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Making the Construction Industry a Better Place to Work

Travis County, Texas

An Idea is Birthed

Travis County, located in south central Texas, is home to Austin, frequently named one of the fastest growing cities in the country. The rapid influx of people over the last decade has increased demands for goods, services, and county infrastructure throughout the area and put pressure on existing institutions, and their workers, to meet ever growing demands.

Tenley Aldredge, at the time an Assistant County Attorney specializing in construction, facilities management, transportation, and other infrastructure, saw an opportunity to harness the growth the County was experiencing to transform the construction industry. Tenley shared, "I had worked in all aspects of the field from real property development projects to taxpayer-funded public works construction, advising on statutory requirements relevant to these areas and reviewing legal contracts for building roads, warehouses, and other structures. While I loved the work, I saw the potential for combining my expertise in construction law with my desire to help workers through social justice. I became aware of the Better Builder Program that [Workers Defense Project](#) (WDP), a local worker advocacy group, had launched several years earlier."

The Better Builder Program was focused on addressing widespread wage and safety issues faced by Texas construction workers, precisely the type of mission that Tenley could eagerly embrace. She began exploring opportunities for partnership between the County and WDP, ultimately deciding to leave the County Attorney's Office and transfer to a different department where such collaboration could be initiated.

The Origins of Better Builder

Better Builder is a Texas based effort focused on improving conditions in the Texas construction industry by advocating for the following workplace standards: living wages, OSHA safety training, worker's compensation coverage, local hiring goals and independent third-party monitoring.

The Better Builder¹ program was created in 2012 alongside local construction workers who were members of [Workers Defense Project](#). The aim was to ensure a safe and ethical work environment, and help the developer run better, more successful projects. These initial conversations evolved into the creation of a subset of standards informed directly by the workers themselves. This first iteration of the work did not include enforcement.

In late 2017, Better Builder was formally established by the Workers Defense Project. Its launch was marked by a set of standards, documented through policies and procedures along with a set of [third party monitors](#) that could be used to hold all contractors, both primes and subcontractors, accountable. Third party monitors are accredited and trained by the Workers Defense Project, regardless of where in the state they operate. Certification Associates (CA Monitoring), an accredited monitoring entity in Central Texas that provides independent, third-party, wage and safety monitoring to developers in the construction industry, performs monitoring for Better Builder.

Better Builder projects now include stadiums, airports, hotels, and office buildings across Austin and the surrounding areas of Kyle, Round Rock, and Elgin. More than 41,000 workers have been impacted by the program as of early 2023 and more than \$100,000 in stolen wages have been recovered.

While the Better Builder Program run by WDP is Texas-based, the concepts are widely applicable to other areas. Contact the Workers Defense Project if you are interested in starting a similar program in your jurisdiction.

Putting Things in Motion

Travis County leadership saw the potential impact on County construction workers that could be realized through adoption of Better Builder standards in its construction procurement operations. While it was clear the journey wouldn't be easy, Travis County procurement functions are highly centralized (unlike other local governmental entities in the state). As a result, the Travis County Purchasing Office administers the vast majority of contracts for goods and services procured for County departments and elected and appointed officials. This centralized nature of procurement operations in Travis County provided a unique opportunity to centralize standards and protocols for mandating worker protections in designated County construction contracts.

The County benefits from robust purchasing processes and procedures that are codified in the Travis County Code. Departments are familiar with these procedures and understand that they are based on strict adherence to Texas procurement laws and other governing legal principles. The Purchasing Office ensures that departments comply with these requirements. Compliance ensures that departments and elected and appointed officials obtain the goods and services they need in a timely, efficient manner in accordance with procurement laws, rules, procedures, and regulations. Tenley Aldredge shared, "We have such a powerful, and in some ways unique, centralized procurement function that is well respected

¹ Better Builder is a registered trademark of the Workers Defense Project. The designation is used by Travis County with permission.

by departments across the County. All of these factors were key to making the Travis County Better Builder Program a reality, and to ensuring the buy-in of those County departments that sponsor public works construction projects.”

In 2017, a new Contract Compliance Program (CCP) was established within the County Purchasing Office, with Tenley hired as Director. Broadly, the CCP is designed to assist County departments and procurement specialists experiencing contract compliance issues, with the ultimate goal of ensuring prudent expenditure of public dollars through closer scrutiny of contractor performance and increased accountability. Under the umbrella of this Program, the County Purchasing Agent gave Tenley the latitude to expand her understanding of the WDP Better Builder Program and of the positive impacts it was having on existing issues faced by construction workers, including labor misclassification, underpayment of wages and outright wage theft, and the lack of workers’ compensation coverage for most workers.

Quickly, a clear vision arose for how the County could implement its own Better Builder Program (BBP) by adopting the worker protection standards captured in WDP’s Program and incorporating those standards directly into the County’s construction procurement process. In May 2018, the County Commissioners Court formally adopted the Better Builder Program and, over time, this program has grown to include a Director and six staff members – two Contract Compliance Officers and four Contract Compliance Monitors. Tenley shared, “This effort was certainly helped by the reality that I had a decades-long positive working relationship with many County departments. While people knew me and they knew my work, getting the BBP approved required the support of County leadership and of elected and appointed officials championing the effort.”

The first Travis County Better Builder project officially launched in 2019, after the CCP team completed refining Program processes and finalizing Program documentation. Better Builder requirements were then added to the procurement workflow for those construction projects designated as Better Builder. Around the same time, the CCP assumed responsibility for monitoring compliance with other worker protection standards for contracts managed by another County department, namely, Economic Development and Strategic Investments – an internal department within our Planning & Budget Office responsible for managing contracts with developers for tax incentive agreements, ground leases, and Public Improvement Districts (PIDs). CCP may likewise administer a CUF (Commercially Useful Function) compliance monitoring program in FY24, if the resources for that program (part of the County’s HUB Program) are approved during this summer’s budget process. All positions in the Contract Compliance Program are funded by the County and included in the standard budget process. Current costs are \$788,195 annually for staff (salary and benefits only; excludes operating costs).

A New Way of Building in Travis County

The Travis County Better Builder Program is a comprehensive construction contract compliance program based on Workers Defense Project Better Builder standards but run by the County’s own Contract Compliance Program (CCP) staff. These standards pertain to wage rates and payment of wages; safety

training and compliance with safety, environmental and legal statutes, regulations and codes; independent on-site monitoring; advocacy of workforce training programs (apprenticeship training); and a preference for a living wage minimum.

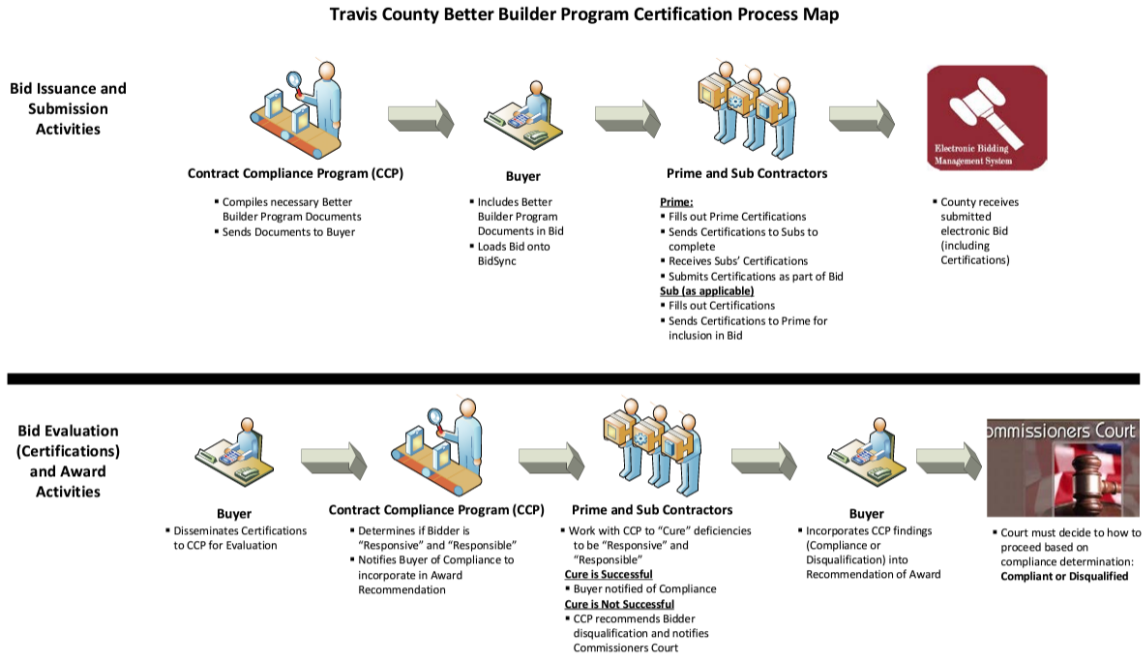
The Better Builder standards are applicable to designated Travis County construction projects. Projects having a contract value of \$1M - \$8M may be selected as “Better Builder Consistent” projects. Projects having a contract value of \$8M or more may be selected as “Better Builder Certified” projects. Focusing on larger, more complex construction projects allows the Program to protect the interests of a larger number of workers while maximizing limited staff resources. Contract Compliance Program staff educate project stakeholders about the Better Builder Program during contract solicitation and continue to offer guidance about Program requirements for the duration of the project. Staff also provide compliance assistance to prime contractors and subcontractors when they fall out of compliance with Program requirements.

Program Details

All CCP staff members are trained and accredited by Workers Defense Project to ensure that contractor pre-screening checks, onsite monitoring, verification of wage compliance, and confirmation of safety training adhere to WDP’s Better Builder standards.

Education of potential bidders starts at the beginning of the procurement process. The bid package includes a [Notice to Bidders](#), a link to [Frequently Asked Questions](#), and detailed [project requirements, certifications](#), and contact information. Better Builder Program documentation explicitly states that Better Builder designation means that all Better Builder certifications, questionnaires, safety plans, OSHA training cards, OSHA logs, workers’ compensation insurance certificates, and associated supporting documentation must be submitted to the Travis County Contract Compliance Program in order to be considered responsive and eligible for contract award. In addition, members of the CCP team participate in the pre-bid meeting to ensure that prime contractors, and any subs in attendance, are aware of Better Builder Program requirements and can ask questions directly to staff.

Upon receipt of notice that Bidder is the apparent low bidder or that Proposer has been short-listed, Bidder/Proposer and its subcontractors are required to submit all of the Better Builder certifications outlined in the Notice to Bidders. As outlined in the graphic below, submissions are then reviewed as part of the award process and must be deemed compliant prior to Recommendation for Contract Award.



Bidders who fail to submit required documentation are considered non-responsive and may be disqualified from the procurement process. Once the contract is awarded, members of the CCP team attend the pre-construction meeting, where project participants can obtain further clarification of Better Builder requirements and know what to expect once construction commences. Finally, CCP provides monthly compliance reports to project stakeholders (Procurement Specialist, prime contractor, and County department Project Manager). These reports provide a detailed breakdown of how the contractor team is satisfying, or failing to satisfy, Better Builder requirements.

The Road to Success is Paved with Challenges

The rapid development and implementation of the program between its inception in 2017 and first project in 2019 provided many lessons for the CCP team.

Lesson 1: External Champions are Critical

Modeling the Travis County Better Builder Program on an existing, reputable program first developed by Workers Defense Project, a progressive and widely-respected local non-profit organization, was integral to successful, and relatively quick, implementation.

The program required approval by the County Commissioners Court, requiring ongoing engagement with individual Commissioners and their staff to increase awareness, address potential policy implications, and increase community support. The County Attorney's Office was also a key stakeholder in this process, as County attorneys were charged with reviewing and approving Program documentation..

Knowledge of key legal pain points and how such a program might reduce risk with respect to other County operations went a long way in getting the Program vetted by legal. Additionally, the fact that the

Program champion, Tenley Aldredge, was a lawyer herself with two decades of County Attorney’s Office experience created a sense of trust that might otherwise have required a greater investment of time and education upfront.

While the program was ultimately approved with a unanimous vote, the amount of time and resources necessary to properly socialize this change cannot be underestimated. Tenley Aldredge noted that “We did not have unanimous support throughout the process. It took knowledge of legal processes, strong relationships, and open dialogues over nearly a year and the outcome was a bit uncertain until the vote. Thankfully, we have a very progressive Commissioners Court. The bottom line is, who you partner with matters.”

Lessons for Other Implementers: Be aware of the needs of other departments, pain points and potential trade-offs. Time and funds spent on a compliance program such as the Travis County Contract Compliance Program are not without political costs, as they direct monies and resources away from other projects and initiatives. While Travis County benefited from having a variety of progressive champions, there were real policy concerns for some Commissioners around the impact this might have to business reputation, competition, and community stakeholders.

Take advantage of related efforts that are ongoing in your community or leverage learnings from other communities. Starting from an existing set of principles, stakeholders and some degree of community buy-in can accelerate the work in meaningful ways.

Lesson 2: Structure Matters

A lot of the upfront work centered around where the Better Builder function should be housed. For example, in Texas, counties and cities have very different statutory authority. Counties can only do what is statutorily permitted, while cities can do anything that isn’t prohibited. This influences what is permissible and what activities might be restricted. Additionally, any new program must have the buy-in of the agency leadership; maintaining such support is an ongoing process and requires regular engagement, transparent reporting, and anticipation of shifts in organizational strategy.

Ultimately, Travis County determined that the Purchasing Office was the best “home” for the new compliance program – in large part because of the centralized nature of County procurement operations and the close, daily interaction between the Contract Compliance staff and the procurement specialists with whom they collaborate both on Better Builder projects and on contract compliance issues reported in other procurement categories (commodities, professional and non-professional services, information technology, etc.). However, entities with federally-structured procurement processes might be better served by placing the function within Mayoral or Administrative offices.

Lessons for Other Implementers: If a public agency has different departments leading their own procurement processes, it would be beneficial to seek out opportunities to create process alignment before rolling out a compliance program such as Travis County’s Contract Compliance Program. Implementing a compliance program where there are varying procurement practices, standards, and requirements across departments can create confusion and, worse, potential legal risk – not to mention the negative fallout among community stakeholders who are directly impacted.

Additionally, take time to understand what set of rules will govern the program; some of these

decisions will be driven by where in the government structure it is placed, and whether or not its leaders will have a seat at the decision-making table.

Consider opportunities to incorporate compliance practices and targeted programs such as Better Builder into your existing sector partnerships so that they are seen as part of a set of collaborative actions being taken jointly by government agencies, businesses and the community.

Lesson 3: Prepare for Pushback

Before rolling out the Better Builder Program, the County held extensive stakeholder outreach sessions with a wide variety of construction industry organizations and individuals. Many associations, including the Association of General Contractors, were concerned that the process would create an undue burden on member companies by increasing paperwork and administrative time, and other associated costs; as a result, the Program received strong pushback initially. They also expressed concerns that this program was requiring companies to go above and beyond compliance with the existing law.

Andrea Nicholls, Better Builder Director from the Workers Defense Project shared that “contractors were worried about their ability to remain competitive. They were also resistant to having an organization like Workers Defense on the project, which ultimately informed the County’s decision to perform the monitoring in-house with Workers Defense as the quality assurance and training entity for the County. Somehow the government doing the monitoring themselves seemed less scary for the construction industry.”

The County acknowledged that the intent of this program was to create “high-road” contractors in the community – that is, contractors who were willing to go above and beyond what the law required in terms of protecting the health, safety and welfare of construction workers because it was, and is, the right thing to do. Obtaining buy-in from the construction community was a journey. Despite the fact that the program was structured to provide extensive compliance assistance, support for corrective action, and generous timelines, the Program was opposed by some organizations.

Over time, the pushback has decreased, as CCP and Better Builder outcomes have been a win-win for the County, for the community as a whole, and for workers who benefit from the required OSHA training, receipt of proper wages, and coverage by workers’ compensation.

Lessons for Other Implementers: Provide as much education and outreach to the community as possible on the front end. Lay out a timeline for what you think is needed and then double or triple it. Travis County started the conversation with the legal team before talking to the construction community, because of where the idea originated, and this created some ill will that took time to repair. While it is certainly possible to address such perceptions, it is much easier to proactively anticipate and minimize them up front.

Get as much feedback as possible, even if it is negative, before going to key decision makers. The more input collected the longer it may take to move on to implementation; however, speed isn’t always best. Goodwill on the part of those impacted is important, even if you ultimately cannot implement everything envisioned or if modifications to the way in which core standards are addressed become necessary.

Lesson 4: Never Stop Educating

Once the program is launched, the real work is just beginning. The CCP team continues to meet with County departments to explain the contract compliance assistance it offers and, for Better Builder projects, how the Program works on a macro and micro level. The CCP has created a [video overview](#) of the Better Builder Program so that contractors and County departments alike can familiarize themselves with the Program and be prepared for what will be required of them.

In addition, CCP staff provides regular group or one-on-one refresher training and participates in team meetings on a regular basis. These activities help to maintain open communication, reveal potential areas of additional collaboration, and provide opportunities for continuous improvement to the Program. Tenley Aldredge shared, “County Project Managers like the Better Builder approach because they know we will monitor the projects to make sure that workers are safe and fairly paid. Overall, the Program provides an important risk mitigation function as well as a way to exhibit the County’s commitment to worker protection standards, so they are on board.”

Lessons for Other Implementers: As the program garners acceptance and support, requests for expansion into other areas and departments, where compliance is a focus of a new initiative or expenditure, are common. Maintaining the quality of the work requires dedicated time and resources, so take care in spreading staff too thin. Allocating time to engagement with other government stakeholders, even after the program is operational, is crucial to ensuring its continued success and alignment with organizational goals as the programs grow and stakeholder needs change.

Transformation in Travis County - Program Results

While the journey has not been easy, in its 5 years of operation, the Travis County Contract Compliance Program has completed 12 Better Builder projects, with a dozen more on the horizon. The Better Builder Program has generated over \$15,000 through penalties collected and deposited into the County general fund. In addition, Better Builder enforcement efforts have returned over \$16,000 in underpaid wages to construction workers. The program has also received national recognition. In 2020, the Contract Compliance Program received the National Association of Counties (NaCO) Award for their innovative approach, despite only being in operation for two years.

When asked about the impact of the Better Builder Program on construction companies, Tenley Aldredge shared “To our knowledge, we haven't seen bidders remove themselves from the bidding process. We have also had at least one bidder successfully complete a Better Builder project and come back to bid again on another one so we consider this a positive sign. To date, when we asked why companies aren't bidding on a particular project, this Better Builder Program has not been listed as one of the reasons. Also, while there was a lot of concern at the beginning about increased costs associated with this work, now that the program is live we are no longer hearing those issues as the companies have begun to see the value.” So far, the number of bidders has been more than sufficient to meet the threshold of open competition.

One positive, but unanticipated, impact of the Better Builder Program has been the response CCP staff receives from workers themselves. As construction workers become familiar with the Program, regularly engage with CCP staff, they witness firsthand the direct economic and safety benefits to themselves and their families of wage and safety compliance monitoring and enforcement. Several times, CCP staff members have received calls from workers interviewed on Better Builder job sites, to share experiences of family members or friends who have been victimized by wage theft or other illegal labor practices. In some cases, CCP has shared this information with federal or state authorities (the Wage & Hour Division of the Dept. of Labor, the Wage Theft Division of the Travis County District Attorney's Office, Austin-area OSHA officials, etc.) for follow-up. Tenley noted, as she reflected on the program, "We knew we would have an impact on the workers, we just didn't realize the degree of personal impact not only on them but on their families. It makes the whole process worth it."

Never Stop Innovating – Vision for the Future

While the effort has had great success to date, the Contract Compliance Program has identified future opportunities for expansion to meet the needs of stakeholders and workers.

First, the CCP would like to provide Better Builder oversight, monitoring, and compliance support to bidders below the \$1 million contract threshold. The Commissioners Court has encouraged the Better Builder team to expand their work as it has been such an important lever for protecting workers and the government's investment. Bringing this to fruition would require expanding the existing staff to accommodate the increased workload (Tenley estimates the need to be somewhere between 8 and 12 additional staff members). While conversation about expansion and budgetary resources are underway, no definitive decisions have been made as of the date of this case study.

Secondly, Program staff are somewhat frustrated by their current inability to take more direct enforcement action against non-performing contractors – both those carrying out Better Builder projects and those who fail to adhere to their contractual obligations in other procurement arenas. Debarment and financial penalties are two such potential enforcement actions that CCP staff would like to implement. Conversations with the County Attorney's Office are ongoing, and Tenley and her staff work closely with several Assistant County Attorneys who are vocal advocates of the CCP's work and strongly support their vision for a future governed by rigorous but fair and transparent accountability for companies receiving taxpayer dollars. Any such efforts, CCP staff acknowledges, must be carefully balanced with the County's desire to create a business friendly environment that attracts and retains quality employers. "The intent of the CCP and Better Builder Programs was never to punish or publicly disparage vendors or construction contractors," Tenley stated. "From the get-go, the Program has been founded on the principle that holding companies accountable and ensuring that they stand by their contractual commitments – whether those be to construction workers or to County departments and the public as a whole – is a win for all involved." -

Finally, CCP staff would like to implement a more robust contractor evaluation process on the front end, using historical compliance data and other risk analysis factors to more closely scrutinize those

companies who merit receipt of public dollars and those who may not. Evaluation of contractor performance at contract closeout would also provide benefits to the County by informing future procurement decisions and even revealing avenues for County policy adjustments.

Resources for Others Interested In Implementing Similar Work

- [Workers Defense Project](#) - Information about the work of the project to implement Better Builder standards across Texas
- [Travis County Contract Compliance Program](#) - Includes the mission, policy and purpose statement as well as links to the FAQ, bidder disclosure, certifications and other Better Builder program materials
- [Travis County Purchasing Office](#) - The structure in which the CCP sits. Includes information on the mission, policy and purchase statements as well as links to key contract documents
- [Better Builder Program Video](#) - Overview of the work in Travis County

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