

April 18, 2023

The Honorable Kevin Kiley  
Chairman, Subcommittee on  
Worker Protections  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Alma Adams  
Ranking Member, Subcommittee  
on Worker Protections  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chair Kiley and Ranking Member Adams:

The Association of Union Constructors (TAUC) appreciates the opportunity to submit this statement for the Subcommittee on Workforce Protections' hearing on independent contractors.

TAUC is the premier national trade association for the union construction and maintenance industry in the United States. We represent close to 1,800 union contractor member companies in the industrial maintenance and construction fields. TAUC contractors employ skilled union craft personnel on construction and industrial maintenance projects that build and maintain the most critical elements of our nation's industrial infrastructure.

Our members conduct these vital activities by employing and investing in skilled craft personnel on construction and maintenance projects to deliver value to their clients. These men and women are among the most well trained and highly skilled construction industry professionals in the world and ensure our members provide the safest, highest quality, and most cost-effective construction services to their customers.

Our members properly classify their craftworkers, which requires payment of Social Security and FICA taxes, meeting Fair Labor Standards Act requirements, paying into workers' compensation funds, as well as complying with federal employment laws. Unfortunately, with employee misclassification and payroll fraud rampant in the construction industry this places our members at a significant competitive disadvantage in an industry where contracts are often determined in a head-to-head bid process.

A recent study of worker misclassification and payroll fraud in the construction industry found that in August 2017 between 12.4 percent and 20.5 percent of the construction industry workforce nationwide was either misclassified as independent contractors or working "off the books," which is estimated to amount to between 1.45 to 2.41 million workers.<sup>1</sup> A similar report issued by the

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<sup>1</sup> Russell Ormiston, Dale Belman, and Mark Erlich, "An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry." Page 5. (2020) <https://stoptaxfraud.net/wp-content/uploads/2020/03/National-Carpenters-Study-Methodology-for-Wage-and-Tax-Fraud-Report-FINAL.pdf>

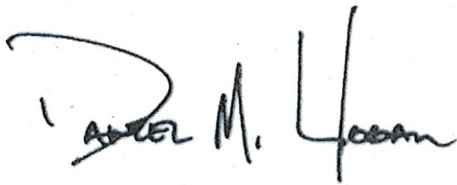
District of Columbia Attorney General's Office found that construction contractors save between 17 percent and 40 percent by misclassifying workers.<sup>2</sup>

The result of this misclassification in the construction industry is a significant loss of wages and benefits to workers, tax revenue, and contributions to social insurance programs. A conservative estimate found that misclassification in the construction industry resulted in lost federal and state income taxes, social security and Medicare taxes, as well as unemployment insurance contributions of approximately \$9 billion annually.<sup>3</sup> Similarly using conservative income assumptions, contractors who deliberately misclassify their workers are estimated to save between 14.2 percent and 30.75 percent in labor costs compared to employers who properly classify their workers.<sup>4</sup>

This practice and the cost savings associated with it provide contractors who deliberately misclassify their workers with a substantial competitive advantage in the marketplace. Because of this, TAUC supports efforts to level the playing field for law-abiding construction contractors by making it more difficult for unscrupulous employers to avoid their legal obligations to their workers and gain an unfair advantage in competing for construction work.

Thank you for your consideration in this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel M. Hogan". The signature is stylized with a large, sweeping initial "D" and a long, horizontal stroke at the end.

Daniel M. Hogan  
Chief Executive Officer

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<sup>2</sup> Dale Belman and Aaron Sojourner, "Economic Analysis of Incentives to Fraudulently Misclassify Employees in District of Columbia Construction" (2019) <https://oag.dc.gov/sites/default/files/2019-09/OAG-Illegal-Worker-Misclassification-Report.pdf>

<sup>3</sup>Ormiston, Page 5.

<sup>4</sup>Ormiston, Page 49.