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Responsible Bidder Ordinances Promote Local Construction Standards

Evidence from Indiana

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Executive Summary

A Responsible Bidder Ordinance (RBO) is a local public policy that ensures responsible contractors win public bids. An RBO sets minimum requirements for all contractors bidding on taxpayer-funded projects based on objective criteria and verifiable standards. An RBO is a protection plan for taxpayers, ensuring that local quality standards, local levels of craftsmanship, and local economic development practices are upheld.

In many communities, RBOs have become an option for areas that want to promote high construction standards. For example, in Indiana, counties, townships, cities, towns, school districts, and hospital districts have all passed RBOs. In fact, as of May 2018, Indiana has 40 local RBOs.

This report is a case study of the nine counties in Indiana that have enacted RBOs, using county-level economic data from the U.S. Census Bureau. Each of these counties passed RBOs to ensure that public projects are awarded to responsible and responsive contractors who provide the highest quality of work. About 40 percent of all Indiana workers in heavy and civil engineering construction – the sector with the highest share of taxpayer dollars – are employed in the 9 counties that have RBOs.

- All nine countywide RBOs require that both contractors and subcontractors bidding on public projects participate in USDOL-approved apprenticeship training programs.
- Worker turnover in heavy and civil engineering construction is 1.6 percentage-points lower in the nine counties with RBOs than in the counties without RBOs.
- Workers in the heavy and civil engineering construction sector earn 8.3 percent more – about $500 more per month – in the nine counties with RBOs.

Responsible Bidder Ordinances promote local construction standards. RBOs help improve productivity and infrastructure safety for local communities, reduce turnover costs for contractors, and improve wages for construction workers. Local communities should pass Responsible Bidder Ordinances to provide the best value for taxpayers.

Introduction

Responsible bidding ensures that public construction projects funded using taxpayer dollars are not awarded to low bidders who cut corners or have poor track records. The public body undertaking the project retains discretion in awarding the project to the lowest *responsible* bidder. A local unit of government can help assure that it hires only responsible companies by passing a Responsible Bidder Ordinance.

A Responsible Bidder Ordinance (RBO) is a policy that sets minimum requirements for all contractors bidding on publicly-funded projects in a given political jurisdiction. Typically, these requirements include proof of participation in an apprenticeship training program, proof of certificates of insurance, prequalification surveys, and compliance with all local, state, and federal laws. The policies are protection plans for taxpayers, making sure that contractors meet local qualifications and safety standards based on objective criteria and verifiable standards.

A peer-reviewed, academic study investigated the bid costs of over 300 elementary schools from 1997 to 2008 and found that responsible contracting policies "exert no discernible statistical impact on construction bid costs" after controlling for geographic location. Thus, there is no evidence that RBO provisions raise construction costs. The study provides evidence that adopting RBOs "may be an effective way to improve employment conditions and living standards of construction workers without significantly raising costs for taxpayers" (Waddoups & May, 2014).

Responsible Bidder Ordinances have become an option for areas that want to improve construction standards without any meaningful downsides. In particular, communities in Indiana have enacted RBOs to ensure high-quality standards for public construction projects, contractors and subcontractors, and construction workers. Counties, townships, cities, towns, school districts, and hospital districts have all passed RBOs. For instance, on April 11, 2018, the City of South Bend became the 40th local jurisdiction in Indiana to pass an RBO.[1]

This report uses county-level economic data from the U.S. Census Bureau to analyze the nine countywide RBOs in Indiana and get a better understanding of how communities benefit from awarding bids to the lowest responsible and responsive bidder.

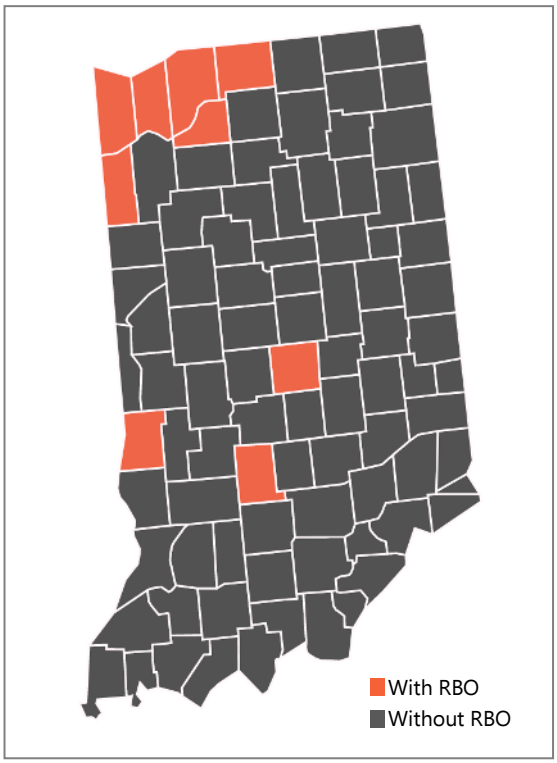
Background on RBOs

Nearly all governments accept the lowest bidder based on "hard" low bids. This type of public procurement puts downward pressure on contractors to reduce quality, cut wages, and avoid contributing to employee health insurance plans, among other items. Reputation, past performance, workforce quality, and even final costs are not emphasized in the low bid model. As a result, this race-to-the-bottom process tends to result in imperfect design plans, cost overruns, change orders, added safety risks, and low-quality infrastructure.

[1] For a full list of all 40 Responsible Bidder Ordinances in Indiana, please see the Appendix.

An RBO is an acknowledgement that governments should consider quality in addition to costs. RBOs protect taxpayers by setting minimum standards, ensuring that cheating contractors do not win bids. Instead, projects are awarded to the lowest responsible and responsive bidders. RBOs are a qualifications-based approach that works within the low-bid system to provide the highest possible quality at the lowest possible cost. Thus, the purpose of the over-200 Responsible Bidder Ordinances across the United States is to ensure that local governments hire only professional, competent contractors that provide the highest-quality work to complete taxpayer-funded projects safely, on time, and on budget.

Figure 1: Indiana Counties with Responsible Bidder Ordinances



Source: Indiana, Illinois, Iowa, Foundation for Fair Contracting (2018).

In general, there are three key elements to an effective RBO. First, it must require that all bidders participate in USDOL-approved apprenticeship training programs to ensure that workers employed on public projects are skilled and safe. Second, it must apply to both prime contractors and subcontractors to promote a consistent level of quality. Finally, it must include language to guarantee workforce transparency, such as through the submission of certified payroll reports, so taxpayers know who is employed on infrastructure projects using their tax dollars.

Effective RBOs ensure that reputable contractors with proven track records complete jobs efficiently and within budget without the need for additional re-construction later. Contractors with workplace law violations are more than five times as likely to have a low performance rating as contractors with a clean record of workplace law compliance (Adler, 2003). By weeding out cut-rate contractors, RBOs encourage successful project delivery and ensure that taxpayers get the quality they pay for without raising costs for taxpayers (Waddoups & May, 2014). In fact, case studies from across the country have found that RBOs promote higher quality and more reliable services, increased competition among responsible contractors, and reduced back-end reconstruction and litigation costs (Sonn & Gebreselassie, 2010). In addition, evidence suggests that 98 percent of construction owners using qualifications-based procurement models – like those in RBOs – report being satisfied with project quality (Kashiwagi et al., 2005).

Countywide RBOs in Indiana

Starting in 2007, communities in Indiana began enacting countywide Responsible Bidder Ordinances. Indiana has nine counties with effective Responsible Bidder Ordinances: Lake, LaPorte, Marion, Monroe, Newton, Porter, St. Joseph, Starke, and Vigo (Figure 1). In addition to the nine counties that have passed RBOs, other cities, towns, and local agencies in Indiana have passed RBOs.

Each county with an RBO has a dollar threshold at which point the requirements apply. These thresholds range from $0 to $250,000. The $250,000 threshold in Porter County means that only large public projects costing $250,000 or more must comply with the criteria listed in the RBO. Previous research has shown that high contract thresholds result in lower business revenues for local contractors and reduce wages and health insurance coverage for construction workers (Manzo & Bruno, 2016). The higher the threshold, the more likely nonlocal contractors are to win a public bid. On average, the threshold for the RBO to apply in the nine Indiana counties is $136,111. The majority of counties have $150,000 contract thresholds (Figure 2).

Figure 2: Countywide RBOs in Indiana, Information & Requirements

County	Year Enacted	Contract Threshold	Apprenticeship Requirement	Applies to Subcontractors
Lake	2015	$150,000	Yes	Yes
LaPorte	2013	$75,000	Yes	Yes
Marion	2016	$150,000	Yes	Yes
Monroe	2010	$150,000	Yes	Yes
Newton	2007	$0	Yes	Yes
Porter	2017	$250,000	Yes	Yes
St. Joseph	2017	$150,000	Yes	Yes
Starke	2017	$150,000	Yes	Yes
Vigo	2010	$150,000	Yes	Yes
	Average	***$136,111***		

Source: Indiana, Illinois, Iowa, Foundation for Fair Contracting (2018).

Each RBO enacted at the county level in Indiana requires that both contractors and subcontractors bidding on the project show participation in USDOL-approved apprenticeship and training programs (Figure 2). The inclusion of apprenticeship standards in RBOs ensures that contractors and subcontractors building taxpayer-funded projects are employing educated, well-trained workers while also investing in the next generation of skilled labor. Apprenticeship training programs increase productivity and reduce mistakes, thus improving the likelihood that construction finishes on-time. In Indiana, joint-labor management apprenticeship programs provide 94 percent of annual apprenticeship training expenditures (Philips, 2015). The apprenticeship requirements in Indiana's nine countywide RBOs ensure successful completion of construction projects by responsible employers committed to high training, safety, and productivity standards.

Findings

Quarterly Workforce Indicators (QWI) data are used in this section to investigate differences in worker turnover and monthly earnings in the "heavy and civil engineering construction" sector. The QWI dataset is compiled by the U.S. Census Bureau in the Longitudinal Employer-Household Dynamics survey and made available through their Local Employment Dynamics (LED) Extraction Tool (LEHD, 2017). The benefits to using the QWI dataset are that it is based on actual payroll records and that industries are broken down into specific sectors. Instead of studying all blue-collar construction workers or the entire construction industry, QWI includes information on the "heavy and civil engineering construction" sector. The vast majority of heavy and civil engineering construction involves public works, including the construction and maintenance of highways, streets, bridges, dams, parks, and trails (Census, 2017).

In the QWI, turnover data and employment counts are available on a quarterly (three-month) basis through the second quarter of 2017. However, the peak quarter with the highest number of employed construction workers is the third quarter, which includes the summer months of July, August, and September. Thus, this report investigates data from the third quarter of 2016 – the latest year for which these summer data are available. Note also that the data includes information on both blue-collar construction workers *and* white-collar employees in the industry, such as architects and office support workers.

The nine counties with Responsible Bidder Ordinances are generally located in the more-populous areas in Indiana, including Marion County– which includes Indianapolis – and counties near Chicago, Illinois. As a result, about 40 percent of Indiana's heavy and civil engineering construction workers are employed in the nine counties with RBOs (Figure 3). In the summer of 2016, the nine counties with RBOs in Indiana had 7,570 employed heavy and civil engineering construction workers, compared with 11,213 heavy and civil engineering construction workers in the other 83 counties. Because this sector completes the vast majority of public construction work, it is likely that around 40 percent of all workers employed on county-funded projects in Indiana work on projects that are covered by a local RBO.

Figure 3: Comparison of Indiana's Counties: With and Without RBOS

2016 Quarter 3 (July, August, September) Quarterly Workforce Indicators (U.S. Census Bureau)			
Heavy and Civil Engineering Construction	**Total Number of Employees**	**Turnover Rate**	**Monthly Earnings**
All of Indiana	18,783	22.7%	$6,025
In Counties with RBOs	7,570	21.7%	$6,315
In Counties without RBOs	11,213	23.3%	$5,829
Share/Difference	*40.3%*	*-1.6%*	*+8.3%*

Source: U.S. Census Bureau, Center for Economic Studies, LEHD (2017).

Construction workers are less likely to leave their jobs in the Indiana counties that have Responsible Bidder Ordinances (Figure 3). In the summer of 2016, counties without RBOs had a high 23.3 percent

turnover rate of heavy and civil engineering construction workers. Meanwhile, in the counties with RBOs, the comparable turnover rate was 21.7 percent– a difference of 1.6 percentage points. High levels of worker turnover increase costs to employers who need to find, hire, and train new workers. Accordingly, high turnover rates can negatively affect business performance and reduce construction efficiency, causing delays in the completion of taxpayer-funded projects. The lower turnover rate of 1.6 percentage points saves money for contractors in the counties with RBOs while also helping to build stable careers in construction, rather than just seasonal jobs.

Furthermore, construction workers employed on public projects in the summer of 2016 earned higher incomes in the counties that have RBOs (Figure 3). Specifically, while workers in the heavy and civil engineering construction sector earned an average of around $5,800 per month in counties without RBOs, their counterparts in the counties with RBOs earned monthly incomes of more than $6,300 – or about $500 more per month. Construction workers in counties with RBOs earn 8.3 percent more than similar workers in counties without RBOs. By helping to raise incomes, reduce turnover, and boost productivity through apprenticeship training, RBOs help attract and retain productive construction workers.

Responsible Bidder Ordinances can also offset the negative impacts of repeal of prevailing wage on workers and the construction industry. A prevailing wage law essentially provides a minimum wage on publicly-assisted projects, requiring that contractors pay workers no less than the prevailing wage and benefit rates that are most commonly paid to comparable local workers. Because public bodies are required to select the lowest bidder, contractors aim to lower their bids however possible, including through reductions in worker wages, benefits, and apprenticeship training or benefits. Indiana's prevailing wage law, called Common Construction Wage, took labor costs out of the equation for contractors and incentivized them to compete based on core competencies in construction rather than on undermining middle-class compensation standards.

After Indiana repealed Common Construction Wage in July 2015, wages of blue-collar construction workers decreased by an average of 8.5 percent, with the lowest-paid construction workers experiencing the biggest losses (Manzo & Duncan, 2018). In addition, construction worker productivity growth was slower in Indiana than in neighboring Midwest states and construction worker turnover increased by 1.2 percentage-points in Indiana (Manzo & Duncan, 2018). Because counties with RBOs pay construction workers 8.3 percent more in Indiana and have worker turnover rates that are 1.6 percentage-points lower, RBOs can be a local solution for communities who want to maintain middle-class compensation standards, foster stable careers, and address the skills gap in construction when the state chooses to eliminate policies that support workers.

Conclusion

A Responsible Bidder Ordinance ensures that local quality standards, local levels of craftsmanship, and local economic development practices are upheld. In many localities, particularly in Indiana,

movements to enact Responsible Bidder Ordinances have been passed as protection plans for taxpayers that support the local economy.

Responsible Bidder Ordinances are a potential way for local jurisdictions to ensure quality work for taxpayer-funded public projects by awarding bids to responsible and responsive contractors. In Indiana, all nine countywide RBOs require that both contractors and subcontractors bidding on public projects participate in USDOL-approved apprenticeship training programs. This ensures that contractors building public schools, roads, parks, and other projects are employing skilled, productive workers who complete jobs efficiently and safely.

Construction workers earn more and are less likely to leave their jobs in the nine counties with RBOs in Indiana. Counties with RBOs have a 1.6 percentage-point lower turnover rate for heavy and civil engineering construction workers. Additionally, construction workers in counties with RBOs earn 8.3 percent more – about $500 more per month – than their counterparts in counties without RBOs. RBOs help improve productivity and infrastructure safety for local communities, reduce turnover costs for contractors, and improve wages for construction workers. RBOs can thus be a local solution to offset the negative impacts of a state enacting legislation that lowers construction standards.

Local jurisdictions in Indiana and across the United States should pass Responsible Bidder Ordinances to ensure that responsible and responsive contractors who provide the highest quality work are awarded public bids. Taxpayers pick up the tab when the costs of public works projects exceed estimates or when on-the-job injuries occur because low-road contractors cut corners. RBOs are a local solution, ensuring that infrastructure projects are completed right, on time, and on budget. As a result, Responsible Bidder Ordinances provide the best value for taxpayers.

Sources

Adler, Moshe. (2003). *Prequalification of Contractors: The Importance of Responsible Contracting on Public Works Projects*. Fiscal Policy Institute.

Bilginsoy, Cihan. (2005). "Wage Regulation and Training: The Impact of State Prevailing Wage Laws on Apprenticeship." *The Economics of Prevailing Wage Laws*. Editors: Hamid Azari-Rad, Peter Philips, and Mark Prus. 149-168.

Indiana, Illinois, Iowa Foundation for Fair Contracting. (2018). "Indiana Ordinances Archive."

Kashiwagi, Dean, John Savicky, Kenneth Sullivan, Jacob Kovel, David Greenwood, and Charles Egbu. (2005). *Is Performance-Based Procurement a Solution to Construction Performance?* Arizona State University, Central Connecticut State University, Northumbria University, and Glasgow Caledonian University.

LEHD, U.S. Census Bureau. (2017). "LED Extraction Tool – Quarterly Workforce Indicators (QWI)."

Manzo IV, Frank and Kevin Duncan. (2018). *The Effects of Repealing Common Construction Wage in Indiana: Impacts on Ten Construction Market Outcomes*. Midwest Economic Policy Institute; Colorado State University-Pueblo.

Manzo IV, Frank and Robert Bruno. (2016). *An Analysis of the Impact of Prevailing Wage Thresholds on Public Construction: Implications for Illinois*. Illinois Economic Policy Institute and University of Illinois at Urbana-Champaign.

Philips, Peter. (2014). *Kentucky's Prevailing Wage Law: An Economic Impact Analysis*. University of Utah.

Philips, Peter. (2015). *Indiana's Common Construction Wage Law: An Economic Impact Analysis*. University of Utah.

Sonn, Paul K and Tsedeye Gebreselassie. (2010). "The Road to Responsible Contracting: Lessons from States and Cities for Ensuring That Federal Contracting Delivers Good Jobs and Quality Services." *Berkeley Journal of Employment & Labor Law.* Volume 31, Issue 2.

U.S. Census Bureau. (2017). "Industry Statistics Portal - 2012 NAICS: 237 - Heavy and Civil Engineering Construction." U.S. Department of Commerce.

Waddoups, Jeffrey C. and David C. May. (2014). "Do Responsible Contractor Policies Increase Construction Bid Costs?" Department of Economics, University of Nevada, Las Vegas. *Industrial Relations*, Vol. 53, No. 2.

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Appendix: Responsible Bidder Ordinances in Indiana

Below is a comprehensive list of the 40 Responsible Bidder Ordinances in effect in Indiana counties (9), townships (2), cities (13), towns (7), school districts (8), and hospital districts (1).

1. City of Muncie
2. City of Kokomo
3. City of Crown Point
4. Town of Dyer
5. Griffith School Corporation
6. Town of Highland
7. City of Hobart
8. County of Lake
9. City of Lake Station
10. Town of Lowell
11. Town of Merrillville
12. Town of Schneider
13. Town of Schererville
14. County of LaPorte
15. LaPorte Community School Corporation
16. Consolidated City of Indianapolis and Marion County
17. City of Bloomington
18. County of Monroe
19. County of Newton
20. Duneland School Corporation
21. City of Portage
22. Portage Township (Porter County)
23. Portage Township School Corporation
24. City of Valparaiso
25. Valparaiso Community School Corporation
26. City of Rockport
27. Town of North Judson
28. County of Starke
29. School City of Mishawaka
30. New Prairie United School Corporation
31. St. Joseph County
32. City of Lafayette
33. City of Evansville
34. City of Terre Haute
35. County of Vigo
36. Health & Hospital System of Marion County
37. Hanover School Corporation
38. County of Porter
39. Center Township (LaPorte County)
40. City of South Bend