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“Lest We Forget”

**Worker’s Memorial Day
April 28, 2009**



REBUILDING AMERICA • FEDERAL CONTRACTING REFORM • PROTECTING AMERICA’S WORKER’S ACT

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ON THE COVER: The Workers Memorial was paid for by donations from union members and "is dedicated to the memory of thousands of Illinois workers killed and injured on the job." The statue was dedicated on April 28, 1992 with national AFL-CIO president Lane Kirkland giving the keynote speech. It is located at 2nd & Capitol, Springfield, IL 62701. Cover photograph by: Tim Roseberry, Public Information Officer, Mid-West Region-LIUNA

Since 1990, the National Alliance for Fair Contracting (NAFC) has been providing a forum in the construction industry for those interested in fair, competitive contracting. NAFC is a labor-management organization that promotes a "level playing field" through compliance with all applicable laws in public construction.

When responsible contractors bid and perform public construction projects, the taxpayer gets a high quality project performed by contractors who comply with the laws of the land.

www.faircontracting.org



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Rebuilding America

THOMAS EDISON IS QUOTED AS SAYING “THAT OPPORTUNITY IS MISSED by most people because it is dressed in overalls and looks like work.”

To those of us associated with organized labor in the United States overalls and hard work come with the territory. To us they are a badge of honor and the reason for our very existence.

The opportunity to regain our rightful place in American society while rebuilding America and putting America back to work is one that we can not let pass us by. Not just for us and our families, but for our children and generations to come.

The possibilities are endless for people not afraid of the challenges facing our nation and willing to partner with the Obama Administration and Congress to get the job done. All we ask in return is mutual respect and an understanding of how important organized labor has been to the middle class in the past and how critical our participation will be in its future.

If history has shown us anything, it has shown us that it has been the middle class that has picked this country up in its callous hands and scarred palms and lifted the nation out of two world wars, a great depression and several recessions. Those were caring hands, hard working hands, hands that belonged to members of organized labor.

It was the middle class and organized labor who built the infrastructure that we enjoy today. It will be that same middle class and organized labor who will repair and rebuild the infrastructure for the country's use in the future while providing our communities with honest work and viable wages and benefits that will allow our friends and neighbors to share in the American Dream and provide adequately for their families.

That dream for far too long has been held in the wallets and pocketbooks of the top 1% of the wage earners in the country. The contents of their bank accounts have swollen over with the product of increased work productivity of their fellow countrymen who have been struggling over the past eight years to just pay the bills. That must change if our children are to have any future at all.

The opportunity to turn the clock back and return to some sense of fairness in the economic workplace is at our fingertips. However, nothing will

“the stars are all aligned in our favor; we only have to follow the right path.”

change if we as a nation do not seize the moment to right the wrongs of the past.

Mark Twain once said that “I was seldom able to see an opportunity until it had ceased to be one.” This particular opportunity is sitting on the tip of our noses shouting for us not to let it pass by without grabbing it by the horns and taking immediate and positive action. Some would say “the stars are all aligned in our favor; we only have to follow the right path.”

The first opportunity is the Employee Free Choice Act and it is an opportunity that if passed by Congress and signed by the President will allow the middle class to finally regain its rightful position in American society. It will be that first major step towards balancing the



Rocco Davis, Chairman

nation's economic scale and the people who have held the reigns of power for much too long are going to fight long and hard for it to fail.

But it must succeed for an attitude of fairness to again prevail in the communities where the hard working men and women who are the backbone of this nation reside.

We must stand toe to toe against the politicians that would oppose this effort on behalf of greedy employers who want to remain in the past. But shoulder to shoulder with politicians who support the Act because it is the right thing to do for America and its recovery effort in these hard economic times.

Passing the Employee Free Choice Act (EFCA) will not hurt the economy, it will help the economy

In this very difficult year where good news does not seem to exist, remember that President Harry Truman said that “a pessimist is one who makes difficulties of his opportunities and an optimist is one who makes opportunities of his difficulties.”

Tough times in America's past have always been times when the work of righteous Americans has prevailed. Today and tomorrow will again be times when decent, hard working Americans will take the opportunity to reach back into their past to build upon their future.

Americans are an optimistic people and they will succeed.

Calls For Reforming The Federal

For the last eight years, reforming state and local procurement has been an important part of the fair contracting mission. NAFC has tracked these efforts through its online **Resource Manuel of Responsible Bidder & Prequalification Ordinances**.

<http://www.faircontracting.org/pdf/index.php>

A few of the NAFC members active in state and local contracting reform include:

- Chicago Regional LECET has a series of radio announcements which teach the public how responsible bidding ordinances are good for the taxpayer, government, workers and fair contractors alike. http://www.lecetchicagoarea.org/resp_bidding.html
- Iowa, Illinois, Indiana Fair Contracting Foundation has an online Responsible Bidder Toolkit to promote contracting reform. http://www.iiifc.org/pdf/III_FFC_RBToolkit.pdf
- The Midwest Region Foundation for Fair Contracting has produced a video which demonstrates how the low bidder system hurts government and taxpayers. <http://www.mrffc.org/>
- Massachusetts Foundation for Fair Contracting has led the way in encouraging municipalities in Massachusetts to enact responsible bidder ordinances. http://www.ffcm.org/pages/spring08_5.html

Now the call for reform at the federal level can be heard from the Obama Administration, Congress and from groups such as the Center for American Progress (CAP)

CAP Calls For Federal Procurement Reform

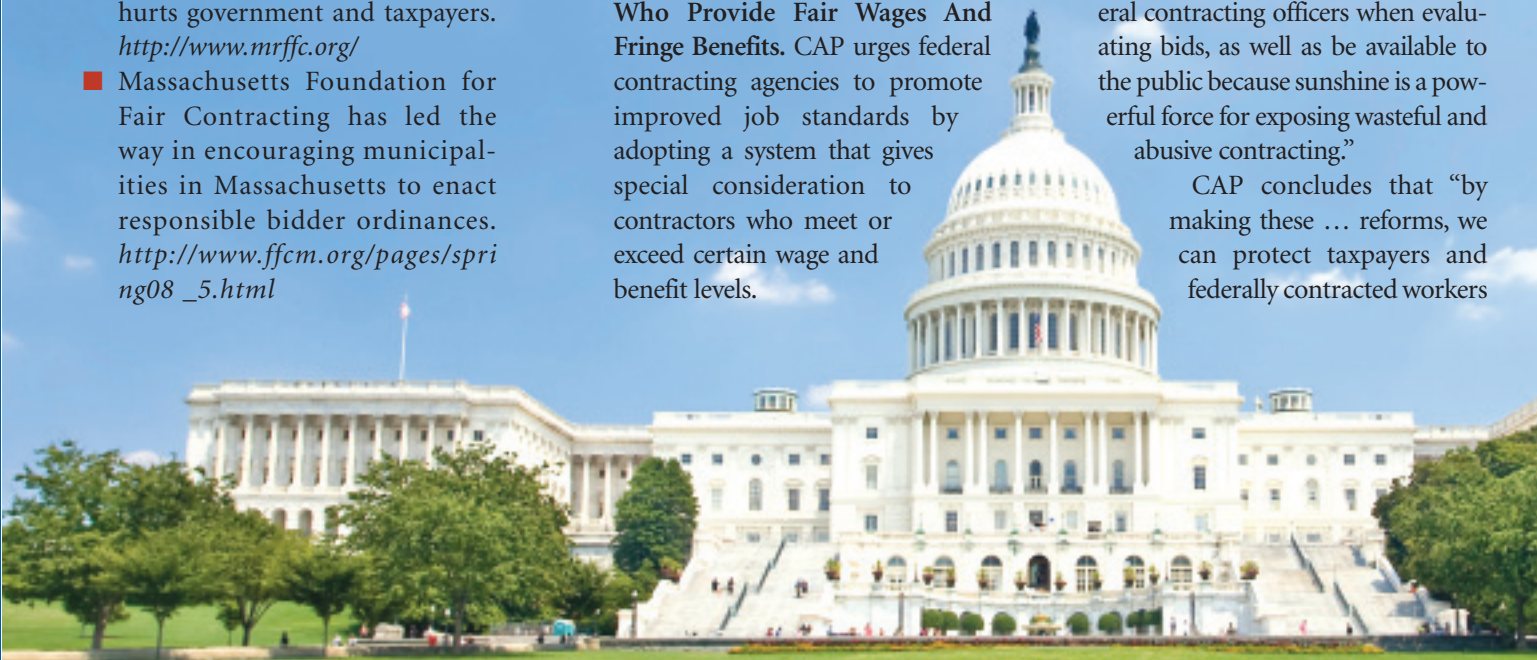
CAP has issued an exhaustive examination of the federal contracting system which calls for significant reforms to promote high road contractors on federal projects. **Making Contracting Work for the United States: Government Spending Must Lead to Good Jobs**, David Madland and Michael Paarlberg, Center for American Progress (November 2008) www.americanprogress.org.

CAP urges federal contracting reforms which give “special consideration to responsible contractors with track records of delivering results and providing fair wages and benefits”. CAP’s recommendations for federal procurement include:

- **Promote High Road Contractors Who Provide Fair Wages And Fringe Benefits.** CAP urges federal contracting agencies to promote improved job standards by adopting a system that gives special consideration to contractors who meet or exceed certain wage and benefit levels.

- **Adopt New Responsible Bidder and Prequalification Procedures.** CAP urges the federal government to adopt procedures during the bid process to require contractors to show proof of compliance with labor, tax and worker’s compensation laws as a “precondition for entering into the contract bid process.”
- **Create Transparency In The Federal Contracting Process By Establishing a Centralized Federal Contractor Database.** CAP finds that “information about contractors—and especially their subcontractors—is veiled behind layers of lax oversight, inadequate record keeping, and unnecessary secrecy.” It recommends that the federal government “needs to systematically collect more information about contractors—such as the number of workers and their wages and benefits—and create a centralized database with those and other records about federal contractors. The database should be used by federal contracting officers when evaluating bids, as well as be available to the public because sunshine is a powerful force for exposing wasteful and abusive contracting.”

CAP concludes that “by making these ... reforms, we can protect taxpayers and federally contracted workers



Contracting System

and ensure the contracting system works as it should. Improving working conditions and holding companies accountable for how they treat workers not only helps uphold the federal government's role as a model employer but also benefits taxpayers by eliminating hidden welfare costs, improving the quality of services, and preventing wasteful and abusive contracts."

GAO Shows Excluded Parties Continue To Do Business With The Government

The General Accounting Office has also documented the need for federal contracting reform in a recent report which shows that even after contractors are debarred, the federal contracting system does not successfully screen out such low-road contractors from bidding and receiving additional awards of federal contracts. *Suspended and Debarred Businesses and Individuals Improperly Receive Federal Funds*, GAO-419T (2/26/09).

GAO found that "recent allegations indicate that businesses or individuals that have been excluded for egregious offenses have been able to 'resurface' under the same or a different business name or identity in order to continue to receive federal contracts and other funds. ... We confirmed the allegations that businesses and individuals that were excluded for egregious offenses were continuing to receive federal contracts. Specifically, we

developed case studies on businesses and individuals that were awarded funds despite being suspended or debarred for a variety of offenses, ranging from national security violations to illegal dumping of chemicals to tax fraud."

Congress Takes A First Step Towards A Central Contractor Database

In 2008, Congress took the first step toward establishing a new federal contractor responsibility database. Section 872 of the FY 2009 National Defense Authorization Act (Public Law 110-417) directs GSA to "establish, not later than one year after the date of the enactment of this Act, and maintain a database of information regarding the integrity and performance of certain persons awarded Federal agency contracts and grants for use by Federal agency officials having authority over contracts and grants."

GSA must include information in the database occurring over "the most recent five year period" regarding "each civil or criminal proceeding, or any administrative proceeding, in connection with the award or performance of a contract or grant with the Federal Government ... to the extent that such proceeding results" in the following:

- Criminal proceedings that result in conviction.
- Civil proceedings with a "finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more."
- Administrative proceedings with a "finding of fault and liability that results in (i) the payment of a monetary fine or penalty of \$5,000 or more; or (ii) the payment of a reimbursement, restitution, or damages in excess of \$100,000."

BUILDING THE RECOVERY

The General Services Administration will spend \$5.55 Billion on over 250 construction projects in all 50 states, the District of Columbia, and two U.S. territories. The projects will support the President's vision for a clean energy future, create jobs, and reinvest in our public buildings. (RECOVERY.gov)



- A disposition of any criminal, civil, or administrative proceeding where there was “an acknowledgment of fault” by the person that would have led to the results described above.
- Situations where a federal contract and grant award was terminated because of default.
- Each federal suspension and debarment of a government contractor.
- Each federal agreement to “resolve a suspension or debarment proceeding.”
- Each final finding by a Federal official that a person has been determined not to be a responsible source.

The database is only available to acquisition officials of Federal Agencies and other government officials as the GSA determines appropriate. It is limited to information for

any person awarded a federal agency contract or grant in excess of \$500,000” and additionally “any person awarded such other category or categories of Federal agency contract as the Federal Acquisition Regulation may provide.”

The new database must be strengthened to be effective, particularly in providing public access to it. As the CAP report argues, if the public does not know the responsibility records of the contractors receiving billions of taxpayer dollars each year it cannot have any meaningful role in monitoring and enforcing responsibility standards both during and after the bidding process.

Expanding the database to input from state and local officials finds support in a report of the Inspector General of the National Procurement Fraud Taskforce. The report argued that the database

should be available to state and local officials who let contracts using federal funds and also recommends that state/local officials have in-put into the database. *Procurement and Grant Fraud: Legislative and Regulatory Reform Proposals*, National Procurement Task Force Legislation Committee. <http://pogoarchives.org/m/co/npftflc-white-paper-20080609.pdf>

President Obama Focuses On Federal Contracting Reform

On March 4, 2009, President Obama announced that the Executive Branch will begin an examination of federal contracting reforms. The President’s Memorandum on Reforming the Federal Contracting System calls for the Director of the OMB and other federal agencies to development procurement reform guidance. http://www.whitehouse.gov/the_press_office/Memorandum-for-the-Heads-of-Executive-Departments-and-Agencies-Subject-Government-Contracting/

The President set a September 30, 2009 deadline requiring the OMB to issue government-wide guidance to “govern the appropriate use and oversight of all contract types... and to minimize risk and maximize the value of government contracts generally ...[and to] assist agencies in reviewing the capacity and ability of the Federal acquisition workforce to develop, manage, and oversee acquisitions appropriately...”

Tracking Recovery Act Developments

American Recovery and Reinvestment Act of 2009 (“Recovery Act”):
www.recovery.gov

The Recovery Act’s key Davis-Bacon provisions are found on pages 31, 90, 94, 108, 109 and 248:

http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_bills&docid=f:h1enr.pdf

Recovery Act Bidding Opportunities:

<http://www.recovery.gov/?q=content/opportunities>

OPM Information on The Recovery Act:

<http://www.opm.gov/recovery/index.aspx>

Second Guidance Memorandum from OMB on the Recovery Act:

<http://www.recovery.gov/sites/default/files/m09-15.pdf>

Link to DOL Recovery Act Website:

<http://www.dol.gov/recovery/>

Link to Websites of Each Federal Agency On the Recovery Act.:

<http://www.recovery.gov/?q=content/agencies>

Links To All State Websites On The Recovery Act:

<http://www.recovery.gov/?q=content/state-recovery-page&mode=table>

President Obama Announces More Key Administration Posts

WASHINGTON, D.C. – President Barack Obama announced his intent to nominate Lorelei Boylan, as Administrator of the Wage and Hour Division, Department of Labor. He also announced his intent to nominate M. Patricia Smith, as Solicitor of the Department of Labor.

Lorelei Boylan, Nominee for Administrator of the Wage and Hour Division, Department of Labor

Lorelei Boylan is currently the Director of Strategic Enforcement at the New York State Department of Labor, Labor Standards Division. In this capacity she supervises the Apparel Industry/ Fair Wages Task Force, a state-wide specialized unit charged with investigating low-wage industries where workers are at risk of exploitation. Under her leadership, the Task Force has flourished into a groundbreaking investigative unit with a high rate of success in the resolution of wage and hour investigations. The Task Force has developed complex investigations, conducted around-the-clock field work and built coalitions with low wage workers' advocates. Boylan has a wealth of experience in the enforcement field, ranging from private monitoring for retailers with social accountability initiatives to affirmative litigation and field investigative experience. Prior to heading the Task Force, Boylan spearheaded the Bureau of Immigrant Workers' Rights, a newly formed division of the Department of Labor, where she formulated innovative policies to respond to the needs of individuals with Limited English proficiency. She is the recipient of the 2008 Frances Perkins Leadership Award for exceptional leadership in developing the mission of the Department. Boylan practiced law as an Assistant Attorney General in the New York State Attorney General's Office. She was hired under the Honor's Program to represent the State in defensive and affirmative litigation. In this position, Boylan investigated businesses for violations of state and federal labor laws and represented the Department of Health in New York State Supreme Court and the New York Court of Appeals. Prior to becoming an attorney, Boylan worked for several years for a global monitoring company, counseling firms on compliance with

state and federal labor laws, OSHA, Immigration and tax laws. She graduated cum laude from Hunter College and received a J.D. from Benjamin N. Cardozo Law School where she was a Writing Competition and Articles Editor of the Cardozo Journal of International and Comparative Law. Boylan speaks Spanish and French fluently and is admitted to practice law in New York State.

M. Patricia Smith, Nominee for Solicitor, Department of Labor

President Obama said, "I'm confident that this distinguished individual will use her unique talents to help us take on the important work that lies ahead. Patricia Smith brings a commitment to public service and a dedication to

"I'm confident that this distinguished individual will use her unique talents to help us take on the important work that lies ahead."

–President Barack Obama

meeting the goals of my administration and I look forward to working with her in the months ahead."

M. Patricia Smith is currently the Commissioner of the New York State Department of Labor and co-chair of New York State's Economic Security sub-cabinet. She oversees the New York State

Department of Labor with an annual budget of \$4 billion, with 3,700 employees in 80 offices throughout the state and serves as advisor to Governor David Paterson on workforce and labor policy. Previously, she served for 20 years in the Labor Bureau of the New York State Attorney General's Office, the last 8 as Bureau Chief.

Her responsibilities included representing the New York State Department of Labor and the New York State Workers' Compensation Board in all State and Federal litigation and advancing an affirmative docket enforcing New York's Labor Laws. In 1996 and 1997, she argued and won two Employment Retirement Income Security Act cases before the United States Supreme Court. Before joining the Office of the Attorney General, she worked for a variety of Legal Services Organizations representing unemployment claimants, minimum wage workers, workers in federal job training programs and job seekers. She is an honors graduate of Trinity College in Washington, D.C. and received her law degree, cum laude, from the New York University School of Law.

Unions Are Good for the

By David Madland, Karla Walter

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The essence of what labor unions do—give workers a stronger voice so that they can get a fair share of the economic growth they help create—is and has always been important to making the economy work for all Americans. And unions only become more important as the economy worsens.

One of the primary reasons why our current recession endures is that workers do not have the purchasing power they need to drive our economy. Even when times were relatively good, workers were getting squeezed. Income for the median working age household fell by about \$2,000 between 2000 and 2007, and it could fall even further as the economy continues to decline. Consumer activity accounts for roughly 70 percent of our nation's economy, and for a while workers were able to use debt to sustain their consumption. Yet debt-driven consumption is not sustainable, as we are plainly seeing.

What is sustainable is an economy where workers are adequately rewarded

and have the income they need to purchase goods. This is where unions come in.

Unions paved the way to the middle class for millions of American workers and pioneered benefits such as paid health care and pensions along the way. Even today, union workers earn significantly more on average than their non-union counterparts, and union employers are more likely to provide benefits. And non-union workers—particularly in highly unionized industries—receive financial benefits from employers who increase wages to match what unions would win in order to avoid unionization.

Unfortunately, declining unionization rates mean that workers are less likely to receive good wages and be rewarded for their increases in productivity. The Employee Free Choice Act, which is likely to be one of the most important issues debated by the 111th Congress, holds the promise of boosting unionization rates and improving millions of Americans' economic standing and workplace conditions.

Unions help workers achieve higher wages

Union members in the United States earn significantly more than non-union workers. Over the four-year period between 2004 and 2007, unionized workers' wages were on average 11.3 percent higher than non-union workers with similar characteristics. That means that, all else equal, American workers that join a union will earn 11.3 percent more—or \$2.26 more per hour in 2008 dollars—than their otherwise identical non-union counterparts.

Yet union coverage rates have been declining for several decades. In 1983, 23.3 percent of American workers were either members of a union or represented by a union at their workplace.

By 2008, that portion declined to 13.7 percent.



American Economy

American workers' wage growth lags as productivity

Workers helped the economy grow during this time period by becoming ever more productive, but they received only a small share of the new wealth they helped create. Throughout the middle part of the 20th century—a period when unions were stronger—American workers generated economic growth by increasing their productivity, and they were rewarded with higher wages. But this link between greater productivity and higher wages has broken down.

Prior to the 1980s, productivity gains and workers' wages moved in tandem: as workers produced more per hour, they saw a commensurate increase in their earnings. Yet wages and productivity growth have decoupled since the late 1970s. Looking from 1980 to 2008, nationwide worker productivity grew by 75.0 percent, while workers' inflation-adjusted average wages increased by only

22.6 percent, which means that workers were compensated for only 30.2 percent of their productivity gains.

The cost of benefits—especially health insurance—has increased over time and now accounts for a greater share of total compensation than in the past, but this increase is nowhere near enough to account for the discrepancy between wage and productivity growth. For example, according to analysis by the Center for Economic and Policy Research, between 1973 and 2006 the share of labor compensation in the form of benefits rose from 12.6 percent to 19.5 percent.

If American workers were rewarded for 100 percent of their increases in labor productivity between 1980 and 2008—as they were during the middle part of the 20th century—average wages would be \$28.53 per hour—42.7 percent higher than the average real wage in 2008.

Unionization rewards workers for productivity growth

Slow wage growth has squeezed the middle class and contributed to rising inequality. But increasing union coverage rates could likely reverse these trends as more Americans would benefit from the union wage premium and receive higher wages. If unionization rates were the same now as they were in 1983 and the current union wage premium remained constant, new union workers would earn an estimated \$49.0 billion more in wages and salaries per year. If union coverage rates increased by just 5 percentage points over current levels, newly unionized workers would earn an estimated \$25.5 billion more in wages and salaries per year. Non-union workers would also benefit as employers would likely raise wages to match what unions would win in order to avoid unionization.

Increased unionization would boost Americans' annual wages

Union employers are also significantly more likely to provide benefits to their employees. Union workers nationwide are 28.2 percent more likely to be covered by employer-provided health insurance and 53.9 percent more likely to have employer-provided pensions compared to workers with similar characteristics who were not in unions.

Nearly three out of five survey respondents from a Peter Hart Research Associates poll report that they would join a union if they could, but workers attempting to unionize currently face a hostile legal environment and are commonly intimidated by aggressive anti-union employers. The Employee Free Choice Act would help workers who want to join a union do so by ensuring fairness in the union selection process with three main provisions: workers would have a fair and direct path to join unions through a simple majority sign-up; employers who break the rules governing the unionization process would face stiffer penalties; and a first contract mediation and arbitration process would be introduced to thwart bad-faith bargaining.

Passing the Employee Free Choice Act and making it harder for management to threaten workers seeking to unionize would be good for American workers. It would help boost workers' wages and benefits. And putting more money in workers' pockets would provide a needed boost for the U.S. economy. Increasing unionization is a good way to get out of our current economic troubles.

Editor's Note: Dr. David Madland is the Director of the American Worker Project at the Center for American Progress Action Fund and Karla Walter is a Policy Analyst with the same organization.



Worksite Enforcement Strategy

DHS Press Office – April 30, 2009

- The Department of Homeland Security (DHS) has a vital responsibility to enforce the law and engage in effective worksite enforcement to reduce the demand for illegal employment and protect employment opportunities for the nation's lawful workforce.

- An effective, comprehensive worksite enforcement strategy must address both employers who knowingly hire illegal workers as well as the workers themselves. Of the more than 6,000 arrests related to worksite enforcement in 2008, only 135 were employers.

- Updated worksite enforcement guidance was distributed to Immigration and Customs Enforcement (ICE), which reflects a renewed Department-wide focus targeting criminal aliens and employers who cultivate illegal workplaces by breaking the country's laws and knowingly hiring illegal workers.

- Effective immediately, ICE will focus its resources in the worksite enforcement program on the criminal prosecution of employers who knowingly hire illegal workers in order to target the root cause of illegal immigration.

- ICE will continue to arrest and process for removal any



illegal workers who are found in the course of these worksite enforcement actions in a manner consistent with immigration law and DHS priorities. Furthermore, ICE will use all available civil and administrative tools, including civil fines and debarment, to penalize and deter illegal employment.

- ICE officers will be held to high investigative standards including:

- ICE will look for evidence of the mistreatment of workers, along with evidence of trafficking, smuggling, harboring, visa fraud, identification document fraud, money laundering, and other such criminal conduct.

- ICE offices will obtain indictments, criminal arrest or search warrants, or a commitment from a U.S. Attorney's Office (USAO) to prosecute the targeted employer before arresting employees for civil immigration violations at a worksite.

- Existing humanitarian guidelines will remain in effect, impacting worksite enforcements involving 25 or more illegal workers. This reflects a change from the previous threshold of 150.

- DHS is committed to providing employers with the most up-to-date and effective resources to comply with our nation's laws.

- DHS will continue to work with partners in the public and private sectors to maintain a legal workforce through training and employee verification tools like E-verify, which improve the accuracy of determinations of employment eligibility and combat illegal employment

- As a former border state Governor, Napolitano signed into law one of the toughest employer sanctions laws in the country in 2007 to target employers who knowingly hired illegal workers.



Secretary Solis unveils DOL's 2010 budget

Secretary of Labor Hilda L. Solis through a national online discussion with stakeholder groups, the general public and the news media, will outline the president's fiscal year (FY) 2010 budget for the U.S. Department of Labor, which begins to restore worker protection programs and revitalize employment opportunities for the American workforce.

"The president's budget launches new and innovative ways to promote economic recovery and the competitiveness of our nation's workers," said Secretary Solis. "At the same time, the budget reflects our effort to invest in what works and cut or reduce programs that do not. The budget is transparent, and we are accountable to the American public."

The budget, for instance, ends the Work Incentive Grants program, saving \$17 million. This demonstration program has accomplished its mission, and the lessons learned are being incorporated into other programs. Building on the best practices developed under the Work Incentive Grants, the budget boosts funding for the department's Office of Disability Employment Policy to facilitate the employment and advancement of individuals with disabilities.

It is with this fiscally responsible approach that the Labor Department's FY 2010 budget builds on the American Recovery and Reinvestment Act (Recovery Act), restoring worker protection programs; promoting an inclusive, green recovery; and ensuring accountability and transparency.

The budget requests \$104.5 billion, with the majority to be used for unemployment insurance benefits for displaced workers and federal workers' compensation. The discretionary request of \$13.3 billion allocates \$1.7 billion for worker protection programs, a 10 percent increase over the prior year's budget.

Under this budget, the Labor Department expects to hire nearly 1,000 new employees, including about 670 investigators, restoring worker protection staffing to FY 2001 levels. For example, the FY 2010 budget asks for \$564 million for the department's Occupational Safety and Health Administration (OSHA), which is \$51 million (10 percent) more than that agency received in FY 2009. With this funding, the Labor Department plans to hire 160 new enforcement staff, many of whom will be bilingual to communicate with staff in the changing workplace. Also, the department's Wage and Hour Division will receive \$228



Secretary of Labor Hilda L. Solis

million, an increase of \$35 million from the prior year, including funding to hire 200 new investigators. With these increases, Labor's worker protection agencies will be able to vigorously protect wages and working conditions of the 135 million workers in more than 7.3 million workplaces.

The Labor Department is receiving \$38.3 billion under the Recovery Act to assist unemployed workers and provide more training and employment opportunities to seniors, the unemployed and underserved populations.

For employment and training programs, the budget provides \$9 billion, including \$50 million for green jobs training initiatives. The Department of Labor will use \$500 million from the Recovery Act for competitive grants to train workers for green jobs.

Because community colleges and educational institutions are often the basis for successful careers, the Labor Department will use \$135 million for the Career Pathways Innovation Fund, which will help people to advance in the workplace. Another \$50 million will be used to test transitional job programs, which help individuals with severe employment barriers gain the skills and experience they need to find unsubsidized jobs. Finally, \$114 million is requested for Youth Build, which gives low-income and at-risk youth the opportunity to obtain a high school diploma or GED and learn construction job skills, while serving their communities by building affordable housing.

For veterans, the budget provides \$255 million (a six percent increase) to reach an additional 7,200 homeless veterans, particularly women veterans; provide green jobs training; and expand access to employment workshops for service members and their families who are transitioning to the civilian workforce.

The budget provides \$12 million for evaluation of job training programs, a 68 percent increase, and provides \$5 million for a new department-wide evaluation initiative. The additional funding will support rigorous evaluations to determine which programs and interventions work and inform the department's policy, management and resource allocation decisions.

For more information on the president's 2010 budget for the Department of Labor, visit <http://www.dol.gov>.

Keep Prevailing-Wage Laws

They have helped the construction industry add jobs that support families.

By Mark Price

Philadelphia has a problem: It doesn't have enough jobs that can sustain families. The area's lopsided labor market is well documented in a widely publicized report by the Philadelphia Workforce Investment Board, *A Tale of Two Cities*.

But one of the bright spots in the region's employment picture is the non-residential construction industry. While many manufacturing jobs have disappeared, and trucking has seen wage declines since the 1970s, construction projects create large numbers of middle-class jobs. That's partly due to prevailing-wage laws that have recently come under attack.

The non-residential construction industry also has extensive support structures enabling workers with a high-school education to develop their skills, advance, and gain security while performing well for their employers. These start with three-to-five-year apprenticeship programs that blend classroom training on workers' own time with on-the-job supervision and mentoring.

This system is not the result of the magic of the market or a government program. It is paid for by contractors and unions through contributions to training, health-benefit, and pension funds. These funds make employment in the Philadelphia construction industry a rewarding, lifelong career.

State and federal prevailing-wage laws, which set pay and benefits for public projects according to regional standards, also help support careers in construction. These laws ensure that the purchasing power of the public sector does not support businesses that undercut the local wage and benefit scale while skimping on training, health, and safety.

In many parts of the country, institutions and laws that promote high-wage, high-skill construction have broken down. As a result, the construction sector is becoming more and more lopsided, with a few jobs at the top that pay well and many more at the bottom that do not pay enough to support a family.

In places such as Florida, Texas, and Arizona, immigrants are the victims of this restructuring. In the Philadelphia area, the residential construction industry has already moved

toward a polarized distribution of wages, taking a toll on workers, families, children, and communities.

Some critics have argued that prevailing-wage laws are racist because they benefit unions that keep out minorities. The evidence suggests otherwise: African Americans make up 19 percent of the unionized construction workforce in the five-county Philadelphia metropolitan area, while they make up just 6 percent of the nonunion construction workforce.

Furthermore, half the African Americans working in construction in the Philadelphia area are in unions, compared with less than a quarter of the whites in the sector. As a result, African Americans benefit more than other groups from the continuing strength of the high-wage, high-skill construction model. And they would suffer more than other groups if that approach were abandoned.

Rather than destroying some of the best family-sustaining jobs in our economy by casting aside prevailing-wage laws, what about creating the conditions in which residential construction and burgeoning fields - such as weatherization, energy efficiency, and other green industries - can provide middle-class jobs?

That would systematically expand opportunities for women and men of all races. African Americans, the growing Hispanic population, and other demographic groups should all have the chance to enter an apprenticeship and a family-supporting career.

When the economy recovers, an influx of high-quality new recruits could help the construction industry cope with an upcoming demographic cliff - the large number of retirements expected in the next decade.

Revitalized to better develop and take advantage of workers' skills, the construction industry might provide a model for transforming our regional labor market to help us become one Philadelphia.

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Maryland Governor O'Malley Signs "Workplace Fraud Act" of 2009

The Act protects and empowers Maryland workers

Department of Labor, Licensing and Regulation Secretary Thomas E. Perez applauded Governor Martin O'Malley's signing today of new laws to protect and empower Maryland workers and level the playing field for employers who play by the rules.

The Workplace Fraud Act of 2009 provides the state with tools to crack down on workplace fraud, which involves employers who wrongly classify their employees as independent contractors or do not classify them at all. This practice allows employers to cut payroll costs significantly, leaving workers unprotected by critical workplace protection laws and creating a competitive disadvantage for those employers who play by the rules. Workers who are misclassified as independent contractors are denied access to unemployment insurance, workers' compensation and other protections, and the taxpayers are deprived of millions of dollars to the Unemployment Insurance Trust fund and the State General Fund.

"Protecting Maryland's workers and their families is always our most important responsibility, but even more so as we work together to weather the current economic storm," Governor O'Malley said. "This new law should illustrate the state's commitment to Maryland's working families, and to protecting their rights."

Governor O'Malley sponsored the Workplace Fraud Act of 2009, which was the product of an inclusive work group process led by Secretary Perez beginning in the fall of 2008 and continuing throughout the legislative session. The process brought together stakeholders from labor, business and government.

The new law makes it a violation of law to fail to properly classify workers as employees, and it imposes penalties on those employers who knowingly misclassify their workers. The law also clarifies the definition of an independent contractor. The law takes effect October 1, 2009.

"This new law will ensure that employers who attempt



May 7, 2009 Maryland State House – Annapolis, Maryland. Governor Martin O'Malley (center), left of him President of the Maryland Senate Mike Miller and to the right of the governor is Maryland Speaker of the House Michael Busch. Behind them in center is Maryland Delegate Cheryl Glenn to her left is Michael McNelly, NAFC Administrator and her right is Thomas E. Perez, Maryland Secretary of Labor Licensing & Regulation.

"This new law should illustrate the state's commitment to Maryland's working families, and to protecting their rights."

to cheat the system, their workers and their competitors, will pay a steep price for their actions," Secretary Perez said. "It should send a message that we will be fair to those employers who are trying to play by the rules, but we will not tolerate flagrant and intentional violations of the law for personal gain."

Editor's Note: Since 2006 Members of the National Alliance for Fair Contracting have been working diligently in the State of Maryland educating government officials and the public they serve as to the importance of eliminating the process of misclassification of employees as independent contractors. This new law may save the Maryland taxpayers over 80 million dollars a year in lost tax revenue.

Protecting America's Workers Act

Rep. Lynn Woolsey and **Rep. George Miller** have introduced a bill to bring enhanced protections to America's workers who are injured or killed on the job.

Protecting America's Workers Act (H.R. 2067) will strengthen OSHA enforcement by increasing civil and criminal penalties and will also establish a mandatory minimum penalty in a case involving the death of a worker. Family members of workers will also be given rights in OSHA investigations. PAWA would provide greater protections to workers from retaliation through stronger whistleblower provisions. Finally, Protecting America's Workers Act would extend OSHA coverage to state and local public employees and other workers who currently lack OSHA protection.

Some of the key provisions of the bill include:

EMPLOYEE PROTECTIONS

"No person shall discharge or in any manner discriminate against an employee for refusing to perform the employee's duties if the employee has a reasonable apprehension that performing such duties would result in serious injury to, or serious impairment of the health of, the employee or other employees. The circumstances causing the employee's apprehension of serious injury or serious impairment of health shall be of such a nature that a reasonable person, under the circumstances confronting the employee, would conclude that there is a bona fide danger of a serious injury, or serious impairment of health, resulting from the circumstances. In order to qualify for protection under this paragraph, the employee, when practicable, shall have sought from the employee's employer, and have been unable to obtain, a correction of the circumstances causing the refusal to perform the employee's duties."

PROHIBITION ON DISCOURAGING EMPLOYEE REPORTS OF INJURY OR ILLNESS

"Regulations shall prohibit the adoption or implementation of policies or practices by the employer that discourage the reporting of work-related injuries or illnesses by any employee or in any manner discriminate or provide for adverse action against any employee for reporting a work-related injury or illness."

VICTIM'S RIGHTS

The term "victim" means an employee who has sustained a work-related injury or illness that is the subject of an inspection or investigation conducted under section 8, or a family member of an employee, if:

"(A) the employee is killed as a result of a work-related injury or illness that is the subject of an inspection or investigation conducted under section 8; or

(B) the employee sustains a work-related injury or illness that is the subject of an inspection or investigation conducted under section 8, and the employee cannot reasonably exercise the employee's rights under this section."

"On request, a victim or the representative of a victim, shall be afforded the right, with respect to a work-related injury or illness (including a death resulting from a work-related injury or illness) involving an employee, to—

(1) meet with the Secretary, or an authorized representative of the Secretary, regarding the inspection or investigation conducted under section 8 concerning the employee's injury or illness before the Secretary's decision to issue a citation or take no action; and... receive, at no cost, a copy of any citation or report, issued as a result of such inspection or investigation ... (B) be informed of any notice of contest filed under section 10; and (C) be provided an explanation of the rights of employee and employee representatives to participate in proceedings conducted under section 10."

CRIMINAL PENALTIES

"Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 of this Act ... and that violation caused death to any employee, shall, upon conviction, be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 10 years, or both; except that if the conviction is for a violation committed after a first conviction of such person under this subsection or subsection (i), punishment shall be by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 20 years, or by both. ...For the purpose of this subsection, the term 'employer' means, in addition to the definition contained in section 3 of this Act, any responsible corporate officer."

"Any employer who willfully violates any standard, rule, or order promulgated pursuant to section 6 ... and that violation causes serious bodily injury to any employee but does not cause death to any employee, shall, upon conviction, be punished by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or by both.

For more information visit www.faircontracting.org click on "Inside the Beltway."

Meet Congresswoman **Lynn Woolsey**

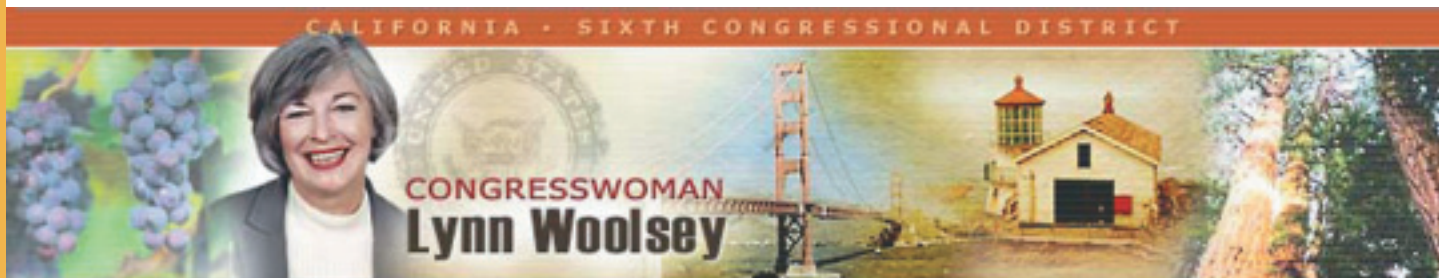
Democratic Congresswoman Lynn Woolsey, the first former welfare mother to serve in Congress, is in her ninth term as the representative from California's 6th District, just north of San Francisco. Her district includes all of Marin, and most of Sonoma County.

As Co-Chair of the Congressional Progressive Caucus, Congresswoman Woolsey is a vocal and visible leader on progressive issues, particularly those dealing with children and families. A passionate and outspoken opponent of the Iraq war, she has helped move public opinion against President Bush's failed Iraq policy.

As the Chairwoman of the Committee on Education and Labor's Workforce Protections Subcommittee, Congresswoman Woolsey helps to oversee policies that affect millions of American workers. Congresswoman Woolsey also sits on the Subcommittee on Elementary and Secondary Education.

works to reduce American dependence on foreign oil and promote the use of clean, efficient energy sources. In the most recent energy bill, Congresswoman Woolsey was instrumental in securing over \$2 billion in renewable energy research, development, demonstration and commercial application. The energy bill also included the "Woolsey Green Building Amendment," modeled after a project in her district, which will promote the use of renewable energy technology in public buildings. Congresswoman Woolsey has also recently introduced legislation to add the Sonoma coastline to the National Marine Sanctuary Program, thus protecting it from oil and gas drilling.

Congresswoman Woolsey's dedication to family issues and her belief in a strong social safety net are rooted in her personal history. As a young single mother struggling to raise three children by herself, she needed public assistance just to



She is currently working on reform of the No Child Left Behind Act, to fully fund the law and make it more flexible and less punitive toward schools and school districts.

Since her appointment in 1993, Congresswoman Woolsey has used her seat on the Committee on Education and Labor to provide children and families the tools they need to realize the American Dream. She has been an advocate of special education and vocational education, and she has fought against job discrimination in Head Start and other federal programs. Congresswoman Woolsey also authored a School Breakfast Pilot Program that was signed into law by President Clinton.

During her time in Congress one of Congresswoman Woolsey's top priorities has been a legislative package called "The Balancing Act," which aims to help parents manage the challenge of the balance between work and family. Among the Balancing Act provisions are: paid family leave; public universal pre-school; major investments in child care; universal school breakfast; benefits for part-time workers; and telecommuting incentives.

Congresswoman Woolsey is also a Senior Member of the House Committee on Science and Technology, where she

make ends meet, even though she was employed. The experience of needing a helping hand from her government has shaped her commitment to family-friendly policies.

Before coming to the House of Representatives Congresswoman Woolsey was a Human Resources Manager for a large high-tech manufacturer in Marin County, California. In 1980, she opened her own human resources consulting and employment agency, Woolsey Personnel Service, while finishing her bachelor's degree at the University of San Francisco. She began her public service career in 1984 with a seat on the Petaluma City Council, California where she served until she was sworn in to the United States House of Representatives in January 1993.

Since then, the people of the 6th district of California have returned Congresswoman Woolsey to office eight times.

A friend of American working men and women, Congresswoman Woolsey recently sponsored HR 2067 (To amend the Occupational Safety and Health Act of 1970 to expand coverage under the Act, to increase protections for whistleblowers and to increase penalties for certain violators)

Congresswoman Lynn Woolsey was born on November 3, 1937 in Seattle, Washington.



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