



Infrastructure Investment Must Create Good Jobs for All

By Karla Walter April 22, 2019

Advancing a large-scale plan to rebuild America's crumbling roads and bridges is at the top of many federal lawmakers' 2019 agenda.¹ After President Donald Trump's failed attempt to advance such a bill in 2018, progressive policymakers should move forward with a bold plan to invest in America's 21st century competitiveness—a goal that will require prioritizing investment in green energy, broadband, and targeted support for struggling communities alongside support for the nation's existing physical infrastructure.²

Equally important, lawmakers must ensure that any major infrastructure investment also helps secure the nation's long-term prosperity. This means that the jobs supported by the plan must pay fair wages, provide good benefits and a voice on the job, and offer American workers from all walks of life a pathway to the middle class.³

Over the past century, pro-worker lawmakers have sought to uphold the basic guarantee that government spending will create good jobs. This has been accomplished through a variety of measures—such as prevailing-wage and benefits laws that ensure workers receive fair compensation, as well as protections to prevent discrimination, support equal pay, and ensure that workers are able to exercise their right to form unions.⁴ Yet it is far from guaranteed that the jobs created through the infrastructure plan will be good ones.

Today, job quality standards are frequently under attack. Republicans in Congress have introduced legislation to repeal or weaken prevailing-wage protections over the past several sessions.⁵ As one of his first acts in office, President Trump signed legislation that weakened standards to ensure that federal contractors obey existing workplace laws.⁶ The administration also is establishing a new apprenticeship program for industries outside of construction that will allow sponsors to avoid existing anti-discrimination protections and will likely result in workers having less of a say in how training is conducted.⁷ Indeed, Trump never committed to ensuring that his own infrastructure plan would support only decent jobs with good pay, benefits, and protections for workers.⁸

Moreover, existing protections cover less than half of all federal spending.⁹ While workers on jobs funded through federal contracting dollars enjoy numerous job quality protections, these policies usually do not apply to jobs funded through federal grants, loans, loan guarantees, and tax incentives. In addition, current laws are often too weak to lift workers out of poverty, protect workers attempting to form a union, or otherwise change the behavior of companies that do not respect their workers.¹⁰

Without adequate job quality protections, jobs funded through any new infrastructure investments could be of low quality, pay substandard wages, provide too few opportunities for advancement—particularly for women, people of color, and other historically disadvantaged communities—and do little to correct the decadeslong problem of stagnating U.S. wages.

Weak job standards not only harm American workers but also put responsible businesses that pay fair wages and respect employees at a competitive disadvantage. Moreover, research finds that when corporations receiving government contracts pay poverty wages or violate workplace laws, they often deliver poor-quality products to taxpayers and require taxpayers to bear hidden costs through federal and state governments' provision of services to supplement workers' incomes, such as Medicaid, nutrition assistance, and refundable tax credits.¹¹

Pro-worker lawmakers must not only fight to ensure that any major infrastructure investments carry existing job quality protections, but they also must use the infrastructure debate to strengthen and expand on these protections and ensure that all workers, particularly those from historically disadvantaged groups, are able to participate. Doing so will help raise standards for workers whose jobs are directly funded by the investment and—particularly in a tight labor market such as the one the United States is experiencing today—raise standards for private-sector workers, as companies compete for skilled employees.

In addition, attaching strong job quality standards to the infrastructure investment can help build momentum for federal actions to raise standards for all workers, such as bills to raise the minimum wage to \$15 per hour and eliminate loopholes for agricultural and tipped workers, as well as Americans with disabilities; provide essential benefits such as comprehensive paid family and medical leave and Medicare Extra for All; and support all workers' right to join a union.

During the last congressional session, Democrats in both chambers expressed a strong commitment to ensuring that the jobs created through an infrastructure plan pay decent wages and benefits, and progressive policymakers are beginning to move in that direction this session.¹² For example, in their “Better Deal” agenda, Senate Democrats endorsed protections on all government spending to help ensure that workers who want to form unions are able to do so.¹³

This issue brief outlines the essential protections that policymakers must adopt to ensure that all jobs created through federal infrastructure spending provide family-supporting wages and benefits, opportunities for advancement, and a voice for workers on the job. These jobs include those funded through federal grants, loans, contracts, and public-private partnerships that include federal participation. Moreover, these standards should apply not only to initial construction work but to ongoing maintenance, service, and operations jobs as well. As is the case with existing protections for the contracted workforce, job quality standards would also flow down to the workforce of subcontractors.

Finally, to ensure that recipients of infrastructure funds comply with these standards, policymakers should include funding for monitoring and enforcement efforts; require recipients to report on compliance through publicly accessible databases; and partner with trusted worker and community organizations to educate workers on their rights and help them feel comfortable coming forward if their rights are violated. In this way, the infrastructure package can help raise standards for workers throughout the economy.

6 essential protections to ensure infrastructure investment creates good jobs

1. Pay nonpoverty wages and provide decent benefits

The Davis-Bacon Act and the McNamara-O’Hara Service Contract Act help ensure that federal spending does not drive down standards in the construction and service sectors by setting required wage and benefit rates for contracted workers at existing market levels. The federal government has regularly acted to extend Davis-Bacon Act prevailing-wage requirements to construction jobs funded through grants, loans, loan guarantees, and even some types of tax credits.¹⁴

Yet the wage protections enumerated under the Service Contract Act have never been extended beyond direct federal contracting in the more than 50 years since the law was enacted.¹⁵ Even when Davis-Bacon standards apply to construction work, ongoing service and maintenance work associated with a project, for example, may not be covered.¹⁶

Moreover, prevailing-wage rates for a range of jobs across the country fall below the living wage needed to sustain a family. For example, the prevailing-wage and benefit rate for a laborer in Atlanta is just 45 percent of the area’s living wage for an adult with one child, while the prevailing-wage and benefit rate for a guard—for example, a building security officer—in Milwaukee is equivalent to only 74 percent of the area’s living wage.¹⁷

In order to help combat poor pay and working conditions among federal contractors, former President Barack Obama signed an executive order to raise the minimum wage for contracted workers to \$10.10 per hour and index it to inflation in 2014; in 2015, he signed an executive order that required contractors to provide workers at least seven days of paid sick leave so that they could care for themselves or family members, including chosen family members.¹⁸ Raising the contractor minimum wage to \$15 per hour would ensure that hard work pays and would build on Obama's actions.

Companies receiving taxpayer support should be required to pay the area's prevailing wage or a \$15 minimum wage, whichever is higher. In addition, companies, as noted above, should be required to comply with the health and welfare benefits required by existing prevailing-wage laws and provide at least seven days of paid sick leave.

Finally, prevailing-wage calculations should be strengthened to foster strong industry standards. For example, New York; Maryland; and Jersey City, New Jersey, have adopted policies to help ensure that collectively bargained wage rates are also the prevailing-wage rates.¹⁹ Federal policymakers should follow the leads of these locations by setting the wage that prevails under both Davis-Bacon and the Service Contract Act to the wage paid to 30 percent of workers in an industry in a locality.²⁰

2. Prevent discrimination and enforce equal pay protections

In 1964, President Lyndon B. Johnson signed Executive Order 11246 to prevent discrimination among contractors on the basis of race, color, religion, or national origin.²¹ The order applied not only to the positions directly funded through federal spending but also to all employees of companies with federal contracts regardless of whether their work was funded through procurement spending.

The order also allowed for the creation of an enforcement body, the Office of Federal Contract Compliance Programs (OFCCP), whose mission was later expanded to include enforcing protections for workers and preventing discrimination on the basis of sex, sexual orientation, gender identity, disability, and status as a protected veteran.²² This includes protections against sexual harassment, pay discrimination, and family caregiving discrimination, as well as requirements to provide accommodation to workers with disabilities and pregnant workers. Research shows that through its power to withhold future contracts and require affirmative action plans, the OFCCP significantly increased equal opportunity for women and people of color in companies receiving federal contracts.²³

More recently, the Obama administration combated pay discrimination among federal contractors by boosting pay transparency and prohibiting retaliation when workers discuss pay. It also undertook efforts to surface pay disparities by collecting more government data from large companies on worker pay by race, gender, and ethnicity.²⁴

However, the OFCCP’s jurisdiction extends only to federal contractors. Companies receiving grants, loans, or loan guarantees are not subject to the agency’s oversight. Moreover, the Trump administration halted corporate reporting requirements on pay data and has weakened protections for LGBTQ workers.²⁵ In 2017, Trump granted former U.S. Attorney General Jeff Sessions sweeping authority to enact religious exemptions from nondiscrimination protections for federal contractors.²⁶

All companies receiving federal infrastructure funds should be subject to OFCCP enforcement authority, as well as Obama-era pay transparency requirements, in order to ensure that they do not discriminate or retaliate against employees or applicants because of their race, color, gender, religion, national origin, sexual orientation or gender identity, disability, or veteran status. In order to support enforcement efforts, the infrastructure investment must allocate funding to the OFCCP sufficient to support targeted investigations into industries and occupations with high levels of disparities, as well as reviews of employee movement from entry- and mid-level jobs into higher-earning positions.²⁷ Finally, all companies receiving federal support should be required to report on the pay and demographic data of their workforces.

3. Expand access to apprenticeship and paid training

Registered Apprenticeships are a proven training model that combines structured classroom instruction with paid on-the-job training. Employers in the building and construction industry have long used Registered Apprenticeships to provide a steady pipeline of highly qualified workers who meet federal and state standards for safety and training. For workers, earning an industry-issued, nationally recognized credential through apprenticeship leads not only to high-paying jobs but also to opportunities for career advancement. Yet for too long, women, people of color, and workers with disabilities were excluded from these jobs.

While community organizations, labor organizations, training intermediaries, and the public workforce system have made significant progress in recent decades to expand access to construction trades, more can be done to expand the scope of high-quality apprenticeship programs and increase access and pay for historically disadvantaged communities.²⁸ For example, Washington state and Alaska have both adopted policies to ensure that 15 percent of the work on publicly supported construction projects is performed by apprentices.²⁹

In addition, cities and states are increasingly adopting “targeted hire” standards and pre-apprenticeship programs to ensure that local residents and historically disadvantaged residents such as women, people of color, low-income residents, and residents with past involvement with the criminal justice system are able to obtain the construction and permanent jobs created with the support of public expenditures.³⁰ San Francisco, for example, has significantly expanded access to publicly supported construction projects by mandating that local residents complete 30 percent of a

project's total work hours and 50 percent of its apprenticeship hours as well as by partnering with industry, labor, and community nonprofits to create an 18-week pre-apprenticeship program.³¹

And the Los Angeles County Metropolitan Transportation Authority adopted a policy in 2012 that requires that 20 percent of employees on construction projects be apprentices and that 10 percent be from disadvantaged communities.³²

However, President Trump is undermining the power of these sorts of programs to raise standards for working people. In 2017, the Trump administration announced that it was ending a pilot program at the U.S. Department of Transportation that allowed communities to establish local hire preferences.³³ Also, the administration is establishing a parallel apprenticeship system that will allow third-party industry groups outside of construction to develop apprenticeship programs without having to meet existing federal Registered Apprenticeship standards.³⁴

Lawmakers should require that 15 percent or more of labor hours on large-scale infrastructure projects be performed by apprentices participating in programs that meet federal and state Registered Apprenticeship standards. They should also require these projects to adopt a targeted-hire initiative that establishes mandatory hiring requirements and partners with local community groups to ensure that affected groups—such as local residents, women, people of color, workers with disabilities, and other disadvantaged groups—are able to access these jobs.

In industries and regions with few established Registered Apprenticeship programs or where established apprenticeship programs have little capacity to fulfill necessary training, the bill should ensure partnership with the public workforce system and provide funding to labor-management intermediaries to develop apprenticeship or paid work-based learning programs. These new projects would assess the training needs of the sector; customize the training and apprenticeships to fit local needs and be accessible; and cultivate partners to help provide training and recruit participation among women, people of color, and other disadvantaged communities.

4. Respect workers' rights to join a union

President Obama signed several executive orders to support workers' bargaining rights. These orders took actions requiring contract recipients to post notices informing employees of their right to bargain collectively; requiring successor service contractors to provide a right of first refusal to workers employed on the previous contract; encouraging government agencies to use project labor agreements on large construction projects; and preventing companies from using federal funds to fight the efforts of workers to form a union.³⁵ These protections should apply broadly to all companies receiving support through the federal infrastructure package.

Yet it is still far too easy for anti-union corporations to fight workers' efforts to come together in unions and negotiate for better pay and benefits. Although existing government policies prohibit contractors from using federal funds to fight workers' efforts to form unions, they are free to use their own funds to do so.

Employers often engage in sophisticated campaigns to prevent workers from forming unions, which can include forcing workers to attend anti-union meetings—including one-on-one conversations with supervisors—and pressuring workers to reveal their private preferences for the union.³⁶ When anti-union employers break the law, penalties are weak and insufficient. Workers are fired in one-quarter to one-third of union organizing campaigns, but they can at best hope to recover their lost wages and get reinstated in their jobs, often after years of legal battles.³⁷

To ensure that workers who want to form a union have a fair shot at doing so, companies should be prohibited from attempting to persuade workers employed on taxpayer-supported work to exercise or not exercise the right to organize a union. And when a majority of workers demonstrate their support for a union, corporations should be required to bargain with them.

5. Comply with existing workplace laws

Numerous government reports have found that government contractors face few consequences when they break federal workplace laws designed to ensure that workers are paid what they are owed, are safe on the job, and do not face discrimination. A 2017 report from the office of Sen. Elizabeth Warren (D-MA) found that two-thirds of the government's 100 largest contractors have been caught breaking workplace wage and safety laws.³⁸ Previous reports by the nonpartisan Government Accountability Office and a Senate committee have found similar results. For example, the Senate Committee on Health, Education, Labor, and Pensions found that the worst violators of workplace laws receive \$81 billion in federal contracts in a single year.³⁹

Although President Obama took executive action to ensure that companies comply with health and safety standards, wage laws, and antidiscrimination protections before they receive federal contracts, President Trump signed legislation to roll back these protections before they were fully implemented.⁴⁰

Lawmakers in Congress should require companies that apply for federal infrastructure funds to report on their record of compliance with workplace laws. If they have a poor track record, lawmakers should require them to come into compliance before they are able to receive any federal funding.

6. Create jobs in the United States

Laws designed to ensure that the federal government purchases American-made products and that federally supported infrastructure projects use American-made inputs are too often poorly enforced and cover a limited number of spending pro-

grams as well as a limited number of end products.⁴¹ Looking only at contracting, for example, the U.S. government opens a far greater share of its procurement market to foreign goods than do its largest foreign trade partners covered under the World Trade Organization's Agreement on Government Procurement.⁴²

In 2017, President Trump called for a review of current agency procedures governing Buy American and Buy America policies.⁴³ He subsequently issued an executive order to encourage stronger enforcement of existing Buy America laws covering infrastructure projects such as roadways, broadband and pipelines.⁴⁴ These aspirational actions have highlighted the glaring deficiencies in domestic content laws, but they fall short by not ensuring any tangible change.

All assistance to states and other recipients of infrastructure funds should be covered by strong domestic content standards.⁴⁵ To strengthen the monitoring and enforcement of existing standards, these efforts must ensure that all federal agencies provide clear domestic content definitions and guarantee transparent and thorough audit processes.⁴⁶

Congress should make these issues a priority as it advances an infrastructure package. The federal government should establish high thresholds for granting waivers of domestic content preferences; ensure that low-bid contracting procedures do not undercut the ability to source domestically produced content; expand the application of Buy American and Buy America preferences to other types of federal spending programs and federal assistance programs identified as not being covered, such as aid programs for waterworks infrastructure; and, when practicable, add key industries to protected trade lists.⁴⁷

Job-quality standards improve conditions for workers, taxpayers, and business owners

By implementing the reforms listed above, policymakers would significantly raise standards for working people. Studies of wage standards, for example, find that these protections raise wages, lower poverty rates, and reduce inequality in affected industries.⁴⁸

For example, one study found that construction workers in states with strong or average prevailing-wage laws made nearly \$12,000 more per year, on average, than construction workers in states with weak or no prevailing-wage laws.⁴⁹ In addition, a recent report from the Illinois Economic Policy Institute found that participation in Registered Apprenticeship programs results in an average annual earnings gain of more than \$3,400 and a lifetime earnings gain of nearly \$120,000.⁵⁰

Similarly, efforts to reduce workplace discrimination through federal procurement programs have been shown to be successful. After President Johnson adopted affir-

mative action requirements for federal contractors, studies show that demand for African Americans and women increased significantly in contractor establishments compared with noncontractor establishments.⁵¹

And by ensuring that workers who want to form a union are able to do so, lawmakers can support a thriving American middle class, since research shows that unions reduce wage inequality and increase economic mobility.⁵² For example, children who grow up in areas with a high union density typically rank relatively higher in income distribution as adults than those from areas with few union members.⁵³

These sorts of job standards can also provide better results for businesses that respect their workers. For example, research finds that paid sick leave boosts economic efficiency, as workers are more likely to stay home when sick, thereby preventing the spread of illness, and to seek preventive care.⁵⁴ Also, after San Francisco International Airport adopted contracting standards, annual turnover among security screeners fell from nearly 95 percent to 19 percent—saving employers thousands of dollars per employee per year in restaffing costs.⁵⁵

Finally, job quality standards can also help ensure that taxpayers receive good value for their investment. As discussed above, job quality standards are key to ensuring that taxpayers do not bear the hidden cost of providing services to supplement contract workers' incomes. A study reviewing the effects of prevailing-wage laws found that the 16.4 percent of construction workers in states with no or weak prevailing-wage laws receive the Earned Income Tax Credit, compared with 11.3 percent of construction workers in states with average or strong prevailing-wage laws.⁵⁶

Moreover, research finds that contractors that violate workplace laws often deliver poor quality to taxpayers. A report from the Center for American Progress Action Fund found that a quarter of companies that committed the worst violations and later received federal contracts had significant performance issues. Those problems “ranged from contractors submitting fraudulent billing statements to the federal government; to cost overruns, performance problems, and schedule delays during the development of major weapons systems that cost taxpayers billions of dollars; to contractors falsifying firearms safety test results for federal courthouse security guards; to an oil rig explosion that spilled millions of barrels of oil into the Gulf of Mexico.”⁵⁷

Higher job quality standards also encourage more companies to bid for contracts, since they no longer have to compete against low-road firms willing to pay poverty wages. After Maryland implemented a contractor living standard, the average number of bids for contracts in the state increased 27 percent, and approximately half of contracting companies interviewed by the state said that the new living wage standard “encourage[d] them to bid on State contracts because it levels the playing field.”⁵⁸

Conclusion

A major infrastructure investment holds the promise to jump-start American investment in key sectors, such as clean energy, transit, and broadband. Yet such a plan could spur a massive investment in human infrastructure. By attaching robust quality standards to all jobs created by the plan, lawmakers can help bolster high-wage job growth throughout the economy and offer American workers from all walks of life a pathway to the middle class.

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Endnotes

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