In this wild election season, remember to pay attention to local races for county boards, city councils, school boards, and even park district boards. Elections have consequences. By staying engaged and voting responsibly, we can play a role in making sure those consequences are beneficial to our shared interests.



Better Evidence Means Greater Enforcement

On Aug. 7, 2023, FCF filed a complaint with MNDOT against MAK Construction for miscoding their employees' work at an airport hangar project in Thief River Falls, which allegedly resulted in underpayment of the prevailing wage rate. Less than a year later, on July 29, 2024, FCF received a case closure letter from MNDOT stating that they had confirmed that MAK Construction had committed labor violations by miscoding their workers, which resulted in MAK Construction issuing back pay checks to five of its employees averaging nearly \$1,400 per worker.



With compliance and enforcement of prevailing wages across Minnesota, we know that getting a compliance result on a prevailing wage complaint within one year is unfortunately not the norm. So why did this occur here? What makes this situation unique? In this case, thanks to the

tireless efforts of organizers and business agents of Ironworkers Local 512, FCF was able to provide significant evidence of MAK's prevailing wage violations in our complaint. Specifically, FCF was able to provide MNDOT with copies of MAK's certified payroll reports (CPR) that showed that MAK had not coded any of its workers as ironworkers. FCF also obtained date/time/location stamped photos of those workers performing ironworker work, as well as text messages from workers confirming that they had performed ironworker work.

Evidence like this is integral in getting timely and efficient results from our state enforcement partners. Clearly, providing good, hard evidence of violations allows an enforcement body to quickly resolve the situation and move onto the next complaint. In short, quick enforcement results tend to lead to more enforcement results. As such, it is critically important that those of us on the ground monitoring job sites and meeting with workers should be prepared to gather evidence and make connections with affected workers. FCF is always available to discuss investigations, helpful evidence, and effective means to gather that evidence.

Deferred Action to Enhance Investigations

The Biden Administration has provided several effective tools to enforcement bodies and organized labor to enforce labor rights across the nation. One of those tools is Deferred Action for Labor Investigations. Deferred Action provides enforcement agencies, like MNDLI and MNDOT, the ability to advocate for workers' safety against immigration consequences during an active investigation. This allows the enforcement agency greater ability to gather the evidence needed from the affected workers to enforce labor standards.

Too often, the workers who face the most exploitation in our country are those who may suffer immigration consequences if they're required to engage in an investigation of those violations. These workers will often suffer through frequent wage theft and abuse, both

physical and verbal, instead of bringing complaints with enforcement bodies only because they cannot afford to lose their ability to work and provide for their family. This makes enforcement of labor standards difficult because these workers will often not be willing to engage and provide evidence against their employer.

While Deferred Action does not provide a path to citizenship, it does provide workers who may otherwise not be willing to engage and help an investigation an avenue to enforce their labor rights, while lessening the fear of immigration consequences. It also provides enforcement bodies an effective tool in gathering critical information and evidence to prove labor violations, while providing organized labor with an effective organizing tool for recruiting workers.



Congratulations to the 2024 graduates of the pre-apprenticeship summer program

Make Eaglefeathers, (front row center) apprenticeship coordinator for Cement Masons, Plasterers, & Shophands Local 633, stands with graduates of the 2024 pre-apprenticeship training camp. Local 633 collaborates with Native American reservations across Minnesota to introduce tribal members to careers in construction during this 10-week summer program.

Eaglefeathers helps graduates find employment with union contractors, where they can continue their training and do highly sought-after work while earning good wages and benefits.

Photo Credit: FCF-Vince Muzik

Our Mission

The Fair Contracting Foundation promotes prevailing wage law education, compliance and enforcement. It advocates for practices, policies and laws that ensure fair government contracts, a strong local industry and protection of the public interest. We're here to help. Give us a call at 651-797-2726 or toll-free at 1-844-777-0606.