

TIMBER, from page 4

attached to a federal spending bill last year forbid certain expenditures on the enforcement of protections for these workers.

"First, we need to make sure that Oregonians have a chance to secure these forestry jobs and that contractors are not abusing the H-2B visa program," Merkley said. "Second, strong enforcement is needed to make sure that all workers in Oregon have a safe workplace and aren't being mistreated. There are too many stories of workers being put in unsafe working conditions or exposed to pesticides."

In the meantime, gradual policy shifts on the federal level and grassroots efforts in Southern Oregon show that improvements to the working conditions of Oregon's reforestation workers are possible, if not expeditious.

It's in the contract

In the late 1990s, the U.S. Forest Service began moving away from its policy of automatically awarding tree planting and thinning contracts to the lowest bidder – a policy that drew criticism for its potential to put contractors under pressure to maximize profits by cutting costs in a sector with already tight margins and high employee turnover.

"The people who get impacted by those corners being cut are the laborers," Bey said.

With government inspections few and far between – Occupational Safety and Health Administration inspects about 5 percent of reforestation contractors each year – remote job sites, and immigrant and guest workers who are fearful of reporting labor violations, employers can keep costs down by shorting workers on pay, skipping formal training and not providing adequate safety gear.

Today, the U.S. Forest Service awards contracts to the "best value" bidder. This means other criteria, such as technical ability and quality of work, as well as price, are taken into account.

But because bids are confidential, very little data shows how often the lowest bidders are awarded these contracts.

Cassandra Moseley is the director of Ecosystem Workforce Program at the University of Oregon. She also chairs the USDA Research Advisory Council. She's been studying U.S. Forest Service contracting for years, and after signing confidentiality agreements, she examined reforestation contracts in New Mexico to see how best-value awards were playing out.

She determined that while criteria varied from contract to contract, price was typically equal to all other factors combined. Of 34 contracts studied, the U.S. Forest Service awarded 74 percent to the contractor offering the lowest price. However, the sample was so small, she can't definitively say whether it points to a larger pattern.

What she can say for certain is that it's a competitive marketplace.

"Different contractors have different strategies for dealing with that competitiveness," she said, "and some of them are strategies that work better for workers than others."

She said a number of businesses have begun to diversify their services by offering fire suppression during wildfire season and reforestation activities, such as thinning, in the off-season. This allows them to keep

people employed and improve their skills – and they can afford to bid lower on thinning contracts because it's not their only source of revenue.

Grayback Forestry is an example of a contracting company that offers year-round services. Its owner, Michael Wheeler, said he pays his employees fair wages and benefits, and follows all labor laws, which puts him at a competitive disadvantage.

"For the last five years, more rules have been added and less contractors are adhering to them," he said – rules such as paid sick days.

"My biggest grievance is minimum wage," he said. The Service Contract Act sets wages for reforestation activities. "A lot of competitors don't pay that – add all that other stuff, and it makes it tough to compete."

Stephen Baker, spokesperson for U.S. Forest Service Region 6, which oversees forests in Oregon and Washington, told Street Roots his agency considers "a number of factors when making a decision on how to award a service contract" and "decisions are not decided on 'lowest bidder.'"

Moseley said there isn't any fresh evidence pointing one way or the other.

"I do think that budgets have gotten tighter and targets are still really important and that's an area where the Forest Service is working to make change in how they measure their performance," she said.

She said a shift away from focusing on production volume is a strategy the U.S. Forest Service could take that would remove pressure from businesses to treat high quantities of acres and focus on quality of work instead.

Enforcing labor protections

The most effective strategy for combating worker exploitation, said Moseley, would be to cross-train U.S. Forest Service and Bureau of Land Management inspectors to function as labor and safety inspectors as well.

State labor and safety regulators don't have the resources to visit more than a small fraction of these remote job sites, and simply finding them can be a challenge.

But federal land management inspectors are already driving out to each of these sites to inspect the quality of the work.

The U.S. Forest Service and state and federal industry regulators have been collaborating on this issue in Oregon since 2006, but how consistently and comprehensively efforts are implemented on the ground is unclear.

U.S. Department of Labor developed a red-flag checklist for the U.S. Forest Service nearly a decade ago so it could train its inspectors on how to spot wage and hour and safety violations, labor department officials told Street Roots.

This way, they said, U.S. Forest Service employees would be better informed to make referrals to their department.

According to its spokesperson, Baker, the U.S. Forest Service does "monitor conditions and report violations to the Department of Labor." He said, "If violations are occurring on site, we can issue a stop work order until the concerns are addressed."

While their inspectors have been trained on how to spot certain labor and safety violations, it's no match for a comprehensive inspection and has not appeared to effectively stifle what research at the Northwest Forest Worker Center suggests is still widespread

disregard for labor laws among contractors.

Moseley said what she's suggesting would be "an integrated job – and an expectation."

Perceptions among reforestation workers and advocates Street Roots interviewed for this series are that making sure contractors are abiding by the labor laws within its contracts is not a priority for Region 6 inspectors.

Director of the Northwest Forest Worker Center, Carl Wilmsen, said it's been the position of his organization for years that the U.S. Forest Service should enforce the labor provisions in its contracts, and only hire contractors who abide by the law.

"Their response is, 'we don't have that expertise, it's

the Department of Labor that does enforcement,'" he said.

Wheeler's experienced a similar

reaction. "They don't check compliance," he said. "They say, 'we got it in our contract.'"

According to Department of Labor officials, it inspects less than 1 percent of America's job sites each year. Since 2004, it's conducted 19 investigations into Oregon reforestation companies for wage and hour violations. Oregon's OSHA inspects an average of 14 per year for safety.

There are 284 reforestation employers across the state, according to data at Oregon Employment Department.

Combatting fear

The underlying issue, Moseley said, is that reforestation workers are vulnerable to exploitation.

"Making it easy and safe for people that are being mistreated to speak up is really critical, and that's very difficult in this environment," she said.

At a Feb. 5 meeting of the Environmental Justice Task Force, top regulators at Oregon's OSHA and Bureau of Labor and Industry told a representative from the Northwest Forest Worker Center to contact their agencies when workers come to the center with grievances.

Virginia Camberos, program coordinator at the center in Medford, is the person who'd be making those calls.

She said she's optimistic about conditions improving in light of recent efforts to unite agencies, but it's difficult to get workers to come forward and file a complaint.

"This is their only source of income, and many do not qualify for unemployment benefits if they are fired," she said.

There is a solution to this problem, although not a permanent one, said Andrea Miller, executive director at Causa, Oregon's Immigrant Rights Organization.

In November 2014, President Barack Obama announced a series of executive actions to prevent the deportation of up to 5 million undocumented immigrants. In part, the Deferred Action for Parents of Americans would allow undocumented immigrants who have been in the U.S. since 2010 and have U.S.-born children to apply for work permits

See **TIMBER**, page 7

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MICHAEL WHEELER
OWNER, GRAYBACK FORESTRY