

The Growing Influence of Worker Centers & Organized Labor in Texas Construction, 2009-2016 and Beyond

New Campaigns Reflecting Changing Demographics and Millennial Mindset Aim to Help Organize the Workforce

"...odds are that no serious labor and employment law will get made in Congress this election year. But that's not really where the action is anyway. Labor unions and community groups racked up several victories last year, and have picked most of their new state, county and municipal targets for 2016, crafting proposals to raise minimum wages, mandate that employers provide paid leave and require more shared control over worker schedules."

Washington Post, December 28, 2015

"Next year, WDP (Workers Defense Project) will expand their research, again in partnership with UT (University of Texas), looking for the first time outside of Texas, at what demographics suggest are the eight fastest-growing Southern cities: Dallas, Houston, El Paso, Atlanta, Miami, Orlando, New Orleans, and Raleigh. WDP plans to expand its offices to Houston in 2017."

Austin Chronicle, December 4, 2015

"We inspect our plumbing, we inspect our concrete, we inspect our electrical wiring. We certainly think it makes sense to inspect our labor force as well."

Austin developer speaking to local officials, January 26, 2016

Executive Summary

Local "worker centers" have been bridging the historic gap between traditional organized labor and Latino immigrants to create a powerful worker advocacy force that is spreading its influence in Texas construction markets. Construction companies - particularly in the commercial, multi-family and residential markets - as well as developers, owners, and industry trade associations must be aware of this new reality.

Failure to pro-actively address workforce protection issues - including safety training, workers compensation and hourly wages - will leave an open door for street theater campaigns by worker center activists and allies (including interfaith groups and labor unions) that are designed for maximum media exposure, highly critical of the industry and aimed at dictating the terms of workforce protection. Included as part of this effort will be a "workforce certification" program offering to do for the sustainable workforce cause what LEED certification has done for the sustainable building cause. This program will also appeal increasingly to a growing millennial population inclined to integrate personal values and causes into decisions about how their dollars - both large and small - are spent.

This disruptive construction workforce campaign has been taking place in the Austin, Texas, market since 2009 and has recently spread to Dallas. Based on comments by both national and local labor interests, this activity can be expected to spread throughout Texas and further out to other States, particularly those with growing populations in (but not limited to) the southern region of the United States.

Background and Purpose

In a 2013 article about the growing nexus between an Austin, Texas worker center and local labor unions, the New York Times noted that Texas has been a challenging place for unions to organize because it is a right-to-work state. Also hampering the success of unionizing efforts there, according to the report, has been the large number of undocumented immigrants in the workforce who fear that support for unions could lead to deportation. Further, unions traditionally have viewed immigrant organizations as an antagonist whose members take jobs from American workers. But in recent times, this traditional thinking has changed and now labor unions are joining with immigrant centers, working together

“to drive out low-road contractors that are driving down wages” according to the Texas Building and Construction Trades Council.

A similar worker center/labor union effort in other industries has been identified and spotlighted by a Washington, DC, based organization called the Worker Center Watch (www.workercenterwatch.org), as well by the Workforce Freedom Initiative advocacy arm of the U.S. Chamber of Commerce (www.workforcefreedom.com.)

While the widely-touted “economic miracle” has brought a surge in Texas population, job growth and construction activity, labor critics have complained that this growth has come at the expense of worker wages and protections, especially among the undocumented immigrant population. Further, Texas has become a “battleground” (www.battlegroundtexas.com) for grassroots activists aiming to flip the Texas political stripe from mostly red to blue, at the municipal levels, through the State Legislature and all the up to the State’s leadership in Washington, DC.

Austin, Texas, a town whose self-proclaimed motto is “Keep Austin Weird,” has long been an enclave for liberal politics in a generally conservative State. Or, as former Republican Governor Rick Perry once described Austin, “a blueberry in a bowl of tomato soup.” So in a city where Texas liberals congregate, it came as no surprise that a left-leaning organization championing progressive politics would set up shop here and fight for a liberal cause. But what has been surprising is that a small, non-profit group for mostly immigrant workers and led by young economic/social justice activists, would somehow find a nest in the local commercial construction industry and, in the course of 8 years, grow their modest organizational budget of roughly \$600,000 to up over \$2.5 million and wield considerable influence over public construction owners and even some private developers.

This White Paper has been written by observers of the Texas commercial construction market who have watched this small group, known as the Workers Defense Project and once considered mostly a “tempest in an Austin teapot,” bridge the historic gap between traditional organized labor and Latino immigrants and create a powerful advocacy force that is poised to spread its influence beyond the liberal enclave of Austin and into other construction markets throughout Texas and beyond. The purpose of this document is to educate commercial contractors, developers and owners about a seemingly earnest group that, with simple messaging about basic worker safety measures for low-income workers and relentless theatrics before policymakers, is paving the way for increased organization of the construction workforce. The authors of this document want to share insights gained about this group and their advocacy tactics with others in the commercial construction industry around Texas and other States in order to help prepare you for the likely day when this group and its allies arrive in your local construction market.

2009 - An Industry Tragedy Fuels a Fledgling Worker Group

One June 10, 2009, three construction workers died on an Austin, Texas condominium jobsite as a result of collapsed scaffolding. While a tragedy for the workers, their colleagues, families and loved ones, this accident was perfect timing for the release a week later of a report entitled “*Building Austin, Building Injustice*” authored by the fledgling Workers Defense Project (WDP), a small, non-profit community organization with the stated goal of promoting fair working conditions for Austin’s low-wage workers. Joined in this study by faculty from the University of Texas at Austin and the University of Illinois at Chicago, the WDP relied largely on interviews conducted from October 2008 to January 2009 with 312 construction workers on local, though non-identified, residential and commercial construction jobsites.

Among their published findings about the Austin construction workforce:

- Poverty level wages, wage theft and failure to pay overtime
- Few employment benefits, health insurance, pensions, sick days, or vacation days
- High rates of unsafe working conditions and fatalities
- Employee misclassification

The report concluded that while Austin's construction industry overall is strong, many workers "labor in illegal and dangerous working conditions for low pay and little regard for their safety."

2010 – WDP Makes Austin City Council Power Play

With the horrific triple fatality serving as a powerful catalyst for new safety rules, the WDP quickly organized a campaign advocating for a City of Austin ordinance requiring rest breaks for construction workers every four hours. Joining in the fight was a large population of supporters drawn from various labor unions, interfaith and community activists groups. This advocacy campaign relied heavily on street theater at City Hall to create an attractive visual for media attention, and also an intimidating political atmosphere for City Council members possessing limited knowledge about the breadth of the construction industry. An example of this street theater tactic can be found in a WDP video from 2010 and posted on the WDP YouTube site: <https://youtu.be/Htt2fvJcQIM>

Given the expectation that a progressive Austin City Council would likely approve the WDP rest break ask, local contractors and industry organizations declined to oppose the proposal for mainly four reasons: 1) drinking water is already required by the Occupational Safety and Health Administration (OSHA) and is ubiquitous on commercial jobsites; 2) OSHA does not explicitly require rest breaks on construction sites and, with regard to heat stress, recommends there be a knowledgeable person at the worksite able to modify the work/rest schedule as needed; 3) rest breaks are generally inherent in the construction workday (waiting for materials, waiting for others to complete tasks, restroom breaks etc... and the scattered activities of the workforce does not lend itself to a time-fixed break one might find in a manufacturing, assembly line, scenario; and 4) active opposition would be labeled simply, and unfairly, as "contractors against water and rest breaks" and the industry would be sullied in the public eye. Besides, the thinking went, what trouble could be caused by this ordinance when water and breaks are the norm on commercial jobsites? The ordinance was passed with unanimous support in July 2010.

In the years thereafter, the true claws of the new ordinance became clear to industry observers. It wasn't so much about water and breaks, rather it was about having an enforceable ordinance on the books that could be used against specific jobsites and contractors. Several firms noticed an uptick in "anonymous" complaints at their jobsites by unidentified workers who claimed they were denied rest breaks and water, even in the stifling heat of the Texas summer. OSHA jobsite visits in this regard seemed to increase as well, with complaints rarely, if ever, found valid.

One such example occurred in June 2012 at the Circuit of the Americas (COTA) jobsite where WDP filed a complaint against a specialty contractor due to worker complaints about inadequate rest breaks and water. This story was carried by at least 5 local news outlets, possibly due to the fact that COTA (also known as the "Formula 1" project) was already a lightning rod for heated debate in the community about the economic incentives used to attract business investment to Texas. COTA, especially, was derided by critics as a taxpayer subsidized playland for rich Formula 1 racing fans outside of Texas. OSHA dutifully investigated the anonymous complaint and found no evidence of workplace safety violations.

Further evidence pointing to the underlying motive of the new ordinance is data from Austin's 3-1-1 records. In June 2013 the WDP sent a memo to Austin's Director of Public Works noting that 35 rest break complaints spanning 29 jobsites were made through the city 3-1-1 call center from July 2011 to July 2012. But upon investigation by City Code Compliance officials, only 11 violations for failing to post proper paperwork were found, and only 1 citation was made about the lack of paperwork. In the memo, WDP acknowledged the "relatively low number of reports being made to the city" and suggested this was the result of a lack of awareness on the part of workers of their newly granted right to a break.

If you believe the alarmist claims made during the City Council meetings back in 2010 about widespread lack of water and rest breaks on construction then, considering the millions of man hours worked on Austin construction projects during that same one-year period from July 2011 to 2012, you would expect that dozens, even hundreds or thousands, of workers would have succumbed to dehydration, heat stroke, or even death. But, contrary to the previous narratives

widely told by the WDP and allies at City Hall, widespread health emergencies arising from lack of water and breaks simply were not occurring.

One related activity on the rise during this time, however, was the number of complaints phoned in to Austin 3-1-1 about lack of water and rest breaks for workers on jobsites of non-union contractors. Data provided by City in February 2014 at the request of the Austin Construction Advisory Committee (CAC) is eye-opening in this regard. A total of 60 “Construction Ordinance Service Request” files covering the period late July 2011 through early January 2014 were given to the CAC. Of this amount, 10 calls were related to miscellaneous citizen complaints about issues such as noise and dust. Of the remaining 50 complaints - often about lack of water and rest breaks - at least 29 have been identified as either generated by, or in conjunction with, the WDP. An additional 5 calls (for a total of 34, or 68% of the 50) have been identified as generated by a labor union business manager. On one particular date in July 2011, a total of 13 water/rest complaints were lodged by the WDP in a span of just over 2 hours. The lack of citations issued, however, suggests that the filed complaints were not substantiated.

2012 – The WDP Goes Statewide

Following up to the warm Austin reception, the WDP embarked on a statewide research effort in 2012, leading to the release of, “Building A Better Texas” in January 2013. Based on interviews with workers in the expanded areas of Dallas, Houston, San Antonio, El Paso, and, again, Austin, the new report drew similar conclusions to the first report about abuses in the industry, namely: 1) dangerous and deadly working conditions; 2) poverty level wages; 3) failure to be paid; 4) few employment benefits; 5) denied legal protections, and; 6) lack of opportunities to obtain training or build rewarding careers in the industry. The report was released at the start of the 2013 Texas State Legislative session, presumably with the hope it would jumpstart adoption of statewide reforms. But the WDP agenda – including a rest break bill for workers on government jobsites, and bills requiring mandatory workers compensation coverage and 10 hour OSHA training for workers - found little support.

Meanwhile, action continued at the municipal level in Austin where WDP found new success in convincing the City Council to attach various workforce requirements to economic incentive policies designed to attract business investment. One of these agreements was hammered out in a late night Council meeting in 2011 when, as the Austin American Statesman reported in 2013, “...the council asked if White Lodging Development Services would be willing to pay the city’s prevailing wage to workers building a new \$300 million Marriott. In exchange, the city would waive \$3.8 million in various fees. It was a last-minute ask after months of negotiations, and White Lodging’s chief representative was hesitant at first — but he said yes, the company would pay a prevailing wage, and that the company had met that federally defined standard on other projects.”

With construction underway in 2013, the WDP and labor allies accused White Lodging of breaking the incentive agreement by paying some workers less than prevailing wage. White Lodging responded by noting a City staff approval of the developers’ plan to pay most workers above prevailing wage, but some below. This move, according to White Lodging, would result in an average 19 percent increase in pay for all workers and satisfy the intent of the wage agreement that had been hastily and publicly hammered out from the Council dais in the tense, late night Council meeting back in 2011. Ultimately, the council wound up terminating White Lodging’s agreement with the city – a public black eye for Austin - and reached an agreement in October 2015 requiring the developer to pay back to the City the amount of the original incentive package. Industry observers believe that the fault in this dispute also stems from the high-pressure, street theater advocacy campaign by WDP that led to a late night and bleary-eyed contract negotiation between the City and developer.

Better Builder Program Initiative

In recent years, the WDP has crafted and promoted a “worker protection” platform called the Better Builder Program. While variations of this concept have been added to a smattering of projects with some level of Austin City Council oversight (such as the Green Water Treatment Plant redevelopment and the Apple campus buildings,) the WDP has now

established a full website (<http://betterbuildertexas.weebly.com/>) dedicated to this Better Builder concept and begun targeting owners (mostly, but not exclusively, in the public project arena) to sign up with the program.

One example of this effort occurred in late 2014 at the Austin Community College (ACC), a public owner with a \$386 million bond package up for approval by local voters. WDP representatives approached the ACC Board of Trustees at an October Board meeting and advocated for the Better Builder Program, while other industry representatives including the Austin Chapter of the Associated General Contractors, a trade association of commercial contractors working in Central Texas, urged the Board to hear from a broad range of industry professionals before adopting the program. The Board ultimately opted, on a 7-0 vote, to establish an industry Task Force to review wages and working conditions on upcoming ACC projects funded by the bond measure. Specifically, the Board measure charged the Task Force to ascertain the feasibility, and effect on capital construction projects, of:

1. Hiring local workers from certified local training schools;
2. Having ACC provide the training and certification of such workers, using both English and Spanish language curriculum;
3. Having Workers Defense Project's worksite monitors on ACC properties;
4. Requiring a minimum starting wage of \$15 per hour for any trade on Construction Projects;
5. Tying a Wage Floor to an agreed-upon index;
6. Seeking Better Builder certification through the Workers Defense Project for all projects funded through the 2014 Bond Program.

The Task Force, composed of labor, industry and ACC representatives, met 7 times over the next few months and issued a report (available at www.austincc.edu/offices/college-operations/construction-wages-and-working-conditions-task-force) to the Board of Trustees on February 16 with the following recommendations that ACC:

- require its contractors to use commercially reasonable efforts to advertise open labor positions with workforce training centers that are identified by ACC;
- expand craft and safety training and certification programs in both English and Spanish;
- utilize the services of the Workers Defense Project for worksite wage compliance
- adopt a wage floor that would apply to all construction workers working on projects delivered by Construction Manager-at-Risk (CMR) or Construction Manager Agency (CMA), Competitive Sealed Proposal (CSP) or Bid or Design/Build delivery methods, and the wage floor would be equal to the ACC living wage rate at the time of contract;
- support the core values of the Better Builder Program through the Workers Defense Project for projects with a construction value over \$5 million. However, the Task Force Task did not recommend full adoption of the WDP Better Builder Program's slate of components and stated that it is not accurate to portray the ACC bond program as being in compliance to the level of Better Builder Program certification
- continue to require Workers' Compensation on all projects;
- require OSHA 10 training for workers and OSHA 30 training for project managers and supervisors;
- identify workforce training centers, and establish a related committee to address the issues of training opportunities for craft and safety;
- collaborate with the Workers Defense Project and contractors to develop a worksite orientation program and implement it on all November 2014 Bond projects with a construction value over \$5 million.

Following discussion of this report, the Board of Trustees took a series of recorded votes related to the topic of wages and working conditions for construction projects, but took no action on the issue of using the WDP for labor compliance services nor on the issue of seeking Better Builder certification for all ACC projects funded through the bond program.

The next related action came in April, when the ACC Board unanimously approved conducting a competitive process for a third-party vendor "to perform ombudsman-type oversight functions on the job-sites." In August, ACC issued a Request for Proposals ([RFP 918-16001RL](#)) for "Labor Compliance Consulting Services" on projects funded by the

bond program. Among the asks in the RFP was for the selected consultant to “develop and implement a Better Builder/Workers Defense Program for approval by ACC.” A total of 7 individuals attended the mandatory pre-bid required by the RFP and held on September 1, but at that time they were informed the RFP would be canceled until further notice. As of January 2016 it has not been reissued. Meanwhile, contracts for construction of new facilities funded by the bond funds have been signed and work begun.

Since that time, WDP has also approached other public owners, including the Austin Independent School District (AISD), Travis County, and Capital Metro with a similar ask that the Better Builder program be adopted for their upcoming construction projects. It is expected that this process will continue in areas surrounding Austin and, eventually, to other markets throughout the state.

The Better Builder Program in 2016 typically asks the following on a building project:

1. a "living wage" floor of some amount (such as \$15) and pay "by the hour"
2. OSHA 10 Hour safety training for workers and 30 Hour safety training for supervisors
3. mandatory workers compensation
4. on-site compliance monitoring of the program by WDP approved monitors
5. local hiring goals from DOL approved apprentice programs (mostly organized labor)

Presented as a basic package of requirements with the simple aim of protecting workers, the Better Builder Program can seem appealing to the an owner with limited construction experience. After all, who wouldn't support a "better building" or "safe jobsite" program, especially one advocated by a seemingly earnest community group representing a sympathetic demographic of low-income, Hispanic construction workers?

For this reason public owners, represented by elected Boards who are sensitive to political concerns, are inclined to buy into the Better Builder Program. Also, private developers might be inclined to view the Program as a way to foster community goodwill and deflect the opposition of residents impacted by their building proposals, particularly neighborhoods rife with gentrification concerns. For example, as part of a last ditch effort in 2015 to get City approval for a hotel project in East Austin (the East Side Hotel), the project owners signed up with the Better Builder Program, presumably with the expectation it would help advance their proposal and quell local residents concerns over gentrification and related issues. It did not.

As with any public policy initiative, the "devil is in the details" and, fortunately, efforts such as those conducted by the [Austin Community College Task Force on Wages and Working Conditions](#) have helped shed light on basic problems with the Better Builder Program.

First, it's important to point out that the safety training, workers compensation and pay by the hour asks of the Better Builder Program are, in fact, universally required on most public construction projects. Further, public owners often have an established wage floor for all employees, including those hired by contractors for construction or other services. Construction companies working in the public market are used to these meeting these requirements, including the furnishing of a "certified payroll" to ensure wage compliance. Last, public owners are often inclined to include a "local hiring" goal for projects funded by local taxes. If all these requirements are typical asks, then what is the problem with branding them collectively as a WDP Better Builder Program?

Most of the problem lies in the compliance measure, and it comes as no surprise that this is a service the WDP is happy to perform – as an “independent” monitor – for the owner. However, most public owners already employ staff professionals who oversee building projects to ensure compliance with all contractual requirements, including pay disputes. This should be the first line of defense for an owner wanting to ensure a project is built according to their contractual standards. Also, should a dispute over pay arise, legal remedies do exist, including assistance from outside organizations such as WDP.

But if a public owner concludes that an outside labor compliance consultant is required to ensure proper wage payments, then it's important that the owner follow applicable procurement law for contracting with an outside service provider. Presumably, there is a cost associated with having monitors meet workers regularly to review payrolls, and perform related services. At some point, this cost will cross a threshold amount and trigger a public solicitation requirement. This is the realization that occurred at the Austin Community College. Should the owner continue pursuing the contract, it will cost taxpayer funds that must be diverted from building projects or other essential services. This is not always an easy option for owners facing taxpayers who are increasingly stretched to pay their property tax bills, especially in a growing city with rising housing costs like Austin.

Beyond the simple costs, project owners - both public and private - should question whether a "WDP approved" wage compliance monitor offered through the Better Builder Program is truly independent, or actually someone inclined to assist labor unions in organizing the workforce. Would a non-union jobsite put a labor union business agent in charge of wage compliance on the jobsite? No. But that's effectively what is being accomplished should the owner hire the labor-union friendly WDP as an "independent" worksite monitor.

Another possible problem with the Better Builder Program lies in the requirement that a certain percentage of the jobsite workforce come from local training centers. Again, this component sounds agreeable on the surface. Who doesn't want local tax dollars going back to local residents and businesses? The problem is that the Program specifies that these workers come from DOL approved apprentice programs and that strict wording may disqualify other quality training facilities. For example, in Austin it would not allow for employees who come straight out of a high school, community college, or other local job-training center that is not DoL approved. It would also not allow for some labor union programs that are site-specific and not DoL approved. During the discussions at ACC in 2015, it was pointed out that such a provision would not encourage the hiring of ACC graduates by contractors building ACC projects. Put another way, if the ACC had adopted the Better Builder Program, the message sent to the Austin community would have been "enroll in our ACC construction building classes, but please don't help build any of our ACC projects."

In addition to helping a labor friendly organization gain access to the construction workforce, there's another possible motive for selling the Better Builder Program. The WDP goal to "certify" better buildings may appeal to millennials (born between 1977 and 2000) who are widely recognized as a values-driven generation inclined, as Forbes magazine recently noted, "to integrate their beliefs and causes into their choice of companies to support, their purchases and their day-to-day interactions." Given this mindset, it is a reasonable assumption that this generation's dollars will want to support a certified "better builder" project – no matter who does the certifying - that reflects their commitment to social responsibility.

Along this line of thinking, WDP often notes that green building emphasizes a "triple bottom line" of environment, economy, and equity (the three E's) to incorporate social and environmental sustainability into the construction process. As green building becomes standard practice in the Texas construction industry, WDP claims that equity is the "forgotten E" of sustainability. Given this mindset, one can expect the Better Builder Program to be viewed as doing for workforce certification what LEED certification has done for environmental aspects of building construction.

2015 - WDP Finally Finds Success in Dallas

Building on the success of their Austin rest break efforts, the WDP in 2012 opened an office in Dallas and soon began calling for a similar ordinance in that city. The Dallas campaign proved more challenging, however, as that City Council represents a more diverse tapestry of public policy views, including some more skeptical about the underlying motives of a labor organizing group from Austin. The slog was long, taking over 3 years and 18 meetings between representatives from industry, WDP, interfaith groups, unions and city officials. The collective group agreed on compromise options on two occasions, but both times the WDP pulled out their support.

Similar to Austin, the advocacy effort amped up street theater tactics such as a "thirst strike" on the steps of the Dallas City Hall in September 2015, designed for maximum media coverage. Bear in mind that despite the high-

profile theatrics, proponents of the ordinance could point to no actual construction worker deaths in Dallas from lack of water, and they did not take up request from the Dallas Mayor that they take him personally to visit construction sites in the city where worker abuse was reported.

The WDP did, however, spotlight a heat-related fatality of a residential flooring installer in the small town of Melissa, about 40 miles north of center city Dallas. With testimony from his family members of playing on the emotions of “on the fence” Council members, the break ordinance was finally approved on a 10-5 vote in December 2015, effectively punishing Dallas contractors for a fatality that did not occur in their town. It makes one question why the WDP fight did not occur at the location of the fatality, but rather in the much bigger construction market of Dallas.

Industry observers expect that in 2016 and beyond, Dallas contractors and City officials will notice, as in Austin, an uptick in anonymous complaints against non-union contractors who will be accused of not providing water or rest breaks on the jobsite. Subsequent investigations, however, by either code compliance or OSHA officials will find no ordinance violations other than possible failure to post proper signage. Meanwhile, the contractors on the receiving end of these complaints will be left open to criticisms of being “under investigation” for worker violations, and their good name will be sullied in the public eye, possibly to the advantage of firms allied the WDP.

Also important to note about Dallas is that in January 2016, only 1 month after the rest break ordinance approval, the WDP was at the Dallas ISD School Board asking that their Better Builder Program be approved for bond-funded construction projects. The WDP is wasting no time advancing their agenda throughout Texas.

It should be clear to contractors in Austin, Dallas, and throughout Texas, that the WDP has a “1-2 punch” strategy (rest break ordinance and then Better Builder Program) for gaining traction at the local levels of government. To prepare, contractors must pro-actively speak with owners – especially public ones – about the labor organizing motives of WDP and also offer options for workforce protection that are truly beneficial for all concerned.

Explosive Financial Support Fuels Growth for the WDP and Election Influence

The skyrocketing growth of WDP coincides with the election in 2009 of Barack Obama and the strong, pro-labor union mindset taking hold in the new Department of Labor (DoL) administration. Reflecting this pro-worker spirit, the first DoL Secretary of Labor, Hilda Solis, regularly and boldly declared that “There’s a new sheriff in town!” to audiences around the country, including at the National Action Summit for Latino Worker Safety held in Houston in April 2010.

Tax filings (990) from 2010 reflect the financials of a relatively small, non-profit, 501 (c)(3) organization with \$512,161 in revenues and a payroll of roughly \$181,000 spread out over 14 employed individuals. Fast forward to 2014 and the WDP’s 990 filings show explosive growth to \$1,958,255 in revenues and a payroll of over \$680,000 spread out over 43 individuals. That amounts to a budget income increase of nearly 300% in a 5 year period.

Further, the WDP in 2013 established a separate 501(c)(4) called the Workers Defense Action Fund designed to “engage working Texans in electoral and legislative activities that impact their quality of life.” Income to this new entity totaled a modest \$10,000 in 2013, but skyrocketed to a whopping \$513,462 in 2014. Combined with the 2014 revenues for the main WDP organization, their total working income has exploded to a total of \$2,471,717, or nearly a 400% increase since 2010.

These 501(c)(4) organizations are officially classified as “social welfare” entities, however they are also used to influence elections as they do not have to disclosing the origin of funding. There are examples of these entities on both the conservative and liberal side of the political aisle, so they are not used exclusively by one political party over another. However, as the Washington Post noted in 2013, “If you are a donor looking to influence election but do not want to reveal your identity, the 501(c)(4) is an attractive option through which to send your cash.”

As with any organization, it’s not easy for an outside observer to identify precisely who funds the WDP and at what specific level, but a review of the WDP’s 2013 annual report notes two Foundations (Ford and Public Welfare) and one anonymous donor contributing between \$50,000 and \$100,000 each. Other large contributors over \$5,000 include numerous Foundations as well as the AFL-CIO, SEIU and Roman Catholic Diocese of Austin. The report lists hundreds of small contributors of amounts up to \$500.

The Outlook for 2016 and Beyond

In the years from 2009 to 2015, it was easy to believe that the WDP/labor union alliance was simply an Austin phenomenon where liberal/progressive policies are relatively easy to sell to a community of liberal/progressives. But now that WDP has successfully pushed for a rest break ordinance in Dallas, it has become clear that they are ready - and financed - to spread their influence Texas and even to other States, most likely in the Southern region.

Their original Executive Director has moved on to national labor organizing efforts in Washington, DC. In her place, the WDP has hired a San Antonio, Texas native and seasoned lawyer who most recently served as a senior policy official at the U.S. Department of Labor.

In 2016 and beyond, expect the following:

- WDP will continue to advocate for a rest break ordinance in other Texas cities;
- WDP will continue a local, and mostly public, owner strategy for expansion of their Better Builder Program certification. Prime targets will center around the Austin area but stretch to other major Texas cities including El Paso, Dallas, Houston and San Antonio in the years to come. Without an industry alternative, this program will increasingly appeal to owners and developers, especially in the millennial generation, who want their dollars - large and small - to support their core values and beliefs;
- Organized labor will continue a delicate alliance with WDP, though some unions may have concerns - public or private - that worker centers could some day supplant the traditional union role of labor supply;
- Contractors with non-union labor in Dallas will be at higher risk of being reported to Dallas code compliance and OSHA for violations of the rest break ordinance. Actual citations, if any, will be limited to paperwork issues;
- A catastrophic accident on a construction site in Texas will be exploited for maximum WDP gain, even if the result of worker negligence or pre-existing health problems;
- WDP financial strength will not wain, and their 501(c)(4) will be used to impact the 2016 elections at local, state and national levels;
- The rest break/better builder strategy will spread other states, including Louisiana, Georgia, Florida and the Carolinas;
- WDP will expand attacks on economic incentive deals at the city and state levels, with a highly critical report of incentive deals released by WDP in conjunction with the University of Texas in January 2016.

For more information, please e-mail texasconstructionwatch@gmail.com.