

THE RETURN OF

# FEDERAL SWEATSHOPS?

HOW AMERICA'S BROKEN CONTRACT WAGE LAWS FAIL WORKERS



A Research Report by  
Good Jobs Nation

# OVERVIEW

Today, the **United States Government funds millions of low-wage jobs in the private sector** through contract, loans, and grants. **It wasn't supposed to be this way** – during the previous century, **Congress enacted a series of contract wage laws** to protect these workers from poverty and sweatshop-like exploitation.

**This report shows that these federal contract wage laws no longer work in the modern era as good union jobs disappear.**

Our research shows that **federal contract wage rates are falling** as unions lose their ability to collectively bargain to raise wages and improve working conditions for all workers in their industries.

The report also identifies how **federal contractors exploit legal loopholes and exclusions** to deprive millions of federally funded workers from joining the middle class. To make matters worse, evidence shows that the **enforcement of the contract wage laws by the U.S. Department of Labor is historically inadequate and is not improving** despite recent efforts to increase contractor compliance.

Most importantly, the report illustrates how the **broken federal wage system impacts the lives of contract workers who are struggling to survive** as wage rates fall, loopholes proliferate, and enforcement falters.

**Good Jobs Nation recommends an alternative approach to remedy these failures and prevent the return of the federal sweatshop – the President should use his executive powers over federal contracting to make sure taxpayer dollars reward “model employers” that pay their workers a living wage of at least \$15 hour, offer decent benefits, and respect their right to collectively bargain.**

## GOOD JOBS NATION!



*Good Jobs Nation is an organization of low-wage federal contract workers who are calling on the President to end the U.S. Government's role as America's leading low-wage job creator.*

*We've already won two Presidential executive orders to boost the minimum wage to \$10.10 and end wage theft on federal contracts. But workers need more than the minimum to survive.*

*That's why we're calling on this President – or the next – to use his executive powers to make sure taxpayer dollars reward model employers that pay living wages and benefits as well as respect collective bargaining rights. Good Jobs Nation is supported by national faith, labor and advocacy organizations including Change to Win, Interfaith Worker Justice, Progressive Congress, and the Campaign for America's Future.*

**Learn more at [www.goodjobsnation.org](http://www.goodjobsnation.org)**

# INTRODUCTION

**Over the past century, the U.S. Government has sought to implement the principle that companies working on behalf of the American people should uphold model employment practices. This principle, achieved through the passage of a series of federal contract wage protection laws, arises from the conviction that the federal government's vast spending power should be exercised with care to avoid exploiting the nation's most vulnerable workers.**

As early as the 1910s, government leaders expressed concern that many public contractors were employing workers at poverty wages. During World War I, War Secretary Newton Baker proclaimed that *"the government cannot permit its work to be done under sweatshop conditions."*<sup>1</sup> During the Great Depression, Congress passed the Davis-Bacon Act (DBA) to protect workers on federal construction contracts because it recognized that that absence of minimum labor standards meant that the money designed to stimulate economic recovery across the country was often going to travelling contractors with exploitative labor practices who would underbid established, local firms who paid better rates to their employees.<sup>2</sup> Similarly, when arguing for the passage of the Service Contract Act (SCA) in 1965, the Solicitor for the Department of Labor, Charles Donahue, argued that the federal government should provide an example of fairness and justice. *"While I do not wish to imply that low-wage rates are universal in the service industry, the fact that they exist at all is indefensible, particularly where Government contracts are involved."*<sup>3</sup>

With the SCA's enactment, the federal government completed a system of wage standards that was intended to extend across the entire field of federal contracting, as indicated by President Lyndon Johnson's statement when he signed the SCA, that it closed *"the last big gap"* in federal contract labor protections.<sup>4</sup> The Davis-Bacon Act (1931) covered federally contracted and funded construction, the Walsh-Healey Act (1936) manufacturing and goods contracts, and the SCA, service occupations. All three laws require that federal contract workers be paid the "prevailing" wage for their occupation and locality based on the Department of Labor's analysis of collective bargaining agreements and industry standards.<sup>5</sup>

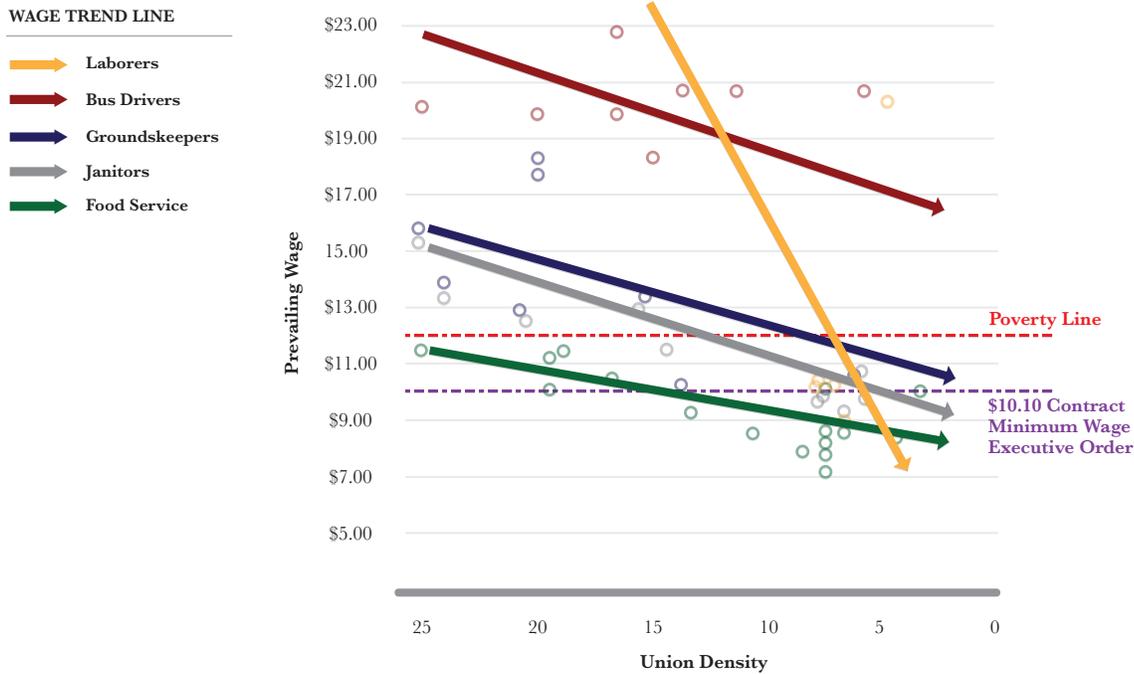
Currently, over 11,000 contractors receive more than \$39 billion of taxpayer money each year through contracts covered by the Davis-Bacon Act,<sup>6</sup> with an additional \$74 billion awarded in DBA covered infrastructure funding.<sup>7</sup> Contracts covered by the Walsh-Healey Act send over \$121 billion to over 9,000 contractors each year.<sup>8</sup> Contracts covered by the Service Contract Act amount to a payout of over \$92 billion to more than 44,000 different contractors every year.<sup>9</sup>

In theory, these federal contract wage laws offer a comprehensive and sophisticated approach to preventing the exploitation of contract workers by taxpayer-funded businesses. **However, this report reveals that this system suffers from major and growing flaws, including falling wage standards, proliferating exclusions from coverage, and inadequate enforcement – all of which are increasingly undermining these laws' ability to protect the low-wage workers they were intended to benefit.**

# FALLING WAGE RATES

The Federal contract wage system, also known as “prevailing wage,” was developed and implemented by laws enacted in an era when strong unions set private-sector labor standards through collective-bargaining. **However, as union strength has declined, so too has the ability of federal contract wage laws to set decent job standards.** Significantly, an analysis of Department of Labor (DOL) data shows that federal contract wage rates clearly decline as union density declines in certain geographic locations.

## As Unions Decline, Contract Wages Decline.



The concept of a *prevailing wage* differs from a minimum wage in that it is intended to track the market wages in a given locale. This eliminates any competitive advantage that a few, unscrupulous contractors might otherwise gain by slashing wages. However, when a significant number of firms in an area reduce their wages, the prevailing wage will follow them down. **If the prevailing wages become poverty wages, these laws will do nothing to prevent the return of federal sweatshops in many areas of federal contracting.**

Historically, prevailing wages were much higher than the federal minimum wage and were often enough to keep workers out of poverty. However, these wages were only kept high because the workforce was well-organized and protected by a strong labor movement. As the chart above demonstrates for five major occupational categories of federal contract workers, the prevailing wage rates mandated by the DOL are low in states where a smaller fraction of the work force is represented by unions. Even worse, in low-union-density states, prevailing wage rates tend to fall below any reasonable definition of a poverty wage.<sup>10</sup> Since overall union density is in long-term decline in virtually all parts of the country, this chart suggests that, over time, more and more contract workers will fall into poverty.

# LEGAL LOOPHOLES

Another key weakness of the current contract wage protection system is the exclusion of large numbers of workers from coverage by loopholes that have proliferated and expanded over time. Today, millions of workers in federally funded low-wage jobs in health care, manufacturing, building services, and fast food and retail are unprotected by federal contract wage and benefit standards.

**1. Workers who provide services through federally funded grant and reimbursement programs, such as Medicare and Medicaid.** In contrast to construction workers on federally funded projects such as highways who are covered under the Davis-Bacon Act, healthcare workers funded by taxpayer dollars have been excluded from SCA wage and benefit standards. The failure to cover these workers is significant because programs such as Medicare and Medicaid are now the most significant source of federal funding for private-sector employers and the largest creators of publicly funded low-wage jobs.<sup>11</sup> Although the rapid growth of low-wage health care occupations may not have been anticipated at the time the SCA was enacted, any serious attempt to eliminate federally funded poverty employment must address this shortcoming.

**2. Workers who manufacture goods for the federal government.** The other major hole in federal contract labor protections is the de facto exclusion of workers on goods contracts from wage standards by a court ruling that gutted the Walsh-Healey Act. In 1963, the D.C. Circuit Court of Appeals decided that the Department of Labor could only issue valid wage determinations under the Walsh-Healey Act if the Department made public Bureau of Labor Statistics wage survey information which it was legally obliged to keep confidential.<sup>12</sup> As a result, the Labor Department ceased issuing wage determinations under Walsh-Healey entirely, leaving all workers on federal goods contracts including ironically enough, those in the prototypical contract sweatshop environment of apparel manufacture for military uniforms effectively unprotected by the Act.<sup>13</sup>



*For over 10 years, Rafael Irizarry has worked for a U.S. Defense contractor in Puerto Rico to manufacture the uniforms and other equipment used by America's soldiers, including uniforms, camouflage jackets and backpacks. He only earns \$7.25 an hour, working 40 hours per week. Rafael receives no health insurance, no retirement benefits, no sick days and only 9 vacation days – even though Puerto Rican law says he should receive at least 15. “I would say that working like I do, I’m not really living, I’m surviving,” said Rafael. “I’m proud to make uniforms that our armed forces wear, but I’m certainly not proud of the way a U.S. defense contractor takes advantage of us.”*

**3. Workers who serve the general public on federal concessions contracts.** In 1983, the Reagan Administration's Labor Department used its regulatory powers to create a SCA "carve-out" for workers on most contracts in which federal agencies authorize private employers to use federal property to sell goods or services to the general public in return for a share of the revenues generated. In particular, the Labor Department excluded concessions contracts "principally for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public."<sup>14</sup> The DOL created this exclusion in response to a federal court decision rejecting a concession holder's argument that the SCA only applied to federal service contracts that benefited the government as opposed to the general public.<sup>15</sup> The effect of this exemption has been to deprive tens of thousands of workers employed by the concession holders with the National Parks Service<sup>16</sup> of SCA coverage, including workers in such low-wage industries as food service and hospitality. To make matters worse, the concessions loophole has often been exploited by contractors to avoid paying higher wages and benefits to workers who should otherwise be covered, such as groundskeepers and transportation workers.

**4. Workers who clean, maintain and guard properties leased by the federal government.** Today, about half of all federal employees work in buildings leased from private-sector landlords, including 191.4 million square feet of office space rented by the Public Buildings Service of the General Services Administration (GSA). The Department of Labor interprets the SCA as excluding building service workers on properties leased, as opposed to owned, by the government.<sup>17</sup> The vast majority of these leases are "fully serviced," meaning that the private owner rather than the government tenant contracts for building services. Building service workers on fully serviced leases are not covered by the SCA because their work is considered "incidental" to the lease, whereas employees performing identical work under contracts or subcontracts for services entered into with a federal agency owning or leasing the property are covered by the SCA. Thus the effect of the Labor Department's interpretation, combined with GSA's reliance on leasing and standard practice of bundling building services into its leases has been to nullify SCA protections for tens of thousands of low-wage building services employees who clean, guard and repair over 8,000 federally leased buildings across the country.<sup>18</sup> While it is arguable that the language of the SCA compels the legal exclusion of property leases from the Act's coverage, federal agencies could nevertheless have avoided systematically exploiting this loophole by relying less on leasing to meet their property needs, or simply by contracting directly for building services when they did so.



*Adom Kezie has been a groundskeeper at the Smithsonian's National Zoo for over six years, making \$9.50 per hour. He receives no health insurance, retirement or other benefits. The company he works for is exploiting a loophole in the SCA which exempts food and retail concessions contracts, but not grounds keepers. The applicable rate for the services he performs is \$13.07 plus \$4.02 in fringe benefits if his employer does not provide them.*

*"I struggle to pay my bills every month on my salary. It's not enough to pay my rent, utilities, food and transportation," says Adom. "In addition, I cannot afford basic healthcare for myself. I have a wife and daughter that I support and miss dearly. I want to provide my daughter a decent life, but I can't imagine doing so with my earnings."*



*Fatima Martir works as a janitor in office space that is leased by the US Department of Agriculture earning \$9.50 per hour. She struggles to make ends meet, and has to share a room with her cousin in a group house to be able to afford a roof over her head. Because Fatima works in leased space instead of at a government owned building, she is not eligible to receive SCA wage rates.*

*"I do the same work that other janitors do inside the USDA headquarters. Just because I work in a leased building, does that mean that I'm worth less?" asks Fatima. "It's unfair that there is such a difference in pay for workers performing the same job for a federal agency."*

**5. Fast food workers on U.S. military bases.**

Beginning in the 1980s, the U.S. military began making name-brand fast food (McDonald's, Burger King, etc.) available on its bases through the exchange system. About three quarters of these fast-food restaurants are operated under license by direct employees of the military exchanges, who are paid according to a schedule similar to that for regular federal employees and who receive paid leave, health insurance and pension benefits.<sup>19</sup> The remaining restaurants, however, are operated by private concession holders – usually franchisees of major fast-food chains – using their own employees. Because these workers perform services for government (i.e., military) personnel rather than the general public, the Labor Department treats them as covered by the SCA, despite the concessions exemption discussed above. But for three decades until 2013, the Labor Department used the alternative device of a “non-standard” wage determination applicable specifically to “fast food” workers to ensure that unlike almost all other employees covered by the SCA, including contract food-service workers in government cafeterias, the military-base food concessions workers were entitled to no more than the FLSA minimum wage and zero fringe benefits.<sup>20</sup> Although the rationale for this policy was never announced, it exemplifies the inability of the traditional system of contract wage laws to protect workers in non-unionized, low-wage industries like fast food.<sup>21</sup>



*Robyn Law has worked as contract fast food worker inside the Pentagon for nearly a decade. She is a single mother earning \$8.75 an hour. “I’m proud to serve our troops, but I don’t want to be stuck in a low-wage job my whole life. I’d like to go back to school, learn some new skills, and maybe become a registered nurse one day,” says Robyn. “I also want to be able to provide for my child. He deserves the American Dream, but it’s hard to provide for him on poverty wages and no benefits.”*

# WEAK ENFORCEMENT

In recent years, a growing body of research has exposed the prevalence and severity of wage theft violations under the minimum wage and overtime provisions of the Fair Labor Standards Act.<sup>22</sup> Commentators point to key factors contributing to widespread law-breaking, including relatively weak penalties under the FLSA, workers' well-founded fear of retaliation if they step forward as whistleblowers, and chronic underfunding of Department of Labor's Wage and Hour Division.<sup>23</sup>

**This critique of FLSA enforcement applies with still more force to federal contract wage laws. Like the FLSA, the SCA and DBA can only protect workers from exploitation to the extent that they are effectively and aggressively enforced by workers themselves and by well-resourced and willing government officials. Unfortunately, our analysis of federal contract wage law enforcement shows that the situation is worse than the FLSA.**

**Most problematically, the only remedy for victims of wage theft under the contract wage laws is to file an administrative complaint because the laws do not permit a private right of action or the recovery of attorneys' fees, unlike the FLSA, Title VII and other employment laws.** Given that DOL's Wage and Hour arm is responsible for policing 26 laws covering 7.5 million worksites, contract worker complaints are forced to compete for the limited time and resources of its enforcement staff. By contrast private litigation plays a key role in enforcing the FLSA, with over 8,000 complaints filed in federal courts during 2013-2014, double the number from 10 years ago.<sup>24</sup>

**Moreover, the Labor Department does not appear to prioritize investigating the administrative complaints filed by federal contract workers to make up for their inability to take their employers to court.** Even though the Obama Administration has added hundreds of new investigators to the Wage and Hour Division, SCA enforcement has not increased significantly in terms of employees affected or back wages awarded.<sup>25</sup> While the Wage and Hour Division's 2011-2014 Strategic Plan notably omitted any mention of SCA or DBA enforcement, the 2014 -2018 plan at least recognizes the importance of enforcing these contract wage laws as a means of protecting middle-class incomes. However, the latest Plan still fails to set any numeric targets for accomplishing this goal.<sup>26</sup>

**The Wage and Hour Division's current enforcement strategy is also problematic for two additional reasons, both of which make it more likely that contract wage law violations will go undetected and possibly even increase.**

**Enforcement based on individual complaints filed by contract workers cannot address systemic problems.**

According to the Government Accountability Office, the Wage and Hour Division overwhelmingly initiates SCA investigations on the basis of worker complaints, 80 percent of which it finds to have merit.<sup>27</sup> However, as David Weil, the current Wage and Hour administrator, has argued, complaint-based enforcement is a highly inefficient method of maximizing compliance because fewer than one percent of wage theft victims lodge complaints and those most vulnerable to exploitation may be those least likely to come forward because they lack information about their rights or fear retaliation by their employers.<sup>28</sup> Although Weil committed to increasing the proportion of strategically directed investigations, the Wage and Hour Division has yet to release any data showing that this new policy has been applied to contract wage laws.

**Weak financial penalties and limited use of contract debarment powers reduces the deterrent effect of compliance actions.**

Under federal contract wage laws, employers' monetary liability is largely restricted to paying backwages and benefits. By contrast, FLSA violators can be liable for double backpay as liquidated damages as well as civil monetary penalties. Unlike the FLSA, however, the Labor Department is generally required to debar SCA and DBA violators from federal contracting opportunities.<sup>29</sup> In practice, however, the Labor Department seems extremely reluctant to use this power. For example, in 2004, the DOL debarred contractors in only 17 of the 537 cases in which it found SCA violations.<sup>30</sup> A search of Wage and Hour press releases announcing SCA compliance actions over the past three years showed only three instances in which the Labor Department sought debarment.<sup>31</sup> Given these odds, an unethical but rational federal contractor might well decide to take its chances.

**Given the inability of individual workers and the government to effectively enforce existing federal contract wage laws, collectively empowering impacted workers through strong unions may be the best way to enforce the laws designed to protect them.**<sup>32</sup>



*Sonia and Anibal Chavez are contract janitors who clean the offices of the U.S. Secretary of Education. They only earn \$9.50 an hour despite the SCA janitorial minimum wage requirement of \$11.83 plus an additional \$4.02 in fringe benefits. "The Secretary likes to speak about a race to the top on education, but what about a race to the top on wages?" asks Sonia. "My children could get have a better education if we earned what we deserve."*

# CONCLUSION

The gaps and weaknesses of federal contract wage laws set out above are wide-ranging and systemic. Fixing these laws and the way in which they are administered directly would require Congress to enact far-reaching reforms such as eliminating coverage loopholes, creating private rights of legal action, and increasing Wage and Hour's enforcement resources to unprecedented levels. **In the current political environment such corrective action by Congress is unlikely. However, as Good Jobs Nation and other progressive policy voices have argued, an alternative approach is available: The President can use his executive powers to create a preference in federal contracting for "model employers" that pay all their workers a living wage of at least \$15 an hour, offer decent benefits, and respect the right of workers to collectively bargain.**<sup>33</sup>

Last year, President Obama took two significant steps in this direction when he issued executive orders creating a \$10.10 minimum wage rate for federal contract employees, and strengthening procedures to review contractor compliance with labor and employment laws.<sup>34</sup> Importantly, these orders recognized the principle that paying workers decently and in accordance with the law is both an ethical imperative and an economic benefit to the government.

**Nevertheless, these orders do not go far enough. A \$10.10 wage rate and compliance with minimum legal standards – even if achieved – is not enough to ensure that federal contracts create good jobs. Instead the President or his successor should leverage existing best practice in the private-sector, as exemplified by companies like Costco.<sup>35</sup> Rather than relying on legal compulsion to weed out bad actors, the government should focus federal contract funding on employers that themselves recognize the advantages of offering their employees good jobs.**

# REFERENCES

- <sup>1</sup> Quoted in Eileen Boris, *Home To Work: Motherhood and the Politics of Industrial Homework in the United States* (Cambridge: Cambridge University Press, 1994), p. 135.
- <sup>2</sup> See testimony of Labor Secretary William N. Doak in U.S. Congress, Senate Committee on Manufactures, *Wages of Laborers and Mechanics on Public Buildings*, Hearings on S. 5904, 71st Cong., 3rd Sess., Feb. 3, 1931, pp. 2-3.
- <sup>3</sup> Whittaker, W. G. (2005). *Federal Contract Labor Standards Statutes: An Overview*. Washington, DC: Congressional Research Service., citing U.S. Congress, House Committee on Education and Labor, Special Subcommittee on Labor, Service Contract Act of 1965, hearing, 89th Cong., 1st Sess., Aug. 5, 1965, pp. 3-13.
- <sup>4</sup> *Public Papers of the Presidents of the United States: Lyndon B. Johnson*, Book II, Washington, U.S. Govt. Print. Off., 1966, pp. 1078-1079.
- <sup>5</sup> For reasons further discussed below, no wage determinations are currently issued under the Walsh-Healey Act.
- <sup>6</sup> Figure calculated by summing the value of federal contract transactions for FY 2013 posted at [usaspending.gov](http://usaspending.gov), which are indicated as being covered by DBA.
- <sup>7</sup> Amy Traub and Robert Hiltonsmith, *Underwriting Bad Jobs: How Our Tax Dollars Are Funding Low-Wage Work and Fueling Inequality*, Demos, May 8, 2013, p. 7, available at <http://www.demos.org/sites/default/files/publications/UnderwritingBadJobs-Final-2.pdf>. The figure for grant assisted construction is for 2012.
- <sup>8</sup> Figures for Walsh-Healey Act covered contract transactions for 2013 from [usaspending.gov](http://usaspending.gov).
- <sup>9</sup> Figures for SCA covered contracts for 2013 from [usaspending.gov](http://usaspending.gov).
- <sup>10</sup> Figure shows the \$12 per hour benchmark used by Demos in its recent study of low-wage federal contract employment. *Underwriting Bad Jobs* at 4.
- <sup>11</sup> Demos estimates the number of low-wage federally funded healthcare jobs at almost 1.2 million. *Underwriting Bad Jobs* at 6.
- <sup>12</sup> *Wirtz v. Baldor Elec. Co.*, 337 F.2d 518 (D.C. Circuit, 1963). In 1952, the Walsh-Healey Act had been amended by requiring that wage determinations be made “on the record after opportunity for a hearing,” a more demanding procedural standard than that applicable to wage determinations under the Davis-Bacon and Service Contract Acts.
- <sup>13</sup> Demos estimates total employment on federal goods contracts at 486,000, with 110,000 workers paid less than 12 dollars per hour. Data on file with Good Jobs Nation.
- <sup>14</sup> “Concession contracts (such as those entered into by the National Park Service) principally for the furnishing of food, lodging, automobile fuel, souvenirs, newspaper stands, and recreational equipment to the general public, as distinguished from the United States Government or its personnel.” 29 C.F.R. §4.133(b).
- <sup>15</sup> *District Lodge No. 166, International Assoc. of Machinists & Aerospace Workers v. TWA Services, Inc.*, 1981 U.S. Dist. LEXIS 10109 (M.D. Fla. 1981).
- <sup>16</sup> Concessionaire employment estimates available from the National Park Service at <http://www.nps.gov/commercialservices>.
- <sup>17</sup> DOL regulations state that “where the Government contracts for a lease of building space for Government occupancy and the building owner furnishes general janitorial and other building services on an incidental basis through the use of service employees, the leasing of the space rather than the furnishing of the building services is the principal purpose of the contract, and the Act does not apply.” 29 CFR 4.134(b).
- <sup>18</sup> See *Underwriting Bad Jobs* at 7.
- <sup>19</sup> See “July 2014 Report”, *Exchange and Commissary News*, available at [http://www.ebmpubs.com/ECN\\_pdfs/ecn0714\\_NBFF.pdf](http://www.ebmpubs.com/ECN_pdfs/ecn0714_NBFF.pdf).
- <sup>20</sup> Karen Jowers, “40 lawmakers seek to halt closure of military fast food outlets”, *Navy Times*, April 10, 2014, available at <http://archive.navytimes.com/article/20140410/NEWS05/304100068/40-lawmakers-seek-halt-closure-military-fast-food-outlets>.

# REFERENCES

- <sup>21</sup> Soon after federally contracted fast food workers began to organize in 2013, DOL issued a wage determination raising their wage rate to a little over nine dollars an hour and awarded the full health and welfare benefit rate then normally applicable to SCA contracts of \$3.81 per hour. Under pressure from the military exchanges, concessionaires, and Republican members of Congress, DOL subsequently reduced the health and welfare rate to \$0.92 per hour. See “Letter from the Department of the Navy, Office of the Assistant Secretary (Manpower and Reserve Affairs), to Laura Fortman, Acting Administrator, Wage and Hour Division, Department of Labor” (April 8, 2014), available at <http://www.enzi.senate.gov/public/index.cfm/2014/7/gop-senators-to-secretary-perez-wage-hike-at-fast-food-restaurants-on-military-bases-may-lead-to-restaurant-closings>. Workers under new contracts will eventually receive this adjustment, plus the \$10.10 wage rate mandated by Executive Order 13658.
- <sup>22</sup> See, e.g., *Broken Laws, Unprotected Workers*, National Employment Law Project, 2009, available at <http://www.nelp.org/page/brokenlaws/BrokenLawsReport2009.pdf?nocdn=1CITE>; “An Epidemic of Wage Theft is Costing Workers Hundreds of Millions of Dollars a Year,” Economic Policy Institute 2014, available at <http://s3.epi.org/files/2014/wage-theft.pdf>
- <sup>23</sup> David Weil, *Improving Workplace Conditions Through Strategic Enforcement: A Report to the Wage and Hour Division 5* (Boston Univ., 2010), available at <http://www.dol.gov/whd/resources/strategicEnforcement.pdf>.
- <sup>24</sup> Doug Hass and Staci Ketay Rotman, “FLSA Overtime, Minimum Wage Lawsuits Continue to Skyrocket”, *Wage & Hour Insights*, June 5, 2014, available at <http://www.wagehourinsights.com/misclassification/flsa-overtime-minimum-wage-lawsuits-continue-to-skyrocket>.
- <sup>25</sup> Unpublished data provided by the Department of Labor on file with Good Jobs Nation
- <sup>26</sup> U.S. Department of Labor, *Strategic Plan, Fiscal Years 2011-2015*, 2010, available at [http://www.dol.gov/\\_sec/stratplan/StrategicPlan.pdf](http://www.dol.gov/_sec/stratplan/StrategicPlan.pdf); U.S. Department of Labor, *Strategic Plan, Fiscal Years 2014-2018*, 2013, available at [http://www.dol.gov/\\_sec/stratplan/FY2014-2018StrategicPlan.pdf](http://www.dol.gov/_sec/stratplan/FY2014-2018StrategicPlan.pdf).
- <sup>27</sup> Government Accountability Office (GAO), *Service Contract Act: Wage Determination Process Could Benefit from Greater Transparency and Better Use of Violation Data Could Improve Enforcement*, December, 2005, available at <http://www.gao.gov/assets/250/248705.pdf>.
- <sup>28</sup> Weil 2010.
- <sup>29</sup> In the case of the DBA the Wage and Hour Administrator is required to forward recommendations for debarment to the Comptroller General of any contractors “who have been found to have disregarded their obligations to employees” under the Act, 29 CFR § 5.12 (a)(2). Under the SCA debarment is mandatory “unless the Secretary recommends otherwise because of unusual circumstances.” 29 C.F.R. § 4.188(a); 41 U.S.C. § 354.
- <sup>30</sup> GAO 2005 at 24, 25.
- <sup>31</sup> “U.S. Department of Labor, Wage and Hour Division, Release Number: 12-1292-CHI, available at <http://www.dol.gov/whd/media/press/whdpressVB3.asp?pressdoc=Midwest/20120730.xml>; Release Number: 14-582-CHI, available at <http://www.dol.gov/whd/media/press/whdpressVB3.asp?pressdoc=Midwest/20140424.xml>; Release Number: 14-1161-DAK, available at <http://www.dol.gov/whd/media/press/whdpressVB3.asp?pressdoc=Midwest/20140915.xml>.
- <sup>32</sup> See David Weil and Amanda Pyles, “Why Complain? Complaints, Compliance, and the Problem of Enforcement in the U.S. Workplace”, *27 Comp. Lab. L. & Pol’y J.* 59, 86 (2005).
- <sup>33</sup> Good Jobs Nation, *More Than the Minimum*, 2014; and Demos, *Underwriting Good Jobs*, 2014.
- <sup>34</sup> Executive Order No. 13,658; Executive Order No. 13,673.
- <sup>35</sup> Zeynep Ton, *The Good Jobs Strategy: How the Smartest Companies Invest in Employees to Lower Costs and Boost Profits* (2014).

# APPENDIX: DATA SOURCES AND METHODOLOGY FOR FIGURE 1.

## Data Sources

This study is based on analysis of several publically-available data sources, all of which are ultimately based on data generated and published by the U.S. Government. The data sets referred to are:

**Federal Contracts data set**—This data set contains all contracts entered into by the Federal government on which a payment was made during fiscal year 2013. It was obtained from the web site [usaspending.gov](http://usaspending.gov), which is the Federal government’s official mechanism for publishing data regarding contracts as mandated in the Federal Funding Accountability and Transparency Act.

**Prevailing Wages data**—Prevailing wage data is obtained from the web site [www.wdol.gov](http://www.wdol.gov). This web site is a project maintained by the Department of Labor in partnership with other Federal agencies in order to publish the latest prevailing wage determinations issued by the Department of Labor pursuant to the Service Contract Act (SCA) and the Davis-Bacon Act (DBA). All prevailing wages in this study used the final rate set during 2014 for each county and occupation.

**Union Density data set**—This data set describes the coverage of unions in each state for 2014. Coverage is defined as the percentage of the employed workforce that is covered by a collective bargaining agreement. The data set may be obtained at [union-stats.gsu.edu](http://union-stats.gsu.edu). The data set was created by professors Barry Hirsh and David Macpherson using raw data from the U.S. Census Current Population Survey. They describe their methodology in detail in their own paper: Barry T. Hirsch and David A. Macpherson, “Union Membership and Coverage Database from the Current Population Survey: Note,” *Industrial and Labor Relations Review*, Vol. 56, No. 2, January 2003, pp. 349-54.

## Method

For each studied occupation, we identified the NAICS code likely to have the greatest overlap with the occupation. This table indicates which NAICS code was associated with each occupation:

Data Series	DOL Directory of Occupations Code	NAICS
Bus Drivers	31030	485 – Transit and Ground Passenger Transportation
Food Service Workers	07130	722310 – Food Service Contractors
Groundskeepers	11210	561730 – Landscaping Services
Janitors	11150	561720 – Janitorial Services
Laborers	N/A - See Text	237310 – Highway, Street and Bridge Construction

# APPENDIX: CONTINUED

We then used the Federal Contracts data set to total the quantity of contract dollars in each of these NAICS going to each zip code in the U.S., excluding territories but including the District of Columbia. Note that this was based on the zip code where contract performance took place, not the location of the contractor's headquarters. For each studied occupation, we limited our analysis to the 20 zip codes receiving the most contract dollars in the associated NAICS code. For example, in order to study Food Service Workers, we looked at the 20 zip codes that receive the greatest value of food service contracts.

Once we identified the top contracting zip codes for each occupation, we identified the county and state that contains each of the zip codes. Then, an SCA wage determination was obtained from the Prevailing Wage data for the county, and the wage for the occupation under consideration was identified. We also consulted the Union Density data set to find the coverage rate for the state containing each zip code. In our analysis we refer to the union coverage rate as the union density in a given state.

Because the prevailing wage for Laborers is determined under the DBA and not the SCA, an additional step was required. While the SCA uses a single, nation-wide Directory of Occupations to assign prevailing wages, the DBA uses different schemes in different areas. For each county, the least-skilled class of laborer was identified under that county's wage determination. In every county there was an occupation called "Common Laborer," "General Laborer" or "Basic Laborer." The wage determinations confirmed that these occupations were the least-skilled classes covered by the determination. Fringe benefits were not included.

Having found the union density and prevailing wage rate for each of these 5 occupations in the 20 zip codes receiving the most federal contract dollars in a relevant industry, we created a data series for each occupation plotting union density as the x-axis and prevailing wage as the y-axis. Then we calculated the least squares linear regression for each series and plotted them on a single chart.