THE ECONOMICS AND POLITICS OF THE U.S. CONSTRUCTION LABOR MARKET

At the heart of what troubles those who operate construction firms in the United States is a lack of skilled workers.

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In March 2022, the Federal Reserve intensified its campaign to eliminate excess inflation by initiating a series of interest rate increases.[1] Over the ensuing year, interest rates have marched higher. Nonetheless, overall demand for construction services remains elevated despite weakness in a handful of categories, with many contractors operating at capacity. Although many contractors remain busy and entered 2023 with plentiful backlog, operating a construction firm is never simple. There is always cause for concern.

At the heart of what troubles those who operate construction firms in the United States is a lack of skilled workers. By now, the story is well known. A combination of cultural shifts, the deemphasis of vocational instruction in high school, the prevalence of remote and gig work, the departure of construction workers to other industries like energy production and logistics, and elevated levels of retirement among skilled construction workers have produced massive human capital shortfalls. This has occurred just as the United States strives to rebuild its industrial base (e.g., computer chip manufacturing plants, electric vehicle production) while replenishing its infrastructure.

The U.S. construction industry averaged more than 390,000 job openings per month in 2022, which is the highest level on record.[2] Meanwhile, the industry's unemployment rate of 4.6 percent was the second lowest on record.[3] Matters stand to get worse, for this is the era of the megaproject. Tens of billions of dollars are set to be spent on augmenting U.S. manufacturing capacity; transitioning toward alternative energy; paving roads; and restoring bridges, dams, and water and sewer systems while large numbers of the nation's most skilled construction workers head into retirement. Nearly a quarter of construction workers are older than 55.[4]

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In addition to the demographic challenges and large-scale demand for workers in the context of megaprojects, there exists an abundance of rules that shape how accessible and affordable construction workers are. Two policies play an especially central role in shaping labor market behavior. These are the Davis–Bacon Act, which President Herbert Hoover signed in 1931, and project labor agreements (PLAs).

The Davis–Bacon Act of 1931

Although many tend to associate the Davis–Bacon Act with the Great Depression, its origins can be traced to 1927, a spirited year during the Roaring Twenties two years prior to economic collapse.[5] An Alabama contractor had secured a bid to build a hospital for the Department of Veterans Affairs in New York. Concerns were brought up after the contractor hired an all African-American crew.[6] As a result, Congressman Robert L. Bacon, who represented the district in which the hospital was built, introduced the bill's initial version to keep constituents from being underbid. [7]

It would require 13 more attempts, a partnership with Pennsylvania Senator James J. Davis, and the Great Depression before the bill finally passed. [8] The bill mandated that any workers hired for a federally funded construction project must be paid the "prevailing wage" of the area in which the work was being performed. Its intent was to prevent contractors from importing workers from other communities and supplying them less compensation.

Unsurprisingly, the policy proved controversial. Certain members of Congress opposed it on the basis that it would unnecessarily increase the cost of projects at a time when the economy was reeling.[9] Supporters argued that the law would ensure that workers were paid a fair wage and that the overall quality of projects would correspondingly improve.

Initially, implementation was awkward. It was regarded as flawed even by adherents in large measure because it was read to supply only for a relatively inconsequential "post-determination" of prevailing wage rates. In other words, it was only after a project was completed that the Department of Labor (DOL) would adjudge whether prevailing wages had been paid. At that point, the DOL would seek redress for workers who had not been fairly compensated. The Act encompassed little, if any, way of enforcement or punishment mechanisms.[10]

After several attempts, Congress amended the Davis–Bacon Act in 1935 into what is roughly its current form. Policymakers have enacted approximately 60 other acts to apply prevailing wages to various federal government contractors. Together, these statutes are referred to as Davis–Bacon and Related Acts.[11]

The DOL conducts surveys in order to determine what prevailing wages are for a given region.[12] Wages represent only one element of collected data. Fringe benefits and working conditions are also considered. These data are then embodied in formulations of prevailing wages for various construction occupations by region.

As an example of these machinations, according to the latest data, an electrician hired for a government-funded project in Baltimore must be paid at least $42.75 per hour for all work done on an impacted contract.[13] The same electrician would have to be paid at least $32.75 for a similar project in New Orleans.[14] By enforcing prevailing wages, wage levels are held higher, because contractors cannot arbitrage regional costs of worker/living differentials. Some view this as being extraordinarily positive, while others will point out that this unnecessarily drives up the cost of delivering construction services.

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PLAs

PLAs set out terms and conditions of employment between general contractors and employees, including wages, benefits, working conditions, and work rules. Like the Davis–Bacon Act, PLAs were used in the construction of the Hoover Dam, which was built between 1930 and 1936.[15] Their use, however, was fairly limited during the decades following World War II. It was not until the 1960s and 1970s that they became more popular. By that time, they were commonly used on large projects including highways, roads, bridges, and government buildings.

Opposition to PLAs emerged during the 1980s, with critics contending that they unfairly favored union contractors and workers. Many also suggested that PLAs unnecessarily drove up project costs. Eventually, certain states began passing legislation banning the use of these agreements on public projects. In 2011, State Senator John Moolenaar, a Republican from Midland, Michigan, introduced legislation that would have protected contractors who would have otherwise been prohibited from bidding on a contract because they did not have PLAs in place. [16] Then Michigan governor Rick Snyder signed that bill in July 2019. Other states passing similar laws include Idaho (2012), North Carolina (2013), South Carolina (2013), and Georgia (2013), to name a few. [17]

Advocates argue that PLAs are advantageous because they supply project owners reliable and steady sources of skilled labor. During negotiations, owners can stipulate that workers have specific certifications and pass drug tests to ensure safety. Under most PLAs, all workers on the project must be part of the union, or if they are not, they must pay union dues and follow any stipulations put forth by said union while part of the project.

Some states and cities also maintain requirements on government-funded projects stipulating that a certain percentage of workers employed come from the local workforce. For example, Los Angeles requires that 30 percent of all hours of work on any city-funded construction project be performed by local residents living within certain zip codes.[18] There is also a requirement that 10 percent of all hours of work be performed by Los Angeles residents classified as "transitional workers."[19] Boston requires that at least 51 percent of hours of work on many construction projects be performed by city residents in each trade, with 40 percent being performed by people of color and 12 percent being performed by women in each trade.[20]

While such requirements are rooted in empowering local workers, such rulemaking tends to drive costs higher by artificially constraining labor pools and may ultimately reduce community investment levels. For instance, data from several years ago indicate that women made up less than 8 percent of apprentices among building trade unions in Massachusetts and less than 4 percent in nonunion apprenticeships.[21]

Many studies have been performed to understand the impact these agreements have on project delivery efficiency and cost. As one might suspect, results of these studies regarding the value of PLAs are mixed.

In June 2009, the U.S. Department of Veterans Affairs ordered an independent study by Rider Levett Bucknall, a construction consulting firm, regarding PLA impact.[22] The report analyzed Department of Veterans Affairs construction projects in five cities: Denver, New Orleans, New York City, Orlando, and San Francisco.

The report found the cost impact of using a PLA depended on the labor market characteristics of a region. In cities with a strong union presence, the use of PLAs can produce negotiated concessions impacting normal union work rates and rules, potentially lowering costs. In cities with weaker union presence, the use of PLAs can meaningfully drive construction delivery costs higher. To quote the report's executive summary, "In both a poor and stable economy in these cities, this construction cost increase ranges from 5% to 9%."[23]

A more recent study from 2015 determined that the use of PLAs to build nine affordable housing projects in Los Angeles did not increase project costs. That study's abstract indicates: "[T]he nine PLA affordable housing projects were not more expensive to build than comparable projects not governed by project labor agreements."[24]

These findings are likely to surprise many stakeholders. Many nonunion contractors indicate that the presence of a PLA effectively excludes them from participating in projects. That is significant, because the vast majority of U.S. construction workers are not members of a union.

According to data from the U.S. Bureau of Labor Statistics, 11.7 percent of construction workers were union members in 2022, down from 12.6 percent a year earlier.[25] The absolute number of union construction workers also declined last year from 2021's 1,024,000 to 1,019,000.[26] By contrast, the number of nonunion construction workers rose by 462,000, or 6 percent, from its 2021 level.[27] The 2022 membership rate was

ADVOCATES ARGUE THAT PLAS ARE ADVANTAGEOUS BECAUSE THEY SUPPLY PROJECT OWNERS RELIABLE AND STEADY SOURCES OF SKILLED LABOR.

unions' lowest on record according to the Bureau.[28]

What this suggests is that policymaking restricting worker participation would be expected to drive up construction delivery costs significantly. Indeed, while some studies find that there is little negative impact associated with PLAs, others find significant deviations from optimal cost structures and even project composition.

A 2021 Rand Corporation study pondered the causal effect of PLAs on the production of affordable housing in Los Angeles.[29] Proposition HHH is a $1.2 billion bond earmarked for the development of as many as 10,000 units of affordable and permanent supporting housing targeted toward addressing chronic homelessness. As of May 2021, virtually all funding had been committed and approximately 7,300 housing units were in the pipeline.[30] Failure to meet the ambitious 10,000-unit target has been attributed in part to higher than anticipated construction costs.

TODAY, THERE IS CONSIDERABLE SUPPORT FOR LABOR-EMPOWERING LEGISLATION.

According to the study, one "potential reason for increased costs is a project labor agreement (PLA) added by the city council after the initiative was passed...Critics say PLAs directly increase costs by disincentivizing bidding on projects and reducing contractor flexibility."[31] The study concludes that the HHH PLA increased construction costs on larger, impacted projects by approximately 14.5 percent, or $43k/housing unit. Moreover, developers responded to the PLA by disproportionately proposing smaller projects (those with fewer than 65 units) that would not fall under the agreement.[32] More than 45 percent of the sample of HHH projects have 50–64 units, compared with less than 10 percent of a sample of comparable non-HHH projects. A simulation exercise considering these effects estimates that approximately 800 additional units of housing would have been produced without PLAs.

Concluding comments

Today, there is considerable support for labor-empowering legislation. In February 2022, President Joe Biden signed an executive order requiring PLAs on federal construction projects in excess of $35 million; policymaking is expected to impact $262 billion in federal construction contracting.[33] Still, with construction wages climbing rapidly, economywide inflation elevated, unemployment at multidecade lows, aspirations to rebuild the nation's industrial base, and massive national debt, it is conceivable that the political winds will blow in a different direction at some point in the future. ■

NOTES

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