

**Problems with using *Occupational Employment Statistics*
in the Determination of Prevailing Wage Rates.**

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Introduction

Prevailing wage laws address shortcomings, or what economists call “market failures” associated with the public procurement of construction. The principal motivation of these laws is to protect local labor markets by creating a wage floor to ensure that construction workers will not see their wages and benefits undercut as a result of government spending practices.¹ The infusion of state or federal spending into an area, along with an award process that rewards low bids, may depress wages by attracting contractors from other areas. These contractors may undercut local wage standards by importing lower paid workers or by offering less pay to local workers. The prevailing wage floor protects local construction workers’ pay and benefits and establishes a level playing field for contractors who are bidding on government projects. This report illustrates how the use of *Occupational Employment Statistics* (OES) in the determination of prevailing wage rates fails to meet this and other goals of prevailing wages.²

Occupational Employment Statistics and the Goals of Prevailing Wage Laws

A goal of prevailing wages is to build and preserve human capital skills in construction. Because construction is the most volatile major industry in the U.S., both contractors and workers shy away from investing in skill formation.³ The contractor is afraid of losing his

¹ See The Davis-Bacon Act Protecting Wage Equality Since 1931. Accessed at: <http://www.dol.gov/whd/programs/dbra/Survey/conformancefaq.htm>.

² The *Occupational Employment Statistics* are reported by the Bureau of Labor Statistics, U.S. Department of Labor and can be accessed at: <http://www.bls.gov/oes/>.

³ Using West Virginia as an example, construction is more seasonally volatile compared to overall monthly nonfarm employment. For all non-farm employment, averaging the last ten years of monthly employment, the average trough monthly employment is 3.6% below the average peak monthly employment. In contrast, West Virginia construction average monthly employment in the average trough month over the past 10 years is 18% below the average peak construction monthly employment. In West Virginia, construction is more cyclically turbulent compared to overall nonfarm employment. Over the last 10 years through the Great Recession, overall West Virginia monthly employment at the trough lost 7.4% of all jobs compared to the peak. In contrast, West Virginia construction lost 35.5% of jobs compared to the peak. This cyclical difference was somewhat stronger during the Great Recession compared to earlier post WWII business cycles but the overall pattern of a deeper construction

investment if the worker he trains leaves after a job is finished or in a downturn to work for that contractor's competitor. The worker is afraid to invest in himself for fear that protracted unemployment will prevent him from recouping and profiting from his investment. This market failure to train is exacerbated by public construction bidding practices. Public construction accounts for 20% of all construction.⁴ But, bidding in public construction is not like private construction bidding. In private construction the owner is free to reject the lowest bid if it looks too low, or if the contractor has a bad reputation or if another bid looks more reliable. In the public sector, almost always the lowest bid is taken. This leads to cutthroat bidding where contractors jettison any long-term cost such as training or portable benefits in order to shave their bid and win the short-term work. So public bidding procedures make the market failure to train worse and the failure to retain skilled and experienced workers worse.

Prevailing wages help make the government part of the solution and not part of the problem by setting wages, benefits and training contributions so that the next generation of construction workers is trained, the current skilled construction workforce is retained and the last generation of construction workers are cared for through decent pensions. Thus, the purpose of prevailing wage policies is to resist destructive public bidding practices and promote a skilled construction workforce that can provide the structures and infrastructures needed by other businesses to be globally competitive.

downturn has been true since the late 1920s when we first have data. See "State and Metro Area Employment, Hours, & Earnings," Bureau of Labor Statistics, U.S. Department of Labor. Accessed at: <http://www.bls.gov/sac/>.

⁴ Using West Virginia as an example, in 2007 public projects were 24% of total projects by value. See Construction: Geographic Area Series: Detailed Statistics for Establishments: 2007 Economic Census of the United States, Table 23A1. Accessed at: http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ECN_2007_US_23A1&prodType=table.

The OES fails to meet the goals of prevailing wage policies. First, OES wage rates do not include benefits or training contributions. Training contributions are key to building the skill sets needed to meet the evolving and demanding needs of modern structures and infrastructures. Second, family friendly portable health and retirement benefits are key to retaining skilled and experienced workers in construction.⁵ The OES failure to record benefits is a fatal flaw regarding the purposes of prevailing wage policy. Research indicates that construction workers are less likely to have employer-funded health insurance and more likely to have unpaid health care bills. For example, Professor Waddoups documented the particularly low incidence of employment based health insurance among construction workers and the corresponding disproportionately high incidence of uncompensated care among construction workers at a public hospital in Clark County, Nevada.⁶ The findings clearly demonstrate that a large share of uncompensated care is attributable to the construction industry relative to its size, which means that local taxes supporting the hospital are higher than they would be otherwise. When benefits are excluded from prevailing wages, the state is subsidizing contractors who do not pay benefits at the expense of contractors that offer benefits, and the health care costs of construction workers are shifted to tax payers. For these reasons the State of Vermont is currently considering legislation to switch from prevailing wages that are based on OES data to federal Davis-Bacon compensation rates that include health and retirement benefits.⁷

⁵ Kim, Jaewhan and Philips, Peter, "Health Insurance and Worker Retention in the Construction Industry," *Journal of Labor Research*, 2010, Volume 31, Number 1, 20-38.

⁶ See Waddoups, C. Jeffrey. 2005. "Health Care Subsidies in Construction: Does the Public Sector Subsidize Low Wage Contractors?" in Azari-Rad, Hamid, Peter Phillips, and Mark Prus, eds. *The Economics of Prevailing Wage Laws*, Ashgate Publishers, pp. 205-224.

⁷ The prevailing wage policy change is included in Section 20 A (page 65) of the Governor's Capital Construction Proposal. Accessed at: <http://legislature.vermont.gov/assets/Documents/2016/WorkGroups/House%20Corrections%20and%20Institutions/Capital%20Bill/W~Peter%20Shumlin~Vermont%20Capital%20Construction%20Proposal%20Fiscal%20Years%202016%20and%202017~1-15-2015.pdf>.

The OES provides the mean and quartiles of the distribution but not the mode. From the beginning in the earliest prevailing wage laws, the most commonly found wage was the focus of prevailing wage surveys. This is because these modal wages reflected collectively bargained contracts and it is those contractual negotiations that set training contributions in relation to wages and benefits. Just as collectively bargained contracts are a market solution to a market failure, prevailing wages have focused on the mode to find those solutions. The OES is blind to this market solution to construction's volatility and failure to train.

Because the sample size for the OES is small relative to the number of occupations in construction and the number of local construction markets, it is forced to use rolling three year averages to beef up its numbers. This can put the OES behind the times in ways that surveys which occur more often or reference negotiated scheduled wage increases do not fall behind. However, these attempts to increase the sample size are insufficient to address other problems.

Wage rates for construction occupations vary with the skills needed in the different segments of the industry. For example, the skills and wages of a residential plumber differ significantly from those of an industrial pipefitter. Consequently, it is important for the survey to capture the wage differences for different segments (heavy, civil, highway, building construction, and etc.). While the OES provides sufficient industry detail at the state level, small sample sizes restrict the ability to capture occupational wage differences between segments for metropolitan areas.⁸

The timing of the OES surveys is also problematic. The OES semi-annual surveys take place in November and May. November is off-peak in the construction industry while May is

⁸ To illustrate the problem of small sample sizes for metropolitan areas see “How to Get OES Data” at http://www.bls.gov/oes/oes_ques.htm#have.

during the peak season. The November survey captures wage rates for career construction workers while the May survey picks up the influence of marginal, less skilled employees on industry wage rates. If the goal is to keep skilled workers in the industry and to protect local labor markets, public wages which are not reflective of current market conditions come up short. The shortcomings of the survey methods used by the OES severely limit the ability of these data to satisfy the basic requirements of prevailing wages.

Other prevailing wage surveys distinguish between journeymen and apprentices. The OES does not. A beginning apprentice typically works for 50% of the journeyman wage and over three to five years, depending on the length of the apprenticeship, the apprentices' wage rises to the journeymen's wage. The OES lumps apprentices with journeymen pulling down the journeymen's prevailing wage to that of the untrained or semi-trained apprentice and doing just the opposite of what prevailing wages are designed to do: encourage training as a way of moving up in construction.⁹

⁹ The OES uses the Standard Occupational Classification system where apprentices are classified with the appropriate skilled construction trade classification. Accessed at: <http://www.bls.gov/soc/home.htm>.