

**Construction Industry Tax
Fraud and the Need for Greater
Accountability**

Construction Industry Tax Fraud

WHAT IT IS

CONSTRUCTION INDUSTRY TAX FRAUD

- Construction Industry Tax Fraud
 - Intentional misclassification of employees as independent contractors and issuing a 1099 MISC form.
 - Paying employees unreported compensation either by check or in cash
- In the construction industry, paying employees “off the books” is more common by 2 to 1.

CONSTRUCTION INDUSTRY TAX FRAUD

- Tax Fraud is effectively a part of the *underground economy*, with these illegal actions specifically kept hidden from the purview of government regulators and data collectors.
- It is difficult for engaged parties to rally political support for public policy that seeks to curb illegal behavior in the construction industry.

CONSTRUCTION INDUSTRY TAX FRAUD IS ACCOMPANIED BY:

- Wage theft
 - Workers' compensation insurance premium fraud
 - Immigration violations
 - Money laundering
 - Grand theft
 - Forgery
 - Mail/wire fraud
 - Racketeering
-

Construction Industry Tax Fraud

HOW MUCH IS THERE

A DEEP AND SEVERE PROBLEM

- **New York City (2007):** 25% of construction workforce misclassified or paid off the books, costing \$489.3 million in 2005 and \$557 million in 2008.
- **Tennessee (2010):** Up to 38,680 construction workers, or 21% of the workforce, is misclassified/paid off the books, costing UI, workers comp. and fed taxes as much as \$221 million.

A DEEP AND SEVERE PROBLEM

- **Texas (2013)**: Over 300,000 construction workers, or 41% of the workforce, is misclassified/paid off the books, costing \$54.5 million in UI taxes and **\$1.06 billion** in federal income taxes.
- **California (2014)**: \$774 million in unpaid federal, state taxes and workers' comp. premiums. 25% in specialty construction paid off-the-books or wrongly classified. 40k misclassified. 104k paid off-the-books. A 400% increase in misclassified/paid off the books from 1972.
- **New Jersey (2016)**: Up to \$26.3 million in unpaid taxes. 11.6k misclassified, 23k paid off-the-books.

NOT A SMALL JOB THING

- Airports
 - Hospitals
 - Universities
 - Military Bases
 - Residential, both horizontal and vertical
-

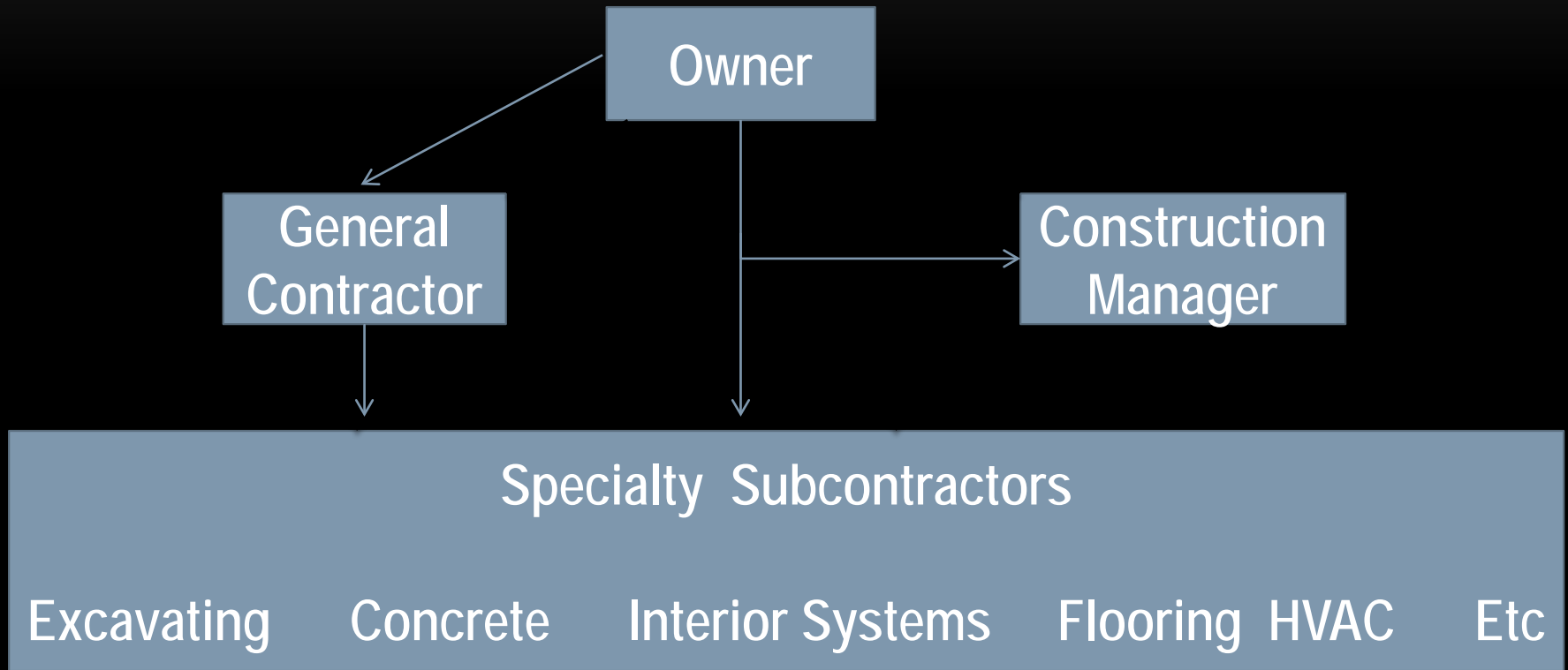
Construction Industry Tax Fraud

**INDUSTRY STRUCTURE
ENABLES FRAUD**

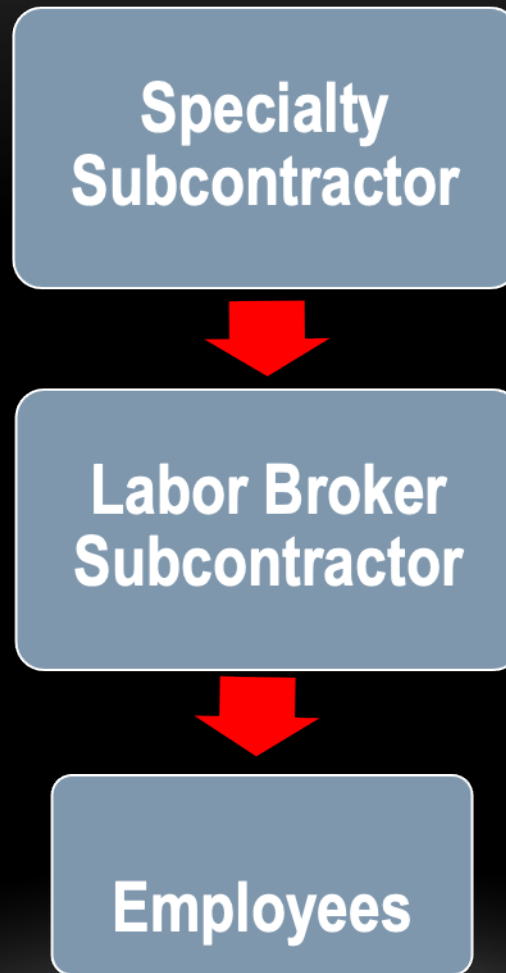
LABOR BROKER

- Supplies and pays construction labor
 - Typically commits fraud
-

STRUCTURE OF THE CONSTRUCTION INDUSTRY BUILT ON SUBCONTRACTING



SIMPLE FRAUD SCHEME



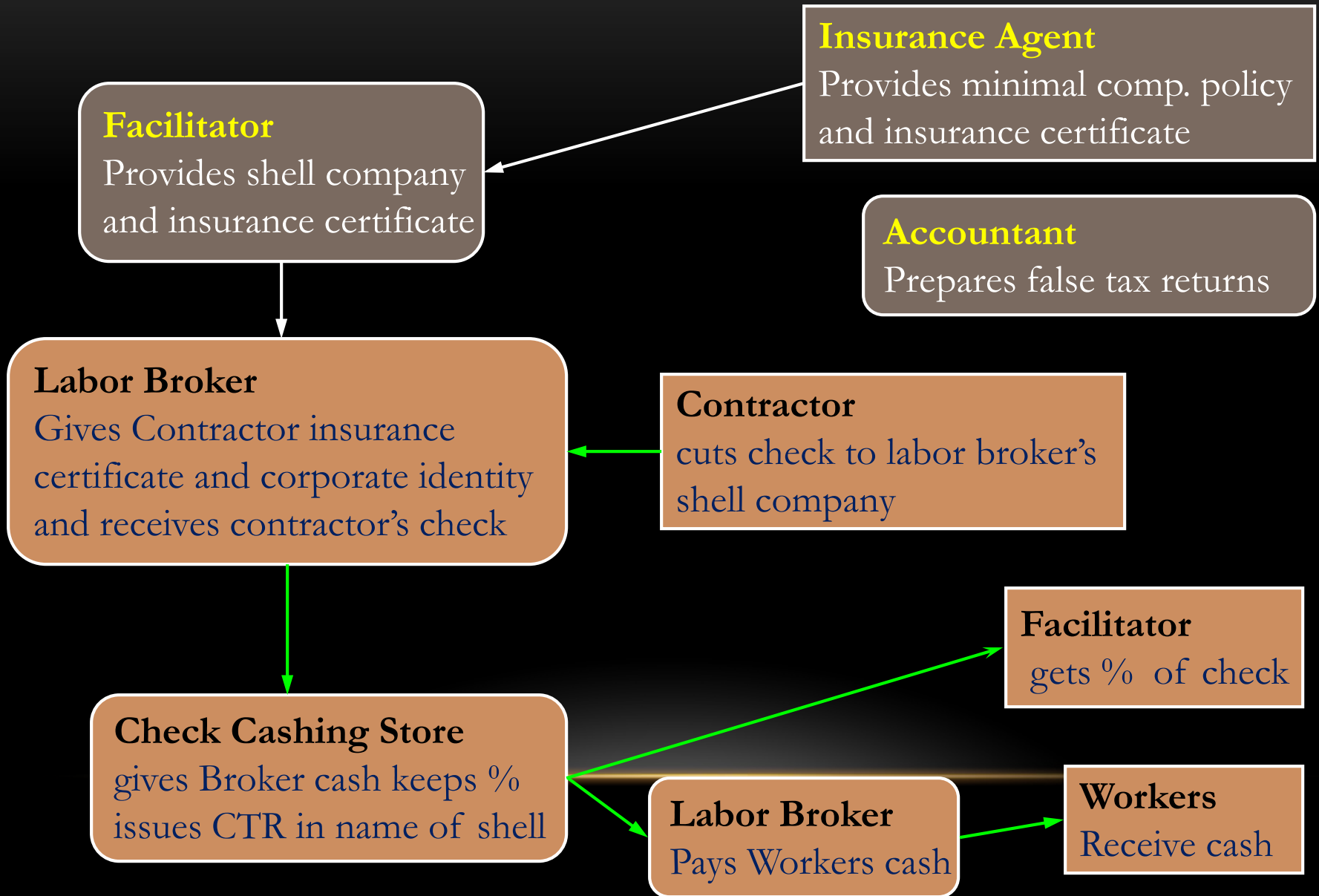
Who is the employer?

Both.

COMPLEX FRAUD SCHEMES

- Shell companies
 - Money service businesses
 - Insurance brokers
 - Accountants
 - Drug cartels and organized crime
-

COMPLEX FRAUD SCHEME



WHO LOSES

- ◆ Federal, state and local governments lose tax revenue
 - ◆ Workers cheated out of wages, overtime pay, unemployment benefits, workers' compensation protection and Social Security and Medicare unless they pay their bosses' portion of employment taxes
 - ◆ Law abiding employers lose work
 - ◆ Workers' compensation insurers lose premiums
-

A NATIONAL STUDY OF FRAUD IN THE CONSTRUCTION INDUSTRY COMPLETED 2020

- The study concluded that a yearly average of between 12.4 and 20.5 percent of construction workers, or 1.3 to 2.16 million, were misclassified as 1099 independent subcontractors or paid off the books.
- Federal employment taxes that should have been paid by construction employers off-loaded onto their employees: \$3.48 billion.
- The authors wrote: "In developing the cost estimates outline above, the authors have used conservative assumptions whenever possible. This includes, but is not limited to, considering only the most conservative number of workers directly affected (1.3 million) in the ranges presented above. However, the authors suspect--even if they cannot verify--that the social costs of payroll fraud may be substantially larger...."^[4]
- ^[1] *An Empirical Methodology to Estimate the Incidence and Costs of Payroll Fraud in the Construction Industry*, by Russell Ormiston, Dale Belman and Mark Erlich (2020).
- ^[2] *Ibid.* p. 3-7.
- ^[3] *Ibid.* p. 51.
- ^[4] *Ibid.* p 6.
-

A NATIONAL STUDY OF FRAUD IN THE CONSTRUCTION INDUSTRY COMPLETED 2020

- Losses were calculated by the authors for three ranges of yearly wages of \$30,000, \$35,000 and \$40,000 for 1.3 million construction workers. Using the \$35,000 wage losses were:
- Workers' compensation premiums: \$2.03 billion
- Unemployment insurance contributions: \$717 million
- Social Security and Medicare: \$5.84 billion
- Federal income tax: \$1.83 billion
- State income tax: \$730 million
- Overtime & premium pay \$946 million
- Total UI, federal and state and tax losses (not including workers' compensation premiums): **\$8.4 billion.**

LA ATTORNEY GENERAL ACCEPTS GUILTY PLEA IN TAX FRAUD CASE

- Mauro Aguirre owner of Escapade Acoustic Drywall had to pay \$200,000 in restitution to the state, which includes \$100,000 to the Louisiana Workforce Commission, \$95,000 to the LA Dept of Revenue and \$5,000 to the LA Dept Of Justice.
- An investigation revealed that Escapade Acoustic Drywall underreported its employees and income.
- The company reported around 35 employees with a payroll of \$145,347 when
- It should have reported over 300 employees with a payroll of about \$4.2 million over a nine month period.

USDOL RECOVERS \$203,000 IN OVERTIME BACKWAGES FROM ESCAPADE ACOUSTIC

- The US Department of Labor recovered \$203,000 in back wages for 224 misclassified drywall installers from Escapade Acoustic Drywall and Lloyd N Moreau LLC.
- The investigation conducted by the Wage and Hour Division's New Orleans Office determined that there was a joint employment relationship between Escapade and Moreau.
- The Wage and Hour Division stated "the misclassification of employees as independent contractors is an alarming trend, particularly in industries such as construction. This practice is a serious threat both to workers and employers who obey the law."
-

MANUEL A. REYES

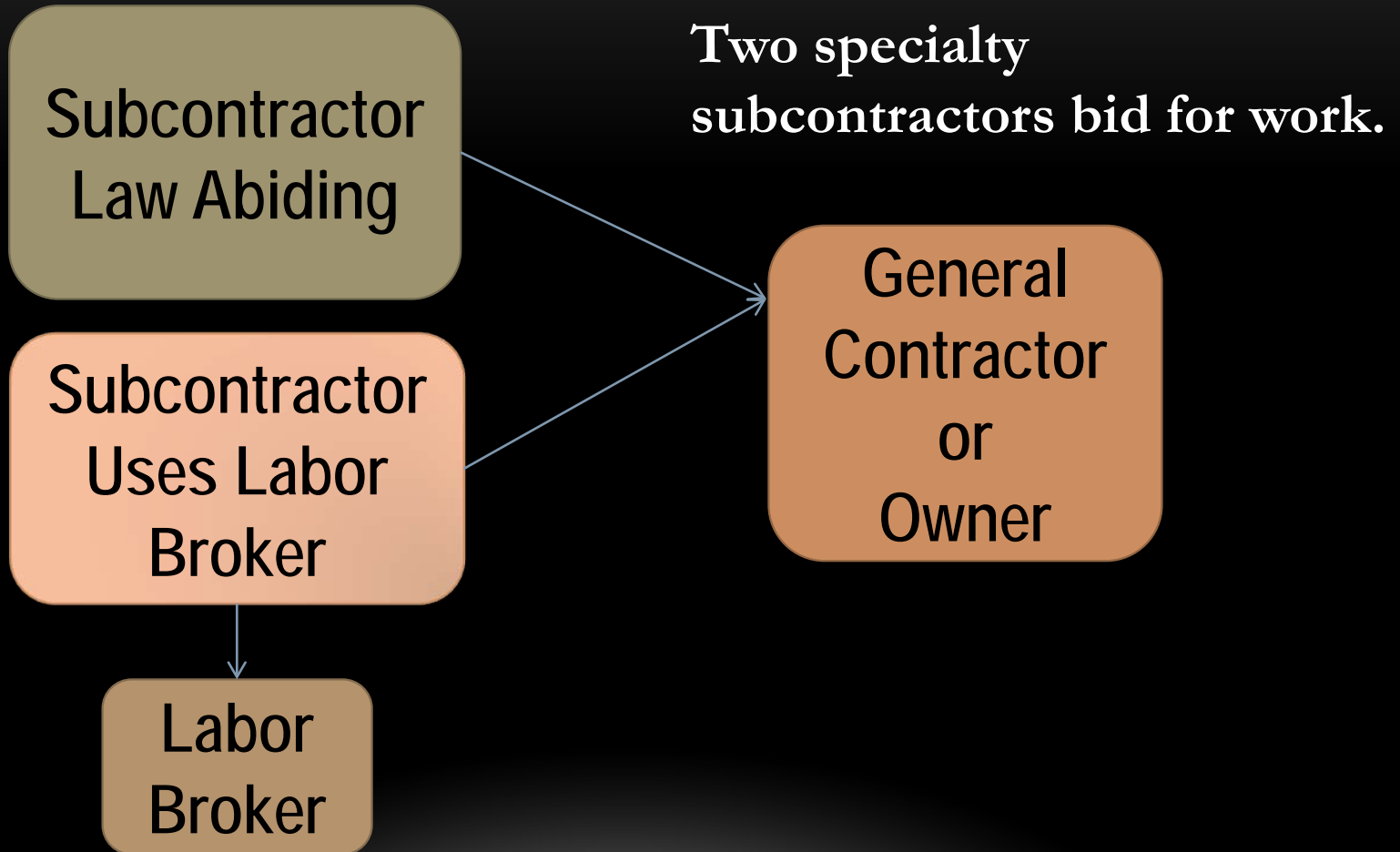
LABOR BROKER IN NEW ORLEANS

- THE EAST BATON ROUGE PARISH GRAND JURY INDICTED MANUEL A. REYES OWNER OF REYCO, INC ON MULTIPLE CHARGES UNDER THE LOUISIANA WORKERS COMPENSATION LAW.
- OVER A 15 MONTH PERIOD HE WAS FOUND TO HAVE:
- **500 MISCLASSIFIED WORKERS**
- UNERREPORTED HIS WORKERS COMPENSATION PREMIUMS BY **\$794,000**
- **\$10.5 MILLION** IN UNREPORTED TOTAL WAGES
- **\$3.4 MILLION** IN UNREPORTED TAXABLE WAGES

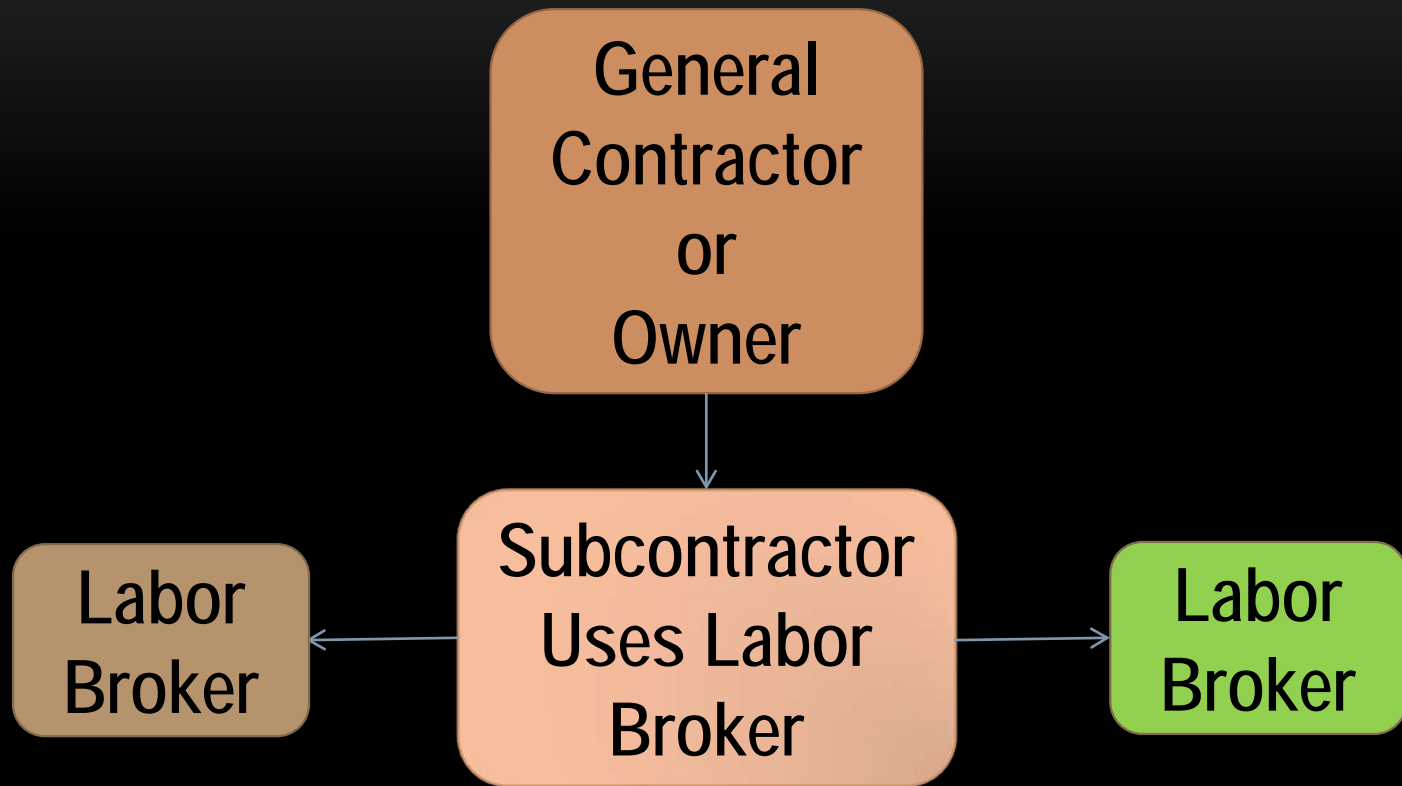
OWE CHILD SUPPORT? NO PROBLEM - WORK OFF OF THE BOOKS

- WE HAVE FOUND THROUGH OUR INTERVIEWS OF NUMEROUS CONSTRUCTION WORKERS THAT NOT ALL WORKERS MIND BEING MISCLASSIFIED AND WORKING OFF OF THE BOOKS.
 - Workers who owe child support work off of the books to keep their pay from being garnished or to show a reduced amount of income earned.
-

BIDDING



HONEST CONTRACTORS LOSE



Contractors that use labor brokers dominate market.

Construction Industry Tax Fraud

GREATER ACCOUNTABILITY

GREATER ACCOUNTABILITY: HAS SUPPORT

- **59%** of voters (59% Democrat, 58% Republican, 61% independents) think that the increase in the number of companies that hire firms to supply them with labor is a negative trend
- **71%** of voters (67% Republican) would support holding the client, or upper-tier, company liable for its subcontractor's unpaid wages, unemployment insurance contributions, workers' compensation and Social Security taxes

GREATER ACCOUNTABILITY

- Transparency
 - Disclosure
 - Matters in bid awards
 - Discourage use of labor brokers
-

BILLION-DOLLAR BLUEPRINT TO RIPOFF TAXPAYERS



WEB PAGE: STOPTAXFRAUD.NET

[HOME](#)

[TAX FRAUD](#)

[WAGE THEFT](#)

[INSURANCE FRAUD](#)

[REPORTS](#)

[NEWS](#)

[SEARCH](#) 



TAX FRAUD LET'S STOP IT!



**You Pay Your Taxes, Why Should Some
Construction Contractors Get to CHEAT?
Their Tax Fraud Costs Everyone**