

Underground Economy in the Construction Industry DOL Sunrise Review Recommendations (Updated 12/4/2008)

Cross-references: Italicized numbers in the number column are cross-references to the November 19 matrix numbers.

The following items come from DOL's report on its sunrise review of residential contractors.

	DOL Sunrise Review Recommendation	Action Needed	Labor Comments	Business Comments	Agency Notes	Action Taken
1 <i>(26)</i>	Registration requirements <ul style="list-style-type: none"> Strengthen registration requirements by authorizing the Department of Labor and Industries (L&I) to suspend registration for cause. Establish mechanisms for monitoring industry performance. 	Legislation			L&I - L&I already has the ability to suspend for a number of cause reasons, including loss of insurance or claims against the bond, as well as outstanding liens filed for past due taxes (workers' comp, UI, DOR). 2SSB 6732 also granted the ability to suspend due to falsification or information. One gap that exists is that we cannot deny or suspend a registration based on violations in other states, even outstanding criminal matters. Some of the worst actors in the underground economy will move between states. What else is being considered in this area?	
2 <i>(27)</i>	Enforcement resources <ul style="list-style-type: none"> Ensure that enforcement resources, including staff and investigative tools, are adequate to establish compliance by contractors. 	Budget			L&I - If additional resources were authorized, we would put them to use. However, the 2008 budget did strengthen this area, including 4 add'l workers comp auditors, 3 add'l FAIR contractor fraud team members, and a dedicated criminal Assistant Attorney General. We are currently reviewing and dealing with potential gaps in tools. (ex: reverse mobile phone search to deal with Craigslist)	

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3 (28)	<p>Strengthen registration</p> <ul style="list-style-type: none"> Strengthen registration by requiring disclosure of prior business names and/or bankruptcy, two years experience in the construction industry, and evidence of training in regulations and business practices in the construction industry. Consider higher bonding limits. 	Legislation			<p>L&I - Three different issues in this recommendation:</p> <p>1. Disclosure – We believe the new registration form, requirement to fill out completely and the new laws for penalties for falsification will deal with this issue.</p> <p>2. Years of experience may not be the best (or only) requirement. The Dept has previously sought testing or training requirements. See item number 5 above for a potential first step.</p> <p>3. L&I supports higher bonding limits. In 2001, we proposed \$15,000 for general, \$10,000 for subs before settling to \$12,000/\$6,000. Those amounts have not been adjusted at all for inflation in the past 7 years. There is a new provision for increasing the bond (up to 3x normal) for severe repeat violators (3 judgments on 2 or more residential structures).</p>	
4 (29)	<p>Recovery fund</p> <ul style="list-style-type: none"> Consider creating a recovery fund to improve consumer protection by backing up bond capacity. 	Legislation Budget			<p>L&I – L&I supports the concept of aiding the consumer, but this may not be the best mechanism. Higher bonding limits may provide a better solution without generating a new program.</p>	

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5 (30)	<p>Central complaint repository</p> <ul style="list-style-type: none"> • Create a central complaint repository within State government. Establish database and encourage state agencies and local authorities to share information in a uniform format. 	Legislation Budget			<p>L&I – L&I supports the concept of data-sharing, and enters into many agreements. This would cross multiple levels of government and include private agencies if the BBB and others were included. Bigger than where data resides is who is required to take action on it. Our agency already provides information on registration, infractions, past actions against bond, workers’ compensation and links to other agencies’ information (e.g. DOR) in one place.</p> <p>ESD – ESD supports data sharing and we have procedures in place. We would have to ensure that IRS privacy policies are supported.</p>	
6 (31)	<p>Model construction documents</p> <ul style="list-style-type: none"> • Develop and require the use of model construction documents and specify prohibited provisions. Documents should include contracts, warranties, bid sheets and lien explanation. Consider elective escrow provisions to avoid problems resulting from advance payments. 	Legislation Budget			<p>L&I – This would require legislation to provide, and potentially budget impact, depending on the method of proceeding. How would agreement on “model” be achieved? When L&I previously included a sample Summons and Compliant form for initiating a bond action, we were required by the Washington State Bar Association to remove it for improperly providing legal advice.</p>	
7 (32)	<p>Consumer awareness</p> <ul style="list-style-type: none"> • Enhance L&I’s current efforts to increase consumer skills and awareness of issues, resources and strategies that are important in the area of residential contracting. Connect this effort to the issues identified as critical in this study. Set goals and targets and define metrics for consumer awareness. 	Budget			<p>L&I - 2SSB 6732 addressed this issue, at least to some degree, placing RCW 18.27.385 into law, and achieving a budget for this activity on an ongoing basis. If additional resources were provided, we would expand the efforts.</p>	