



Washington State Department of  
Labor & Industries

# **Underground Economy in Construction Task Force**

*2025 Report to the Legislature*

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# Executive Summary

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In 2024, the Washington state Legislature passed the [Supplemental Budget in Engrossed Substitute Senate Bill 5950 \(ESSB 5950\)](#), which created the Underground Economy Task Force (task force) in Section 906. This task force was charged to investigate the underground economy in the construction industry and report its findings to the Legislature. Initially, the findings were due by June 30, 2025; however, the Legislature extended this deadline to Dec. 31, 2025, in [Section 917 of ESSB 5167](#) (2025). Appointments to the task force were made by the Lieutenant Governor and Speaker of the House of Representatives.

The underground economy was defined as contracting and construction activities in which payroll is unreported or underreported with consequent nonpayment of payroll taxes to federal and state agencies. This includes nonpayment of workers' compensation and unemployment compensation taxes.

The taskforce identified the underground economy as the loose network of businesses and individuals that fail to register or report a significant part of their business activities with authorities, as required by law. They not only neglect to pay their fair share of taxes, workers' compensation premiums, and unemployment insurance contributions, they also gain an unfair advantage over competitors. Workers are at risk of being inappropriately labeled as independent contractors and not receiving the wages and benefits to which they are entitled. Consumers are also at risk because there may be no bond or insurance to protect them from these bad actors.

## UNDERGROUND ECONOMY SIZE AND SCOPE

The Washington State Institute for Public Policy's (WSIPP) report, *The Underground Construction Economy of Washington State: Size, Cost, and Government Enforcement Efforts*, estimated the underground economy in construction in terms of workers misclassified as independent contractors rather than employees and the cost to taxpayers. WSIPP found that misclassification may affect as many as 10.7% to 24.1% of total construction workers in the state<sup>1</sup>, costing Washington taxpayers approximately \$59.8 million per year on average from 2011 to 2021. (WSIPP, 2023, p. 52)

The Department of Labor & Industries (L&I), Department of Revenue (DOR), and the Employment Security Department (ESD) collaborate to issue an [Underground Economy Benchmark Report each year](#). Though the report is not specific to the construction industry, it sheds light on the agencies' work to address and understand the underground economy in

Washington. In fiscal year 2025, the agencies worked together and shared data to uncover more than 2,000 unregistered businesses and assessed over \$298.2 million in unpaid taxes, premiums, penalties, and interest.<sup>1</sup>

## TASK FORCE AND RECOMMENDATIONS

### Task force

The task force was composed of 12 members: a Senate Democrat, a House Democrat, a House Republican, a representative of the Office of the Attorney General, four people representing business, and four representing labor.

- Sen. Steve Conway (D)
- Rep. Mary Fosse (D)
- Rep. Suzanne Schmidt (R)
- Amanda Goss
- Kerry Cox
- Gina Carlson
- Ryan Likkell
- Carolyn Logue
- Neil Hartman
- Lisa Stuurmans
- Savannah Palmira
- Antonio Acosta

The members were appointed by the Speaker of the House and the Lieutenant Governor. The full task force met 11 times between the inaugural meeting in November 2024 and the final meeting in October 2025. During these meetings, the three agencies provided background in specific areas, research findings, and data.

Various groups, including the state agencies, as well as the Washington State Institute for Public Policy (WSSIP), the Municipal Research and Service Center (MRSC), Western States Regional Council of Carpenters, and the Oregon Contractor Board made presentations over the course of the meetings.

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<sup>1</sup> Washington state fiscal years run from July 1 to June 30. Fiscal year 2025 covered the period of July 1, 2024, through June 30, 2025.

In addition to the full task force meetings, the members of the task force also participated in subgroups that took a deeper dive into specific topics. Those subgroups were:

- **General contractor liability for wages and benefits:** Exploring liability for unpaid worker wages.
- **Contractor transparency:** Including disclosure of subcontractors, along with interagency and intergovernmental communication.
- **Penalties, incentives, and enforcement:** Considering adjusting penalties to enhance deterrence and incentivize compliance.
- **Worker Misclassification:** Creating penalties for misclassifying employees as independent contractors.
- **Contractor board:** licensing, training, and rating. Considering whether to add training requirements, create a licensing system, and/or form a contractor board.
- **Labor broker registration:** Focused on people providing construction labor services. After additional discussion, these people were referred to as “construction labor providers.”

The report contains references to materials and presentations that were provided throughout the course of the task force. A table identifying all the appendices and where to find them is available at the end of the report.

## Recommendations

The task force arrived at several recommendations, categorized as consensus or majority, to potentially address various aspects of the underground economy in construction.

- A *consensus recommendation* is one that received 10 or more votes from the 12 voting members.
- A *majority recommendation* received a majority vote from the 12 voting members.

Each of these recommendations requires further discussion to develop specific action steps. Agreement on any of these recommendations might not ultimately lead to a specific bill, agency rule, or other administrative action. These recommendations are intended to direct further discussion among interested parties to develop additional and necessary specificity. In addition, responses from the business and labor communities and the Office of the Attorney General to the recommendations are included in this report.

### *Consensus Recommendations*

1. “Construction labor provider” should be defined and regulated, separating them from staffing agencies, and treated as contractors under the law (considered entities for the sake of things like for wage recovery). Appropriate stakeholders should be consulted as a part of this process.

2. Enhancing interagency and intergovernmental communication would be beneficial.
3. The Legislature should consider escalated penalties, monetary or otherwise, focused on repeat offenders in the construction underground economy who knowingly hire unregistered subcontractors or repeatedly misclassify workers.<sup>2</sup>
4. L&I should have more administrative authority to enforce successorship accountability, including automatic denial of new licenses and registration, etc.
5. State agencies should be required to review their penalties associated with the construction underground economy, and act through rule or policy where they have the authority or make recommendations to the Legislature if they do not.<sup>3</sup>
6. This or another task force should further explore the method of tracking cash payments in the underground economy.

#### *Majority Recommendations*

1. The Legislature should consider requiring general contractors to post a notice on a jobsite disclosing all subcontractors that work there.
2. The Legislature should consider establishing a threshold of independent contractor usage on projects that would prompt L&I to review appropriate use of the independent contractor classification.
3. Legislation should be considered that holds direct contractors liable for unpaid wages owed to employees of subcontractors at any tier.
4. There should be a review of existing reporting requirements, and potential for additional requirements and avenues to trigger wage and hour enforcement activities by L&I, in construction contracting situations.<sup>4</sup>

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<sup>2</sup> This is not intended to cover those penalties that were recently increased under HB 1534.

<sup>3</sup> This recommendation is composed of two parts: (1) the recommendation itself; and (2) direction on the approach. Both are discussed below.

<sup>4</sup> These reports could also be reviewed in terms of debarment for public works.

# Report Format

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This report introduces the task force’s members, meetings, and overall work.

The report also includes a detailed breakdown of the current state of regulatory enforcement addressing the underground economy. The subgroups also looked at various topics taking a deeper dive into options that could lead to task force recommendations. The report further contains the task force recommendations for the Legislature, along with majority recommendations and minority responses where consensus could not be reached. The report also provides information about other topics the Underground Economy Task Force discussed in the context of addressing illicit activity in the construction industry. These topics, highlighted in the [Additional Considerations section](#), provide an overview of what items may need further consideration.

Agendas for each meeting, along with portions of several presentations and additional documents that were created for the taskforce, are identified as appendices. The appendices are not included within the body of this report, but a table of contents identifying all appendices is included at the end of this report as well as information on where to find them.

# Introduction

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In 2024, the Legislature passed the Supplemental Budget in ESSB 5950, which created the Underground Economy Task Force in Section 906. This task force was charged with investigating the underground economy in the construction industry and reporting its findings to the Legislature. Initially, findings were due by June 30, 2025; however, the Legislature extended this deadline to Dec. 31, 2025, in Section 917 of ESSB 5167. While the task force has completed its statutory obligation to submit a report to the Legislature, it remains in statute until the end of the fiscal biennia.

For the purposes of this task force and report, the underground economy refers to contracting and construction activities where payroll is unreported or underreported with consequent nonpayment of payroll taxes to federal and state agencies. This includes nonpayment of workers' compensation and unemployment compensation taxes.

The task force must “study the nature and scope of the underground economy and recommend what policy changes, if any, are needed to address the underground economy, including whether greater cohesion and transparency among state agencies is needed.”

The task force first met in November 2024 and continued through October 2025, with all meetings being held virtually via Zoom or Microsoft Teams. In addition to full task force meetings, subgroups were established with members of the taskforce and the general public to discuss topics in depth.

L&I served as the facilitator for all taskforce meetings. This included working with the co-chairs to develop agendas, conducting research to respond to task force member requests, developing documents for task force review, and coordinating presentations at the task force's request. In addition, L&I and legislative staff facilitated the subgroup meetings and often presented information covering several issues and topics.

At the October 2025 meetings, the task force voted on several recommendations. These included statutory changes and administrative actions that L&I could take. This report discusses those recommendations.

## UNDERGROUND ECONOMY SIZE AND SCOPE – BACKGROUND

### Underground Economy Benchmark Report

L&I, DOR, and ESD issue a [benchmark report on the underground economy](#) each year. Though the report is not specific to the construction industry, it does show how the agencies work together to address and understand the underground economy in Washington.

In 2025, L&I:

- educated and trained nearly 300 construction contractors offering in-person training events across the state and offering online training options;
- reminded consumers how to hire smart and verify a contractor through the “Protect My Home” campaign;
- issued more than 1,000 infractions to unregistered contractors;
- assessed over \$118.2 million in premiums, penalties, and interest to both registered and unregistered businesses;
- registered and assessed premiums for over 570 noncompliant businesses;
- collected \$350.7 million in delinquent funds; and
- received 15 referrals and completed four investigations involving contractor fraud, misrepresentation, and other criminal activity by unregistered, revoked, or suspended businesses.

*DOR:*

- provided online outreach and assistance to consumers through SuspectFraud.com, and led discussions with stakeholders on new and relevant ways to find leads in the underground economy;
- registered over 342 noncompliant businesses;
- assessed taxes totaling more than \$180 million from over 1,050 registered and unregistered businesses;
- collected over \$39 million through its Tax Discovery Program, including collections on assessments from prior years; and
- recovered more than \$14,000 in fraud-related dollars.

*ESD:*

- found over 1,100 unreported or misclassified workers through audits.

## WSIPP Report on the Underground Economy in Construction

In September 2023, WSIPP published a report, *The Underground Construction Economy of Washington State: Size, Cost, and Government Enforcement Efforts*. The report estimated the construction underground economy in terms of “workers” misclassified as independent contractors rather than employees and the cost of the underground economy to taxpayers.<sup>5</sup>

### *Misclassification*

Businesses that misclassify employees as independent contractors gain an unfair advantage by avoiding obligations that honest businesses must bear, such as:

- payroll taxes;
- workers’ compensation insurance;
- unemployment insurance;
- overtime pay; and
- other employee benefits.

This misclassification can substantially lower labor costs, enabling these businesses to underbid competitors or increase profit margins unfairly.

Misclassified workers may lack access to benefits and are unaware they may be entitled to additional rights and protections.

### *Costs<sup>6</sup>*

WSIPP estimated the costs to workers, along with state and federal programs from 2011 through 2021:

- Costs to workers: Lost benefits for misclassified employees that include overtime pay, paid leave, insurance, and retirement.
- Costs to the state: Estimated losses to workers’ compensations and unemployment insurance programs.
- Costs to the federal government: Estimated losses to Social Security and Medicare.

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<sup>5</sup> The report noted that these figures should be regarded as relatively uncertain and could underestimate the true scope.

<sup>6</sup> The WSIPP report utilized low, medium, and high estimates for each year and estimated that from 2011 to 2021, the number of misclassified construction workers ranged from 17,869 full time equivalent (FTE) workers to 46,212 FTE workers, with a middle estimate of 32,018. Using the middle estimate, WSIPP suggests that these numbers may represent between “...10.7% — 24.1% of total construction employment in the state, with an average of 14.2%.”

Similar to the misclassification statistics above, the report utilized low, middle, and high estimates of losses in each category.

Yearly Total Cost Estimates, 2011 – 2021 (\$1000s)

Year	Low estimates			Middle estimates			High estimates		
	Worker	State	Federal	Worker	State	Federal	Worker	State	Federal
2011	247,307	137,707	164,778	298,293	166,097	306,200	349,280	194,488	454,331
2012	99,444	50,446	133,504	140,149	71,094	250,614	180,854	91,743	371,810
2013	91,831	47,889	120,187	134,276	70,023	225,201	176,720	92,158	336,316
2014	44,959	21,870	133,358	89,232	43,406	253,041	133,504	64,941	376,494
2015	63,385	29,918	150,004	110,643	52,225	283,621	157,902	74,531	421,113
2016	0	0	149,173	54,843	23,868	291,999	115,987	50,478	441,648
2017	32,266	12,635	196,706	105,123	41,164	383,803	177,980	69,693	575,430
2018	4,481	1,553	161,915	82,428	28,572	319,254	160,375	55,590	475,483
2019	205,054	60,131	215,698	287,297	84,249	411,074	369,540	108,366	607,662
2020	27,699	7,200	194,188	68,706	17,860	367,753	109,714	28,520	531,373
2021	103,519	31,190	191,899	197,599	59,537	376,903	291,679	87,883	565,251

Source: WSIPP, The Underground Construction Economy of Washington State: Size, Cost, and Government Enforcement Efforts 2023, p. 52

## TASK FORCE MEMBERS AND MEETINGS

The budget proviso directed L&I to convene a task force composed as follows:

- a member from each of the two largest caucuses of the Senate appointed by the President of the Senate<sup>7</sup>;
- a member from each of the two largest caucuses of the House of Representatives appointed by the Speaker of the House of Representatives;
- four members representing the construction business selected from nominations submitted by statewide construction business organizations and appointed jointly by the president of the Senate and the Speaker of the House of Representatives;
- four members representing construction workers selected from nominations submitted by statewide labor organizations and appointed jointly by the President of the Senate and the Speaker of the House of Representatives;

<sup>7</sup> L&I did not receive an appointment for the Senate Republican member.

- one representative from the Office of the Attorney General; and
- one nonvoting liaison from:
  - Employment Security Department;
  - Department of Revenue; and
  - Labor & Industries.

## Members<sup>8</sup>

Task Force Member	Organization	Position
<b>Sen. Steve Conway (D)</b>	Senate	Member from one of the largest caucuses in the Senate
<b>Rep. Mary Fosse (D)</b>	House of Representatives	Member from one of the largest caucuses in the House of Representatives
<b>Rep. Suzanne Schmidt (R)</b>	House of Representatives	Member from one of the largest caucuses in the House of Representatives
<b>Amanda Goss</b>	Attorney General's Office	Representative from the Office of the Attorney General
<b>Kerry Cox</b>	ITC Systems	Representing construction businesses
<b>Gina Carlson</b>	Dunamis Interiors, Inc.	Representing construction businesses
<b>Ryan Likkel</b>	Western Refinery Services	Representing construction businesses
<b>Carolyn Logue<sup>9</sup></b>	CA Logue Public Affairs	Representing construction businesses
<b>Neil Hartman</b>	Washington State Association of the UA Plumbers & Pipefitters	Representing construction laborers
<b>Lisa Stuurmans</b>	IBEW Local 191	Representing construction laborers
<b>Savannah Palmira</b>	International Union of Painters and Allied Trades District Council 5	Representing construction laborers

<sup>8</sup> The task force voted to allow the use of proxies during the subgroups and the voting processes to ensure representation was maintained.

<sup>9</sup> Carolyn Logue replaced Dennis Davis of College Place Heating & Air Conditioning as a person representing construction businesses.

<b>Antonio Acosta</b>	Western States Regional Council of Carpenters	Representing construction laborers
<b>Randy Littlefield</b>	Department of Labor & Industries	Nonvoting liaison
<b>Kate Armstrong</b>	Department of Revenue	Nonvoting liaison
<b>Matt Buelow</b>	Employment Security Department	Nonvoting liaison

**Meetings**

L&I convened the task force as outlined in the legislation and included agency staff with relevant knowledge and expertise.

The task force first met in November 2024 and again in December 2024. Members agreed to not meet during the 2025 legislative session. While the task force was on hold, L&I held two separate meetings with the task force’s business and labor members to further identify topics for discussion. Following the end of the legislative session, the task force met twice monthly from June through October 2025. In addition, the task force established six subgroups to discuss potential recommendations. These subgroups met during August and September. The task force voted on final recommendations during two task force meetings in October 2025.

All task force meetings and subgroup meetings were open to the public and held via Teams and Zoom. L&I posted meeting materials, summary session notes, the meeting schedule, and other documents on its website.

Over the course of the meetings, the task force received presentations from various groups including the state agencies as well as WSSIP, MRSC, Western States Regional Council of Carpenters (WSRCC), and the Oregon Contractor Board. Presentations to the task force included overviews of:

- the WSIPP Underground Economy Report;
- L&I’s Enforcement overview, including current penalty structures;
- other states’ competency-based licensure structures;
- “labor brokers” and farm labor contractors;
- local government permitting processes;
- local transparency ordinances;
- independent contractor tests from L&I, DOR, and ESD; and

- contractor board roles and responsibilities.

Following the July meeting, the subcategories that were developed for further discussion were:

- **General contractor liability for wages and benefits:** Exploring liability for unpaid worker wages.
- **Contractor transparency:** Including disclosure of subcontractors, along with interagency and intergovernmental communication.
- **Penalties, incentives, and enforcement:** Considering adjusting penalties to enhance deterrence and incentivize compliance.
- **Worker Misclassification:** Creating penalties for misclassifying employees as independent contractors.
- **Contractor board:** licensing, training, and rating. Considering whether to add training requirements, create a licensing system, and/or form a contractor board.
- **Labor broker registration:** Focused on people providing construction labor services. After additional discussion, these people were referred to as “construction labor providers.”

## Current State Overview

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While Washington requires all construction contractors to register with L&I, there does not exist a current licensing structure containing experience, education or training requirements. Construction contractors are required to be bonded and insured to protect consumers. Once registered, contractors can bid, advertise, and perform construction work. This can include constructing, remodeling, repairing, and demolishing buildings, roads, and other real property.

There are two classifications of construction contractors in Washington:

1. *General contractors* can perform most types of construction work. They can hire subcontractors in multiple specialties. However, contractors working with plumbing, electrical, elevators, mobile home installation, boilers, and asbestos have additional requirements for education, examination, and licensing.
2. *Specialty contractors* can only perform work in the specialty in which they are registered. They cannot hire subcontractors to perform anything other than ancillary work.

## CONTRACTOR REGISTRATION

To register with L&I as a contractor, after deciding on which legal form to pursue (sole proprietor, corporation, LLC, etc.), a person must:

- register their business with Department of Revenue;
- get a surety bond or an assignment of savings;
- purchase a general liability insurance policy;
- complete the Application for Contractor Registration; and
- pay the required application fee.

Businesses with employees in Washington are also required to pay into the state Unemployment Insurance system.

### **Bonds, Savings, and Insurance**

To register as a contractor, a person must have:

- A Washington Continuous Contractor Surety Bond or an assigned savings account with L&I in the amount of:
  - \$30,000 for general contractors.
  - \$15,000 for specialty contractors.
- A general liability insurance policy in the amount of:
  - \$200,000 in public liability and \$50,000 property damage, or
  - \$250,000 combined single limit.

### **Workers' Compensation Insurance Coverage**

If a registered contractor has employees or nonexempt independent contractors, they must provide workers' compensation. Also referred to as Industrial Insurance, workers' compensation provides wage replacement and medical benefits to workers injured on the job. Insurance must be purchased from L&I, or a business may become a certified self-insured employer. Workers' compensation insurance pays for:

- approved medical, hospital, and related services due to workplace injuries or occupational illnesses; and
- partial wage replacement for those who are unable to work because of their injuries or occupational illnesses.

### **Verification**

L&I's [Verify a Contractor](#) tool informs consumers about registered contractors, including:

- whether they are properly bonded and insured;

- ownership;
- certain certifications and endorsements;
- workplace safety and health violations; and
- workers' compensation information.

Working without registering as a contractor in Washington carries penalties and fines enforced by L&I.

## CONTRACTOR COMPLIANCE

L&I enforces contractor registration requirements through a combination of construction site visits by inspectors and complaint responses. In December 2024, L&I presented to the task force that there were 67,567 registered contractors in Washington, with 50,839 being generals and 16,728 being specialty. The department issued 2,256 violations of licensing and registration requirements and referred 1,194 contractors to audit.<sup>10</sup>

L&I monitors contractor compliance with 26 compliance inspectors averaging 1,050 jobsite visits per month. This includes approximately 270 referrals a month. A referral may come from members of the public, workers, or companies on a jobsite who suspect that unregistered contractors or other unlicensed (in the case of plumbers or electricians) persons. Agency follow-up depends on the type of complaint and particulars of each case, which may include onsite inspections and assessment of penalties depending on violations found.

When the program identifies contractors that may have unreported workers or risk classification issues in workers' compensation insurance, L&I will refer those contractors to the Audit Program's Detection and Tracking Unit for review and assignment.

### **Workers' Compensation Insurance Fraud**

L&I reviews every tip of potential fraud, in addition to discovering it through the agency's routine site inspections and audits. Construction compliance inspectors visit construction sites and issue citations and infractions.

L&I conducts field audits to ensure compliance with Washington state workers' compensation insurance laws. An audit may happen for a variety of reasons, including but not limited to injury claims by uncovered workers, referrals, and random selection. During an audit, L&I reviews

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<sup>10</sup> These numbers have been updated in the latest Underground Economy Benchmark Report submitted to the legislature Dec. 1 of this year.

records and conducts fact-finding investigations to evaluate the following types of noncompliance:

- unregistered employers;
- unreported workers (including covered subcontractors);
- underreported hours; and
- risk class misreporting (misclassification).

Auditors determine how much money is owed. Revenue agents work to collect it. Investigations can take several months, and complex cases can take even longer. Information remains confidential until the investigation ends. Depending on the circumstances, L&I can take civil action to recover monies owed, or investigators may build cases and work with prosecutors to pursue criminal charges.

### **Prevailing Wage**

In Washington, workers must be paid prevailing wages when employed on public works projects. The prevailing wage (which consists of the hourly wage, usual benefits, and overtime per the largest city in each county), is paid to the majority of workers, laborers, and mechanics performing the same work. The Prevailing Wages on Public Works Act (Chapter 39.12 RCW) was enacted in 1945. This law is triggered when construction involves public funds for projects such as public schools, roads, libraries, airport terminals, and hospitals.

To bid on a public works project, a contractor must:

- be properly registered and insured in Washington;
- not be disqualified from bidding on public works projects; and
- attend L&I training on public works and prevailing wage law, unless a contractor has been in business for three or more years and has completed three or more public works projects.

Contractors performing public works projects must:

- identify and pay the correct prevailing wage;
- file documents such as the *Statement of Intent to Pay Prevailing Wages* and *Affidavit of Wages Paid*; and
- keep required payroll records and submit the weekly certified payroll records online to L&I at least once a month.

Unless an exception applies, the agency awarding a public works contract must withhold 5% of the total price on projects costing \$35,000 or more, including applicable taxes. This “retainage”

ensures contractors pay appropriate prevailing wages and state taxes, including workers' compensation and unemployment insurance premiums. When the contract is complete and agencies involved verify a contractor has paid its obligations, the retainage is released.

L&I administers prevailing wage law, which protects workers from substandard wages and preserves local wage standards. The law also ensures a level playing field for bidding contractors. L&I investigates complaints alleging violations of the prevailing wage laws, assesses penalties, and may bar contractors from bidding on public works projects for repeat violations. Program administration is funded by filing fees.

Under current law, the industrial statistician sets the prevailing wage rate using collective bargaining agreements (CBAs), where they exist, for the trades and occupations involved in public works projects in each of Washington's 39 counties. Where there is more than one CBA, the highest wage prevails. There are currently more than 3,000 different wage rates applied to public works. When there are no CBAs, L&I may survey trades and occupations or use other methods to establish the wage rate for projects that use public funds.

## DEPARTMENT OF REVENUE

The Department of Revenue (DOR), Washington's primary tax agency, oversees most of the taxes collected from businesses and individuals in the state. Revenue works to prevent, detect, and address activity in the underground economy — economic activity that is unreported, untaxed, or fraudulent.

DOR discovers underground economic activity during routine business through proactive investigations and external referrals. The department receives tips from the public through its online Suspect Fraud portal and a toll-free hotline, as well as from other state agencies, such as L&I and ESD.

### **Audit**

DOR's Audit Division audits businesses to ensure compliance with state excise tax obligations, including business and occupation (B&O), retail sales, use, and public utility taxes. Businesses that are noncompliant are required to pay back all taxes owed, accumulated interest since the time of the violation, and any additional penalties.

### **Tax Discovery**

The Tax Discovery program focuses on registering in- and out-of-state businesses with a significant presence in Washington. Agents first establish that a noncompliant business has a presence in Washington, issue a mandatory questionnaire to determine if they need to register,

and if so, help the business to comply. The business is then audited. In FY 2024, the Tax Discovery program conducted 3,832 investigations and collected over \$80 million in owed taxes, interest, and penalties.

### **Voluntary Disclosure**

Revenue’s Voluntary Disclosure program allows unregistered businesses to voluntarily register and pay prior tax obligations. Businesses are still required to pay back-tax obligations with interest; however, penalties associated with noncompliance may be waived in part or in full. To be eligible, a business must never have registered/reported taxes or been contacted by DOR for enforcement purposes.

## EMPLOYMENT SECURITY DEPARTMENT

The Employment Security Department (ESD) identifies and addresses key elements of the underground economy, with a focus on unreported labor, cash-based payroll, and misclassification of workers. ESD conducts audits and investigations by reviewing payroll records and other documentation to uncover violations. When possible, the department coordinates with other agencies to strengthen enforcement efforts. Alongside enforcement, ESD prioritizes education and outreach to help employers understand and comply with labor laws and regulations. These combined efforts support the recovery of unpaid wages, the enforcement of penalties, and greater compliance with independent contractor standards.

## Information Presented to the Task Force

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The task force and its subgroups were provided a significant amount of information related to the underground economy in construction itself, efforts to address it in other states, and potential ideas that were put forward by task force members and the public. In addition to WSIPP presenting its report and the current state overview, the task force received various presentations that covered a wide range of topics that touched on the underground economy in construction.

### **Contractor Regulation**

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#### *CONTRACTOR LICENSING*

As noted previously, to be a registered contractor in Washington, an individual must apply to L&I with the appropriate bond and insurance and pay the application fee. However, there are no other requirements an individual must meet to prove they are competent in doing the work.

Currently, 24 states require something more than registration. This can include one or more of the following: industry experience, education, exams, and continuing education. The task force discussed the requirements of 15 other states. Several states utilize the National Association of State Contractor Licensing Agencies (NASCLA) for training and exams. NASCLA also has developed model contractor licensing legislation. A common theme was that experience can count for some but not all the education requirements. The discussion also included whether training or education should be mandatory or optional; and if it is optional, if this is something that should be indicated on L&I’s “Verify a Contractor” page.

The taskforce also investigated:

- registering or licensing contractors and if this should be based on construction type, for example Commercial vs. Residential (This may include licensing or training requirements for specialties not currently licensed.);
- requiring training to obtain a license or registration, provided through the state or private training contractor;
- allowing training from approved private providers and/or community and technical colleges to meet any established requirements;
- creating differential fees for licensed vs. registered contractors to encourage training and compliance; and
- creating a contractor board to oversee licensure, determine requirements, and/or serve as a forum for issues in the industry.

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### *CONTRACTOR BOARDS*

State contractor boards are government agencies that are responsible for regulating and overseeing the construction industry within their respective states. Their primary duties generally include licensing contractors to ensure that individuals and businesses meet specific qualifications and education standards before performing construction work. These boards often enforce state laws related to construction practices, investigate complaints from consumers, and take disciplinary action against contractors who violate regulations. They also help protect public health, safety, and welfare by promoting ethical business practices and ensuring that construction work is performed competently and legally. In Washington, these responsibilities are typically within the purview of L&I.

The task force looked at contractor boards in Oregon, Georgia, Nevada, California, and North Carolina, and heard a presentation from the Oregon board in September 2025. The approach varies by state, and each has different requirements for those wishing to become contractors. A chart comparing certain aspects of each contractor board was provided to the task force, and a summary of Oregon’s presentation follows.

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## *PRESENTATION OREGON CONTRACTOR BOARD*

The Oregon Construction Contractors Board (CCB) is a state-run agency that oversees licensing, enforcement, education, and dispute resolution for the nearly 50,000 residential and commercial contractors in Oregon. Governed by a nine-member board appointed by the Governor and confirmed by the Oregon State Senate, the CCB employs 59 people who process hundreds of new applications and renewals each month, verify insurance and bonding, and run a busy call center.

To become licensed, applicants must complete a 16-hour pre-license course, pass an open-book exam, register their business, clear a background check, and secure liability insurance, a surety bond, and workers' compensation coverage when hiring employees.

The board's mission is framed around three pillars: Consumers, Contractors, and Cooperation. It protects consumers by enforcing licensing standards, mediating disputes, and providing educational resources that have boosted public awareness of construction scams to 78%. For contractors, the CCB offers proactive statewide enforcement, streamlined compliance pathways, and ongoing training on legal updates and safety regulations. Through partnerships with agencies such as the U.S. Department of Justice, Occupational Safety and Health Administration, and the Department of Financial Regulation, the CCB delivers a multilayered protection strategy that includes rigorous application screening, field investigations (about 8,000 jobsite checks annually), and a voluntary mediation program that resolves roughly 1,000 homeowner/contractor disputes each year, with a 70% success rate when both parties engage.

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## CONTRACTOR PENALTIES

Washington's current penalty structures differ depending on the type of violation. There is currently no violation or corresponding penalty amount for "misclassification." In addition, penalties and other enforcement action are generally limited to the statute under which the violation occurred. For example, if a contractor is found to owe wages to an employee under RCW 49.48, L&I cannot also suspend their contractor license under RCW 18.27 until payment is made. However, when an employer misclassifies their workers for the purpose of workers' compensation, L&I can investigate and assess premiums and penalties.

When an employer is found to owe premiums due to unreported workers, the penalty amount is calculated based on the amount of premiums owed and is capped at 20% of the total after the third month of a late payment and 1% interest per month with no cap.

In addition to the penalties for failure to abide by workers' compensation requirements, it is also a gross misdemeanor for any contractor to advertise, offer to do work, submit a bid, or perform

any work as a contractor without being registered or to do so while their registration is suspended or revoked. It is also a gross misdemeanor for a contractor to use an unregistered subcontractor. L&I may assess penalties ranging from \$250 up to \$10,000<sup>11</sup>, including an increased base amount due to reoccurrence of certain violations.

### Transparency

The task force discussed how particularly large construction projects can have a number of contractors on site, and this can create challenges in determining who is responsible for complying with various state laws and requirements. Transparency covers many aspects of construction projects. The task force focused on three potentially actionable facets: (1) that general contractors be required to disclose every subcontractor working on a job, creating a clear chain of accountability; (2) improving interagency communication so that state, local, and regulatory bodies can share information quickly and consistently; and (3) stronger coordination between local and state jurisdictions, ensuring that policies and enforcement actions align across government levels and reduce gaps that can hide noncompliant practices.

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#### *PRESENTATION FROM WESTERN STATES CARPENTERS*

WSRCC shared a presentation with the task force covering several topics including wage theft, tax fraud, and transparency ordinances. The presentation also covered upper-tier contractor liability and labor brokers in construction, both of which were discussed further by the subgroups.

Specifically, WSRCC supports strong transparency ordinances to protect workers, homeowners, and the integrity of the construction industry. The presentation cited the case of Multitaskr in San Diego County, California, as an example of what can go wrong without proper oversight. Multitaskr allegedly secured fraudulent loans in homeowners' names for accessory dwelling unit projects that were never completed, resulting in over \$15 million in damages and nearly 100 lawsuits.

Transparency ordinances presented apply to 20+ unit residential or  $\geq 20,000$ -square-foot commercial projects and any development needing a Public Right-of-Way permit, and applies to local, state, and federal agencies (except the city itself).

Contractors must disclose workers' compensation insurance, contractor license (type and expiration), city business license, state and federal tax IDs, and labor law violations (pending or past). They must also provide a list of safety certifications required and proof of employee certifications before work begins.

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<sup>11</sup> WAC 296-200A-400

Finally, they must keep up-to-date information when subcontractors change or licenses expire.

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*PRESENTATION MUNICIPAL RESEARCH AND SERVICES CENTER*

The Municipal Research and Services Center (MRSC) presented on its role in helping localities across the state and provided an overview of how local entities may interact with contractors and construction through the permitting process. Local permits include land use, engineering and building. The permit process is done at the local level and includes application reviews and onsite inspections. Local-government inspections begin with preconstruction meetings where the stages that require inspections will be defined and eventually issue the certificate of occupancy once the project is complete. It is unlawful<sup>12</sup> for a local government to issue a permit without verifying the contractor is registered by law.

**Misclassification: Independent Contractors v. Employees**

Task force members identified challenges for both workers and employers in determining when a worker may be an independent contractor rather than an employee. In Washington, determining whether a worker is an employee or an independent contractor is not just a matter of job title or a signed contract; rather, it depends on how the law defines the employer/employee relationship. The definition of employer and employee can vary by state agency and even within departments depending on the program involved. The state applies a range of legal tests to make determinations for workers' compensation insurance, minimum wage laws, and unemployment insurance. Under current law, there are no penalties or violations for worker "misclassification." However, misclassification can lead to issuing premium assessments and penalties and interest.

All workers in Washington are entitled to workers' compensation unless they fit specific exemption definitions<sup>13</sup> or fail appropriate tests. If the employment is not explicitly excluded then they must meet one of two independent contractor tests — the first of which is the personal labor test, the second as the 6/7 Test.

Employers have an obligation to determine whether their workers are employees for the purposes of workers' compensation premiums, paid sick leave obligations, and other worker rights and protections that exist under the law. However, state agencies do not preemptively deploy these tests until there is a complaint and corresponding investigation to determine the employer/employee relationship.

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*PERSONAL LABOR TEST*

One of these statements must be true:

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<sup>12</sup> RCW 18.27.110

<sup>13</sup> RCW 51.12.020

1. The individual brings their own employees to perform the work, and the hiring or general contractor does not control the individual or their employees.
2. The individual brings heavy or costly specialized heavy equipment and expertise to operate it (e.g., MRI machine, earth-moving equipment, ultrasound machine), and the hiring or general contractor doesn't control the individual.

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#### *6-PART AND 7-PART TESTS*

If the worker doesn't pass the personal labor test, then the 6-part or 7-part tests are used to determine if they are a covered worker. When using the 6-part or 7-part test, the worker must pass all six parts to be exempt from coverage, or all seven parts in the case of the construction industry. The worker:

1. Must be free from the employer's control or direction.
2. Must pass one of the following three options:
  - a. the service is outside the usual course of business;
  - b. the service is performed outside all the places of business; and
  - c. the individual is responsible for the costs of the principal place of business from which the service is performed.
3. Must pass one of the following two options: The individual:
  - a. is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service; and
  - b. has a principal place of business that is eligible for a business deduction for IRS purposes.
4. Is the individual responsible for filing a schedule of expenses with the IRS?
5. Has established an account with the Department of Revenue and other state agencies as required?
6. Is maintaining a separate set of books or records that reflect all items of income and expenses?
7. **For construction only:** Is properly registered as a contractor or has a valid electrical contractor license?

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#### *MINIMUM WAGE AND LABOR STANDARDS: THE ECONOMIC REALITY TEST (SIX FACTORS)*

When enforcing minimum wage, overtime, or other labor protections, L&I uses the Economic Realities Test. This test asks whether the worker is economically dependent on the employer or if they are truly in business for themselves. It considers six factors, none of which are decisive on their own:

- *Degree of control* – Does the employer control how, when, or where the work is done?
- *Opportunity for profit or loss* – Can the worker make business decisions that affect their bottom line?
- *Investment* – Has the worker invested in their own tools, equipment, or facilities?
- *Skill required* – Does the work require special skills, and are they performed independently?
- *Permanence* – Is the relationship ongoing or just for a specific project? Can the worker serve other clients?
- *Integral to the business* – Is the worker performing tasks that are central to the employer’s regular operations?

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*PUBLIC WORKS / PREVAILING WAGE: PUBLIC WORKER EXEMPTION*

For public works projects, Washington applies criteria like those above to determine whether a worker can be exempt from prevailing wage laws. The goal is to ensure that workers on government-funded projects are paid fairly and classified properly.

The test considers whether the individual:

- is free from control over how work is done;
- operates outside the usual business of the contractor or pays their own business costs;
- is customarily engaged in an independent trade;
- files their own taxes;
- maintains a business license and separate books; and
- if applicable, holds a proper contractor registration or trade license.

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*EMPLOYMENT SECURITY – UNEMPLOYMENT / PAID LEAVE:*

ESD, which manages unemployment insurance and paid family leave, uses a nearly identical seven-part test to L&I’s workers’ compensation version. To classify someone as an independent contractor for unemployment purposes, all seven conditions must again be met:

- the individual must be free from control or direction;
- the work must be performed outside the usual course or place of business, or the worker must pay their own business expenses;
- the worker must operate a customarily independent trade or business;
- they must file a Schedule C or similar IRS form;
- they must be registered with DOR, with a valid business license;

- they must maintain separate financial records; and
- they must hold any required licenses or contractor registrations.

### **Payment of Wages and Benefits**

Task force members expressed concern that a component of the underground economy is workers not receiving the wages and benefits to which they are entitled. This can take the form of improperly classifying workers as independent contractors, thus not paying the worker the wages or benefits employees are entitled to under the law<sup>14</sup>, or failing to pay workers the amounts owed.

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#### *WAGE PAYMENT ACT*

The Washington State Wage Payment Act (Chapter 49.48 RCW) helps make employees whole in case they are not paid the wages and benefits owed to them by their employer. It establishes protections for employees to ensure they are paid their wages fully and on time. Under this law, employers are required to pay all owed wages by the end of the established pay period. Employers are prohibited from making unauthorized deductions from wages, allowing only those required by law or explicitly authorized by the employee, such as taxes or court-ordered garnishments.

The Act outlines penalties for employers who fail to comply, including 1% interest paid to the worker. L&I is empowered to investigate wage claims, issue citations, and impose civil penalties. L&I works to collect the wages owed to ensure workers are properly compensated.

The Wage Payment Act does not include expanded liability, which was discussed by the subgroup, so a person contracting with an employer who violates the act is not currently liable if the employer fails to pay their employees.

### **Labor Brokers – “Construction Labor Providers”**

The task force identified a potential gap in regulation as it relates to the entities that bring workers to job sites, when the entity is not a contractor on the job. A labor broker is a third-party who recruits and supplies workers to construction projects without acting as a contractor or employer themselves. Throughout task force discussions, it was decided to refer to these brokers as “construction labor providers,” as this activity can occur in many industries. Concerns arise because these labor providers may operate outside formal contracting systems, labor, tax, and employment laws.

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<sup>14</sup> This includes minimum wage requirements, paid sick leave benefits, meal and rest break provisions, and other requirements under the law.

Some jurisdictions have enacted regulatory frameworks to address concerns about labor brokers.

- [Oregon requires](#) anyone who receives compensation for recruiting, soliciting, supplying, or employing workers to perform labor for another in construction to be licensed as a construction labor contractor.
- [New York City requires](#) licensure of construction labor providers who employ workers to supply to clients to perform construction work or manual labor in New York City.
- [Illinois requires](#) labor brokers to register with the Illinois Department of Labor, disclose job details to workers — including work type, pay, and the third-party client — and maintain accurate records of hours and wages. Workers must be paid at least the state minimum wage, and any wage deductions require their written approval.

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### *FARM LABOR CONTRACTORS*

One possible model for regulating labor brokers in the construction industry could be to look at what is currently used for farm labor contractors. Farmers often directly hire workers to harvest crops and do other agricultural duties. However, when a farmer pays an outside person, agency, or company — or even pays an employee an additional fee — to help find or hire laborers, then that person or company must be licensed as a Farm Labor Contractor with L&I.

Contractors recruit, solicit, employ, supply, transport, and hire workers for farms and other agricultural work. Farm labor contracting law provides protections for these workers, such as:

- requiring a contract;
- safe worker transportation;
- ensuring meal and rest breaks; and
- getting paid.

In addition to obtaining a license from L&I, farm labor contractors must:

- have a business license from the Department of Revenue;
- get a surety bond, assignment of account, time deposit, or cash deposit with L&I; and
- obtain liability insurance for vehicles used to transport workers.

## SUBGROUPS

Given the complexity and breadth of the issues under review, the task force established specialized subgroups to examine each topic in greater depth. This structure enabled members to focus on specific areas, ensuring that nuanced perspectives informed the task force's overall

work. Each subgroup engaged in discussions on its assigned topic and gathered input on potential recommendations through targeted polling instruments.

The subgroups were composed of both task force members and public participants, all of whom participated in voting on the polling instruments in the subgroups. While the public was invited to participate in these discussions, future conversations should strive to include a more expansive set of voices to ensure that individuals with direct lived experience are included.

### **General Contractor Liability for Worker Wages and Benefits<sup>15</sup>**

This subgroup discussed joint and severable liability for unpaid worker wages and benefits for general contractors and subcontractors.

#### *Problem Statement*

Some general contractors do not pay their subcontractors for work performed. Some subcontractors are paid by the general contractors and then do not pay their employees for work performed. Unpaid wages create a burden on those who are not paid, as well as an unfair advantage to those contractors and subcontractors who do not pay their employees.

When wages and benefits go unpaid, workers may struggle to meet basic living expenses such as rent, utilities, food, and medical care, forcing them into financial insecurity. The loss of promised benefits — like health insurance or retirement contributions — can also jeopardize their long-term well-being.

#### *Discussion*

Discussions of this subgroup included whether:

- Direct/general contractors and owners should be liable for wages/benefits owed to employees of subcontractors. If so, should L&I enforce liability for unpaid wages under the Wage Payment Act?
- There should be consequences for failing to pay wages, and whether there should be a penalty for this.
  - *Today, failure to pay wages owed is a violation of law, and there is a penalty. However, this is limited to circumstances where there is an employer/employee relationship. L&I cannot take action against a general contractor when a subcontractor fails to pay their workers.*

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<sup>15</sup> Additional information relevant to this subgroup is contained in the Minimum Wage and Labor Standards Economic Realities Test and the Wage Payment Act sections of this report.

- L&I should be given the option to file a civil claim against a direct/general contractor for unpaid wages. If so, should there be a threshold amount before this action can be taken?
- Direct/general contractors should be allowed to request payroll records from subcontractors. If so, what are some appropriate protections that should be considered?
- If there are circumstances of noncompliance, should there be a 21-day cure period before a complaint can be filed with L&I or private right of action?

### **Penalties, Incentives, and Enforcement<sup>16</sup>**

This subgroup discussed whether current penalties are sufficient to deter bad actors, and if those penalties should be adjusted and potentially indexed to inflation to enhance deterrence. The subgroup also considered options for incentivizing compliance.

The subgroup recognized that this topic requires additional research and data to ensure that discussions are well informed. As noted above, there are a variety of enforcement and penalty structures that exist and there is no single violation that explicitly identifies the underground economy, but rather a review of multiple violations and penalty structures could identify gaps that could inform recommendations.

#### *Problem Statement*

Current penalties imposed on contractors who do not follow the law may be too low to serve as an effective deterrent. For many violators, the financial consequences of being caught may be outweighed by the economic benefits gained through noncompliance, such as avoiding payroll taxes, workers' compensation premiums, and other labor costs. This creates a situation where breaking the law is a calculated business decision rather than a meaningful risk, undermining fair competition, eroding worker protections, and diminishing the credibility and enforcement power of regulatory agencies. Critically, enforcement mechanisms should differentiate between those who may make an honest mistake vs. habitual offenders and bad actors.

#### *Discussion*

The subgroup examined ways to strengthen enforcement by adjusting penalties and tying them to inflation, ensuring that fines remain a meaningful deterrent over time. It also explored various incentive structures that could encourage businesses to comply voluntarily, balancing punitive measures with positive reinforcement to promote broader adherence.

Discussions of the penalties, incentives, and enforcement subgroup included whether:

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<sup>16</sup> Additional information relevant to this subgroup is contained in the Underground Economy Benchmark Report, Contractor Compliance, Contractor Regulation and Contractor Penalties sections of this report.

- penalty amounts were sufficient to deter bad actors (if they are not, should they be increased and if so, how should they be increased?);
- penalty amounts should escalate based on the number of violations (and if so, are there certain violations that should carry higher penalty amounts — i.e., knowingly hiring unregistered subcontractors, repeated misclassification?);
- there are other nonmonetary penalties that could be a more effective deterrent; and
- L&I should have more administrative authority to enforce.

## **Transparency<sup>17</sup>**

Transparency can include:

- requiring general contractors to disclose all subcontractors on a project;
- enhancing interagency communication; and
- improving communication among local and state jurisdictions.

### *Problem Statement*

There is no current system or structure to identify the number of subcontractors on a job and the type of work they are performing.

### *Discussion*

The Transparency subgroup discussed whether there should be a method for collecting the general and all subcontractors' information on a specific project. If so:

- the information should be reported proactively (to a local or state agency) or posted publicly at a jobsite;
- data collection should be mandatory or model legislation utilizing best practices should be developed for local governments;
- data collection should be limited to a project above a certain size or dollar amount; and
- any mandatory requirement should be enforced, and if so, decide who should enforce it (i.e., local or state agency).

## **Contractor Training, Education, and Rating<sup>18</sup>**

Today, contractors in Washington must register with L&I. Discussions occurred around whether the task force should augment Washington's contractor registration system with

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<sup>17</sup> Additional information relevant to this subgroup is contained in the Transparency section of this report.

<sup>18</sup> Additional information relevant to this subgroup is contained Contractor Licensing, Contractor Boards, and Oregon Contractor Board sections of this report.

education/training requirements. The current system could be replaced with a contractor licensing system and the establishment of minimum requirements for the license or licenses.

Alternatively, considering education, training, rating, and a possible contractor licensing system largely took place through the lens of forming a contractor board. Such a board, composed of industry representatives and members of the public, could fully investigate the nuances of these issues and make recommendations.

#### *Problem statement*

Washington does not currently have any education, training, or testing requirements to become registered as a contractor. This may lead to individuals who are unqualified to do the work being registered. This may also create circumstances where individuals are not aware of what the laws are and how they must comply.

#### *Discussion*

The subgroup discussion focused on contractor boards, e.g., what role any type of board should have, whether it is advisory or decision-making. The discussion also covered what type of work would fall under such a board, including:

- licensing
- education/training
- rules/legislation
- penalties, suspend/revoke licenses, appeals
- hire staff
- forum for industry issues
- mediation services
- consumer education

#### **Labor Brokers<sup>19</sup>**

For the purposes of this report, labor brokers — a broad term — in the construction industry are third parties who recruit and supply workers to construction projects without acting as a licensed contractor or employer. Workers are often supplied on a short-term or rotating basis, rather than for a project’s full duration. Critically, labor brokers often position themselves as a non-employer.

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<sup>19</sup> Additional information relevant to this subgroup is contained the Labor Broker – “Construction Labor Provider” and Farm Labor Contractor sections of this report.

### *Problem Statement*

These brokers can operate outside formal contracting systems, typically not appearing on permits, contracts, or payroll and are generally not registered with tax and employment authorities.

### *Discussion*

The subgroup reviewed a comparison between the requirements of contractors under RCW 18.27 and farm labor contractors under RCW 19.30. The subgroup looked at examples of what other states have done, including discussions on whether licensing of “labor brokers” should be limited to construction or apply more broadly. This led to a discussion of how to define and then what could be required of these entities in terms of a licensing requirement with the department.

The broader task force discussed how these “labor brokers” differ from other temporary staffing agencies and that, instead of creating a new requirement, focus on requirements for existing temporary staffing programs.

## **Worker Misclassification: Independent Contractors vs. Employees<sup>20</sup>**

Misclassification occurs when an employer treats a worker who is an employee under Washington law as an independent contractor.

### *Problem statement*

Misclassifying employees as independent contractors may lead to those workers not receiving the minimum wage, overtime pay, and other benefits they are entitled to.

### *Discussion*

Misclassification is a broad subgroup that had many varying conversations, some of which crossed over into other topics. The subgroup discussed some specific options that could reduce the misclassification of workers, but also discussed more general ideas. Some specific discussions were whether:

- cash payments to workers should be limited;
- there should be a limit to the number of independent subcontractors on a jobsite and, if so, be limited based on task, job size, type of project, etc.; and
- a certain number of “1099” workers on a site should trigger an L&I audit.

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<sup>20</sup> Additional information relevant to this subgroup is contained Misclassification: Independent Contractors v. Employees section of this report.

Some of the more general ideas included increasing L&I’s education and outreach to better inform employers, contractors, workers, and consumers about misclassification. There was also discussion around L&I’s (and other agencies’) effectiveness in enforcement and need to identify resource gaps. Finally, there was discussion about the current “6/7” test and whether that should be changed.

## Recommendations

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The task force arrived at several recommendations to potentially address various aspects of the underground economy in construction. These recommendations are categorized as consensus or majority.

- A *consensus recommendation* is one that received 10 or more votes from the 12 voting members.
- A *majority recommendation* received a majority vote from the 12 voting members.

Each of these recommendations is intentionally general and will require further discussion to develop specific action steps. Agreement was based on this understanding, and it was recognized that agreement may not ultimately lead to a specific bill, agency rule, or other administrative action. These recommendations are intended to direct further discussion among interested parties to develop additional and necessary specificity.

Voting tables were used to capture the votes. The content of the recommendation is the same; the numbering below does not correspond with the numbering on the voting tables as this was rearranged based on the votes received.

### *Consensus Recommendations*

1. “Construction labor provider” should be defined and regulated, separating them from staffing agencies, and treated as contractors under the law (considered entities for sake of things like for wage recovery). Appropriate stakeholders should be consulted as a part of this process.
2. Enhancing interagency and intergovernmental communication would be beneficial.
3. The legislature should consider escalated penalties, monetary or otherwise, focused on repeat offenders in the construction underground economy who knowingly hire unregistered subcontractors or repeatedly misclassify workers.<sup>21</sup>
4. L&I should have more administrative authority to enforce successorship accountability, including automatic denial of new licenses and registration, etc.

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<sup>21</sup> This is not intended to cover those penalties that were recently increased under HB 1534.

5. State agencies should be required to review their penalties associated with the construction underground economy, and act through rule or policy where they have the authority or make recommendations to the Legislature if they do not.<sup>22</sup>
6. This or another task force should further explore the method of tracking cash payments in the underground economy.

#### *Majority Recommendations*

1. The Legislature should consider requiring general contractors to post a notice on a jobsite disclosing all subcontractors that work there.
2. The Legislature should consider establishing a threshold of independent contractor usage on projects that would prompt L&I to review appropriate use of the independent contractor classification.
3. Legislation should be considered that holds direct contractors liable for unpaid wages owed to employees of subcontractors at any tier.
4. There should be a review of existing reporting requirements, and potential for additional requirements and avenues to trigger wage and hour enforcement activities by L&I, in construction contracting situations.<sup>23</sup>

## ADDITIONAL CONSIDERATIONS

In addition to the recommendations outlined above, the task force also identified topics for which neither consensus nor majority could be reached, but indicated that further conversations would be beneficial.

Additional items for consideration include:

1. Creating an advisory group with a majority membership of contractors, including others to provide recommendations on replacing the current registration system with a contractor licensing system that could include whether training requirements and a contracting board would be beneficial.
  - Five members voted in opposition, two voted to abstain, and five voted “needs more discussion.”
2. Creating a requirement that contractors should be allowed to request and access payroll records from subcontractors.
  - Three members voted in support, three voted in opposition, and seven voted “needs more discussion.”

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<sup>22</sup> This could include directions to index penalties to inflation (or other measures) where appropriate. Include an inventory of existing penalties and violation types. Agencies must be directed to include engagement with impacted stakeholders throughout the process. Report to the Legislature to be included in the “benchmark” report.

<sup>23</sup> These reports could also be reviewed in terms of debarment for public works.

3. Requesting L&I to provide recommendations regarding penalties for general or subcontractors who fail to pay wages/benefits<sup>24</sup>, potentially including revocation of contractor registration or licenses, impairment of other licenses (electrical, plumbing, etc.), personal liability for unpaid wages and benefits, flat dollar amount penalties, or penalties that are a percentage of the unpaid amounts.
  - One member voted in support, and 11 voted “needs more discussion.”

## TASKFORCE MEMBER RESPONSES TO RECOMMENDATIONS AND ADDITIONAL CONSIDERATIONS

Business and Labor members of the task force provided additional responses based on the above recommendations. Those responses are included, without change, below. The responses are broken out by recommendation and then identified as “business” or “labor” to indicate who provided the response. Also included is a standalone statement from the Office of the Attorney General.

### **CONSENSUS RECOMMENDATION 6: THE METHOD OF TRACKING CASH PAYMENTS IN THE UNDERGROUND ECONOMY SHOULD BE FURTHER EXPLORED BY THIS OR ANOTHER TASK FORCE.**

#### **Business Response: Prohibiting Cash-Only Payments in the Construction Industry**

Prohibiting cash-only payments in the construction industry is financial overreach, difficult to enforce, and would likely make the underground economy worse, not better. The effect of this prohibition would impose new burdens on legitimate small businesses and independent contractors while having little impact on the underground economy, which already operates outside the law.

Cash is legal tender and many construction job sites rely on cash transactions for convenience, speed, and to accommodate clients or workers who may not have immediate access to electronic payment systems. Cash payments are a lawful means of conducting business, provided that proper records are maintained, and all applicable taxes are paid.

A prohibition on cash-only transactions would create unnecessary complications for law-abiding businesses. It would force smaller firms to invest in electronic payment systems or rely on third-party processors, adding transaction fees and administrative burdens that disproportionately

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<sup>24</sup> The Worker Wage Recovery Work Group has submitted a report to the Legislature which includes increasing the penalty amounts for unpaid wages.

affect small operators. Such a rule would be nearly impossible to enforce fairly. Regulators would have no practical way to verify whether cash payments occurred between parties unless they engaged in intrusive audits.

Those who intentionally operate in the underground economy, avoiding taxes, labor laws, and licensing requirements, are already violating multiple statutes. A new restriction on payment methods would not suddenly bring these actors into compliance. Instead, it would likely drive more legitimate businesses toward informal practices as they struggle to adapt to the new restrictions.

A more effective approach would focus on enforcement targeted at deliberate violators, not the method of payment itself. Encouraging recordkeeping, simplifying compliance, and increasing penalties for proven tax evasion would all produce better outcomes than banning cash transactions. The goal should be to create an environment where compliance is reasonable and enforcement is credible, rather than imposing new restrictions that penalize honest businesses for using a legal form of payment.

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**MAJORITY RECOMMENDATION 1: THE LEGISLATURE SHOULD CONSIDER REQUIRING GENERAL CONTRACTORS TO POST A NOTICE ON A JOBSITE DISCLOSING ALL SUBCONTRACTORS PERFORMING WORK THERE.**

**Business Response:**

Employer representatives doubt the potential effectiveness of adding this administrative burden on general contractors in meaningfully addressing underground economy activities such as worker misclassification and wage theft in the construction industry, even if limited to larger projects. There is a greater likelihood that contractors making a good faith effort to comply would be most likely to be cited for minor errors while flagrant violations would go undetected. General contractors would be required to maintain and publicly post an up-to-date list of subcontractors working on each jobsite, perhaps as often as daily. The recommendation is unclear about an enforcement mechanism or penalty structure, though one must be assumed. The Department of Labor & Industries lacks the personnel and resources to conduct widespread periodic inspections, let alone visit larger jobsites daily or weekly, to record the list of subcontractors onsite at the time of inspection, and then interview subcontractors or research the status of multiple businesses' registration, bond and insurance, workers' compensation, unemployment, and revenue accounts, or municipal business licenses for deficiencies.

Unscrupulous general contractors would either refuse to comply or post incomplete or inaccurate information knowing the chance of discovery is miniscule.

The underlying concern seems to be worker misclassification. If this is the case, a more sensible and effective approach would be to provide Labor & Industries additional funds and direction to undertake enhanced investigation and enforcement action targeted at specific trades or activities, jurisdictions, or employers with substantial complaint history.

**Labor Response:**

Labor members supported this recommendation as a practical and minimally burdensome method to improve transparency on construction sites. Identifying which subcontractors are present is essential for monitoring compliance, yet construction sites are dynamic environments where subcontractors may appear only briefly to perform discrete tasks, and last-minute substitutions are common. These conditions create opportunities for unregistered or otherwise non-compliant contractors to operate undetected.

Requiring general contractors—who are consistently on site—to post a simple, up-to-date list of subcontractors would allow workers, L&I staff, and other stakeholders to verify that entities on the jobsite are legitimate and operating within the law. This approach was discussed extensively throughout the subcommittee process, during which members expressed broad support, recognizing this method of transparency is easily maintained and at minimal expense to the contractor. For that reason, labor representatives were disappointed that the final vote did not reflect the earlier consensus around this straightforward transparency measure.

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**MAJORITY RECOMMENDATION 2: THE LEGISLATURE SHOULD CONSIDER ESTABLISHING A THRESHOLD OF INDEPENDENT CONTRACTOR USAGE ON PROJECTS THAT WOULD PROMPT L&I TO REVIEW APPROPRIATE USE OF THE INDEPENDENT CONTRACTOR CLASSIFICATION.**

**Business Response:**

Many contractor representatives respectfully dissent from the recommendation to “propose legislation, in coordination with stakeholders, to establish a threshold of independent contractor usage on projects that would prompt L&I to review appropriate use of independent contractor classification.”

While we recognize the intent to address concerns related to the underground economy, this proposal does not represent an effective or equitable solution. Establishing an arbitrary threshold

for the number of independent contractors on a single project as a trigger for state review creates unnecessary administrative burden and uncertainty for legitimate small businesses and general contractors operating in good faith.

In today's dynamic construction environment, contractors often need to scale workforce capacity quickly to meet deadlines, project demands, or specialized needs. Engaging multiple independent contractors—each operating as a bona fide business entity—is a legitimate and lawful practice that promotes flexibility, efficiency, and competitiveness. A numeric threshold would penalize legitimate business decisions rather than target actual misclassification or unregistered contractor activity.

L&I already possesses the statutory tools and enforcement mechanisms to investigate contractor misclassification or unregistered activity when there is a legitimate complaint or evidence of violation. Creating an additional review trigger based on contractor headcount risks duplicative enforcement and unnecessary disruption for compliant businesses.

Moreover, Oregon's experience with a similar law demonstrates that such thresholds do not meaningfully reduce the number of unregistered contractors or improve compliance outcomes. The policy has instead added complexity and confusion for small firms trying to navigate overlapping rules, while doing little to advance enforcement effectiveness.

For these reasons, the contractor community urges that this recommendation not be adopted. Efforts to address the underground economy should focus on improved enforcement of existing laws, better education for employers and workers, and targeted action against bad actors—not on arbitrary triggers that undermine legitimate contracting practices and disadvantage small businesses.

**Labor Response:**

This recommendation emerged from an extended discussion on independent-contractor misclassification. Labor representatives initially proposed a clearer, enforceable limit on independent-contractor use—consistent with Washington's 2011 legislative proposal that would cap legitimate independent contractors at two individuals working on the same task at the same time. Any larger number would, by definition, require coordination or direction by another entity, violating the statutory requirement that independent contractors be free from direction and control. Oregon recently enacted similar limitations for specific trades.

The business community proposed shifting from a direct limitation to an audit-trigger approach. Labor members evaluated this alternative and agreed that a threshold prompting early review under the existing seven-part test could serve as a proactive safeguard against misclassification.

Labor representatives supported this compromise with the understanding that business members would do the same.

However, the final vote fell significantly short of consensus. In light of that outcome, labor representatives are reconsidering their support for the audit-trigger approach and may recommend that the legislature pursue clearer statutory limitations on the use of independent contractors instead.

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**MAJORITY RECOMMENDATION 3: LEGISLATION SHOULD BE CONSIDERED THAT HOLDS DIRECT CONTRACTORS LIABLE FOR UNPAID WAGES OWED TO EMPLOYEES OF SUBCONTRACTORS AT ANY TIER.**

**Business Response:**

The proposal requiring general or direct contractors to assume liability for unpaid wages and benefits owed by their subcontractors is well-intentioned but deeply problematic in practice. While it seeks to address wage theft by bad actors, the measure would impose broad, complex, and costly obligations on every legitimate contractor and subcontractor in the state, resulting in significant unintended consequences.

First, the proposal would substantially increase costs throughout the construction industry. Direct contractors would be forced to implement new monitoring, record-keeping, and vetting systems to track compliance by every subcontractor, including those several tiers removed. Because they could be held liable for unpaid wages they never controlled, direct contractors would need to factor the risk of “paying twice” into their bids. Many prime contractors have no contractual relationship with lower-tier subcontractors, yet this law would make them responsible for verifying those firms’ payroll practices. These costs would ultimately be passed on to owners, taxpayers, and consumers, increasing the price of construction across the state.

Second, the measure would disproportionately harm small and emerging businesses. Smaller subcontractors often lack HR staff or payroll systems capable of producing certified payroll reports and compliance attestations. Payment withholding for paperwork errors or delays could interrupt payroll, jeopardize cash flow, and even threaten the survival of small firms. In practice, risk-averse general contractors may choose not to hire smaller or newer subcontractors at all, reducing competition and disproportionately harming women-, minority-, and veteran-owned businesses.

Third, the proposal misaligns incentives by shifting responsibility away from the parties best positioned to prevent violations—the subcontractors who actually employ and pay the workers—and onto upstream contractors who often lack direct control. This approach creates a moral hazard by weakening the incentive for subcontractors to ensure compliance if they believe others will absorb the risk. It imposes strict liability on parties without direct oversight, violating the principle that responsibility should follow control. By misaligning incentives, the proposal risks encouraging exactly the kind of wage-payment problems it seeks to prevent. Good policy should align accountability with authority; this proposal does the opposite.

There are better and more targeted ways to address wage theft without destabilizing responsible contractors or inflating construction costs. The Underground Economy Task Force (UETF) is already developing solutions that directly target bad actors, such as increased penalties, labor-broker registration, and improved enforcement coordination. In addition, the legislatively created Worker Wage Recovery Work Group is expected to issue recommendations that strengthen wage recovery processes without imposing broad and costly liability shifts on the entire industry.

**Labor Response:**

Throughout subcommittee meetings there were several reports and findings concerning wage theft, tax fraud and exploitation of workers. Labor, business, and state agencies reached initial consensus on adopting a Washington-specific upper-tier liability, modeled after Oregon SB 426 (2025) to combat these practices. This framework would hold upstream entities accountable when subcontractors commit wage theft or payroll fraud. Unfortunately, business representatives withdrew their support during the final vote, despite previously agreeing that such a model was necessary to close enforcement gaps.

Given the breakdown of consensus, labor representatives respectfully request that the Legislature take direct action on these critical reforms. The issues identified in this letter reflect long-standing, well-documented vulnerabilities in Washington’s construction industry, where wage theft continues to undermine both workers and law-abiding contractors.

**ADDITIONAL ITEMS FOR CONSIDERATION 1: CREATING AN ADVISORY GROUP WITH A MAJORITY MEMBERSHIP OF CONTRACTORS, INCLUDING OTHERS TO PROVIDE RECOMMENDATIONS ON REPLACING THE CURRENT REGISTRATION SYSTEM WITH A CONTRACTOR LICENSING SYSTEM THAT COULD INCLUDE WHETHER TRAINING REQUIREMENTS AND A CONTRACTING BOARD WOULD BE BENEFICIAL.**

**Business Response:**

The proposal to establish a new contractor board for the construction industry is both unnecessary and counterproductive. Washington State already has regulatory systems and advisory boards in place to monitor and stakeholder contractors through LNI. Adding another layer of bureaucracy would duplicate functions that are already being carried out.

Creating a contractor board would likely have the opposite effect of what proponents intend. Rather than improving oversight or accountability, it risks pushing noncompliant contractors and unregistered operators even further underground. The underground economy in construction thrives when regulatory burdens are excessive or confusing, making compliance costly and time-consuming for small businesses. Additional licensing fees, administrative reviews, or board hearings would not discourage bad actors—they would simply incentivize them to avoid the formal system altogether. Meanwhile, legitimate contractors who already play by the rules would shoulder the increased costs and paperwork, reducing their competitiveness and ability to hire and train workers.

Evidence from other states demonstrates that contractor boards do not eliminate underground activity. Even in jurisdictions where such boards have existed for decades, unlicensed contracting remains a persistent problem. Oregon’s experience, for example, shows that despite having a long-established contractor board, the state still struggles with widespread underground activity and enforcement challenges. Adding another regulatory body does not address the root causes of noncompliance.

Instead of creating new bureaucracy, policymakers should focus on strengthening existing enforcement tools, improving interagency coordination, and investing in public education to help consumers identify and hire licensed contractors. Enhancing enforcement technology, streamlining complaint processes, and supporting workforce development programs would deliver far greater benefits to both the industry and the public.

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**THE OFFICE OF THE ATTORNEY GENERAL OVERALL RESPONSE**

The Washington State Office of the Attorney General appreciates the work of the Department of Labor and Industries and Task Force members to identify solutions to ensure workers are paid what they are owed and businesses operate on a level playing field in the construction industry. As noted in the report, the underground construction economy has substantial costs for workers and taxpayers. It is clear that more can be done to address the underground construction economy through stronger laws and stricter enforcement of existing laws. The Office of the Attorney General supports most of the recommendations considered by the Taskforce. The office

believes Majority Recommendation #1, #2, and #3 have the most potential impact on the behavior of businesses and individuals in the construction industry that are currently failing to comply with Washington state law. We also support giving L&I more authority to enforce successorship accountability and escalate penalties on repeat offenders.

We welcome more discussion and want to note a concern with Consensus Recommendation #6, as discussed in the Task Force meetings. When employees are paid in cash for their work, it creates challenges for tracking actual payments and ensuring employees are correctly paid. At the same time, many vulnerable workers—including in the construction industry—do not have or do not have reliable access to checking accounts. It is unclear if the potential upside of this recommendation outweighs the expected negative impact on an already vulnerable workforce. Finally, we were not able to support Consensus Recommendation #5 at this time for several reasons. We voted “needs more discussion” because the Recommendation was too vague, it was not clear which state agencies were impacted, and whether the intent of the recommendation was to increase or decrease penalties.

## CONCLUSION

The Underground Economy Task Force was established to examine the pervasive and complex issue of the underground economy in Washington’s construction industry. Through extensive discussions and collaboration among stakeholders, the task force identified key areas contributing to the underground economy and developed a series of consensus and majority recommendations. While these recommendations are intentionally broad, they provide a framework for continued dialogue and legislative consideration. The recommendations and information gathered by the task force provide a foundation for future policy development to ensure compliance, protect workers and consumers, and uphold integrity within Washington’s construction sector.

## APPENDICES

Given the number of documents produced for this task force, the department chose not to include those in the body of this report. Instead, [those documents are available as an appendix](#). The documents and their associated page numbers are provided below:

## **Presentations**

- WISIPP Page 1
- Carpenters Page 17
- MRSC Presentation Page 28
- CCB Overview WA Underground Economy Task Force Page 35

## **Licensing and Board State Comparison**

- Experience and Education Requirements for Contractors Page 48
- State Licensing and Regulatory Entities Page 51
- Training Requirements for Licensure as a Contractor Page 56

## **Voting Table** Page 61

## **Subgroup Documents**

- Summary of All Subgroup Topics Page 69
- Labor Broker Polling Card - Tally Page 81
- General Contractor Liability for Wages - Tally Page 87
- IC v. Employee Polling Cards - Tally Page 89
- Contractor Advisory Board Poll - Tally Page 99

## **Agendas** Page 102