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NCIC
NORCAL CONSTRUCTION INDUSTRY COMPLIANCE

Research Links Project Homekey & Other P3 Housing Projects With Higher Risk of Contractor Non-Compliance

Private Owners of Public Works are Currently Exempt from Many Disclosure Requirements

Sacramento: Regulatory loopholes have left one of California's signature Affordable Housing initiatives, known as *Project Homekey*, at particular risk for non-compliance with the labor and safety standards that govern other public construction investments, according to a new research brief by the Northern California Construction Industry Compliance (NCIC), a non-partisan industry watchdog.

Read the Brief, "Affordable Housing at What Cost?"

Project Homekey, a multi-billion dollar public program designed to boost California's supply of Affordable Housing, relies on public private partnerships to secure funding and manage housing projects. Over 83% of Homekey Projects have a private entity as a co-applicant, and a CA Department of Housing and Community Development data reveals that a majority (57%) of Homekey projects in Northern California have private entities functioning the same way a state, municipality, or other public agency would—selecting bids and awarding public funds to construction contractors.

"The challenge lies in ensuring private entities who award public funds to contractors abide by the same standards and rules that govern other types of public works," said NCIC Research Analyst Dr. Larissa Petrucci PhD, who authored the brief. "But the reality is the private entities lack experience in administering public works and are not subject to the same disclosure laws as public agencies, making these projects especially vulnerable to contractor non-compliance and labor exploitation."

Petrucci's analysis found that of five Homekey Projects cited by the Department of Industrial Relations' Labor Enforcement Task Force (LETF) for public works violations in 2023, fully 80% had a private entity functioning as the awarding body. Taxpayers contributed over $100 million to the funding of these projects, which resulted in more than $1.7 million in assessed penalties and another $1.2 million in back wages paid to aggrieved workers.

The brief found that in the preceding five years, the Homekey Contractors cited by LETF had performed work on more than 100 public works projects in California, totaling more than $1.3 billion. The brief also details that in 2023, LETF and Cal-OSHA investigated safety practices on Homekey projects, issuing 13 violations against five contractors working on four projects that were all owned by private entities. These same contractors had been cited for 49 other OSHA violations in the preceding five years.

"Public-Private Partnerships are clearly presenting unique challenges when a private entity who may be less familiar with enforcing compliance with labor standards are put in the position of functioning as stewards of taxpayer dollars," Petrucci added. "While California law ensures taxpayer watchdogs can monitor regulatory compliance on projects public agencies are awarding bids via public records requests, private entities are currently exempt from these disclosure requirements."

Petrucci noted that the unique compliance challenges involving private entities functioning as public works awarding bodies were not limited to Project Homekey, or to Affordable Housing projects. For example, the brief details how just one California compliance organization had alleged dozens of safety and wage violations against multiple contractors where they awarding body was a private entity, resulting in more than $640,000 in adjudicated violations against contractors that had been awarded billions of dollars in public works contracts over the past five years.

“Especially when taxpayer funds are being used, the work of contractor compliance with regulatory standards is crucial to the work of delivering value to taxpayers and fairness to the skilled workers who bring these projects to life,” Petrucci continued. “The fact is that when standards are not enforced, lives are put at risk and the epidemic of wage theft in construction that already costs taxpayers upwards of a billion dollars per year, only becomes more pervasive.”

The brief noted that this year, the California Legislature will consider a measure to extend reporting requirements under the California Public Records Act (CPRA) to private entities functioning as public awarding bodies in P3 arrangements (AB 2439). In effect, the law would give construction compliance organizations greater access to bid, project, contractor licensure and certified payroll information from contractors on these projects to ensure greater compliance with public works regulations.

“Public-private partnerships in affordable housing and other public construction investments can support housing initiatives by transferring the cost and responsibility of construction oversight and administration, ongoing maintenance, and management to private entities,” Petrucci concluded. “That said, it is clear that the public needs more tools to ensure that when private entities are entrusted with the stewardship of publicly funded projects, they are held accountable to the same rules that apply to more traditional public works arrangements.”