

Senate Democratic Policy Committee Hearing

“An Oversight Hearing on Gulf Coast Reconstruction Contracting”

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Chairman Dorgan, member of the Committee, thank you for having me here today. As Vice President and Regional Manager of the Laborers region that includes the Gulf Coast, I want to share with you what Laborers and workers in general are encountering in Louisiana, Alabama, Mississippi, and Florida during this phase of clean-up and rebuilding in the aftermath of Hurricanes Katrina and Rita.

Immediately after Hurricanes Katrina and Rita ravaged the Gulf Coast, my office organized and sent out field staff to the region to find our local members and provide assistance to them. The Laborers have 2,500 members in this affected region of the Gulf Coast. It didn't take us long to realize that the scope and magnitude of problems of all the workers in the area was larger than anyone anticipated.

At the same time, we started receiving calls from contractors asking us about the availability of workers, and making hundreds of calls to contractors looking for jobs for our workers. It became clear that contractors were scrambling to import workers into the area. This led us to take steps to set up an internal system not only to find our members, but to locate and evaluate the construction skills of people in the area willing and able to work, and connect them with jobs.

In an attempt to help provide skilled workers, we brought down mobile training centers from other parts of the country, and fully utilized our 80-acre Livonia, Louisiana, training site. At our Livonia training center, we have been able to assist Hurricane victims by housing them and their families, providing food, shelter, clothing and help in applying for federal assistance from FEMA and the Red Cross. Training has been continuously ongoing in Livonia and the mobile training sites.

Not only do Laborers do the heavy, back-breaking work required to clean up debris and dispose of waste and hazardous materials, but it's our members out there dealing with mold-covered dry wall, rotten food, dead animals, and even feces covered carpets. Needless to say the days of standing flood water made clean-up sites hazardous as they were contaminated with toxins, pollutants, sewage waste and then, as the water left, re-occurring mold.

Our mobile training sites have done various types of training, including hazardous waste and asbestos remediation certification training. We've trained and provided instruction to hundreds of workers in Baton Rouge, Livonia, Oakdale, and Mobile in the following areas:

- Hazardous Waste Worker*
- Asbestos Abatement Worker*
- Microbial (Mode Remediation) (NIEHS federally funded program)
- OSHA 10*
- CPR/First Aid (Certified by Coyne Co.)
- Concrete
- General Construction (scheduled to start October 24)
- Respirator awareness
- Temporary housing installation

** certified training done at federal and state standards.*

Today, October 17, a new group of 90 people will begin courses at Oakdale and Livonia.

It became clear rather quickly that contractors were trying to get an estimate on the cost of labor absent any wage floor. With all the residents evacuated, the price of labor was whatever it took to get people to work. We went to great lengths to recruit and give opportunities to workers from the area. It's our job to represent all workers, give them a voice and protections at the jobsite.

As days passed, the disarray and problems in the Gulf Coast were compounded even more with the letting of no-bid contracts and the waiving of the Davis-Bacon Act requirements. This effectively removed all labor standards, effective oversight and orderly contracting procedures. The Laborers union attempted to establish a livable wage of \$15 an hour, plus training, health insurance and pension benefits. Some contractors, acting responsibly, did adopt those standards.

The Davis-Bacon Act establishes minimum rates of pay to reflect community wages. The removal of Davis-Bacon not only removes a wage floor but it also removes the requirement that contractors report their payrolls to the contracting agencies. Absent a wage floor and reporting, the door is open to fraud of various kinds. One can't determine if a contractor is

utilizing ghost employees. No one will know if workers are being hired and misclassified as independent contractors. When a contractor calls his workers “independent contractors” he no longer has to withhold taxes, social security or pay workman’s compensation.

You’ve read the press accounts about the no-bid contracting, and I am here to tell you, the papers have it right. To my knowledge, not one Member of Congress has been able to get their hands on a copy of a contract that was handed out to Halliburton or others. There is no central registry of contracts available. No data on the jobs or scope of the work. If the contracts handed out to these primary contractors are opaque, then the contracts being let to the subcontractors are just plain invisible.

No one knows what the state of subcontracting in the region is. What the vast majority of workers are being paid is below a livable wage. However, no one seems to know what contractors are being reimbursed for labor costs. On cost-plus contracts, subcontractor reimbursement rates are whatever the prime determines and the actual rates of pay are unknown. In fixed-bid situations, the actual reimbursement rate is unknown and subcontracted rates are also unknown and subject to great fluctuation. All this said, there is simply no ability to ascertain or monitor the contractor/subcontractor relationships. This is an open invitation for exploitation, fraud and abuse.

Is this happening without Davis-Bacon in the Gulf Coast? Absolutely. Are these abuses taking place? I suspect we all know the correct answer to that question.

The process of finding local workers and getting them onto jobs is difficult for the simple reason that we don’t know what companies have contracts and we don’t know where they are doing the work. Not knowing the scope of the work makes it difficult to match skills to tasks. Recruitment of workers then becomes solely at the discretion of the contractor.

Contractors are able to hire vulnerable workers who are easy to exploit because the workers must depend on their employers for basic needs. Those at the highest risk are the immigrant workers because of the waiving of work authorization requirements. We can’t identify the utilization of a majority of these workers or inform them of their rights, and they are severely at risk of exploitation. While basic public services have yet to resume normally, workers’ housing, food, transportation, healthcare and pay is solely at the discretion of the contractors.

I have seen jobs advertised by companies that claim workers can have free meals at the Red Cross.

I would like to share today with the Committee photos taken by a Laborer at a housing facility maintained by the LVI Services, Inc. for its workers. These were taken on Saturday morning, October 15, by Frank Curial in Saint Rose, Louisiana. These photos give you an idea of the living conditions of the workers.

I have talked to our staff in the region, and they continually report worker intimidation

and squalor in the housing facilities for workers brought in from out of state. The housing facilities are often without running water, and have port-a-johns for bathroom facilities. My members have talked with workers transported to a Shoney's Hotel in Jefferson, Parish. These workers were promised food, training, safe working conditions and certain wage rates. They were bussed to a warehouse with no running water, where worker intimidation is occurring. Our people on the ground were told by these workers that beatings have occurred by the company security guards and the housing for the female workers was randomly searched in the middle of the night by male security guards. Another company has brought in workers from out of state and has not paid them for three weeks now. Other workers report that various companies are charging huge fees for transportation to and from the job sites.

The lack of government oversight and accountability is creating a domino effect of problems in the contracting world. We are faced with a non-transparent contracting process; these contractors are free to do whatever they want.

The remedy to this situation is adopting responsible contracting standards and the reinstatement of the Davis-Bacon Act.

The federal government is entering the construction market and spending large amounts of money and, in doing so, is distorting the local markets. There is an incentive for out-of-state contractors to come in and operate with no wage standards in place. This is what prompted Representatives Davis and Bacon to pass their legislation to begin with. The Davis-Bacon Act requirements, along with responsible contracting practices, provide the use of a wage floor. It's the wage floor that gives contractors equal footing when submitting their bids. This way wages aren't the first thing cut when competing for the lowest bid. The resumption of Davis-Bacon protections puts everyone on a level playing field.

The Laborers are submitting today, to this Committee, a framework to help with the reconstruction now underway in the Gulf Coast. Steps must be taken to require performance qualifications and employment standards of contractors. While more and more stories come to light in the press of mismanagement of federal contract dollars and resources, the American people will demand that this be fixed. This means protecting taxpayer dollars from waste, fraud and abuse; requiring contracts to be let to qualified, reputable and, preferably, local firms; and ensuring local workers obtain safe, productive employment with just compensation.

The Laborers strongly urge the Congress to consider the elements of our Responsible Contracting Principles. We are ready to work with Congress and the Administration to institute a new set of mandatory contracting principles. The Laborers believe these principles should include:

- Single Point Accountability;
- Performance Qualifications & Fair Employment Standards; and
- Effective Oversight/Program Transparency.

I urge this committee and the Congress to begin a dialogue on a response to the contracting problems in the Gulf Coast. Our “Principles of Responsible Contracting for Gulf Coast Infrastructure & Community Rebuilding,” is available to help guide this dialogue. The Laborers look forward to assisting Congress and the Administration in an effort to meet these goals.

Thank you for your time.