

A Construction Industry Labor Broker is Finally Convicted in Wisconsin

By Robb Kahl, CBG Executive Director



It took a lot of work by state and federal officials and the team at Construction Business Group (CBG), but Wisconsin finally has a conviction of a known construction industry labor broker. The conviction is believed to be the first prosecution of a construction labor broker in Wisconsin for payroll fraud. Gustavo Reyes, who operated several drywalling businesses in Wisconsin, and was known to routinely misclassify workers, was convicted in U.S. District Court on August 17, 2023 on tax evasion charges and was sentenced to 18 months of incarceration, two years of probation and ordered to pay \$557,907 in federal taxes owed. In addition to the federal criminal charges, Reyes has had 20 separate liens totaling \$2.3 million filed against him or his businesses since 2015 for failing to pay state taxes and unemployment insurance premiums.

Payroll fraud happens when workers, who should be classified as full-time employees, are instead treated as independent contractors or, more commonly, off-the-books workers. Off-the-books workers are paid cash, do not appear on any payroll or employment records whatsoever, and are often victims of wage theft. The ramifications of payroll fraud can include tax fraud/evasion, insurance fraud and wage theft. While Reyes has only been convicted of tax evasion so far, it is clear he has a long history of not paying unemployment insurance and paying below-market wages to workers and further state charges are possible.

According to court documents, between 2018 and 2020, Reyes worked with others to create five entities in Dane County, most of which are dissolved, such as Royal LLC, American Drywall, and Morales Construction, officials said. He tried to halt IRS collection for five tax years by operating

his businesses through nominee entities. He also avoided IRS liens and levies by operating in large amounts of cash that he received from cashing checks at different establishments around the Madison area.

Labor brokers who pay in cash and/or misclassify workers, shortchange taxpayers and workers because they fail to pay payroll taxes, fail to remit unemployment insurance and FICA payments, and fail to claim all their employees on their workers' compensation insurance policy. Payroll fraud is not limited to drywall work. CBG investigators have documented payroll fraud in fiber optic work, landscaping, floor covering, roofing, and many other industry sectors and trades.

It is important to understand that these are not victimless crimes. Workers are exploited by being underpaid and deprived of basic employee benefits. Taxpayers foot the bill when tax fraud occurs. And honest employers pay more in unemployment insurance taxes and workers' compensation premiums when others cheat the system. Those honest employers also lose out on work opportunities as contractors utilizing Mr. Reyes and other labor brokers can underbid them due to the reduced costs they realize by evading the required tax and insurance payments.

This outcome demonstrates the impact of collective efforts by CBG and law enforcement to expose and eliminate exploitative practices that undermine the well-being of workers and the credibility of our industry. The consequences of misclassification and payroll fraud ripple beyond immediate financial losses, affecting tax compliance, insurance credibility and worker safety. We appreciate the efforts of the U.S. Attorney, the IRS Criminal Investigation team, and the Wisconsin Department of Workforce Development to finally bring Mr. Reyes to justice.



CBG's Disadvantaged Business Enterprises Development Initiative Celebrates Two Years!

By Joseph Davis, DBEDI Development Director

There is exciting news coming from Construction Business Group! I was hired on September 20, 2021, to advocate and support growth opportunities for Disadvantaged Business Enterprises (DBE) in the transportation industry, which means we are about to celebrate the second anniversary of the initiative. This initiative originated from conversations between the Wisconsin Transportation Builders Association (WTBA) and the International Union of Operating Engineers, Local 139 (Local 139). After meetings with leaders in the industry, it became apparent that there had to be a concise industry response to the FHWA's review of the Wisconsin Department of Transportation's (WisDOT) DBE program and, specifically, regarding the disproportionate number of "Good Faith Efforts" approved in prior years.

CBG's Disadvantaged Business Enterprises Development Initiative (DBEDI) was created to:

“The conference’s purpose is to bring DBE subcontractors, prime contractors, and other interested stakeholders, such as Local 139, together for a roundtable discussion from the industry’s perspective.”

- Analyze the distribution of contracting and procurement opportunities.
- Facilitate the certification of transportation construction companies in accordance with the WisDOT DBE Program.
- Increase the visibility and viability of Disadvantaged Businesses operating in the transportation construction industry through targeted events and the creation of strategic partnerships.

We have completed our internal analysis of historical problems/concerns and engaged in strategic planning to identify potential solutions. We are now implementing a targeted plan of attack using reliable data to guide decision-making.

To that end, the DBEDI hosted a joint DBE Conference with WisDOT's DBE Program leadership at the Wilderness Resort's Glacier Canyon Lodge last year and will be doing so again this year. The conference's purpose is to bring DBE subcontractors, prime contractors, and other interested stakeholders, such as Local 139, together for a roundtable discussion from the industry's perspective. The conference was also created to fulfill the objective of addressing historical problems in the industry through productive dialog and brainstorming as a collective. Last year, the conference exceeded its capacity and will likely exceed ▶

capacity this year, given the feedback from last year and trending registration confirmations. Here are some of the sessions that peaked industry stakeholders' attention:

- Bidding as a DBE Prime
- How can DBEs Access Affordable Capital
- New WisDOT DBE Initiatives
- Insights from Prime Contractors
- DBE Roundtable 3.0 (back by popular demand)

During the Conference luncheon, the DBEDI will recognize the most recent graduates of the Master Class that CBG created in response to building capacity within the DBE subcontractor network. The Master Class is a series of online courses specifically geared towards Disadvantaged Enterprises.

One of the graduates of the Master Class is Sandy Benes – owner of Wren Works, LLC in Northern Wisconsin near Superior. Sandy has attended the DBE Roundtable Conference since its inception and was one of the first established DBEs who requested access to the Master Class to better her business. DBEDI also worked with WisDOT to expand Sandy's NAICS Codes so that her construction company could expand their services on WisDOT projects in the Northwest Region around Superior. Wren Works has



Construction Business Group's Disadvantaged Business Enterprises Development Initiative Master Class graduate Sandy Benes, owner of Wren Works, LLC in Poplar.

been in business for over eight years and does sheet pile installation, marine services, dredging, barge service, and shoreline restoration and stabilization. **Oh, by the way—she's IUOE Local 139 Proud!**

If you are a Prime Contractor or a DBE Subcontractor interested in attending the conference, Scan the QR Code below and register today!



2023 FALL EXTERNSHIP DAY

MONDAY, NOVEMBER 13 / TUESDAY, NOVEMBER 14 / WEDNESDAY, NOVEMBER 15

Wisconsin Operating Engineers Training Center
W11584 State Highway 21, Coloma, WI 54930

9:00 AM – 2:00 PM

Externship Day is an ideal opportunity to meet industry professionals and learn about the high-demand career path of an Operating Engineer! We invite students, parents, educators, administrators, and counselors to join us for a day at the newly-expanded Coloma Training Center.

Lunch will be provided.

SAVE THE DATE
Disadvantaged Business Enterprise
ROUNDTABLE 3.0

November 9, 2023 - Glacier Canyon Lodge - Wisconsin Dells

PROGRAM

9:00 am **Opening Session**
Hosts: Joseph Davis, Sr., CBG and Madalena Maestr, WisDOT
Opening Session with Icebreaker

9:30 am **SESSION 1** - Bidding as a DBE Prime Contractor
SESSION 2 - How can DBEs Access Affordable Capital
SESSION 3 - New WisDOT DBE Initiatives

12:00 pm **Lunch**
Presentation by SBDC's Capital Access Clinic
Master Class - Certificates of Completion

1:00 pm **SESSION 4** - Tech Talk with Prime Contractors
SESSION 5 - DBE Roundtable 3.0

3:30 pm **Closing Remarks**

Logos for Construction Business Group, DBE, and DBE Development Initiative.

REGISTER TODAY!
November 9
Glacier Canyon Lodge, Wisconsin Dells



AGENDA

- Site tour of the 400-acre state-of-the-art Training Center
- Overview of the Local 139 Apprenticeship and the Destinations Career Academy Pre-apprenticeship
- Contractor Panel
- Hands-on experience with simulators & mini-excavators

REGISTRATION

Pre-registration is required for one of three days:
<https://bit.ly/ExternshipDay2023>

