

# Labor Subcontracting: The Reemergence of an Old Problem in California's New Economy

California State Assembly Labor Committee  
*Protecting Workers and Strengthening Enforcement in the Subcontracted Economy*  
March 12, 2014

Eunice Hyunhye Cho  
Staff Attorney  
National Employment Law Project  
Oakland, California



# Subcontracted Labor: The New “Sweating” System



# What is Contingent Work?

- Work that is **temporary, unstable, or precarious**.
- Includes:
  - **On-call workers**
  - **Temporary agency/staffing agency workers**, including “perma-temp” workers
  - **Subcontracted workers**: workers for a **labor supplier or labor contractor** that provide workers
- Like “sweating”—labor suppliers bid for jobs with client employers to provide labor, and bear costs of hiring, managing, and training workers.



# Examples of Contingent Work



## **Subcontracted Hotel Worker: Who's responsible for labor law violations?**

- Hotel property owned by a Real Estate Investment Trust
- Supervision, payroll, hours set by hotel management company
- Work routines and standards set by hotel chain

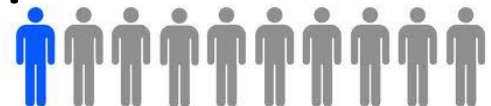


## **Temporary workers: Who's responsible for health and safety violations?**

- Does labor supplier or client employer train and provide safety equipment?
- Are temp workers given more dangerous work?
- Who covers injury/workers' compensation?

# Growth of Contingent Labor in New Economy

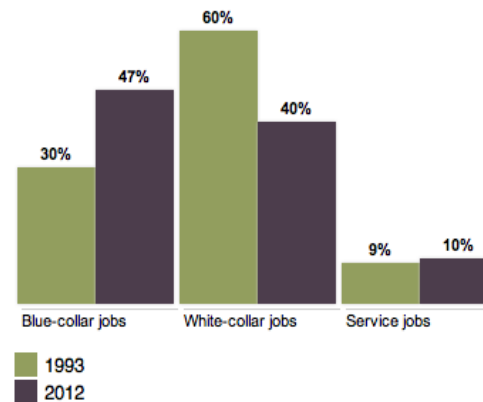
- 30 percent of U.S. workforce is “contingent”
- Temporary work sector growth:
  - 2.8 million temp workers in the U.S. (2013).
  - 1/5 of total job growth since recession ended in 2009 has been in the temp sector.
  - American Staffing Association: every year, 10% of all U.S. workers find a job at a staffing agency.
  - Labor suppliers provide workers for major client employers: Walmart, Amazon, Nestle.



# Growth of Contingent Labor in New Economy

- Overwhelming majority of temp workers are in blue-collar work: factories, warehouses.
- In 2012, more than 1 in 20 blue-collar workers nationwide were temporary workers.

THE RISE OF BLUE-COLLAR TEMP JOBS



Source: ProPublica analysis of Occupational Employment Statistics data from the Bureau of Labor Statistics

## OCCUPATIONS OF TEMP WORKERS

These occupations had high concentrations of their workers in the employment services industry in 2012.

Occupation	Concentration
Production helpers (entry-level jobs that require less skill)	29.2%
Laborers and freight, stock and material movers by hand	18.4%
Assemblers who work in a team	17.6%
Human resources specialists	16.2%
Packers and packagers by hand	16.2%
Packaging and filling machine operators and tenders	16.1%
Data entry keyers	15.1%
Demonstrators and product promoters	11.5%
Metal and plastic cutting, punching and press machine setters, operators and tenders	10.1%
Construction laborers	9.4%

Source: ProPublica analysis of Bureau of Labor Statistics' Occupational Employment Statistics data

# Who are California's contingent workers?

- Workers of color/immigrant workers:
  - 65% of employment service workers in CA are non-white or Hispanic.
- Less educated:
  - 21.1% with no high school diploma.
- Earn lower wages:
  - CA temporary workers **twice** as likely to live in poverty, receive food stamps, and be on Medicaid.
  - CA temporary workers face **18% lower wages**: median \$13.72 for temps v. \$19.13 for non-temps.



# Problems with Contingent Work

- For law-abiding employers:
  - Creates unfair competition for employers who abide by laws, provide workers' comp, unemployment insurance.
- For workers and communities:
  - Drives down wages, benefits, and working conditions.
  - Hard to find out who is responsible for violations and hold employers accountable for abuses.
  - Workers lack eligibility for health insurance, social security benefits, leave, and other programs.
- To governments and the public:
  - Failure to pay fair share of taxes; taps public resources.
  - Difficult to determine which entity is responsible for violations to enforce the law.



# Problems with Contingent Work

- Contingent workers more likely to suffer from workplace injury and death
  - 50% higher risk of being injured on the job for CA temporary workers.
  - Disproportionate impact: 28% of contractor deaths for Hispanic workers.
  - CA temp workers twice as likely to suffer heat exhaustion.



Source: University of Illinois Chicago School of Public Health;  
ProPublica (2013)

# Potential Solutions

## **Legislative:**

- Shared liability for both labor suppliers and client employers for labor law violations;
- Ensure that labor suppliers keep proper records;
- Require labor suppliers to provide clear and accurate information about wages and conditions to workers;

## **Administrative:**

- Additional resources for robust enforcement of labor laws.

# Potential Solutions

*Illinois Day Labor and Temporary Services Act, 820 ICS 175:*

- Labor suppliers must maintain **proper employment records** and **provide information** about wages and conditions of work **to worker**;
- Labor suppliers must report and properly **register for income tax, unemployment** benefits, and **workers' compensation**;
- Holds **client employers responsible** for unpaid wages and other labor violations.



# For more information:

Eunice Cho

Staff Attorney

National Employment Law Project

Oakland, CA

[echo@nelp.org](mailto:echo@nelp.org) | 510-663-5707