

CITY OF PHILADELPHIA PENNSYLVANIA

OFFICE OF THE CONTROLLER

Promoting honest, efficient, and fully accountable government

REVIEW OF CITY TAX EVASION AT CONSTRUCTION SITES

Illicit Business Practices &
Unsafe Working Conditions

SEPTEMBER 2012



City Controller
ALAN BUTKOVITZ



CITY OF PHILADELPHIA

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ALAN BUTKOVITZ
City Controller

September 12, 2012

Mr. Keith Richardson, Commissioner
Department of Revenue
6th Floor, Municipal Services Building
1401 John F. Kennedy Blvd.
Philadelphia, PA 19102

Mr. Carlton Williams, Commissioner
Department of Licenses & Inspections
11th Floor, Municipal Services Building
1401 John F. Kennedy Blvd.
Philadelphia, PA 19102

Dear Commissioner Richardson and Commissioner Williams:

The Office of the City Controller has conducted a special review of active construction sites throughout the City of Philadelphia. This review was conducted pursuant to Section 6-400 (c) and (d) of the Home Rule Charter. A synopsis of the results of our work is provided in the executive summary to the report.

The objective of this review was to determine if wage tax evasion is perpetrated by commercial and residential construction contractors operating within the city. We believe that our recommendations, if implemented by Management, would improve the financial position of the City of Philadelphia and safeguard construction workers throughout the city from potential work safety hazards.

Please call Mr. Harvey Rice at (215) 686-6696 if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Alan Butkovitz'.

Alan Butkovitz
City Controller

cc: Honorable Michael A. Nutter, Mayor
Members of City Council

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REVIEW OF CITY TAX EVASION AT CONSTRUCTION SITES

ILLICIT BUSINESS PRACTICES AND UNSAFE WORKING CONDITIONS

EXECUTIVE SUMMARY

Why the City Controller's Office Conducted the Examination

We conducted inspections of active construction sites throughout the City of Philadelphia to determine if wage tax evasion is perpetrated by commercial and residential construction contractors.

What the City Controller's Office Found

We identified abuses at the construction sites visited that could be potentially costing the city a significant amount of lost tax revenue at a time when critical city services are being reduced and eliminated due to fiscal constraints. Such abuses included the following:

- Contractor employment practices which detract from proper tax collection efforts.
- Evasion of federal, state, and city wage taxes, along with other required deductions via daily cash or check payments to workers for daily services rendered.
- Contractors classifying workers as individual sub-contractors, therefore placing the burden of wage tax payments to those workers who may not be familiar with payroll tax laws and regulations and who do not possess business privilege licenses or tax numbers. Consequently, increasing the risk that proper wage tax reporting will not occur.
- Contractors do not identify sub-contractors on individual construction permits, which increases the risk that the subcontractor is unlicensed and will consequently evade payment of business and payroll taxes.

In addition to the above, and more importantly, we also noted unsafe work conditions, which included non-compliance with safety standards, at most of the construction sites we visited. For instance, we observed the following conditions at various construction sites which increased the risk of injury or death:

- Workers without required safety equipment such as hard hats, work boots, and protective eye wear.
- Workers on scaffolds or elevations without required safety harnesses.
- Unsafe pedestrian walkway conditions.
- Hazardous scaffolding structures.
- Surpassed dumpster capacity.

What the City Controller's Office Recommends

The Controller's Office has developed a number of recommendations to address these findings. The recommendations can be found in the body of the report.

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INTRODUCTION

BACKGROUND

All employees working in Philadelphia are subject to the city wage tax, currently at the rate of 3.928 percent¹, computed on earned income. All employers are obligated by city tax regulations to withhold the proper amount of tax due from each employee and subsequently remit the withheld monies to the City's Department of Revenue.

The Controller's Office received information that a number of commercial and residential construction contractors working within the City of Philadelphia employ workers and consequently compensate these workers by cash or check in order to evade reporting and remitting the appropriate wage tax to the federal, state, and city taxing authorities.

The city's licensing function is performed by the Department of Licenses and Inspections which is responsible for regulating the conduct of businesses and persons by issuing licenses, by conducting inspections, and by enforcing applicable codes and regulations. The department is also responsible for administering and enforcing the city's code requirement for the enhancement of public safety, including building, plumbing, electrical, mechanical, fire, property maintenance, business, and zoning regulations.

The Department of Revenue is responsible for the collection of income and other taxes, and the collection of fees for all city licenses and permits.

OBJECTIVES, SCOPE, AND METHODOLOGY

The Controller's Office Fraud and Special Investigations Unit conducted inspections of active construction sites throughout the city. The objectives of these inspections were to determine if construction contractors were misclassifying workers for tax reporting purposes, how these workers were compensated, and the safety conditions at these construction sites.

To accomplish our objectives, we conducted surveillance at various construction sites over a period of six months from July to December 2011. A team of investigators was dispatched to 23 separate construction sites throughout the city. As part of our work, we monitored the construction sites, meeting locations, and normal work day habits of workers at these sites. We also photographed and videotaped the observed conditions; interviewed workers, and where possible, obtained copies of payment records.

Unfortunately, we were not allowed access to most of the construction sites, therefore the conditions cited in this report are primarily from what we observed from the perimeter of each site. It should be noted that, on construction sites that we were allowed access to, once we initiated our inquiry our questions were hastily answered, and we were subsequently escorted off the premises, with the workers then making frantic phone calls to unknown individuals. Very few workers on site were comfortable with disclosing the information requested and it appeared that some were even hesitant to respond for fear of reprisal.

¹ Non-Residents working within the City of Philadelphia are subject to a 3.4985 percent tax rate on wages.

SUMMARY OF OBSERVATIONS NOTED DURING CONSTRUCTION SITE INSPECTIONS

During our construction site inspections we noted many potential indicators of tax evasion, employment of misclassified workers, and unsafe work conditions. The following are descriptions of conditions observed at the construction sites. A matrix of conditions noted by category and site is located on page 5. Appendix A contains photographs of the conditions noted during our inspections.

Tax Evasion and Employment of Misclassified Workers

The suspicion that workers were getting paid in cash and consequently evading wage taxes, existed at several of the construction sites we inspected. However, workers at four separate sites verbally confirmed to investigators that they were getting paid in cash at the end of each day for their services. For instance, at one site, workers stated that they were being paid \$100 in cash for a 10 to 12 hour work day, shortly thereafter they quickly left the work site to avoid further questioning. The general contractor at this site stated that these workers were subcontractors and had no knowledge of how they were compensated since he did not interact with them directly. The following morning investigators observed the general contractor in a back alley in center city assigning work to the same men. Subsequently, the men returned to work at the construction site.

At another construction site, a worker admitted to being paid in cash and was in the process of answering additional questions, when another individual emerged, spoke to the worker, who then immediately stopped cooperating with the investigators.

At eleven other construction sites, workers refused to speak to investigators.

The investigators arrival at another construction site, caused six workers to immediately cease working and flee the site on foot rather than answer any of our questions.

At one construction site, workers stated that they were getting paid in check format. A review of a payroll check did not indicate the withholding of any federal, state, or city payroll taxes.

We could not ascertain whether the contractors and sub-contractors at six sites had active business privilege licenses. Without a business privilege license² the appropriate city business taxes, such as the Business Privilege Tax (BPT) and Net Profits Tax (NPT) cannot be properly filed and paid. Further, we could not ascertain whether sub-contractors were appropriately licensed at 19 sites since they were not identified on the various permits issued by Department of Licenses and Inspections.

At two sites, a business privilege license was obtained by the subcontractor subsequent to our visit.

² Effective May 1, 2012, the Business Privilege Tax was renamed to the Business Income and Receipts Tax, and the Business Privilege License the Commercial Activity License.

At another site, a general contractor refused to identify the sub-contractors that completed the work on their construction project. As such we were unable to ascertain whether the subcontractors had appropriate business licenses and tax account numbers. Such non-disclosure and lack of cooperation with our inspections was prevalent throughout our investigation.

Personnel Safety Violations

More important than the revenue loss to the city noted above, we noted a lack of compliance with the U.S. Department of Labor, Office of Safety and Health Administration (OSHA) Standard 29 CFR 1926 subpart E, Personal Protective and Life Saving Equipment which are required safety standards necessary to maintain a safe working environment at construction sites. Specifically, we noted the following OSHA Safety Standards violations:

- Workers at 14 sites were not wearing required eye protection.
- Workers at 13 sites were not wearing required hard hats.
- Workers at 4 sites were not wearing required work boots.
- Workers at 6 sites were hanging perilously from either windows, roofs or scaffolding, without the required safety harnesses.

We noted a worker standing on the top rung of a step ladder without any protective safety harness at one site. At another site, workers appeared to be improperly dressed for an active construction site.

At another site a worker was hanging out of a window without a safety harness or any other ropes that might prevent a catastrophic fall, while pulling up a box of material to the third floor.

At the locations with erected scaffolds, we noted workers on the scaffolds without protective hard hats, or safety harnesses.

Site Safety Violations

At nearly every site which had a dumpster, the dumpsters were overflowing with debris exceeding the recommended capacity. In one situation we noted that the dumpster was completely full and excess debris was partially blocking an egress path.

At another site we noted that a pallet of 5 gallon buckets of joint compound was scattered in the middle of a street, blocking traffic and vehicles from passing.

At five other sites we noted that nearby electrical lines did not have the required protective orange sleeve. At one other site, we noted that an electrical junction box was inadequately covered, with wires dangling out of it, and posing an electrocution hazard.

At three sites we noted unsafe pedestrian traffic conditions. At one of these locations, pedestrians were forced into oncoming traffic with no barriers or cones to protect them while walking.

At four sites, the erected scaffolding appeared to be in violation of OSHA Regulation Standard 29 CFR # 1910.28 (b)(4), general requirements for all scaffolds. We noted that the scaffolding at these sites was not adequately secured to either the building or ground, endangering all the workers on it.

At one site, a four story scaffolding structure appeared not to be properly anchored into the wall but rather free standing next to the building. No workers were on the scaffolding at the time of our visit.

SUMMARY OF FINDINGS BY CONSTRUCTION SITE																							
Conditions Observed	Site 1 - 19107	Site 2 - 19107	Site 3 - 19115	Site 4 - 19121	Site 5 - 19121	Site 6 - 19121	Site 7 - 19122	Site 8 - 19123	Site 9 - 19123	Site 10 - 19123	Site 11 - 19123	Site 12 - 19123	Site 13 - 19123	Site 14 - 19123	Site 15 - 19123	Site 16 - 19123	Site 17 - 19124	Site 18 - 19131	Site 19 - 19132	Site 20 - 19133	Site 21 - 19144	Site 22 - 19147	Site 23 - 19151
Business Privilege License Not Issued to Contractors		X	X							X	X							X					X
Sub-Contractors Not Listed on Permits	X		X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
Workers Admitted to Being Paid in Cash		X	X	X																X			
Workers Refused to Speak to Investigators			X	X	X	X	X		X	X	X	X	X				X						
Workers Fled From Investigators		X																					
Workers Not Wearing Eye Protection		X	X	X	X	X	X			X				X			X		X	X	X	X	X
Workers Not Wearing Hard Hats		X	X	X		X	X	X			X			X			X		X	X	X	X	X
Workers Not Wearing Work Boots		X		X										X			X						
Workers Not Wearing Safety Harnesses				X	X	X				X							X		X				
Dumpster Surpassed Capacity			X		X					X				X									
Debris Blocking Exit		X												X									
Unsafe Electrical Wires	X			X	X					X	X												
Unsafe Pedestrian Traffic Conditions						X				X													X
Scaffolding Appeared Dangerous		X				X	X														X		

OBESERVATIONS BY CONSTRUCTION SITE

CONSTRUCTION SITE 1 PHILADELPHIA, PA 19107	
Number of Workers	<ul style="list-style-type: none"> At least 4 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> No activity at time of visit.
Personal Safety	<ul style="list-style-type: none"> No activity at time of visit.
Site Safety	<ul style="list-style-type: none"> Electrical lines are not covered with a protective orange sleeve.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 2 PHILADELPHIA, PA 19107	
Number of Workers	<ul style="list-style-type: none"> At least 6 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> Workers indicated that they were getting paid \$100 in cash for a 10 to 12 hour work day. Not all contractors observed on site had a business privilege license.
Misclassified Workers	<ul style="list-style-type: none"> Upon arrival of investigators, at least 6 workers fled from the work site. The general contractor indicated that they were sub-contractors and he did not know them. On the next day, the general contractor was observed handing out work assignments to the same men in a back alley in Center City. Subsequently, the men went back to work at this site.
Personal Safety	<ul style="list-style-type: none"> Workers were not wearing eye protection. Workers were not wearing hard hats. Workers were not wearing work boots.
Site Safety	<ul style="list-style-type: none"> A palette of 5 gallon buckets of joint compound toppled onto the street blocking traffic from passing.
Scaffolding Safety	<ul style="list-style-type: none"> Scaffold did not comply with OSHA Regulation Standard 29 CFR #1910.28 (b)(4), general requirements for all scaffolds. Scaffolding was not properly secured to the ground.

CONSTRUCTION SITE 3 PHILADELPHIA, PA 19115	
Number of Workers	<ul style="list-style-type: none"> At least 7 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> Workers were not willing to state how they were getting paid. Owner of property is also the licensed contractor on the permit. Permits did not indicate names of sub-contractors. Not all contractors observed on site had a business privilege license.
Misclassified Workers	<ul style="list-style-type: none"> Except for one worker, no one would to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> No hardhats on the 7 workers. Workers were not wearing eye protection.
Site Safety	<ul style="list-style-type: none"> Dumpster surpassed capacity.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 4 PHILADELPHIA, PA 19121	
Number of Workers	<ul style="list-style-type: none"> At least 3 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> Two workers stated that they were being paid in cash. Two workers stated that they were being paid by check. Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> Workers stopped talking to investigators after another worker spoke to them.
Personal Safety	<ul style="list-style-type: none"> Workers were not wearing eye protection. Workers were not wearing hard hats. Workers were not wearing work boots.
Site Safety	<ul style="list-style-type: none"> None noted at time of visit.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 5 PHILADELPHIA, PA 19121	
Number of Workers	<ul style="list-style-type: none"> At least 6 workers on site
Tax Revenue Loss	<ul style="list-style-type: none"> One worker stated that he was being paid in cash.
Misclassified Workers	<ul style="list-style-type: none"> Cash payment to worker.
Personal Safety	<ul style="list-style-type: none"> Workers were not wearing eye protection. Worker was standing on top rung of step ladder. Worker was not wearing a safety harness.
Site Safety	<ul style="list-style-type: none"> Nearby electrical lines were not covered with protective orange sleeve
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable

CONSTRUCTION SITE 6 PHILADELPHIA, PA 19121	
Number of Workers	<ul style="list-style-type: none"> At least 1 worker on site.
Tax Revenue Loss	<ul style="list-style-type: none"> Worker refused to speak to investigators.
Misclassified Workers	<ul style="list-style-type: none"> Worker refused to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> Worker was not wearing eye protection. Worker was not wearing hard hat. Worker was hanging out of a window without a safety harness while pulling a box up to the third floor.
Site Safety	<ul style="list-style-type: none"> Nearby electrical lines were not covered with protective orange sleeve. Dumpster had surpassed the fill line.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 7 PHILADELPHIA, PA 19122	
Number of Workers	<ul style="list-style-type: none"> At least 2 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> Workers refused to speak to investigators. Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> Workers refused to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> Workers were not wearing eye protection. One worker was on the ground floor not wearing a hard hat. One worker was on a three story scaffold without a hard hat or safety harness.
Site Safety	<ul style="list-style-type: none"> Pedestrian traffic was forced into the street against oncoming traffic.
Scaffolding Safety	<ul style="list-style-type: none"> Scaffolding did not appear securely fastened to the building.

CONSTRUCTION SITE 8 PHILADELPHIA, PA 19123	
Number of Workers	<ul style="list-style-type: none"> None at time of visit.
Tax Revenue Loss	<ul style="list-style-type: none"> Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> No activity at time of visit.
Personal Safety	<ul style="list-style-type: none"> No activity at time of visit.
Site Safety	<ul style="list-style-type: none"> No activity at time of visit.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable

CONSTRUCTION SITE 9 PHILADELPHIA, PA 19123	
Number of Workers	<ul style="list-style-type: none"> At least 6 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> Workers refused to speak to investigators. Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> Workers refused to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> Workers were not wearing eye protection. Workers were not wearing hard hats.
Site Safety	<ul style="list-style-type: none"> None noted.
Scaffolding Safety	<ul style="list-style-type: none"> Scaffolding was erected on dirt making it unsafe.

CONSTRUCTION SITE 10 PHILADELPHIA, PA 19123	
Number of Workers	<ul style="list-style-type: none"> None at time of visit.
Tax Revenue Loss	<ul style="list-style-type: none"> Permits did not indicate names of sub-contractors
Misclassified Workers	<ul style="list-style-type: none"> No activity at time of visit.
Personal Safety	<ul style="list-style-type: none"> No activity at time of visit.
Site Safety	<ul style="list-style-type: none"> None noted.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 11 PHILADELPHIA, PA 19123	
Number of Workers	<ul style="list-style-type: none"> At least 1 worker on site.
Tax Revenue Loss	<ul style="list-style-type: none"> Worker would not speak to investigators. Permits did not indicate names of sub-contractors. Not all contractors observed on site had a business privilege license.
Misclassified Workers	<ul style="list-style-type: none"> Worker would not speak to investigators.
Personal Safety	<ul style="list-style-type: none"> None noted.
Site Safety	<ul style="list-style-type: none"> Dumpster exceeded capacity. Electrical lines were not covered with protective orange sleeve. Pedestrian traffic was diverted to street.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 12 PHILADELPHIA, PA 19123	
Number of Workers	<ul style="list-style-type: none"> At least 6 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> One worker stated that they were paid by check absent tax withholdings. Permits did not indicate names of sub-contractors. Not all contractors identified on site had a business privilege license.
Misclassified Workers	<ul style="list-style-type: none"> 5 of the 6 workers refused to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> Workers were not wearing eye protection. Workers were not wearing hard hats. Six workers on the roof of this three story building were not wearing proper safety harnesses.
Site Safety	<ul style="list-style-type: none"> Unsafe electrical outlet, whereby wires were exposed and not properly tucked into the electrical box.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 13 PHILADELPHIA, PA 19123	
Number of Workers	<ul style="list-style-type: none"> At least 4 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> The company completing the drywall work did not have a business privilege license at the time of surveillance. A license was obtained subsequent to our visit. Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> Workers refused to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> None noted.
Site Safety	<ul style="list-style-type: none"> None noted.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 14 PHILADELPHIA, PA 19123	
Number of Workers	<ul style="list-style-type: none"> At least 2 workers on this site.
Tax Revenue Loss	<ul style="list-style-type: none"> The construction company did not have a business privilege license at the time of surveillance. A license was obtained subsequent to our visit. Workers refused to speak to investigators. Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> Workers refused to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> Could not go onto the construction site.
Site Safety	<ul style="list-style-type: none"> Could not go onto the construction site.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 15 PHILADELPHIA, PA 19123	
Number of Workers	<ul style="list-style-type: none"> • At least 4 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> • Workers refused to speak to investigators. • Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> • Workers refused to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> • At least four workers were seen wearing sneakers. • Workers were not wearing eye protection. • Workers were not wearing hard hats. • Workers were not wearing work boots.
Site Safety	<ul style="list-style-type: none"> • There was a dumpster over flowing with debris and filled beyond the full line indicated on the dumpster. • There was debris piled up in the exterior of the building partially blocking the rear exit of the building.
Scaffolding Safety	<ul style="list-style-type: none"> • Not applicable.

CONSTRUCTION SITE 16 PHILADELPHIA, PA 19124	
Number of Workers	<ul style="list-style-type: none"> • At least 1 worker on site.
Tax Revenue Loss	<ul style="list-style-type: none"> • Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> • None noted.
Personal Safety	<ul style="list-style-type: none"> • None noted.
Site Safety	<ul style="list-style-type: none"> • None noted.
Scaffolding Safety	<ul style="list-style-type: none"> • Not applicable.

CONSTRUCTION SITE 17 PHILADELPHIA, PA 19131	
Number of Workers	<ul style="list-style-type: none"> • None at time of visit.
Tax Revenue Loss	<ul style="list-style-type: none"> • Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> • No activity at time of visit.
Personal Safety	<ul style="list-style-type: none"> • No activity at time of visit.
Site Safety	<ul style="list-style-type: none"> • Department of Licenses and Inspections shut this work site on numerous occasions due to violations.
Scaffolding Safety	<ul style="list-style-type: none"> • Not applicable.

CONSTRUCTION SITE 18 PHILADELPHIA, PA 19132	
Number of Workers	<ul style="list-style-type: none"> • At least 2 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> • Workers refused to speak to investigators. • Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> • Workers refused to speak to investigators.
Personal Safety	<ul style="list-style-type: none"> • Two men working on an over hang about 15 feet off the ground with no safety harnesses or hard hats. • Workers were not wearing eye protection. • Workers were not wearing work boots.
Site Safety	<ul style="list-style-type: none"> • None noted.
Scaffolding Safety	<ul style="list-style-type: none"> • Not applicable.

CONSTRUCTION SITE 19 PHILADELPHIA, PA 19133	
Number of Workers	<ul style="list-style-type: none"> • None at time of visit.
Tax Revenue Loss	<ul style="list-style-type: none"> • No activity at time of visit. • Permits did not indicate names of sub-contractors. • Not all contractors observed on site had a business privilege license.
Misclassified Workers	<ul style="list-style-type: none"> • No activity at time of visit.
Personal Safety	<ul style="list-style-type: none"> • No activity at time of visit.
Site Safety	<ul style="list-style-type: none"> • No activity at time of visit.
Scaffolding Safety	<ul style="list-style-type: none"> • Not applicable.

CONSTRUCTION SITE 20 PHILADELPHIA, PA 19144	
Number of Workers	<ul style="list-style-type: none"> • At least 6 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> • Investigator was given a tour of the construction site. • Investigator was provided with permits. • Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> • None noted.
Personal Safety	<ul style="list-style-type: none"> • Worker was hanging out of a window without a safety harness. • Worker was not wearing a hard hat or eye protection.
Site Safety	<ul style="list-style-type: none"> • None noted.
Scaffolding Safety	<ul style="list-style-type: none"> • Not applicable.

CONSTRUCTION SITE 21 PHILADELPHIA, PA 19147	
Number of Workers	<ul style="list-style-type: none"> At least 8 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none"> We were informed that workers were coming in from out of state and being paid with a 1099. A few workers stated that they were paid in cash at the end of each work day. Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> A few workers stated that they were paid in cash at the end of each work day.
Personal Safety	<ul style="list-style-type: none"> None of the eight workers were wearing eye protection. None of the eight workers were wearing hard hats. A few workers were wearing shorts.
Site Safety	<ul style="list-style-type: none"> None noted.
Scaffolding Safety	<ul style="list-style-type: none"> Not applicable.

CONSTRUCTION SITE 22 PHILADELPHIA, PA 19147	
Number of Workers	<ul style="list-style-type: none"> At least 1 worker on site.
Tax Revenue Loss	<ul style="list-style-type: none"> We were informed that workers were coming in from out of state and being paid with a 1099. Permits did not indicate names of sub-contractors.
Misclassified Workers	<ul style="list-style-type: none"> None noted.
Personal Safety	<ul style="list-style-type: none"> Worker was not wearing a hard hat. Worker was not wearing eye protection.
Site Safety	<ul style="list-style-type: none"> None noted.
Scaffolding Safety	<ul style="list-style-type: none"> Scaffold did not comply with OSHA Regulation Standard 29 CFR #1910.28 (b)(4), general requirements for all scaffolds. Four stories of scaffolding appeared not to be properly anchored into the wall but rather free standing next to the building. No workers were on this scaffold at time of visit.

CONSTRUCTION SITE 23 PHILADELPHIA, PA 19151	
Number of Workers	<ul style="list-style-type: none">• At least 2 workers on site.
Tax Revenue Loss	<ul style="list-style-type: none">• Project manager did not disclose information requested related to subcontractors working at this site.• The prime contractor refused to identify the contractors who completed the project.• Not all contractors observed on site had a business privilege license.
Misclassified Workers	<ul style="list-style-type: none">• The prime contractor refused to identify the contractors who completed the project.
Personal Safety	<ul style="list-style-type: none">• Workers were not wearing hard hats.• Workers were not wearing eye protection.
Site Safety	<ul style="list-style-type: none">• Pedestrian traffic was diverted into the street.
Scaffolding Safety	<ul style="list-style-type: none">• Not applicable.

CONCLUSION

Our observations above suggest that commercial and residential contractors are encouraging the circumvention of the collection of taxes through the employment of misclassified workers and the engagement of sub-contractors who are not listed on permits. In addition, hazardous working conditions existed in most of the construction sites we visited, placing workers, and sometimes pedestrians, in danger.

Contractors are encouraging the circumvention of the collection of payroll taxes in part by engaging sub-contractors who sometimes subsequently engage additional sub-contractors to perform the work. These second and third level contractors employ workers and pay them in cash or via check without the proper tax withholdings. As such, these workers should be classified as independent contractors.

This improper classification transfers the onerous income tax burden onto the worker who is then responsible to obtain all the necessary licenses, and subsequently report the earned income to the federal, state, and city taxing agencies, therefore, increasing the likelihood that the appropriate taxes will not be remitted to the taxing authorities.

We believe that city wage tax collections would have increased by a significant amount if these workers were being paid in accordance with the prevailing wages for their occupation and remitting appropriate payroll taxes. The chart below illustrates the possible annual city wage tax loss for a worker by occupation based on prevailing wage rates.

Occupation	Mean Annual Wage³	Residents⁴	Nonresidents⁵
Carpenter	\$51,510	\$2,023	\$1,802
Plumbers	\$61,220	\$2,405	\$2,142
Pipe Fitters	\$61,220	\$2,405	\$2,142
Steam Fitters	\$61,220	\$2,405	\$2,142
Drywall and Ceiling Tile Installers	\$45,240	\$1,777	\$1,583
Electricians	\$69,890	\$2,745	\$2,445
Tapers	\$45,240	\$1,965	\$1,750
Brick Masons and Block Masons	\$61,030	\$2,397	\$2,135

According to the U.S. Department of Labor, the prevailing wage for a carpenter is \$24.76 per hour. However, based on our investigation, we found carpenters earning only approximately \$10 to \$8 per hour based on a 10 to 12 hour day. As such, these carpenters residing in the city would owe approximately \$982 in city wage taxes per year based on a 40 hour work week. A significantly less amount then if they were paid the prevailing wage rates, but nonetheless, an increase in city tax revenue.

³ Source :

⁴ Mean Annual Wage multiplied by the resident tax rate of 3.928%.

⁵ Mean Annual Wage multiplied by the non-resident tax rate of 3.4985.

Contractors could also be circumventing the collection of business taxes by not having to report or identify the sub-contractor engaged to perform work on the issued permit, consequently hampering the timely collection of business taxes from these sub-contractors. Until recently, the Department of Licenses and Inspections only required the identification of the primary contractor on all issued permits. As a result, unlicensed contractors could perform the work and subsequently fail to remit appropriate taxes, without detection by the city.

Effective May 2012, City Council strengthened the Department of Licenses and Inspections permit application and disclosure process by amending⁶ certain sections of the Philadelphia Code. Specifically, Section 9-1004, *Contractors*, was amended to require contractors and sub-contractors submit identifying information, such as their name, address, telephone number, current and valid business licenses, and the property owners' name, for each construction project, to the Department of Licenses and Inspections, within three business days after commencement of work. Further, they are required to notify the Department of Licenses and Inspections promptly of any changes to the information submitted. The submitted information will be published on the city's official website.

Additionally, our inspections revealed the existence of hazardous work conditions, outlined above, at most of the construction sites visited. According to U.S. Department of Labor's Occupational Safety and Health Administration website, the Philadelphia Region, which includes Delaware, Pennsylvania, Maryland, the District of Columbia, Virginia and West Virginia, had a total of 43 fatalities in fiscal years 2011 and 2012, with 18 attributed to falls. The ten most frequently cited OSHA violations in fiscal year 2011 involved scaffolding requirements (number 1), fall protection (number 2), electrical wiring methods (number 6), and ladders (number 8). All of which were hazards that we observed during our inspections at the above construction sites.

Our observations from our inspections were forwarded to the Department of Revenue and Department of Licenses and Inspections, for investigation and possible enforcement action.

RECOMMENDATIONS

We commend City Council for amending the City Code to require the identification of sub-contractors at construction sites, and recommend that the Department of License and Inspections assiduously implement and enforce the new reporting requirements. In addition, we recommend the following:

- The Department of Licenses and Inspections immediately inspect the construction sites where we observed hazardous work conditions and issue appropriate violation notices, and if necessary, issue cease and desist orders until all safety violations are corrected.
- The Department of Licenses and Inspections should develop and implement procedures to ensure accurate and timely reporting of all safety infractions encountered during construction site inspections to OSHA.

⁶ The City Controller testified before City Council promoting the passage of this bill.

- The Department of Revenue and Department of Licenses and Inspections develop and implement procedures to ensure that all construction contractors and sub-contractors operating in the city are properly licensed, and are remitting the appropriate business and payroll taxes in accordance with city regulations. At a minimum, these procedures should include a periodic comparison of newly issued permits to city tax accounts to ensure collection of all appropriate city taxes. These procedures should also include an inspection of the construction site subsequent to the issuance of the permit.
- To facilitate on-site inspections by both the Revenue Department and the Department of Licenses and Inspections, an identification methodology should be developed to easily identify licensed contractors and their employees from those not properly licensed. For instance, contractors, sub-contractors, independent contractors, and employees should be required to possess a contractor's identification certificate that contains their picture, name, business name, address, commercial activity license account number and city tax account number, or a pictured employee identification card issued by the Department of License and Inspections if only an employee, while working on any construction site within the city. Such identifying credential should be visible at all times while on site and should be made available to any and all city inspectors upon request.
- The Department of Revenue and Department of Licenses and Inspections should provide training to newly licensed contractors on how to properly comply with city license and tax regulations. As part of this training, follow-up procedures should be incorporated to ensure on-going compliance.
- The City administration should conduct a study of the Department of Licenses and Inspections construction permit issuance policies and procedures be performed to determine if there are opportunities for improvement in the permit issuance process and for increased collaboration with the Department of Revenue.

Photographs of Conditions Found

Tax Evasion



Figure 1 – Workers stated they were being paid cash. (site 21)

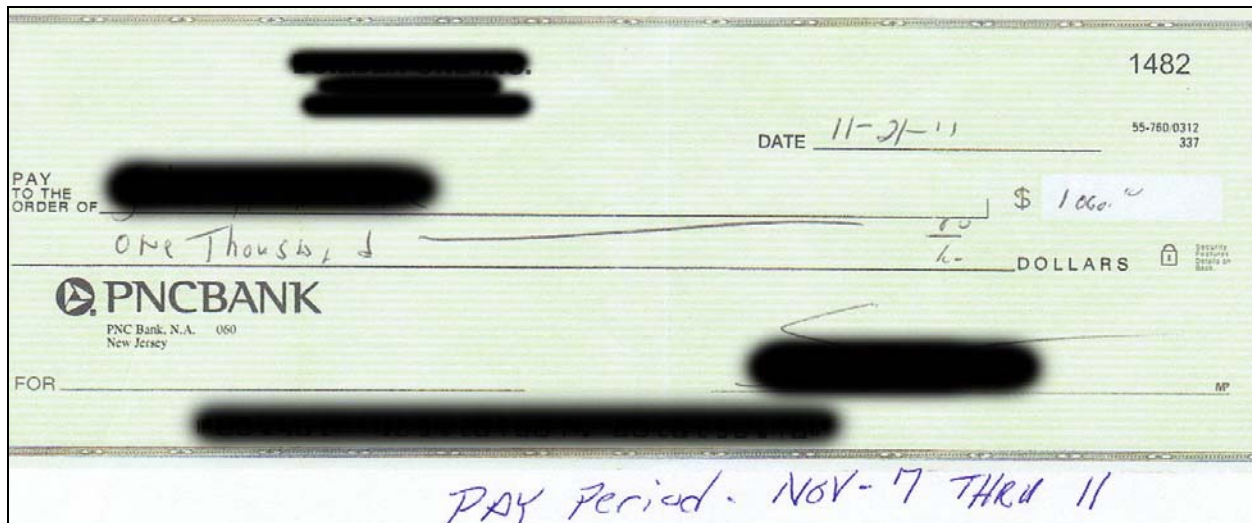


Figure 2 – Check illustrating an example of employees being paid without tax deductions. (site 14)

Employment of Misclassified Workers



Figure 3 – Workers fled from investigators. (site 2)



Figure 4 – Workers refused to speak with investigators. (site 9)

Personnel Safety Violations



Figure 5 – Worker is standing on the top rung of step ladder. (site 5)



Figure 6 – Worker is not wearing a safety harness. (site 5)



Figure 7 – Workers are not wearing safety harnesses, hard hats or eye protections (site 12)



Figure 8 – Workers are not wearing hard hats or safety harnesses. (site 18)

Site Safety Violations



Figure 9 – Pallet of 5 gallon buckets of joint compound toppled into the street blocking traffic (site 2)

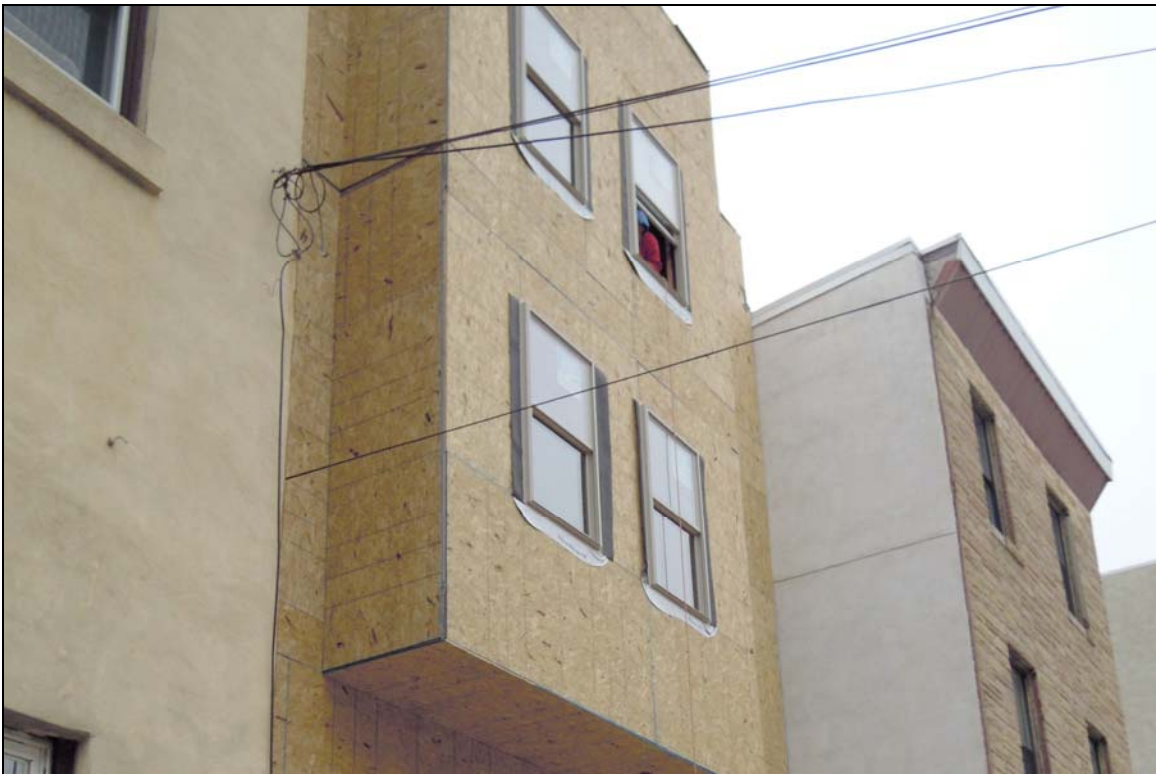


Figure 10 – Electrical lines not covered with a protective orange sleeve. (site 6)



Figure 11 – Unsafe pedestrian conditions. (site 7)

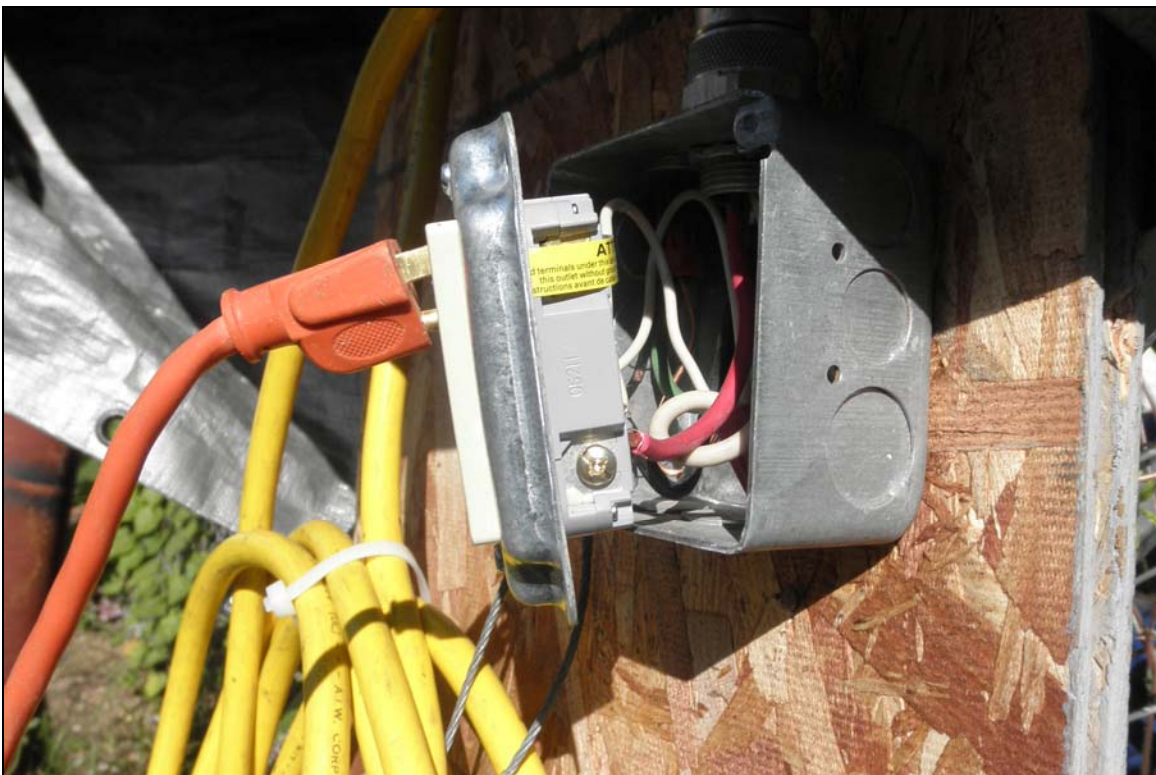


Figure 12 – Unsafe electrical conditions. (site 12)



Figure 13 – Dumpster surpassed capacity. (site 15)



Figure 14 – Debris blocking egress path. (site 15)

Scaffolding Safety Violations



Figure 15 – Scaffolding does not appear secure. (site 7)



Figure 16 – Scaffolding not properly secured to the wall or the ground. (site 9)