

# Lack of loyalty returns to haunt Gov. Walker

Gov. Scott Walker has not kept his word to the Wisconsin construction industry. Even though the industry supported him in several of his election bids, including his recall election, the governor turned on the industry, genuflecting to the national political agenda of a handful of billionaires.



The string of broken commitments to our industry is long. Right-to-work legislation, which Walker said would not happen in Wisconsin, passed shortly after his second term began. Prevailing wage repeal legislation, which he swore would never hit his desk, hit his desk. The governor not only

signed the repeal, but loudly celebrated the signing.

Responsible transportation development and funding failed to materialize. Borrowing is out of control, and our children will be saddled with debt payments for years to come. Local governments are unfairly blamed for not being good stewards of public transportation money. And, the scant state funds that exist are funneled to pet projects. Once called “partners” during a fireside chat, trade organizations now are vilified in an effort to make the governor appear as a warrior, as opposed to a career politician.

The construction industry isn’t alone. Walker has broken many other promises. He failed to create 250,000 jobs. He failed to lift the nuclear moratorium. He never delivered on his promise to require audits of annual fish and wildlife counts, resulting in miserable deer herd management. He failed to strip policy and pork from the state budget and instead turned the budget process into a virtual buffet of handouts for those who manage to still enjoy his political favor.

This lack of loyalty and failure to keep his word, however, is starting to haunt him. Two of Walker’s former agency secretaries, Ed Wall and Peter Bildsten, have publicly endorsed the governor’s 2018 election opponent: Tony Evers, superintendent, Department of Public Instruction.

Wall, who formerly led the Department of Corrections, accused Walker of failing to address problems that Wall raised with a youth corrections facility. Wall also claimed he was strongly encouraged NOT to create public records.

Bildsten, who formerly headed the Department of Financial Institutions, also said he was instructed not to create public records, particularly anything that might be sensitive, or of interest to the public. Bildsten said Walker changed after the recall election, driven to please his donors and even directed Bildsten to meet with lobbyists for the payday-lending industry.

Paul Jadin, formerly head of the governor’s troubled Wisconsin Economic Development Corporation, confirmed the gag order on creating public records. In late 2015, Jadin told reporters that Walker’s head of the Department of Administration made a big deal about what emails were discoverable by the public.

Two former Department of Transportation secretaries, one of whom was a Walker appointee, also publicly have criticized the governor, although neither has specifically endorsed Evers. Thomas Carlsen is a life-long transportation design engineer who served as a DOT secretary under Republican Gov. Scott McCallum. Carlsen authored a piece that lays the blame for Wisconsin’s crumbling transportation system at the feet of Walker. Carlsen believes a lack of leadership and vision, a failure to commit necessary financial resources, and the firing of hundreds of independent transportation professionals, are the reasons for the quick decay of Wisconsin’s roads under Walker.

Criticism by former DOT Sec. Mark Gottlieb, a Walker appointee, has been even more damning. Gottlieb called Walker’s transportation claims “increasingly inaccurate.” Gottlieb described the governor’s suggestion that third-party groups influence state highway project design as, “not factually based,” and, “profoundly disrespectful” to transportation professionals. Gottlieb stressed that project design practices balance safety, congestion and environmental impact and that decisions are made by state and federal agency employees after months and even years of study.

Walker recently announced that highways should be rebuilt not expanded, based on his unscientific and wholly unverifiable opinion that fewer people will drive in the future. Gottlieb pointed out that all of the scientific, statistical analyses indicate an increase in vehicle traffic, which means Walker’s new “no expansion” policy puts lives at risk. This is because we can expect increased crash rates and congestion if roads are rebuilt using outdated design features of the 1960s.

Walker’s lack of loyalty appears to be coming back to haunt him. The line of Republicans who formerly served in his administration who are speaking out is growing longer. Political expediency over truth, integrity and public safety appear to be recurring themes from those brave enough to speak publicly. While this is nothing new to the construction industry, the word appears to be spreading to the wider public.

A handwritten signature in black ink, appearing to read "Robb Kahl".

**Robb Kahl,**  
Executive Director,  
Construction Business Group

# Recruiting Operators key to future of industry

BY LAURA CATALDO

Did you know the Wisconsin Department of Workforce Development is forecasting that our state will need to add 122 Operating Engineers every year between now and 2024 to meet growth trends in the construction industry and to replace retiring workers?

Did you know that 271 apprentices started with Local 139 this year and that we'll need 800 more apprentices during the coming seven years, again, to meet industry employment need projections?

I offer the following suggestions on recruiting these people. Your involvement is greatly appreciated.

## *CBG adds project specialist*

Mindy Mulryan has joined Construction Business Group as a project specialist.

She works with Marilyn Mau in monitoring public and private construction projects throughout the state, tracking public-funding sources for construction projects, and providing research and other support to CBG investigators and union business agents.

Additionally, Mulryan will help with expanding youth outreach and workforce development for the construction trades, at educational conferences, and at community-outreach events.

She previously was a special education teacher and coordinator for the Verona Area School District. She also worked in the Monroe School District as a middle-school special education teacher and a virtual school social studies teacher. Mulryan has conducted training sessions for school staff and has helped develop staff training for Centro Hispano of Dane County, as well as for pre-service teachers at University of Wisconsin-Madison.

Prior to becoming a teacher, she worked as a legal assistant at the law firm Whyte Hirschboeck Dudek S.C., with a focus on real estate transactions, construction projects, and complex litigation matters. She also worked at Independent Insurance Services Inc., assisting with commercial insurance products to a variety of business types, including construction companies.

Mulryan received her bachelor of science degree from UW-La Crosse in history and political science; a post-baccalaureate certificate from Edgewood College, Madison; and her master's degree in special education from UW-White-water. Outside of work, she enjoys participating in outdoor activities and spending time with her family.



**Mindy Mulryan**

Tell a student, parent or educator about the pre-apprenticeship opportunity available through the Operating Engineers' partnership with Destinations Career Academy. DCA is:

- Wisconsin's online public charter school, focused on career and technical education.
- A DWD-certified, pre-apprenticeship program.
- A program where students remain enrolled at their high school and complete apprenticeship requirements. The program allows students to take up to two Operating Engineers' pre-apprenticeship courses a semester; Basic Equipment; Basic Maintenance; Basic Grade & Math for the Trades; preparation to take the test to obtain a commercial driver's license.

Next, consider inviting a student to the Operating Engineers' Externship Day on Wednesday, Nov. 14 at the Joseph J. Goetz Jr. Training Center in Coloma. This is an opportunity for students, parents and educators to:

- Tour the training center including the indoor-training arena.
- Test their skill on equipment simulators.
- Gain hands-on experience with mini-excavators.
- Learn about apprenticeship opportunities.
- Interact with current Apprentices and Operators.
- Hear from contractors about employment opportunities and what they are seeking in employees.

Finally, think about providing experience to students interested in careers as an Operating Engineer. This can be done many ways without having students actually get behind the controls of a piece of equipment, for example:

- Coordinate with the training center to have a simulator visit your local school.
- Attend a career fair event and share your personal experiences.
- Offer to provide a talk and tour of a nearby jobsite on which your company is working.
- Host students at your company to learn about the variety of careers available.
- Consider offering a job shadow or work experience to a student on work release.

Further information on DCA and the Externship Day is available at [www.buildingwisconsinstogether.com](http://www.buildingwisconsinstogether.com) Or, for additional details, contact Laura Cataldo at 608-616-2835; [laura.cataldo@bakertilly.com](mailto:laura.cataldo@bakertilly.com)

*(Laura Cataldo, based in Madison, is a consultant to Construction Business Group.)*

# Federal prevailing wage law remains in force

*While state law was abolished last year, contractors still being held accountable for cheating workers, taxpayers*

BY DOUG WIPPERFURTH

Prevailing wage laws (state or federal) seek to ensure that contractors working on government projects pay wages that are comparable to the local rates paid for a given trade.

Without prevailing wage requirements, contractors can win bids on government contracts by reducing their workers' wages. Prevailing wage laws mandate that contractors compete for contracts based on efficiency, management skills, materials costs, and the productivity of their workforce, and not by cutting workers' wages.

Wisconsin repealed its prevailing wage law on Sept. 23, 2017. The law had been in effect since 1933. However, the federal Davis-Bacon prevailing wage law is still in effect for most federally funded projects in the state.

Without prevailing wage laws, out-of-state contractors, or those that are less than honorable, gain a competitive advantage when bidding by paying relatively lower wages. Out-of-state workers then take your tax dollars, which paid for the project, back to their home states.

With prevailing wage laws, all contractors are required to pay the same wage rates. This levels the playing field for local contractors.

While many contractors comply with prevailing wage laws, some intentionally violate the law and short their workers' wages for personal gain. For example, in 2013 a contractor from the Dane County area did just that. He underpaid his workers on nearly every prevailing-wage project on which his company worked. The contractor paid a wage that was \$15 to \$20 an hour under the required prevailing wage rates. This allowed the company owner to under-bid law-abiding contractors and to collect a greater profit.

On a city of Madison project, this contractor bid 11 percent below the next lowest bidder. The prevailing wage rate for this project, including all fringe benefits for a general laborer, was \$39.42 per hour. The low-bidding contractor paid his employees an average of \$23, or about 42 percent of the prevailing wage rate; a great savings for the contractor, but not so great for his workers or the taxpayers.

Construction Business Group investigated all prevailing-wage projects this contractor performed work on for a two-year period. CBG made numerous open-records requests, including payroll records to document the wage violations.

Many of the payroll records showed that the contractor had paid the correct prevailing wage rates.

However, when comparing payroll records submitted to the Wisconsin Department of Workforce Development against the workers' paystubs, it became clear that the contractor filed falsified records with the DWD. In one instance, certified payroll records showed the contractor paid \$52.20 into an Individual Retirement Account for an employee, but the paycheck from the worker showed the \$52.20 was taken out of his wages for child support.

CBG filed a wage complaint with the DWD to collect back wages for workers. The contractor argued that he had complied with the law and that the projects were not subject to prevailing wage laws.

In 2014, the DWD ruled against the contractor and ordered back wages to be paid to all underpaid workers on the prevailing wage projects. The contractor appealed the ruling and in 2015, the DWD reviewed the contractor's appeal and found that the initial ruling was correct and back wages were owed.

The case was turned over to the Wisconsin Department of Justice for wage collection. DOJ placed liens on the contractor's properties pending payment. The contractor then challenged the DWD ruling in Wisconsin Circuit Court. Judge Juan Colas subsequently ruled against the contractor, in 2017, and ordered a Judgment of \$484,211.80 in back wages and penalties to 16 affected workers.

This ruling was appealed by the contractor to the Wisconsin Court of Appeals, which this year upheld the lower court ruling and the \$484,211.80 judgment. DOJ officials and the contractor eventually entered into a settlement agreement, and the contractor is paying back wages of \$350,000.00.

While many contractors comply with prevailing wage laws, this case demonstrates that a few will cheat the system and taxpayers for personal gain. This is a prime example of an unscrupulous contractor that was found violating the law.

CBG will continue to enforce the federal prevailing wage law to recover wages for workers and to level the playing field for Wisconsin's law-abiding contractors.

*(Doug Wipperfurth, based in Madison, is a wage-and-hour investigator with Construction Business Group.)*