Quality People.
Quality Projects.

A PROFILE OF THE CONSTRUCTION INDUSTRY

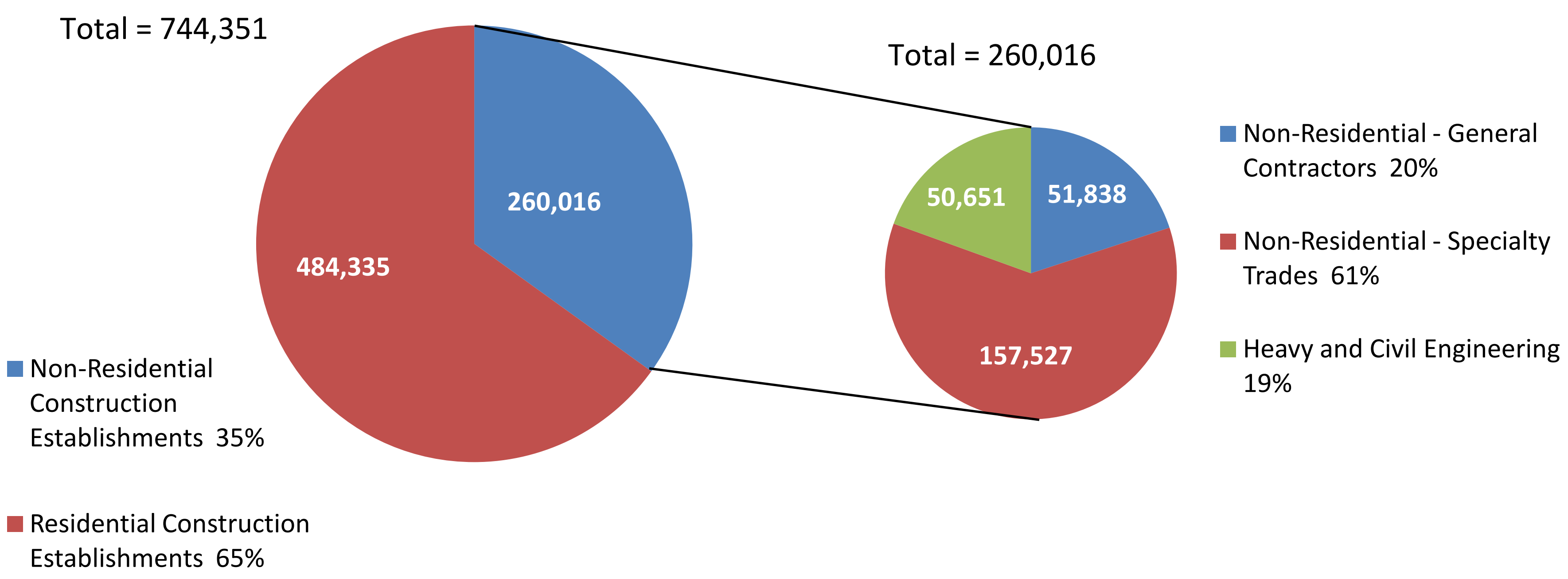
Presentation to OFCCP

July 2, 2014

High-Level Overview of the Construction Industry

Residential Versus Non-Residential Construction Establishments (2013)

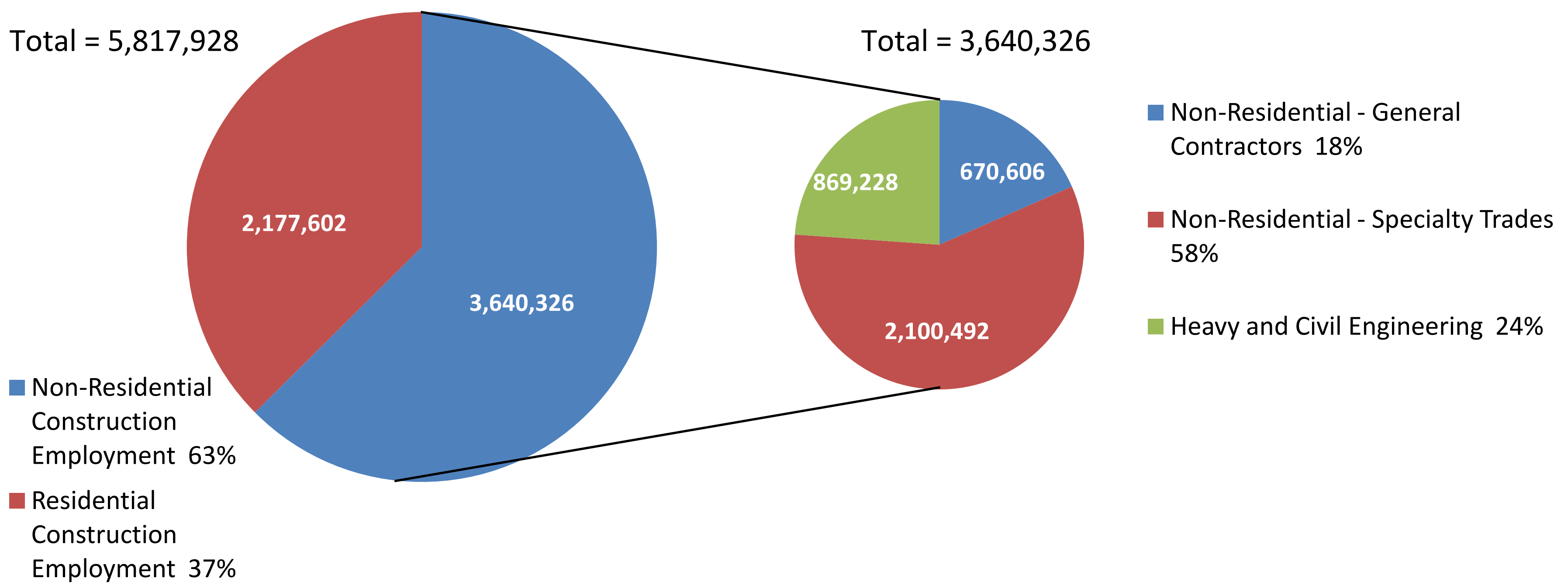
Breakdown of Non-Residential Construction Establishments (2013)



Sources: Establishments, employment, Bureau of Labor Statistics, Quarterly Census of Employment and Wages; Spending--U.S. Census Bureau, Value Put in Place

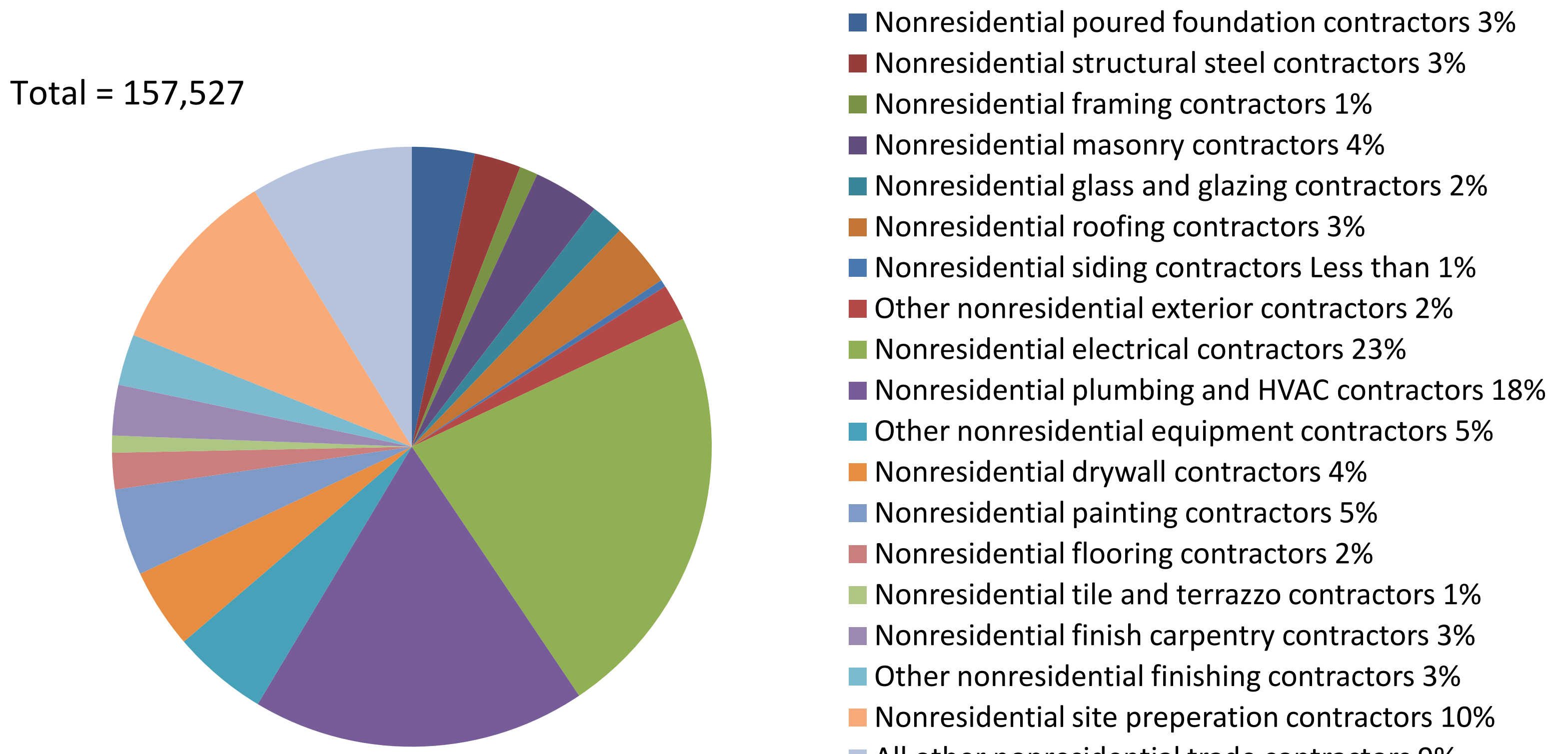
Residential Versus Non-Residential Construction Employment (2013)

Breakdown of Non-Residential Construction Employment (2013)



Sources: Establishments, employment, Bureau of Labor Statistics, Quarterly Census of Employment and Wages; Spending--U.S. Census Bureau, Value Put in Place

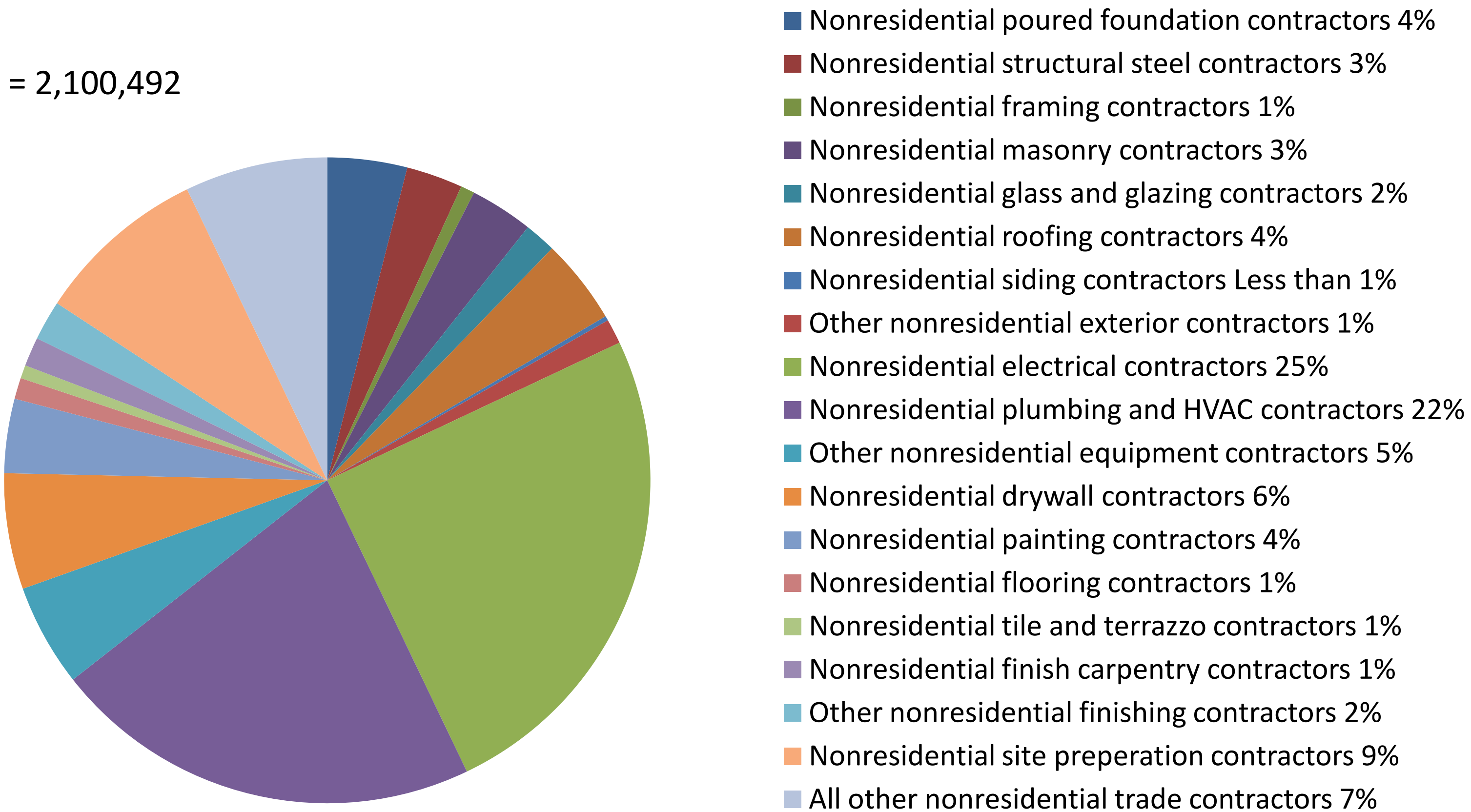
Breakdown of Non-Residential Specialty Trade Establishments (2013)



Sources: Establishments, employment, Bureau of Labor Statistics, Quarterly Census of Employment and Wages; Spending--U.S. Census Bureau, Value Put in Place

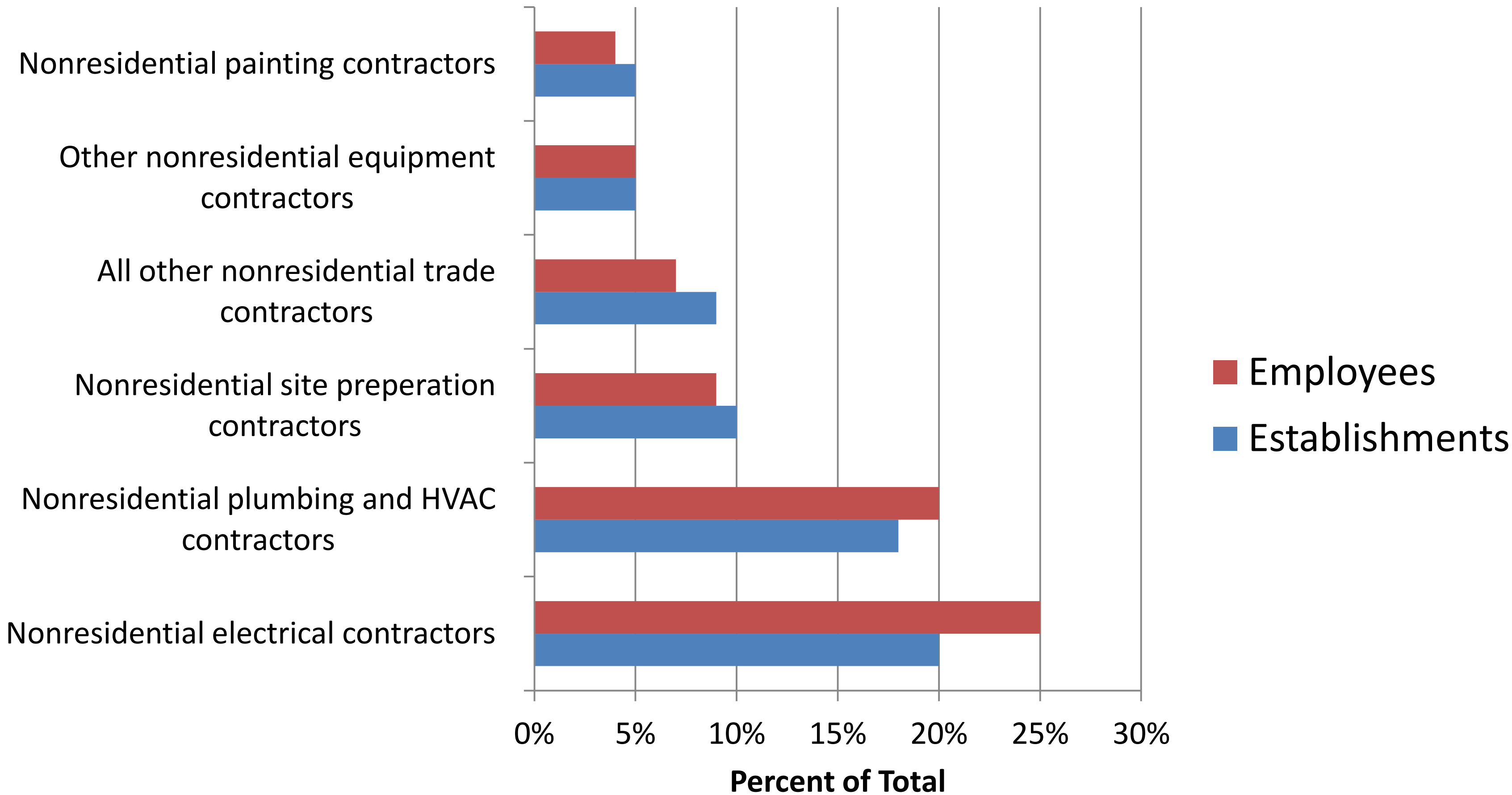
Breakdown of Non-Residential Specialty Trade Employment (2013)

Total = 2,100,492



Sources: Establishments, employment, Bureau of Labor Statistics, Quarterly Census of Employment and Wages; Spending--U.S. Census Bureau, Value Put in Place

Percent Distribution of Non-Residential Specialty Trade Contractors



Sources: Establishments, employment, Bureau of Labor Statistics, Quarterly Census of Employment and Wages; Spending--U.S. Census Bureau, Value Put in Place

Average Employment Size
(employees per establishment)

All Nonresidential Firms: 14

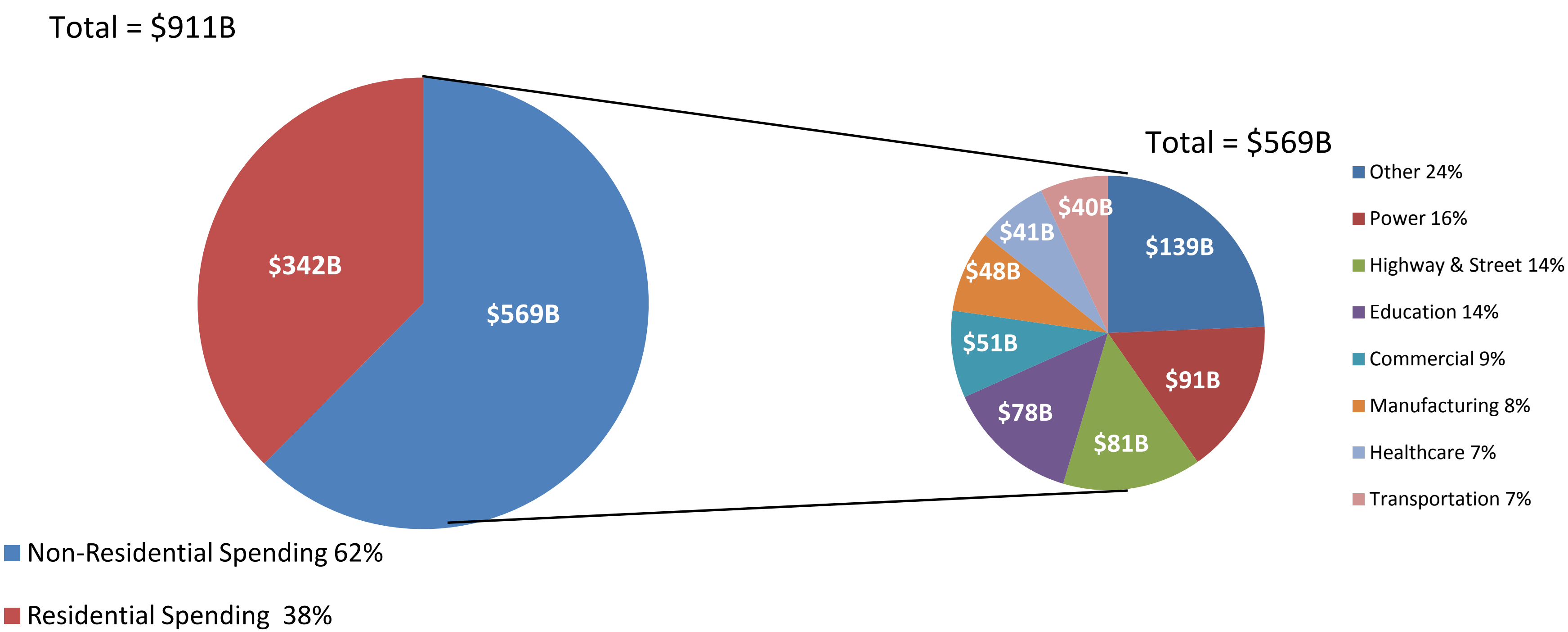
Largest: 18—Drywall and Insulation Contractors

Smallest: 7—Flooring, Finish Carpentry Contractors

Sources: Establishments, employment, Bureau of Labor Statistics, Quarterly Census of Employment and Wages; Spending--U.S. Census Bureau, Value Put in Place

Residential Versus Non-Residential Construction Spending (2013)

Breakdown of Non-Residential Construction Spending (2013)



Sources: Establishments, employment, Bureau of Labor Statistics, Quarterly Census of Employment and Wages; Spending--U.S. Census Bureau, Value Put in Place

Major Public and Federal Construction Spending, 2013 (billion $, Seasonally Adjusted Annual Rate)

	2013 Total	Public Share	Federal Share
Nonresidential total	569	30%	4%
Power	91	13%	1%
Highway and street	81	100%	1%
Educational	78	79%	3%
Health care	41	27%	10%
Transportation	40	72%	6%
Public safety	10	99%	30%
Conservation and development	6	99%	55%

Source: Census Bureau Construction Spending report; Author's forecast

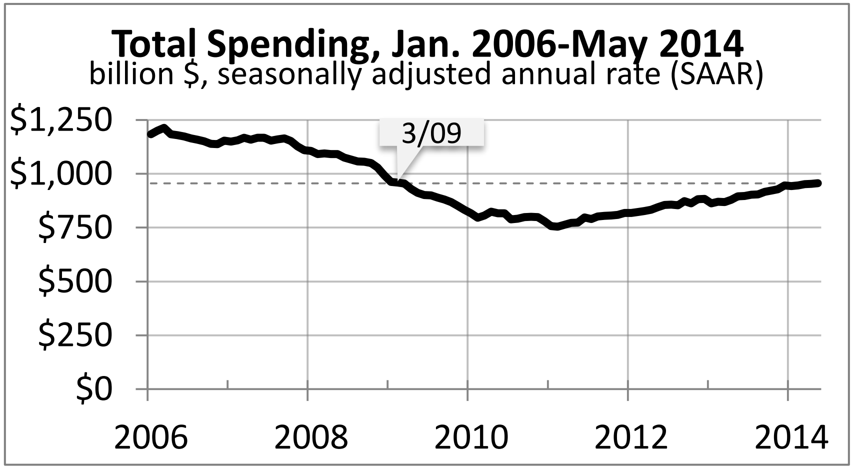
Construction Spending & Employment, 2006-14

Spending

• Peak – March 2006: $1,213 billion

•Trough – Feb. 2011: $755 billion (38% below peak)

•May 2014 - $956 billion (21% below peak)

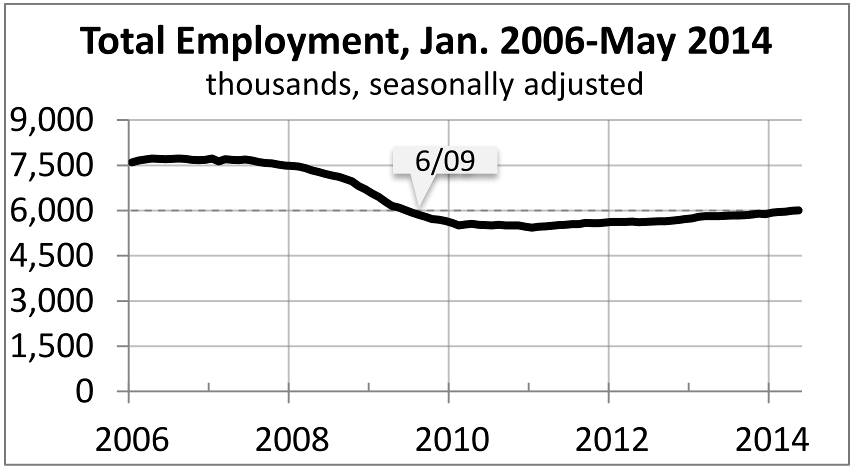


Employment

• Peak – April 2006: 7.7 million

•Trough – Feb. 2011: 5.4 million (29% below peak)

•May 2014 – 6.0 million (22% below peak)



Source: Census Bureau Construction Spending Reports

Construction is Growing, but Unevenly

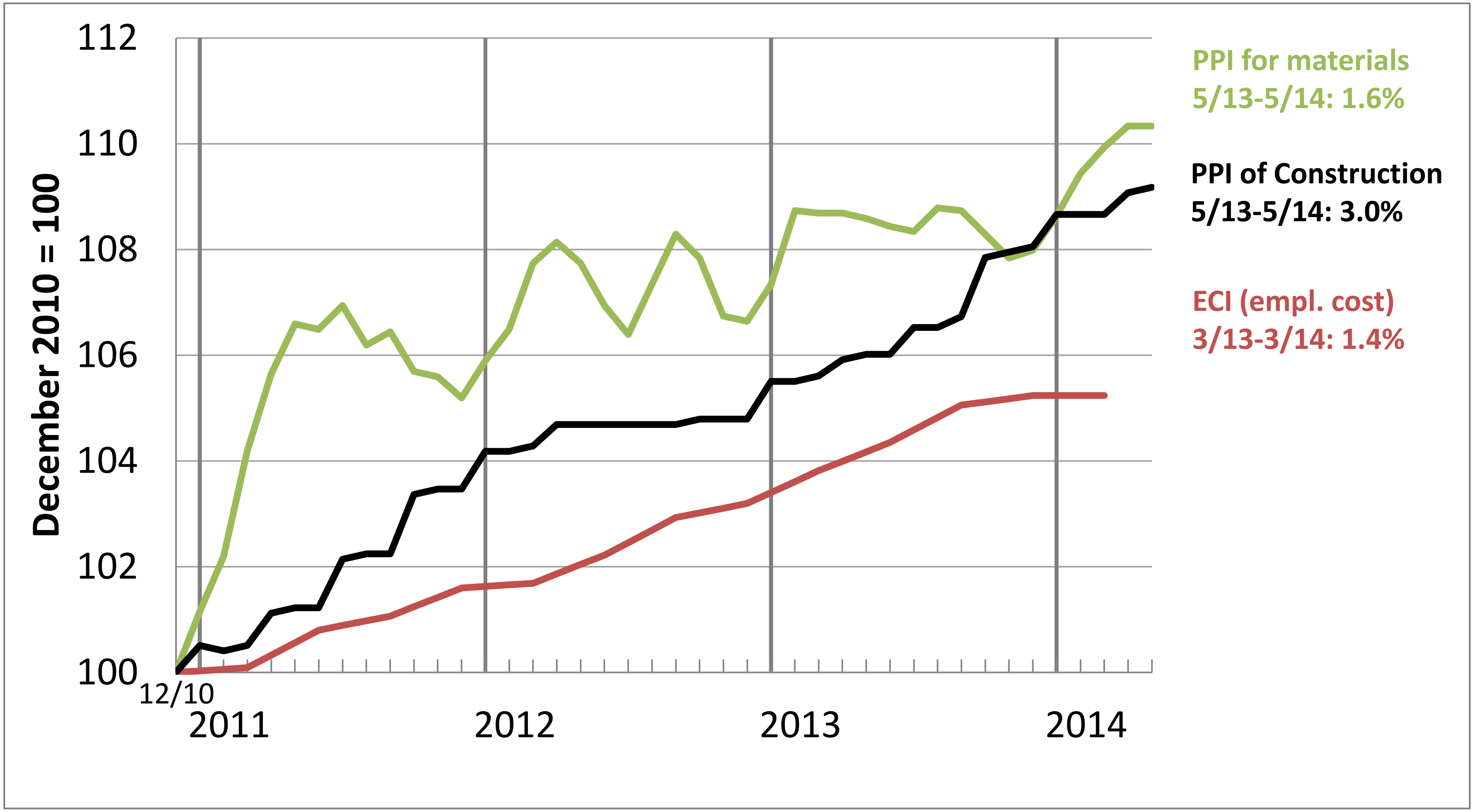
3 trends helping many sectors and regions:

- ‘Shale gale’
- Panama Canal expansion
- Residential revival—especially multi-family

3 trends holding down construction growth:

- Government spends less on schools, infrastructure
- Consumers switch from stores to online buying
- Employers shrink office space per employee

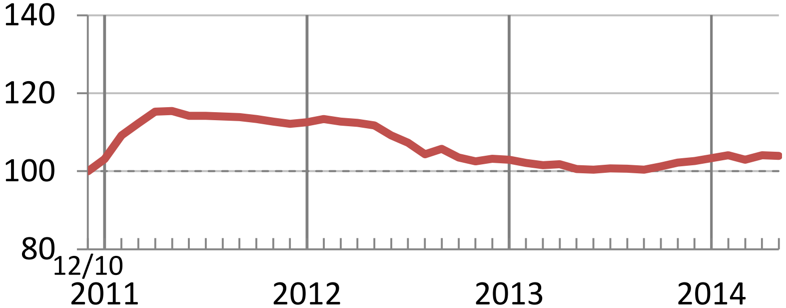
Material & Labor Costs vs. Construction Prices, 12/10-5/14



Source: Author, based on Bureau of Labor Statistics for Producer Price Indexes (PPIs) and Employment Cost Index (ECI); Federal Highway Administration for NHCCI

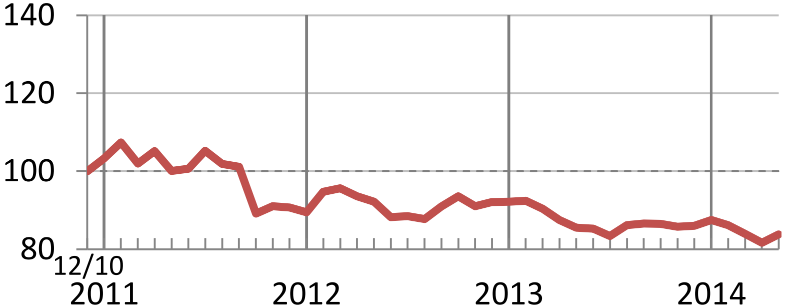
Producer Price Indexes for Key Inputs, 12/10-5/14 (Dec. 2010=100)

Steel mill products



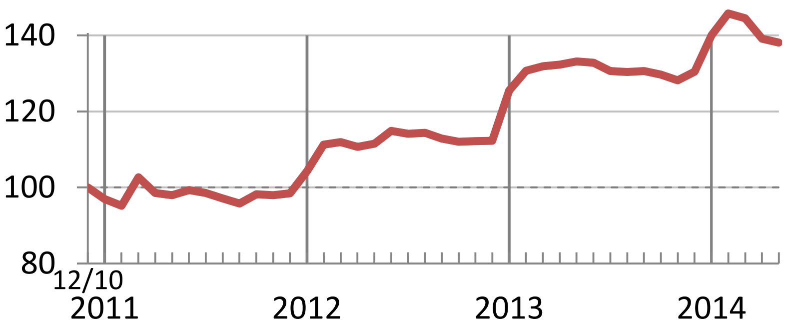
Latest 1-mo. change: -0.1%, 12-mo.: 3%

Copper & brass mill shapes



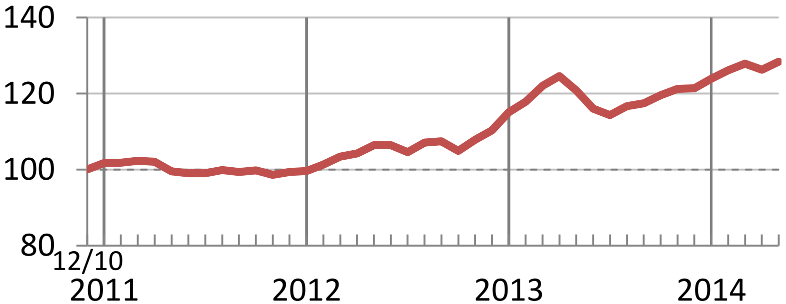
Latest 1-mo. change: 2.7%, 12-mo.: -2%

Gypsum products



Latest 1-mo. change: -0.7%, 12-mo.: 4%

Lumber & plywood

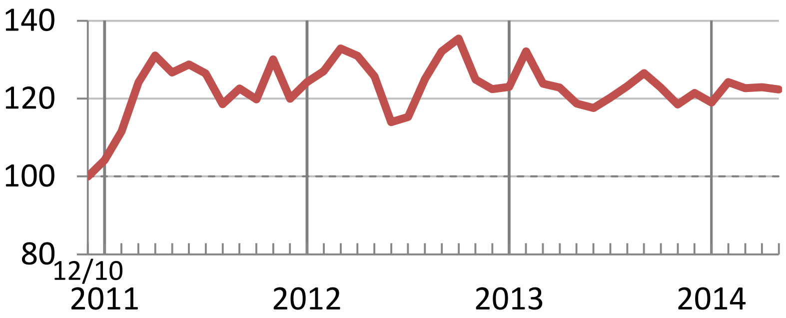


Latest 1-mo. change: 1.0%, 12-mo.: 6%

Source: Based on BLS Producer Price Index reports

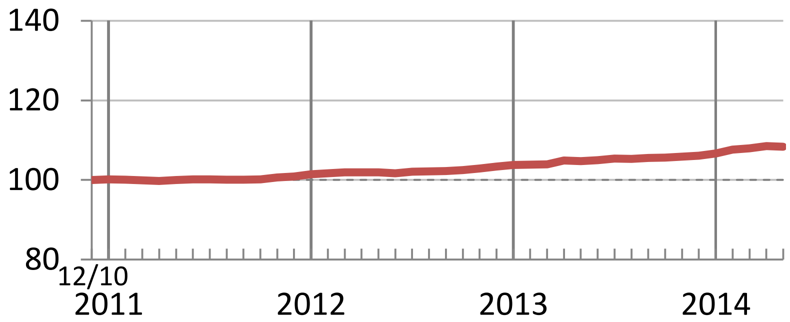
Producer Price Indexes for Key Inputs, 12/10-5/14 (Dec. 2010=100)

Diesel fuel



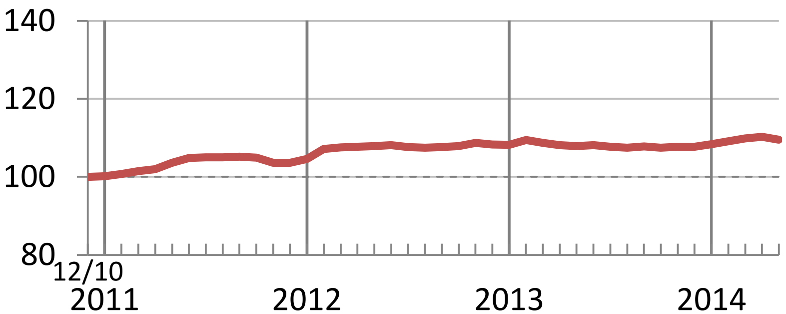
Latest 1-mo. change: -0.5%, 12-mo.: 3%

Concrete products



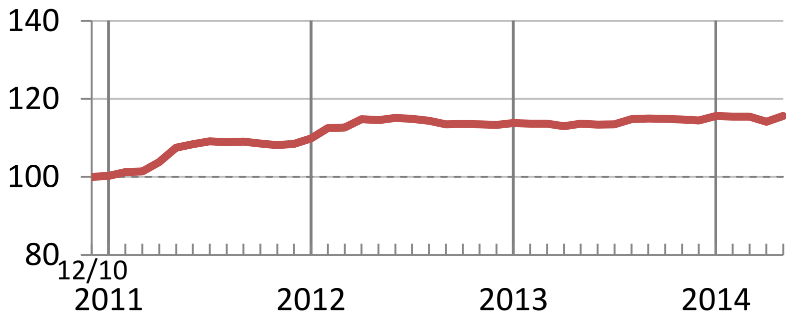
Latest 1-mo. change: -0.1%, 12-mo.: 3%

Plastic construction products



Latest 1-mo. change: -0.7%, 12-mo.: 2%

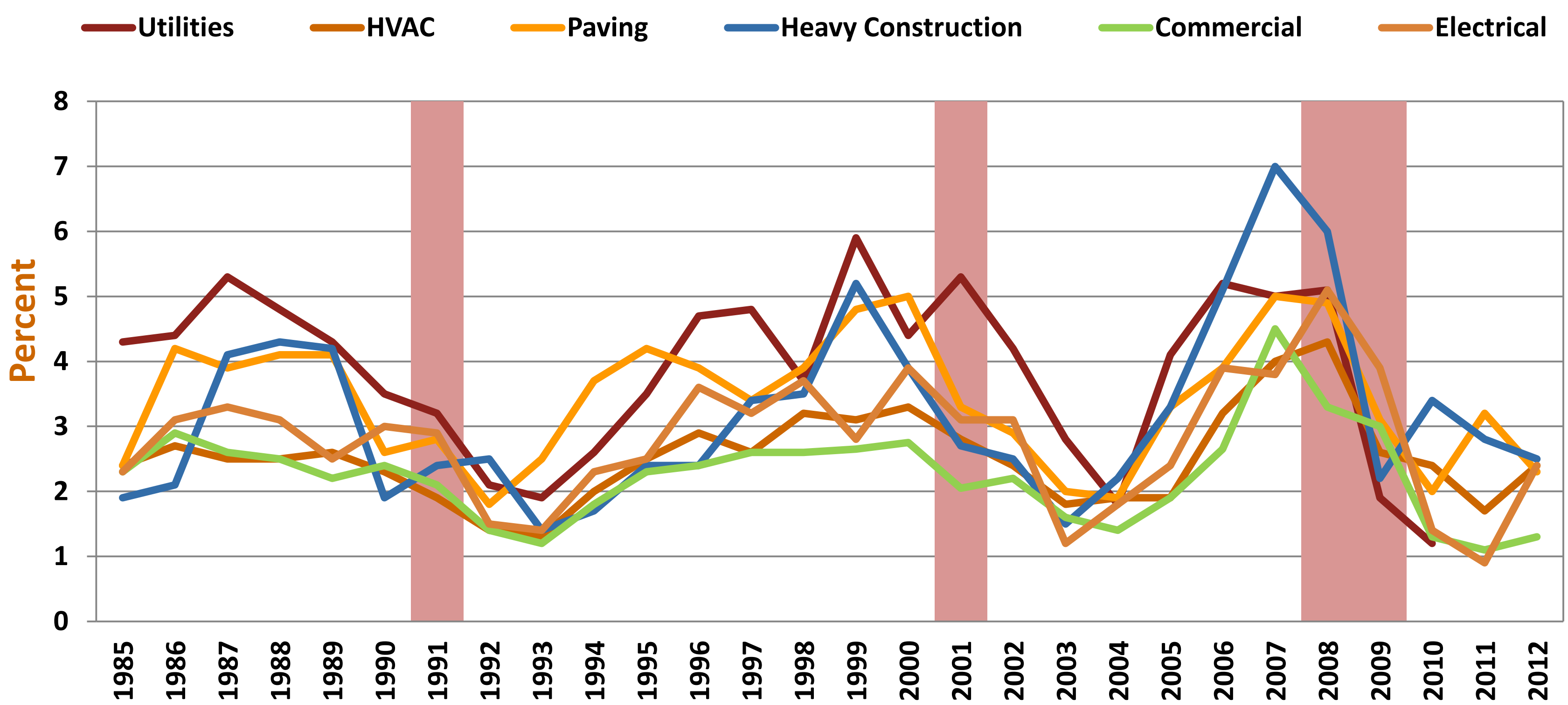
Asphalt paving mixtures & blocks



Latest 1-mo. change: 1.3%, 12-mo.: 2%

Source: Based on BLS Producer Price Index reports

Contractor Profit Before Tax



Recession Periods Are Shaded Red

Source: Risk Management Associates, Philadelphia, PA.
Annual Statement Studies 1985-2009

Federal Contracting Agencies, Their Projects and Delivery Systems

Overview of the Most Significant Agencies

- Department of Transportation
- Department of Defense
  - Army Corps of Engineers
  - Naval Facilities Engineering Command
- General Services Administration
- Department of Veterans Affairs

Overview of the Different Delivery Systems

- Design/Bid/Build
- Design/Build
- DBOT
- DBOM
- EPC
- Commercial Terms
  - Fixed Price
  - Cost Reimbursement
  - Incentive Contracts
  - Indefinite Delivery/Indefinite Quantity
  - Time and Materials

Trends in Federal Projects & Delivery Systems

- FAR Part 15 Negotiated Procurement
- Performance Reviews
- Project Labor Agreements by Executive Order
- Public-Private Partnerships

Competition for Construction Contractors' Time and Attention

Significant Risks for All Construction Projects

Examples:

- Contractor never actually gets to build the same project twice
- Government contracts are largely non-negotiable
- Design Defects
- Differing Site Conditions
- Operation of broad changes authority combined with continuation of work and disputes clauses
- Jobsite injuries (Controlling Employer rule)
- Material price increases
- Multiple potential causes of delay with high, uncapped, per diem liquidated damages

(cont'd)

Significant Risks for All Construction Projects

(cont'd)

- Unenforceability of "no damage for delay" and "pay if paid" clauses against a Miller Act payment bond claimant
- Subcontractor default or unpaid suppliers
- Miller Act claims down to second-tier subcontractors and suppliers
- Performance bond claims by owners
- General Agreement of Indemnity running from prime contractor to sureties
- False Claims Act violations by the contractor or subcontractors
- Foreign Corrupt Practices Act violations

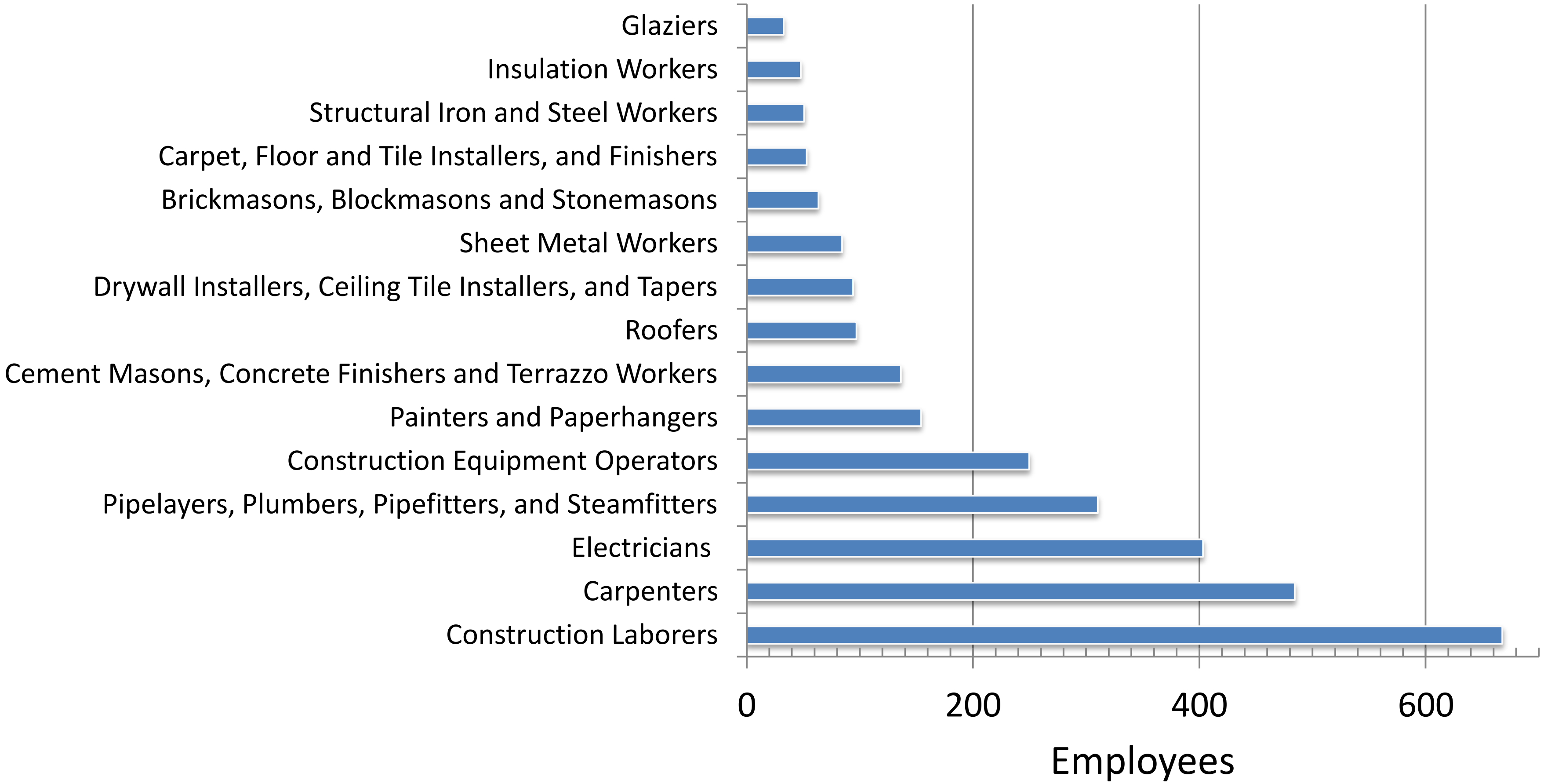
Added Risks for Federal & Federally Assisted Projects

Examples:

- Mandatory Ethics and Compliance Programs
- Mandatory Disclosure of Wrongdoing
- Davis-Bacon and Related Acts
- Small and/or Disadvantaged Business Enterprises Goals and Timetables
- E-Verify Mandates
- Drug-Free Workplace Act

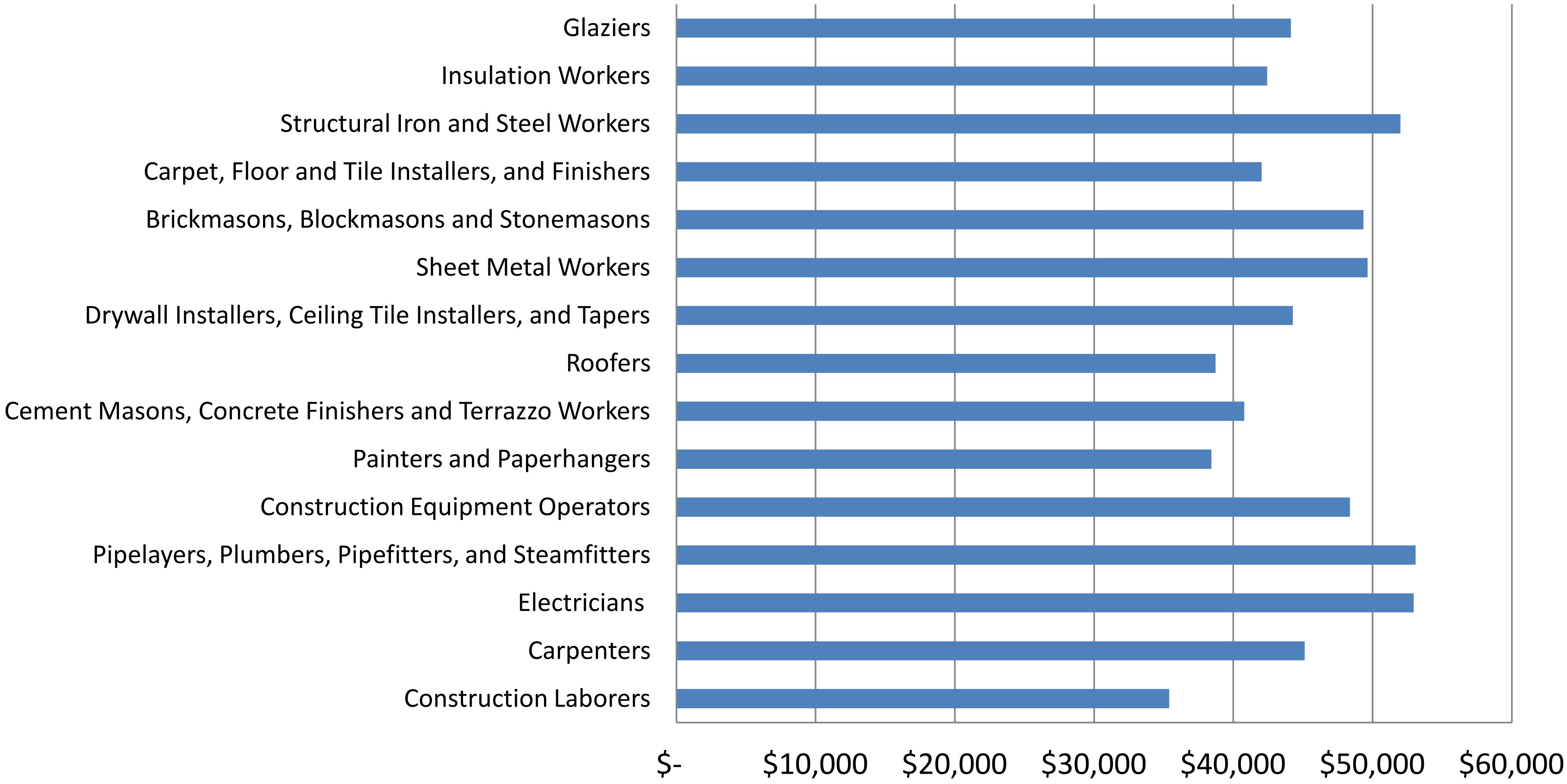
Employment in the Construction Industry

Construction Employment by Occupation (Thousands, 2014)



Source: BLS Occupational Employment Statistics Database

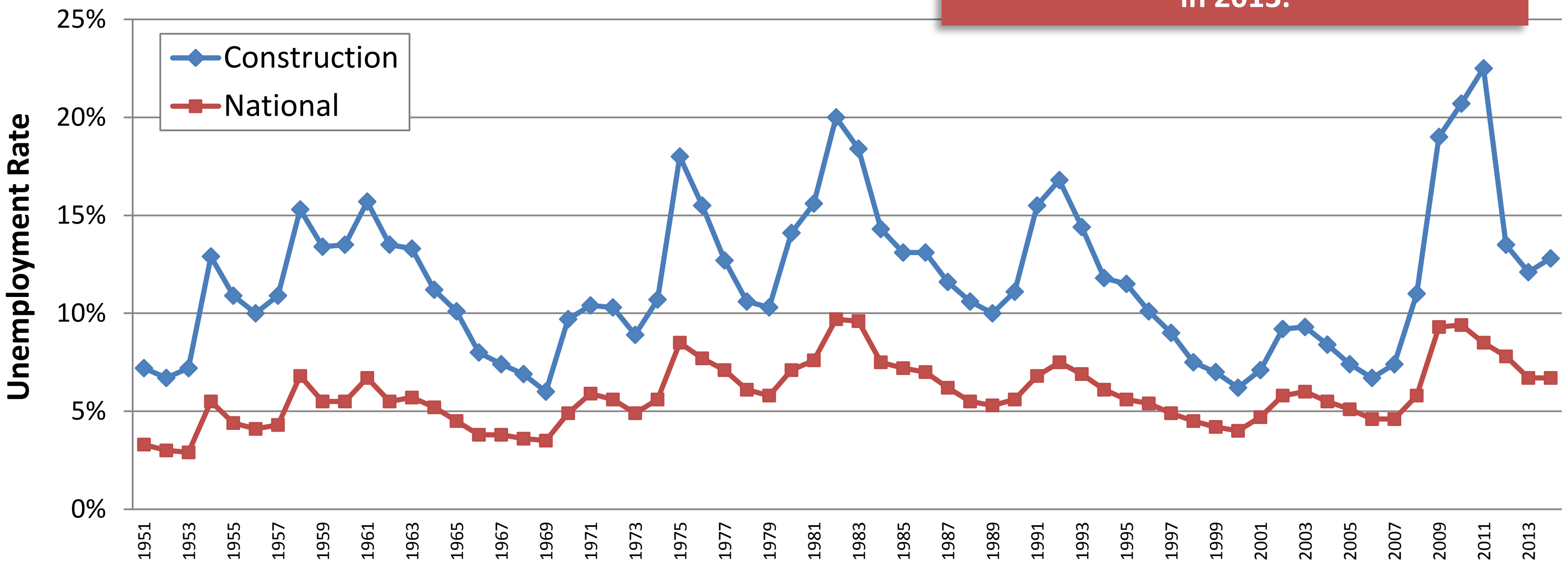
Mean Annual Wages by Occupation, May 2013



Source: BLS Occupational Employment Statistics Database

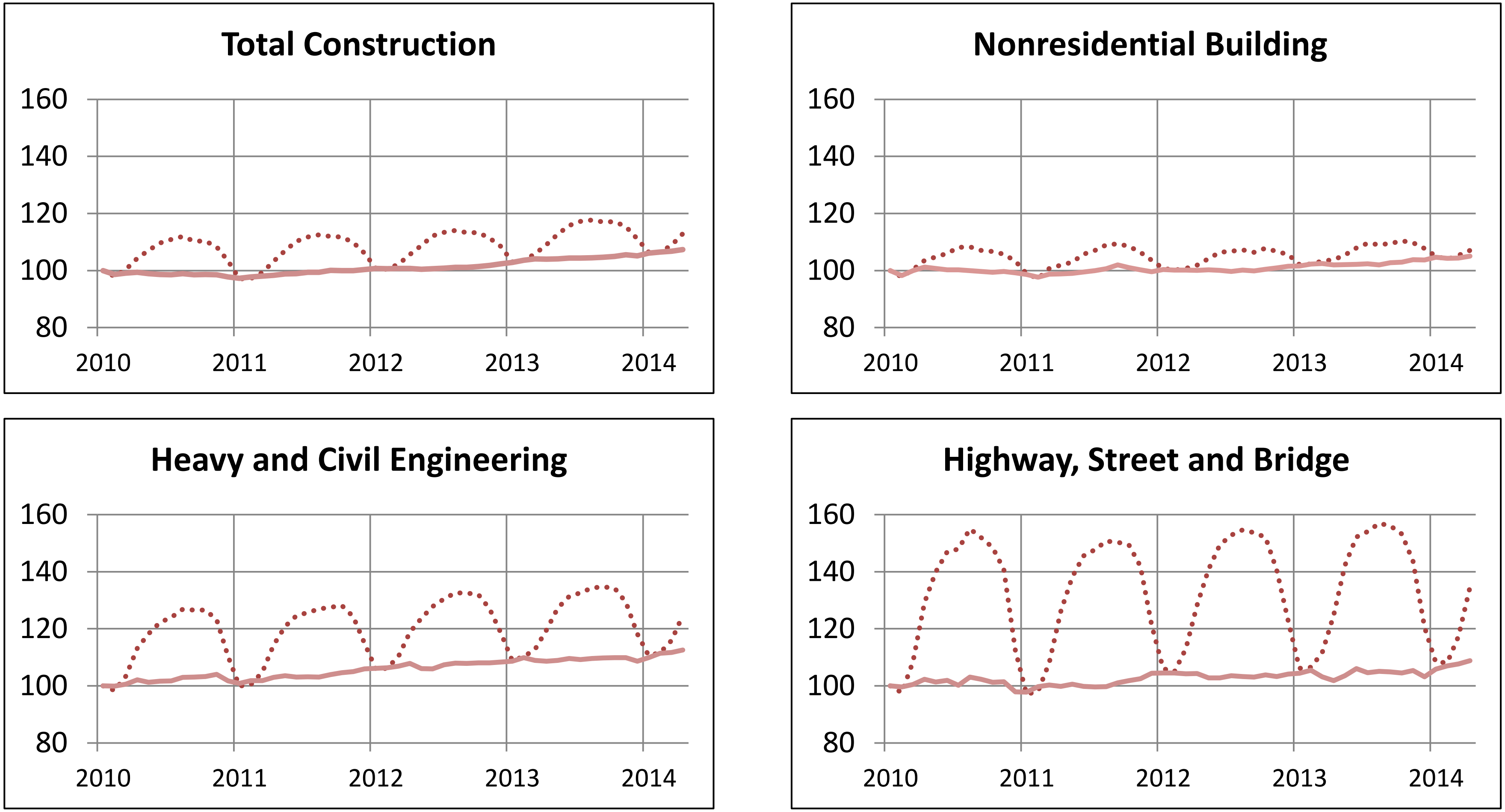
Construction Unemployment vs. National Unemployment

Construction added 152,000 jobs in 2013.



Construction Employment by Industry Segment, 1/10 – 4/14

(Jan. 2010 = 100, = Seasonally Adjusted, = Not Seasonally Adjusted)



Source: BLS Occupational Employment Statistics Database

Seasonal and Temporary Craft Workers

- The unique, temporary and fluid nature of construction craft worker employment has long been recognized by the federal government.
  - OFCCP:
    - "In order to take in to account the fluid and temporary nature of the construction workforce, OFCCP does not require construction contractors to develop written affirmative action programs."
  - EEO-1 Joint Reporting Committee:
    - "The term employee SHALL NOT include persons who are hired on a casual basis for a specified time, or for the duration of a specified job (for example, persons at a construction site whose employment relationship is expected to terminate with the end of the employees work at the site)..."
- The unique nature of this employment is unchanged.

Mobility Required of All Craft Workers

- Craft workers must be mobile to stay employed from project to project by their company or in their trade.
  - Seasonality of work pushes craft workers to follow projects around region (or beyond).
  - Temporary nature of projects often prohibits employers from building large long-term craft workforce.
  - Even within a company, job site locales may vary across regions and/or across the country.

Workforce Recruitment and Training in Construction

Types of Construction Craft Training

- Traditional Craft Training
- Apprenticeship
- Task Training
- Skill Assessment, Skill Upgrade
- School-Based CTE

Delivery of Construction Training

- Secondary
- Post-Secondary
- Industry-Based Direct
- Industry-Based Associations/Community
- Organized Labor (Joint Apprenticeship & Training Programs)
- For-Profit Institutions

Funding of Construction Training

- Tuition Based
- Cents Per Hour
- Industry Direct/Employer Funded
- Local, State, and Federal Grants
- Davis-Bacon Contributions
- Carl Perkins Act/Workforce Investment Act

Common Recruitment Practices

- Union Hiring Halls
  - Union hiring halls and union-funded apprenticeship training programs, governed by collective bargaining agreements (CBAs)
- Open Shop Hiring
  - Posting job openings through various organizations, such as community organizations, local trade or vocational/technical schools, community colleges, local offices of state unemployment offices, foremen, etc.
  - On-the-job recruitment by project managers, foremen, superintendents, etc., including utilization of informal worker referral networks, social media postings, etc.

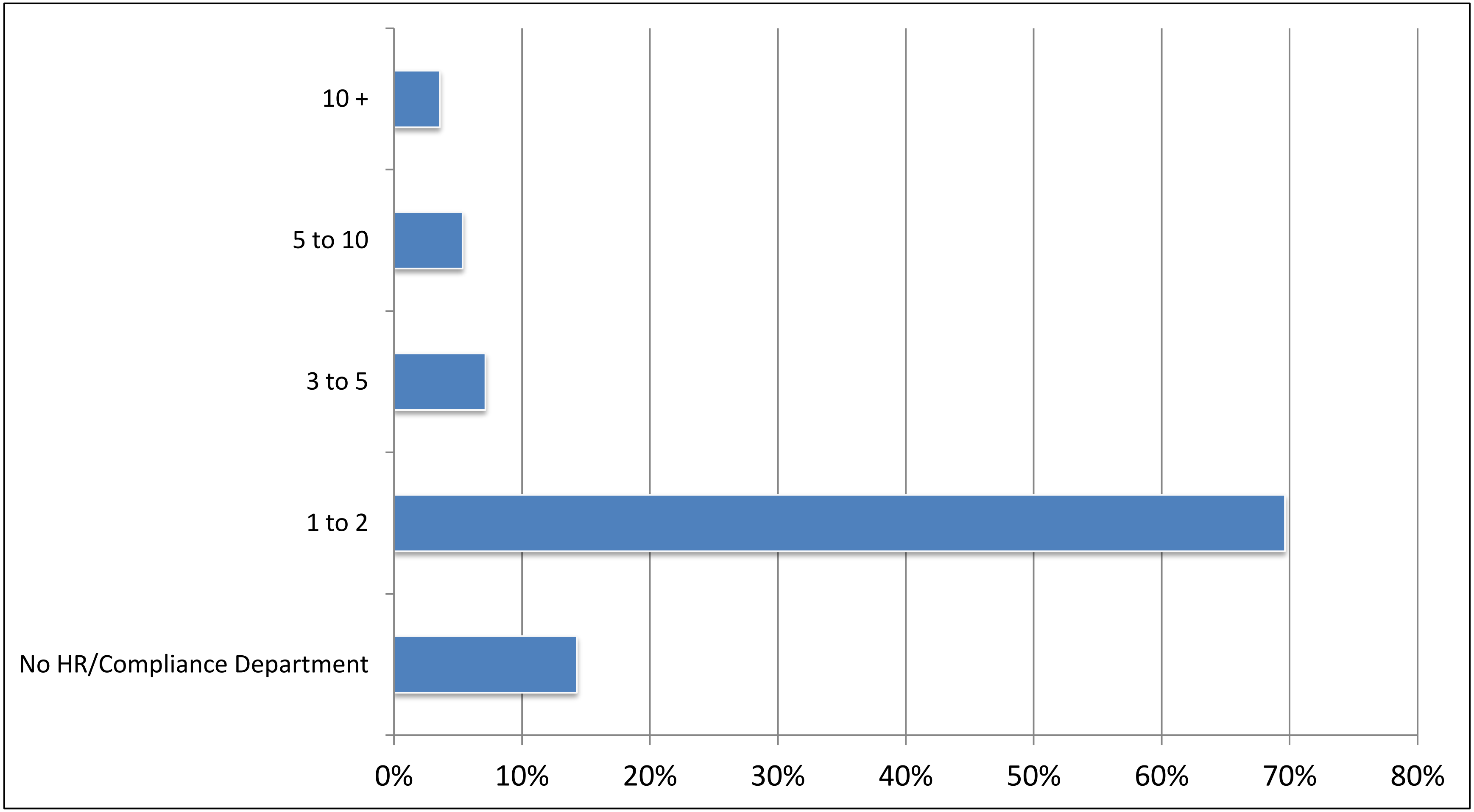
Common Recruitment Challenges

- Cyclical hiring seasons
- High-demand craft skills
- Mobile recruitment
- Meeting project demands, including deadlines and budgets, in coordination with compliant recruitment processes
- Contractual restraints on independent recruitment efforts when working with unions
- Compliance with OFCCP regulations related to union referral process.
- Meeting municipality or state hiring requirements or goals
- "Outsourcing" recruitment from HR to field supervisors
- Assigning two or more women to each job site, where possible, in compliance with OFCCP regulations

HR Staffing and Resources

- HR responsibilities are administered in a variety of ways by construction companies.
  - Dedicated staff
  - "Double-duty" staff (*e.g.*, HR and compliance, etc. HR and safety, etc.)
  - No dedicated staff (HR responsibilities spread across various staff)
- HR staff and/or responsibilities are typically centralized at a single headquarters office or various regional offices.
  - Very rare to have any HR staff on-site at construction jobs, except in limited circumstances (job start-up, harassment prevention training, etc.)

HR/Compliance Staff Size in Construction Firms



Source: AGC Survey of Companies on OFCCP's Proposed Regulations Regarding Individuals with Disabilities

Practical Challenges of Limited HR Staffing and Resources

- Utilizing field construction supervisors (e.g., project managers, superintendents, foremen, etc.) whose primary responsibilities include the successful performance of construction work to administer HR processes in the field
- Using centralized tracking and auditing to demonstrate compliance of decentralized practices
- Limited staff to cover broad regions and many work sites
- Juggling demands of HR and other obligations, including affiliated financial, administrative, and time burdens to companies and staff
- Managing compliance obligations at each job site and maintaining appropriate documentation efforts in order to demonstrate compliance with OFCCP obligations
- Using centralized tracking and auditing processes and/or recordkeeping for decentralized practices

Contacts

Mike Kennedy
General Counsel
kennedym@agc.org
(703) 837-5335

Denise Gold
Associate General Counsel
goldd@agc.org
(703) 837-5326

Ken Simonson
Chief Economist
simonsonk@agc.org
(703) 837-5313

Tamika Carter
Director, Construction HR
cartert@agc.org
(703) 837-5382