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Testimony on Meeting construction diversity workforce goals in Infrastructure to the Select Committee on Economic Disparity and Fairness in Growth

Thank you for this invitation to submit testimony on how to ensure gender equity in federal infrastructure spending. Thank you Committee Chair Jim Himes, Ranking Member Bryan Stell and all committee members. Thank you to Nancy Pelosi for creating this important Select Committee on Economic Inequity and Fairness in Growth.

My name is Liz Skidmore, I'm a 33-year union carpenter in Boston, Massachusetts. I started my apprenticeship in 1989, worked with the tools for 10 years, and have worked the last 23 years as a Business Rep for the North Atlantic States Regional Council of Carpenters, with a primary focus on bringing more women into the trades. I'm also co-convenor of the Policy Group on Tradeswomen's Issues ([PGTI](#)), a regional collaboration of stakeholders working together to crush the barriers to women in construction, co-convened by the [North Atlantic States Regional Council of Carpenters](#), the [Greater Boston Building Trades Unions](#), [Building Pathways Inc](#) and the [UMass Boston Labor Resource Center](#). Becoming a union carpenter has transformed my life for the better personally, educationally, and economically. I've dedicated my career to ensuring women of all ethnicities have these opportunities, and that has taught me that public agencies who fund infrastructure work have a key role to play in making that happen.

Since 2008 in Massachusetts, we've raised the participation numbers for women in construction to almost triple the national average. With a multi-stakeholder collaboration made up of labor unions, contractors, workers and government officials, we have developed "game changers" I believe can be used in other states and brought to scale nationally.

Game Changers:

- Use an [integrated supply and demand strategy](#)ⁱ to increase female participation in construction. Related: **Lead from where you are.** Federal and state agencies (and all end-users) are the demand side. Fully engage in effective demand work (ensure the contractors you're paying are hiring diverse workers) *before* you assist on the supply work (recruiting more diverse workers). There are many players in the supply space – Career & Technical Education schools, pre-apprenticeships, apprenticeships, Community Based Organizations, to name a few, but *only the end-user can ensure diverse hiring takes place.*
 - Public [Access and Opportunity Committees](#)ⁱⁱ are key to effectively meeting workforce goals. Monthly public meetings to review project workforce diversity compliance data allows swift solutions and has been key to increasing the numbers in Massachusetts.
- **Workforce Goals** should be updated using workforce (not W/MBE) disparity studies to protect them from court challenges. Currently the federal goal for people of color in Boston is 4%. That's an insult; Boston is a "majority minority" city. The federal 6.9% goal for women is too low. PGTI recommends using the disparity study

methodology developed by Marc Bendick, a senior economist for the US DOL, as it most fairly measures the available workforce. (See examples of Construction Workforce Disparity Studies using the Bendick methodology from [Springfield, 2018](#)ⁱⁱⁱ & [Worcester, 2019](#)^{iv}.)

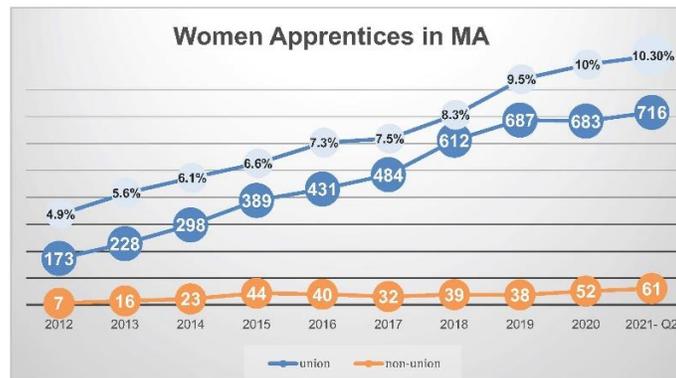
- Make it clear that [Executive Order 11246](#)^v, which sets hiring goals for women and people of color on federally funded construction projects, applies to infrastructure spending including under the Bipartisan Infrastructure Law. There seems to be some confusion that there are not goals for gender and ethnic diversity for BIL projects because those workforce goals were not spelled out in BIL. However, EO 11246 still applies. See annotated copy of EO 11246 in the Federal Register with helpful explanatory notes from the US DOL Women’s Bureau [here](#)^{vi}.
 - Liaison (compliance) committees are recommended under Executive Order 11246, and so do not need new legislation or regulation.
- **Distribute and use [Finishing the Job](#)**^{vii}, a “how to” manual of best practices for meeting workforce goals developed on billions of dollars of mostly publicly funded construction projects in MA. Ensure all federal and state agencies are using the “End User” checklist for meeting workforce goals.
- **Pro-active, not after the fact** – let bidders know the goals are serious, that this is different from the past, and they need to make maximum possible efforts (good faith efforts no longer enough). The actual words in the regulation are “The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity.” 41 CFR 60.4.3(a)(13). Include language highlighting the workforce goals in all pre-bid docs and publicity. Start communicating with the states NOW that these workforce goals are part of infrastructure work.
- **Separate the conversations about workforce diversity and business-owner diversity.** Both are important but have different challenges and require very different solutions. Increasing women- and minority-owned businesses does NOT increase workforce diversity. In fact, after analyzing the certified payrolls on the Big Dig in Boston (roughly \$14B of work), PGTI found that both women- and minority-owned businesses hired fewer women working with the tools than majority-owned businesses. Workforce needs to be addressed separately from business ownership.
- **Establish public, searchable databases with compliance data.** The City of Boston put their contractor workforce diversity [database](#)^{viii} online, and it has become an important tool for increasing workforce diversity by allowing other end users and the public to see which contractors are meeting goals and hold them accountable.
- **Focusing on gender increases racial diversity.** Focusing on racial diversity, including goals for local hiring, has done nothing for gender. On the other hand, focusing on gender diversity also increases racial diversity: more than half the women entering the trades in MA are women of color. In addition, improving the compliance tools increases men of color on the job. A more comprehensive description can be found [here](#)^{ix}.
- The federal government should mandate the OFCCP (the Office of Federal Contract Compliance) to start enforcing the law in Construction as it already does in Supplies and Services. **Since it’s inception, OFCCP has simply not enforced anti-discrimination laws in construction with two exceptions:** 1) they claim to respond to complaints, and 2) over the last 40 years they have done some important work on some mega-projects (large federally funded projects with increased compliance efforts) in some locations under some US Presidents. But a complaint-driven strategy will never be as effective as a pre-emptive, pro-active strategy, and they’ve essentially ignored all non-mega-projects. It’s more effective to help people be successful than punish them after they fail. While I understand that OFCCP is beginning to conduct compliance reviews of construction

contractors again, and to re-boot it's mega-project initiative, it will need to develop expertise and capacity for the construction industry.

What's the data from Massachusetts and how does it compare nationally?

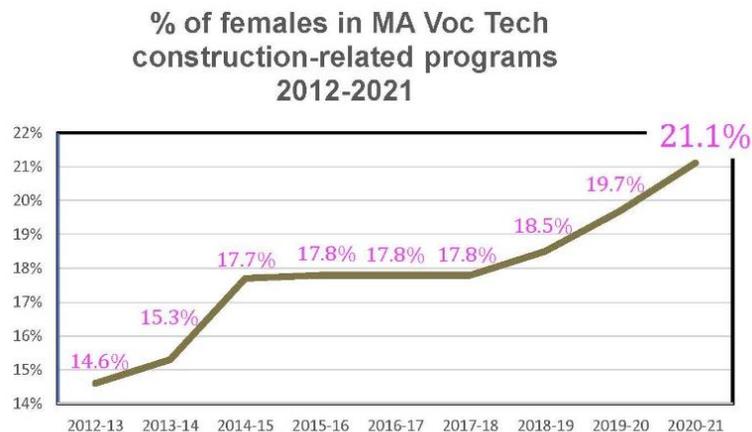
Nationally, **women make up just 4%** of tradespeople working with the tools (2021, BLS).

In MA, by using the best practices described in this testimony, we've achieved **10.3% women** in registered trades apprenticeships. The national average for women in registered apprenticeship is hard to get, and **I recommend that the US DOL publish diversity in apprenticeship numbers annually**. The most recent data I have for women's participation in apprenticeship is 3.6% women, 2019 ([IWRP report^x](#)).



[Women's participation in MA union apprenticeship reaches 10.30 as of Q2, 2021^{xi}](#)

Supply work: One of several efforts to increase supply of women in the trades has been working to increase young women in construction shops in the Career Technical High Schools, through [Mass Girls In Trades](#). We've grown participation to 21.1% girls in the construction shops, from 14.6% in 2012/2013.



[Pipeline of the Future: Female Voc-Tech students in Massachusetts Construction-Related Programs, 2020 - 2021^{xii}](#)

We've also developed a **pipeline effort** to tell women about careers in the trades. Since 2019, we've identified over 900 women in MA who are interested in careers in the trades and who meet basic entry requirements. 67% of those participating are women of color. Female career seekers receive monthly information about apprenticeship

openings and hiring opportunities, and many have now entered the trades. More at BuildALifeMA.org. **This is a good example of an effective, new, local best practice that should be brought to scale.**

In addition, to open the doors to more women, we've created a **construction-hour childcare** pilot program in greater Boston to address the needs of families with young children and the lack of early-morning childcare. More at CareThatWorks.org.

Demand Work: In the last 13 year, projects using PGTI's best practices for workforce diversity have achieved 7.36% women and 26.21% people of color. These jobs have all had an Access and Opportunity Committee and are where the best practices in *Finishing the Job* were developed. Public accountability with engaged local stakeholders is a key game changer. Two state agencies, the UMass Building Authority and the MA Gaming Commission, have taken the lead in helping develop and implement best practices, and their numbers reflect that.

Workforce Compliance Data using PGTI's Best Practices

\$ Value	Worker Hrs	Percent Women	Women's Hrs	Percent People of Color	People of Color Hrs
\$7,068,284,056	16,446, 090	7.36%	1,211,167	26.21%	4,309,962

[Workforce Compliance Data on PGTI Targeted Projects, 6/24/21^{xiii}](#)

By comparison, DCAMM (the MA Division of Capital Asset Management and Maintenance), which is the MA state agency who spends the most public dollars in construction and has refused to use the best practices that the UMass Building Authority and the MA Gaming Commission has only achieved. According to their 2020 report, they've had only [3.1% women and 15.7% people of color^{xiv}](#) building their projects. MA DOT does not share their workforce diversity numbers.

The MA Gaming Commission wrote a report on their best practices for over \$2B casino construction, which can be found here [Built to Last: Best Practices for Diversity in the Construction Industry^{xv}](#). These pr3 casinos, one in urban Boston, two in rural Southeastern and Western MA, achieved 8% women and 21.9% people of color, surpassing their goals of 6.9% women and 15.3% people of color. The 491 women who worked with the tools to build the Encore casino in Everett from 2015 to 2018, are the most women who have ever worked on a single construction project in the history of the United States, and the MA Gaming Commission took real leadership to make that happen.



Some of the 491 tradeswomen who built the Encore Boston Harbor Casino in Everett, MA, 2015 - 2018.
 Most tradeswomen spend their career as the only woman on their job.
 You can imagine what it meant to each woman to have this many women on one jobsite.

Additional recommendations for the US Department of Labor

Add race and gender to certified payrolls. This will significantly ease the work involved in tracking diversity numbers. That which gets measured gets done.

Ensure that all DOL trainings on prevailing wage include training on both the workforce diversity goals in Executive Order 11246 and apprenticeship diversity goals in [29 CFR Part 30](#). I attended a US DOL prevailing wage training and in three days of workshops and stacks of printed materials, not one word was dedicated to workforce diversity goals. This is essentially the federal government telling contractors that workforce goals don't really matter. That cannot continue.

Increase efforts to fight wage theft and tax fraud in the construction industry. Equity in these jobs matters because infrastructure work offers good jobs. President Biden has committed to having infrastructure jobs be good jobs. The biggest threat to these being good jobs is wage theft and tax fraud prevalent in parts of the construction industry.

A recent [study from UC Berkeley](#)^{xvi} summarizes the growing epidemic of construction industry wage theft that is forcing working families onto public assistance at increasing level. It shows that 33%-39% of construction workers in the US are being subsidized by public assistance due to food insecurities and other inequities that come from cheating contractors engaging in construction wage theft

This [one-pager](#)^{xvii} gives a good summary of the problems of wage theft and tax fraud in the business model being used by cheating contractors in the construction industry.

This [study from UMass Amherst](#)^{xviii} specifically focuses on wage theft and tax fraud in the residential housing markets in the Commonwealth of Massachusetts and the effects that has on the industry as a whole.

Bring local best practices to scale. Important best practices for increasing diversity in construction have been developed across the US where pockets of dedicated stakeholder have found successful strategies. Fund bringing these best practices to scale.

Include workforce diversity language in federal PLAs. Project Labor Agreements offer a powerful tool to implement best practices; they are what launched the progress in Massachusetts. You can find the PLA language for UMass Boston that created an Access and Opportunity Committee [here](#)^{xix}.

Implement recommendations from the National Task Force on Tradeswomen's Issues^{xx} (TWTF). The TWTF has submitted detailed, specific recommendations for federal and state bid and contract language in [a memo to the White House Gender Policy Council](#)^{xxi}.

Conclusion

By crushing the barriers that have kept women and people of color out of high-wage, high-skill careers that infrastructure work offers, the Bipartisan Infrastructure Law and other infrastructure spending can bring an economic multiplier effect by building not just roads and bridges, but also the human infrastructure which in turn, will lower economic disparity. Without the concerted efforts recommended in this testimony, Infrastructure dollars

will continue to fund discrimination in the construction industry. We have made measurable progress towards equity and representation in Massachusetts, and we believe it can be done across the country.

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February 8, 2022

Full urls are listed below for all citations in this testimony. In addition, all (but one 400 page) documents are attached.

ⁱ One-Pager on PGTI's Integrated Supply and Demand Strategy

<https://policygroupontradeswomen.org/wp-content/uploads/2020/07/The-PGTI-Model-v2-7.20.pdf>

ⁱⁱ One-Pager on Access and Opportunity Committees – workforce compliance committees to ensure diverse hiring:

<https://policygroupontradeswomen.org/wp-content/uploads/2020/07/Access-and-Opportunity-Committees.pdf>

ⁱⁱⁱ Springfield MA Construction Industry Disparity Study 2018, using Bendick method:

<https://policygroupontradeswomen.org/wp-content/uploads/2019/02/springfield-disparity-study-4.18.pdf>

^{iv} City of Worcester Construction Workforce Disparity Study 2019, using Bendick method:

<https://policygroupontradeswomen.org/wp-content/uploads/2020/05/worcester-workforce-disparity-study-v.-2-6.10.19.pdf>

^v Executive Order 11246 is codified in 41 CFR 60.41-3(a)(8):

<https://www.dol.gov/agencies/ofccp/executive-order-11246/as-amended>

^{vi} Annotated copy of EO 11246 in the Federal Register with helpful explanatory notes from the US DOL Women's Bureau:

https://nercc-my.sharepoint.com/:b:/g/personal/eskidmore_nasrcc_org/ESY-8raOCb9Pt3ovGU3MHI4BDJA1w--ucAT97TS0VzoKcQ?e=y7Nd3d

^{vii} *Finishing the Job*, PGTI's "How To" manual for meeting workforce goals, developed with industry stakeholders over 13 years on \$7B worth of public construction in MA:

<https://policygroupontradeswomen.org/wp-content/uploads/2021/12/Finishing-the-Job-v.9.1-12.2.2021-1.pdf>

^{viii} City of Boston, Boston Residents Jobs Policy public, searchable workforce compliance database:

<https://data.boston.gov/dataset/boston-jobs-policy-compliance-reports/resource/5ab4b4de-c970-4619-ab55-ce4338535b24?filters=Agency%3ABRA>

^{ix} Women First! Gender Diversity in Construction Workforce Increases Racial Diversity:

<https://policygroupontradeswomen.org/wp-content/uploads/2020/07/WOMEN-FIRST-7.20.pdf>

^x A Future Worth Building: What Tradeswomen Say about the Change They Need in the Construction Industry, the Institute for Women's Policy Research:

<https://iwpr.org/iwpr-publications/a-future-worth-building-report/>

^{xi} Data Display: Women's participation in MA union apprenticeship reaches 10.30% as of Q2, 2021:

<https://policygroupontradeswomen.org/wp-content/uploads/2021/09/2021-Q2-Current-demographics-of-women-and-minority-participants-in-Registered-Apprenticeship-Programs-in-Massachusetts-3.pdf>

^{xii} Pipeline of the Future: Female Voc-Tch students in Massachusetts Construction-related programs, 2020 – 2021:
<https://policygroupontradeswomen.org/wp-content/uploads/2021/09/2020-21-Data-Display.pdf>

^{xiii} Summary Data of PGTI Targeted Projects 6 24 21, a list of workforce diversity numbers for \$7B worth of construction over 13 years using PGTI’s best practices:
https://nercc-my.sharepoint.com/:b:/g/personal/eskidmore_nasrcc_org/ES-CQ4IB4wdGoQW6u6Wb6roBpAj8zKxoMb1-tH8-WGd59w?e=3uq8YF

^{xiv} Division of Capital Asset Management & Maintenance (DCAMM) FY 2020 Annual Report, Supplier Diversity – Affirmative Marketing Program for Design & Construction, March 2021. See Report No. 14, page 112:
<https://www.mass.gov/doc/dcamm-supplier-diversity-amp-for-design-and-construction-annual-report-2020/download>
(The 400 page report is not attached to this testimony.)

^{xv} Built to Last: Best Practices for Diversity in the Construction Industry, The Massachusetts Casino Development Experience, summary of how they achieved 9% women and 21.9% people of color (goals were 6.9% women and 15.3% people of color):
<Built-to-Last-Best-Practices-for-Diversity-in-the-Construction-Industry.pdf> (massgaming.com)

^{xvi} The Public Cost of Low Wage Jobs in the US Construction Industry, UC Berkeley:
https://nercc-my.sharepoint.com/:b:/g/personal/eskidmore_nasrcc_org/EYdESp-BAAhNoFasVOBNFtEBx2AtSun9LRpoBFhtx51bjA?e=IORTni

^{xvii} One-pager on wage theft and tax fraud in the construction industry:
https://nercc-my.sharepoint.com/:b:/g/personal/eskidmore_nasrcc_org/ESG9v5_zDu9NITCjRfak8EBILLPW_oe5ZJM1W0IEjYPIQ?e=NwBfNu

^{xviii} The Social and Economic Costs of Illegal Misclassification, Wage Theft and Tax Fraud in Residential Construction in Massachusetts, UMass Amherst
https://nercc-my.sharepoint.com/:b:/g/personal/eskidmore_nasrcc_org/EQs3emA45iJkgDwDqQKQHIMBQcITbxK1G5mXQs8nWQsMRw?e=XzFMOS

^{xix} Model Language: Access and Opportunity Committee from the UMass Boston Project Labor Agreement:
<https://policygroupontradeswomen.org/wp-content/uploads/2021/06/MODEL-LANGUAGE-AOC.pdf>

^{xx} Memo to the White House Gender Policy Council from the National Taskforce on Tradeswomen’s Issues Re: National Strategy on Gender Equity and Equality: Towards Women’s Equitable Access to and Retention in High-Wage, High-Skilled Apprenticeship Training and Trades Employment:
<https://tradeswomentaskforce.org/policy-platform>

^{xxi} <https://tradeswomentaskforce.org/policy-platform>