

UNTANGLING DISCRIMINATION



How Temporary Staffing Agencies Rely on A Racist Business Model to Discriminate Against Black & Female Workers in Houston and Nashville



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EXECUTIVE SUMMARY



Today's temporary work landscape emerges from a history of racist labor practices dating back to slavery and sharecropping. The earliest iteration of temporary staffing agencies sold slave labor and indentured servitude through what were then called “intelligence offices.”¹ This institution transformed into the modern-day temporary staffing agency. Nevertheless, temporary work, which is often not very temporary, remains intertwined with its history of exploitation and anti-Black discrimination as the industry continues to trap workers in debt and keeps millions in abysmal working conditions.

Modern-day temporary staffing agencies continue to target Black, Brown, and immigrant workers with unstable, unsafe, and substandard jobs.² These agencies have historically targeted groups that are already subject to unequal treatment in the labor market. For example, when modern-day temporary staffing agencies formed in the mid-20th century, many targeted white women labeling them as undeserving of full-time work.³ The temporary staffing industry is now a **\$186 billion industry that relies on public dollars**, avoids responsibility for labor violations, and undermines good-quality, union jobs, all while maintaining many of the same conditions of debt bondage and exploitation as sharecropping.⁴

Structural racism and gender discrimination are at the core of the temporary staffing industry's origin, so it is unsurprising that the industry also perpetuates racism and gender discrimination in its practices. At the same time, temporary staffing agencies often rely on the workers they see as the most vulnerable, exploitable, and compliant. To further investigate this discrimination, the

National Legal Advocacy Network contracted with the Equal Rights Center to conduct matched-pair testing.

The Equal Rights Center's research found a pattern of racial and gender discrimination in access to work at temporary staffing agencies in Harris County, TX and Nashville, TN. Matched-pair testing is a well-established research method for measuring and documenting patterns of discrimination against marginalized groups. In this case, each pair of testers presented the same job-relevant qualifications such as education and work experience, but differed in either race or gender. Investigators matched Black and Latinx testers in Harris County and Nashville, as well as cisgendered males and females in Harris County. **In several tests, staffing agencies offered fewer job opportunities, lower wages, and/or less follow-up to Black and female testers than to their Latinx or male matches.** In some tests, agency employees provided Black testers information about required drug tests or even warnings about their behavior on the job that they did not provide to their Latinx counterparts, suggesting that agencies treat Black testers as noncompliant.

Temporary staffing is ballooning across the United States, as an increasing number of employers are able to suppress union organizing and avoid responsibility for working conditions by relying on temporary labor, ultimately distancing themselves from their workforce.⁵ Black and Latinx workers continue to be overrepresented in this historically racist labor model.⁶ In particular, temporary work is rapidly growing in the South—**between 2010 to 2018, there was an average 4.6% increase in temporary employment in the South every year.**⁷

While staffing agencies and their investors maximize their profits, temporary workers are often paid lower wages than their permanent counterparts, can be subjected to wage theft, and are left without safety protections, and sometimes without health insurance, that other workers receive.⁸ **The temporary staffing industry has been one of the Department of Labor’s top wage and hour violators for the last 16 years.**² Temporary workers become essentially trapped into temporary work permanently—for several months or even years—through a structure known as “permatemping.”¹⁰

Public money subsidizes temporary work through public contracts and the Work Opportunity Tax Credit (WOTC), a federal tax credit that gives employers subsidies for employing certain categories of vulnerable workers. The WOTC lists temporary staffing agencies as some of its largest recipients.¹¹ The federal tax credit incentivizes temporary staffing agencies to target poor and formerly incarcerated workers, in particular, pushing them from poverty and prison into temporary work, another form of economic bondage.¹² **Newly obtained data from Texas and Tennessee shows that temporary staffing agencies are among the top corporations to**

receive the tax credit.¹³ Instead of investing in good union jobs, as well as public services, our taxpayer dollars are being funneled into the pockets of temporary staffing agencies.

As this business model expands, corporate profiteers like private equity are swooping in.¹⁴ Private equity firms are financial institutions that invest private funding in companies, load them with debt, and often gut workforces and drive down wages.¹⁵ These largely unregulated financial institutions often make working conditions worse, prioritizing profits over quality jobs and workers’ health and safety.

This report, building on decades of documentation by organizers and researchers, begins by grounding the temporary staffing industry’s business model in a history of racism and gender discrimination. It then presents results from matched-pair testing in Harris County and Nashville to illuminate 21st century racial and gender discrimination in access to employment. The report concludes with recommendations that include concrete ways to improve working conditions for temporary workers and emphasize that all levels of government should stop subsidizing this exploitative business model.

Temp workers and advocates gathered in New Jersey to discuss strategies to organize, build power and fight back against exploitative staffing agencies and the companies that use them.



OVERVIEW OF THE TEMPORARY STAFFING INDUSTRY



Modern temporary staffing agencies, and the corporations that contract temporary workers from them, effectively block access to permanent jobs with benefits. This undermines employment standards for all workers. Both staffing agencies and contracting corporations rely on a “triangular employment relationship” with temporary workers—the three points of the triangle referring to the worker, the agency, and the corporation. As a result, temporary workers are not clear about whether their employer is the temporary work agency or the corporation where they actually do their work. Triangular employment reduces the corporation’s labor costs by allowing corporations to maintain substandard work conditions and lower their risk of being held responsible for violating workers’ rights.¹⁶ Moreover, the triangular structure of temporary work makes it difficult to determine the accurate size of the U.S. temporary workforce, as it remains unclear whether the corporation or the agency will report the temporary workers. Without clarity or consistency in reporting workers, the scope of workplace violations associated with this exploitive employment relationship also remains unclear.

The History of the Temporary Staffing Industry

Where did the modern-day temporary staffing agency come from? In the late 18th century, institutions called “intelligence offices” in North America and England advertised labor for sale, often selling slave labor and indentured servitude directly to landowners and businesses.¹⁷ These “intelligence offices” were the first iteration of the modern-day temporary staffing agency, exploiting Black and immigrant labor to maximize profit.

When slavery was abolished in the mid-19th century, sharecropping kept Black workers in bondage to their landlords through a system of debt.¹⁸ Through the end of that century, “intelligence offices” and employment agencies in the United States grew by relying on immigrant labor from southern and eastern Europe.¹⁹ By the early 20th century, intelligence offices had rebranded themselves as “employment agencies” in order to distance themselves from their association with slave labor.²⁰ The employment agency continued to grow in the first half of the 20th century on the backs of migrant Mexican workers.²¹

Workers and labor reformers succeeded in passing laws at the state level that made it hard for these exploitive employment agencies to operate.²² As a result, modern temporary staffing agencies began the ongoing fight for legal designations that would allow them to skirt state regulations. This insistence to bypass regulation dates back to the post World War II era, and remains a key feature of the modern temporary staffing agency.²³ Kelly Girl (now Kelly Services) and Manpower, Inc. were the first major temporary staffing agencies in the United States. Founded in 1947 and 1948, they were built by deliberately stereotyping and exploiting women workers. The temporary staffing industry marketed women as workers who did not need or want full-time jobs with benefits and career paths.²⁴ The temporary staffing industry’s propaganda sold its misogynist business model to America’s corporations without opposition from organized labor, which at that time failed to recognize the growing role of women in the workforce.²⁵ These agencies cemented the “triangular employment relationship,” allowing corporations to outsource work for increased profits and limited liability in all sectors of the economy.

It did not take long for the modern temporary staffing industry to return to patterns from its racist origins. In the 1960s and 70s, in the midst of civil rights debates, Manpower, the staffing industry powerhouse, partnered with the federal government to bring Black youth into the temporary workforce at a time when unemployment was a national focus.²⁶ Manpower, and its newly formed nonprofit, Youthpower, channeled Black youth into the temporary staffing machine as part of a repressive government response to anticipated urban uprisings calling for meaningful pathways to decent jobs for Black youth.²⁷ As the temporary staffing industry expanded, its workforce transformed. More men and people of color became temporary workers as the service industry and construction jobs began to temp out in the late 20th century.²⁸

Permatemping & Debt Bondage

The temporary staffing industry has created a permanent, second-class workforce. Permatemping, which is working the same temporary job for an extended period of time (often a year or more), has become normalized, because state and federal regulations have failed to place time limits on temporary work or to require equal pay for equal work.²⁹ Staffing agencies are legally allowed to charge fees to employers if they want to directly hire a temporary worker. These fees, called “conversion” or “bondage” fees, discourage employers from hiring temporary workers into direct-hire positions that come with benefits, higher wages, and opportunities for economic mobility.³⁰

The fee charged to end a temporary worker’s relationship to the staffing agency is a modern form of debt bondage, echoing the economic bondage of sharecropping. In Temp Worker Justice’s survey series, **35% of temporary workers reported that they had been on their “temporary” assignment for over a year, and 18% reported that they had been on the assignment for over two years.** 72% of workers reported never being hired into a “permanent” position after starting in a temporary position.³¹

Unsurprisingly, given the industry’s history, **Black workers are overrepresented in the temporary**

workforce. Black workers make up 23.2 percent of the temporary workforce, while only representing 12.2 percent of the overall workforce.³² In manufacturing and warehousing, Latinx workers make up 30.9 percent of the temporary workforce, while only representing 23.9 percent of the overall workforce in these industries.³³ Temporary staffing preys on poor communities and previously incarcerated people with the help of a federal tax credit, funneling Black, Brown, and poor people from poverty and prison into unstable work.³⁴ Communities of color, who are overwhelmingly targets of racist policing and incarceration in this country, are also targeted for low-wage, unstable temporary work.³⁵

Comprehensive demographic data on the temporary work industry is hard to find, because temporary staffing agencies are exempt from reporting this data directly to the Equal Employment Opportunity Commission, even though private corporations that employ 100 or more people are required to do so.³⁶ Contracting corporations are also not required to include temporary workers in their own demographic reporting.³⁷ Therefore, demographic data that exists on the industry relies largely on worker surveys and tax records.

Corporations that contract with temporary staffing labor are able to skirt accountability for many federal and state laws that protect collective bargaining, health and safety, prevent discrimination, guarantee minimum wage and overtime pay, unemployment insurance, workers’ compensation, and family leave. The temporary staffing model puts a significant percentage of Black, Brown, and immigrant workers at risk of being excluded from essential workplace protections due to the industry’s triangular employment relationship.

Today’s low-wage temporary staffing industry exploits Black and immigrant workers. This form of racism in labor has historical roots, like, for example, when the New Deal secured a minimum wage and overtime for workers, but excluded agricultural and domestic workers, who were largely Black and immigrant.³⁸ Today’s exclusions from labor protections also fail to protect workers in the rapidly expanding “gig economy,” which similarly comprises a largely Black, Brown, and immigrant workforce.³⁹

Soaring Revenue, Low Wages, Unsafe Working Conditions, & Labor Law Violations

Soaring Revenue

Today’s booming temporary staffing industry is a \$186 billion industry. According to the American Staffing Association (ASA), **there are over 14.5 million temporary and contract workers** hired by staffing companies in the United States over the course of a year.⁴⁰ Due to the lack of federal reporting requirements, this figure likely represents a serious undercount of temporary agency workers. Many temporary staffing agencies operate without being officially registered.⁴¹ The revenues of the top staffing agencies in the U.S. are also growing, many surpassing pre-pandemic levels (see Figure 1).

Figure 1: Top Temporary Staffing Agencies in the United States

Agency	Annual Revenue (2022)	Annual Revenue (2019)
Allegis Group ⁴²	\$14.8 billion ⁴³ (Global)	\$13.4 billion ⁴⁴ (Global)
TeamHealth Holdings	\$7.3 billion ⁴⁵ (US)	<i>Unavailable</i>
Randstad, N.V.	€5.5 billion, ⁴⁶ ~\$5.9 billion (North America)	€4.4 billion, ⁴⁷ ~\$4.7 billion (North America)
ManpowerGroup Inc.	\$3.5 billion ⁴⁸ (US)	\$2.5 billion ⁴⁹ (US)
Employbridge ⁵⁰	\$3.9 billion ⁵¹ (US)	\$3.1 billion ⁵² (US)
Kelly Services	\$3.7 billion ⁵³ (US)	\$3.9 billion ⁵⁴ (US)
Express Employment Professionals	\$4.5 billion ⁵⁵ (Global)	\$3.6 billion ⁵⁶ (Global, 2018)
The Adecco Group	€3.7 billion, ⁵⁷ ~\$4.1 billion (USA)	€4.3 billion, ⁵⁸ ~\$4.6 billion (USA)
TrueBlue, Inc.	\$2.1 billion ⁵⁹ (USA)	\$2.2 billion ⁶⁰ (USA)

These agencies, state-level trade associations, and national associations like the American Staffing Association, promote a structure of temporary work that allows corporations to avoid full legal responsibility for a growing portion of their essential workforce.⁶¹ These groups lobby politicians and corporate leaders to support a “no strings attached” business model that considers direct-hire workers, living wages, and basic job benefits “a drain on the bottom line.”⁶²

Low-wage temporary work is common in manufacturing, warehousing, food processing, service/entertainment, technology, and construction. According to the Bureau of Labor Statistics (BLS), the industries employing the largest number of temporary workers are: transportation and material moving, production occupations, and office and administrative support.⁶³ Jobs in these categories range from transportation workers to office clerks to warehouse workers. This report relies heavily on BLS data since it is the most comprehensive national data set on temporary workers. However, BLS data is incomplete and may significantly under-report the number of temporary workers trapped in triangular employment relationships, because of a lack of clarity and regulation on whether the staffing agency or hiring corporation will report on temporary workers.

Low Wages

Temporary staffing agencies and corporations often pay temporary workers much lower wages than their permanent counterparts and staffing agencies also sometimes subject temporary workers to deductions from their pay. It's no surprise then that temporary workers are more than twice as likely to earn poverty wages than other workers. 7.6% of full-time temporary workers make poverty wages, compared to 3.6% of workers in all industries.⁶⁴

Full-time temporary workers, on average, earn 41% less than permanent workers doing the same jobs.⁶⁵ Median wages for temporary help are lower than median wages for direct-hires (*see* Figure 2).

Figure 2: Median Hourly Wage Comparison Between Temporary Work & Industry

Industry	Temporary Staffing Industry Median Hourly Wage ⁶⁶	Industry Median Hourly Wage
Transportation & Material Moving	\$15.33	\$18.24 ⁶⁷
Production Occupations	\$15.53	\$19.19 ⁶⁸
Office & Administrative Support	\$17.52	\$19.67 ⁶⁹
Construction & Extraction Occupations	\$18.45	\$24.31 ⁷⁰

In addition to these hourly wage differences, temporary workers receive little-to-no benefits and often pay for healthcare and other work-related expenses out of pocket.⁷¹ These wages are then further subjected to deductions that employers and other exploitative third-parties routinely make so that employees bear the brunt of expenses like paying for transportation to work and cashing checks. These deductions whittle away at the already-suppressed wages temporary workers receive by being hired through an agency.⁷² Temporary staffing agencies also “markup” wages for their clients, generally between 20% to 75%, meaning that the worker is receiving much less than the employer is paying the agency, while the agency pockets the profits.⁷³



Temp jobs are slavery, all you need to know. My first job through a temp agency was pure slavery for 10 bucks an hour. I was pulling appliances up stairs all killing myself for a crappy paycheck. During a shift I would be pulling 20+ appliances (dishwashers, microwaves, fridges) up and down stairs for 60 hours a week.”

—Marcos, Houston, TX

Unsafe Working Conditions

Corporations rely on temporary labor for unsafe work. Corporations and staffing agencies subject temporary workers to jobs with risks of severe injury or even death. In the last decade, there have been reports of extreme health and safety violations in the temporary staffing industry, with workplace injuries for temporary workers up to 72% higher than non-temporary workers.⁷⁴ Temporary work is common in some of the most dangerous occupations like manufacturing and warehousing.⁷⁵ The Occupational Safety & Health Administration (OSHA) established the Temporary Worker Initiative to attempt to address the problem.⁷⁶

In Temp Worker Justice’s survey series, 17% of workers reported having experienced a work-related injury or illness while employed through an agency.⁷⁷ 41% of them stated that they paid for healthcare expenses out of pocket or through their own insurance.⁷⁸

Labor Law Violations

The temporary staffing industry is a notorious wage and hour violator and has been on the Department of Labor’s “low wage, high violation” industry list for 16 years.⁷⁹ The DOL notes that, according to cases closed in 2022, temporary workers were owed over \$8 million in back wages, up 389% since 2010.⁸⁰ Many temporary worker wage theft claims don’t show up in this number because they are still pending or because the claims are counted in the industry they are employed by instead. This number is also further obscured due to lack of reporting by workers who do not have access to a human relations department or legal support and fear retaliation for reporting wage theft.

Temporary staffing is a documented source of child labor.⁸¹ Investigative reporting has uncovered child labor abuses at major multinational corporations such as General Mills, Hyundai, and Tyson Foods.⁸² For example, a recent investigation revealed that at large meatpacking corporations, children were cleaning dangerous equipment.⁸³ Well-known multinational corporations, despite their complicity, have placed blame for these abuses on the temporary staffing agencies they contract with. While corporations finger-point to avoid accountability, the Department of Labor fails to enforce



Photo by Kelly Sikkema on Unsplash

“joint employer liability,” a regulatory framework meant to ensure that both participating employers are held “jointly” responsible for exploiting child labor.⁸⁴

Some labor laws also intentionally carve out temporary staffing agencies, often due to pressure from staffing agencies and their industry associations. For example, New York City’s 2022 pay transparency law exempts temporary staffing agencies from required wage transparency in job advertisements.⁸⁵ Similarly, in October 2023, California Governor Gavin Newsom vetoed legislation that would have expanded WARN Act protections, including advance notice of mass layoffs, to contractors and temporary workers.⁸⁶

Disrupting Workplace Organizing

Corporations can use temporary labor to thwart workplace organizing. The temporary work model intentionally makes it more difficult for workers to organize in industries that are temp heavy. In particular, corporations pit temp workers against union workers to weaken organizing and bargaining power.⁸⁷ Staffing Industry Analysis, a temporary staffing market research firm, explicitly proclaims that a fundamental purpose of the temporary staffing industry is to “supply just-in-time labor” for workers who are on strike.⁸⁸ Consequently, corporations sometimes bring in temp staffing in order

to disrupt organizing efforts or break strikes. In July 2023, UNITE HERE identified six California hotels that used temporary staffing apps like Instawork to replace striking workers. They also found that Instawork was automatically penalizing its workers for joining the picket line.⁸⁹

Discrimination in Temporary Staffing

Discrimination is rampant across the temporary staffing industry, especially as temporary staffing agencies often target the most vulnerable workers. In a 2017 national survey, 22 percent of temporary workers surveyed said they faced racial discrimination, 12 percent faced sexual harassment, and 53 percent of Latino temporary workers said they felt targeted for their immigration status when trying to access temporary work.⁹⁰ Some staffing agencies use code words to describe racist requests for workers. Examples of these code words include: “number 2s” for Black workers in New Jersey, “vanilla cupcakes” for white workers in Ohio, or symbols that correspond to the race of workers preferred for particular roles.⁹¹ These requests, funneled through staffing agencies, allow the client employer to

engage in unlawful racial discrimination often without consequence.⁹²

Black and female workers, in particular, face job access discrimination in temporary work. In Chicago, a report on hiring discrimination at temporary work agencies found that **two-thirds of agencies engaged in discrimination**, primarily discriminating against Black job applicants.⁹³ Black applicants only received

job offers at 75 percent the rate of applicants that were Latinx.⁹⁴ **Our report demonstrates a continuation of this pattern of job access discrimination through ERC’s matched-pair testing;** ERC found several examples in which temporary staffing agencies did not offer Black and female job applicants the same

assignments compared to Latinx and male applicants, or an assignment at all, and differences in the type of assignment or level of pay offered.

Any legal enforcement of anti-discrimination laws in the temporary staffing industry can be difficult because of the higher risks of retaliation for temporary workers, the lack of clear HR processes, and the limits of regulatory power and data collection.

**BLACK APPLICANTS ONLY
RECEIVED JOB OFFERS AT
75 PERCENT
THE RATE OF APPLICANTS
THAT WERE LATINX.**



I’ve worked for several staffing agencies over the years and have had to fight many negative stereotypes about who I was. I’ve worked hard and been overlooked. I’ve worked hard and never received a fair wage for a fair day’s work.”

—Sharon, Houston, TX

TEMPORARY WORK IN HARRIS COUNTY, NASHVILLE, & THE SOUTH



In order to further investigate discrimination in temporary staffing, this report focuses on the results of Equal Rights Center’s matched-pair testing in Harris County, TX and Nashville, TN. **Temporary work is rapidly growing in the South, and specifically in Harris County and Nashville.** Between 2010 to 2018, there was an average 4.6% increase in temporary help services in the South every year.⁹⁵ According to data from the American Staffing Association, Texas was one of the states with the highest staffing revenue per state in 2022.⁹⁶ American Staffing Association data identified Tennessee as an “up-and-coming” state for temporary staffing revenue in 2022.⁹⁷

In the last decade, the number of temporary workers in Harris County has increased by 50%.

In 2022, BLS reported an average annual number of 58,226 workers in the temporary help services industry in Harris County, compared to 38,763 in 2010.⁹⁸ Similar to other BLS data, these numbers are likely severely undercounted.

Average weekly wages for temporary work in Harris County are lower than the industry average weekly wages. According to BLS data, the average weekly wages for temporary help services in Harris County were **39% to 57% lower** than weekly averages in 2022 for overall industry wages in transportation and warehousing,⁹⁹

freight transportation,¹⁰⁰ office administrative services,¹⁰¹ and construction.¹⁰²

Davidson County, where Nashville is located, has also seen significant growth in temporary workers over the last decade. **In the last decade, the number of temporary workers in Davidson County has soared by 120 percent.** In 2022, BLS reported an average annual number of 18,690 temp workers compared to 8,443 in 2010.¹⁰³

IN THE LAST DECADE, THE NUMBER OF TEMPORARY WORKERS IN DAVIDSON COUNTY HAS SOARED BY 120 PERCENT

Similar to data from Harris County, weekly wages for temporary work in Davidson County are lower than the industry average weekly wages. According to BLS data on average weekly wages in Davidson County in 2022, the average weekly wages for temporary help services were **36% to 62% lower** than overall

industry wages for transportation and warehousing,¹⁰⁴ freight transportation,¹⁰⁵ office administrative services,¹⁰⁶ and construction.¹⁰⁷

Black and Brown workers are overrepresented in the temporary staffing industry in the South. According to the U.S. Census Bureau’s Quarterly Wage Indicator (QWI) data, in 2022, Black and Hispanic or Latino workers were overrepresented in the temporary work industry in Texas and Tennessee (*see* Figure 3).

Figure 3: Percentage of Workforce—Black & Hispanic or Latino Workers¹⁰⁸

	Temporary Help Services	Overall Workforce
Texas	57%	47%
Tennessee	45%	23%

Furthermore, employment statistics in Texas and Tennessee show that Black and Hispanic or Latino workers make up larger percentages of unemployed and underemployed workers. In Q1 2023, the Black unemployment rate was 6.2% and 5.6% in Texas and Tennessee, respectively, the highest rates of any group, followed by 4.9% and 4.4% for Hispanic or Latino people.¹⁰⁹ **Unemployed workers are vulnerable to capture by temporary staffing agencies.** For example, many unemployed people that Unemployed Workers United (UWU) worked with during the pandemic re-entered the economy through temporary work.



Photo by Christina Wocintechchat on Unsplash

USING MATCHED-PAIR TESTING TO UNCOVER DISCRIMINATION



Based on countless conversations with temporary workers, staggering statistics regarding temporary work, and the lack of data about temp worker discrimination, National Legal Advocacy Network (NLAN) contracted the Equal Rights Center (ERC) to conduct an objective investigation into temporary staffing agencies in Harris County, TX and Nashville, TN. These two locations were chosen in close partnership with Unemployed Workers United (UWU), who has been organizing with temp workers in both locations since 2021. The Equal Rights Center (ERC) is a nonprofit civil rights organization that identifies and seeks to eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of Greater Washington, D.C. and nationwide. ERC's core strategy for identifying unlawful and unfair discrimination is civil

rights testing. When ERC identifies discrimination, it seeks to eliminate it by using its testing data to educate the public and business community, support policy advocacy, conduct compliance testing and training, and, if necessary, take enforcement action. More information about civil rights testing is available on the ERC's website at www.equalrightscenter.org.

Matched-pair testing is a well-established research method for measuring and documenting patterns of discrimination against marginalized groups. It has been used in investigations by federal agencies, and the data gained through testing has been recognized by courts as the basis for litigation. Matched-pair testers are carefully selected and trained so that each pair of testers presents the same job-relevant qualifications such as



Racial discrimination was rampant—they hired who they thought they could get away with not paying. Who they knew they could keep small. They knew who they could manipulate and who they couldn't. They knew they could manipulate individuals from other countries who couldn't speak English or were less fluent or people who were exhausted or powerless or desperate for work. The most poor, the most in need of the job – that's who was taken advantage of. Folks with criminal histories—absolutely taken advantage of. I witnessed a lot of racism and discriminatory treatment.”

—Temp worker at Express Employment Services

education and work experience, but is different in one crucial variable, such as race. The goal is to present two applicants who are similar in every respect except one, and thereby measure the impact of that one different characteristic on the pair's success in seeking employment.

NLAN contracted with the ERC to utilize matched-paired testing to objectively investigate potential predatory and discriminatory practices in temporary staffing. ERC's findings validate and amplify the lived experiences of temporary workers who have been discriminated against, and build the pool of evidence exposing the role temporary staffing plays in perpetuating inequality in the labor market.

All temporary workers are subject to exploitative working conditions in seeking work and often in the work that they find through agencies; meanwhile, agencies and contracting corporations further harm workers by creating racist tiers within an already vulnerable workforce. NLAN, alongside UWU, engaged in this testing project to uncover the ways staffing agencies and contracting corporations engage in discriminatory practices that maintain substandard working conditions and disrupt worker organizing.

MATCHED-PAIR TESTING IS A WELL-ESTABLISHED RESEARCH METHOD FOR MEASURING AND DOCUMENTING PATTERNS OF DISCRIMINATION AGAINST MARGINALIZED GROUPS.

Staffing agencies and corporations prefer the workers they see as most vulnerable, exploitable, and compliant.



Photo by Adrian Sulyokon Unsplash

They often prefer undocumented workers, because they realize that undocumented workers may fear immigration-based retaliation for expressing discontent about abusive conditions and pay.¹¹⁰ They also believe that it is not likely that they will face consequences for threatening or calling immigration authorities like ICE, leaving workers without recourse and in fear.

Discrimination in access to work intensifies racist divisions between workers that can make organizing together difficult, often creating resentment or mistrust. Staffing agencies and corporations intentionally pit Black workers, who are treated as back-up, against Latinx workers, who are preferred. According to reports from workers, corporations can go so far as to threaten replacing one group of workers with another.

METHODOLOGY

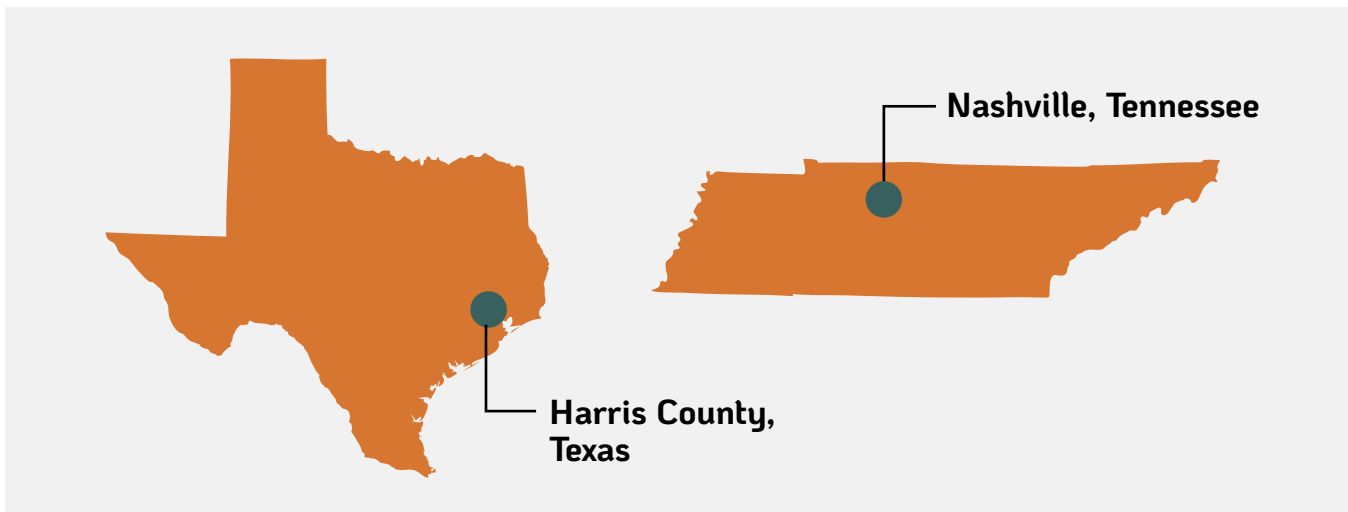


Between March 2022 and June 2023, the ERC conducted matched-pair testing to investigate potential race and gender discrimination at temporary staffing agencies specializing in light industrial labor in Harris County, Texas, and the greater Nashville area, Tennessee. In carefully controlled tests, matched pairs of trained “testers” visited staffing agencies and applied for work. During each test, each tester presented equivalent job qualifications, job preferences, and other salient characteristics as their test partner, who differed from them only in their race or gender. Testers were instructed to comply with all application procedures. Testers and ERC staff carefully documented their initial and follow-up interactions with staffing agencies. Testers were compensated for training and testing, and were reimbursed for travel to testing sites.

In Harris County, the ERC conducted testing for racial discrimination between March 2022 and February 2023

at 10 agencies with two tests per agency, for a total of 20 tests. For each agency tested, the ERC sent a pair of male testers and a pair of female testers, ensuring their race was their only differing protected characteristic. The ERC conducted testing for gender discrimination at 11 agencies during this time period, with two tests per agency, for a total of 22 tests. For each agency tested for gender discrimination, the ERC sent a pair of Black testers and a pair of Latinx testers, ensuring their gender was their only visible differing protected characteristic.

In the greater Nashville area, the ERC conducted testing for racial discrimination between November 2022, and June 2023, at 10 agencies with two tests per agency, for a total of 20 tests. For each agency tested, the ERC sent a pair of male testers and a pair of female testers, ensuring their race was their only differing protected characteristic.



In ERC’s Harris County match-pair testing, **Black applicants appeared to face discrimination in access to employment in several tests at multiple agencies.** In these tests, Latinx testers appeared to receive preferential treatment.

Results That Demonstrated Access to Work Discrimination Against Black Testers

Agency	Race & Gender	Results
Labor Source of Texas	Two female testers: one Black tester and one Latina tester	<p>Labor Source offered a Latina tester an interview for a warehouse packaging position at \$15/hour, but did not offer the Black tester any information about available positions.</p> <p>The agency also called the Latina tester 5 times within 2 days of her initial visit. They did not contact the Black tester until one month after the initial visit, when they left a voicemail asking her to call back.</p>
Onin Staffing	Two male testers: one Black tester and one Latino tester	<p>After online applications were submitted on behalf of both testers, the testers called to ask for employment on the same day.</p> <p>Onin Staffing gave a Latino tester information about a \$13/hour computer installation job, but did not give the Black tester information about any available relevant jobs.</p> <p>The agency also made multiple attempts to contact the Latino tester in the days following his visit to the agency, while the Black tester received no follow-up during this time period.</p> <p>Six weeks after their initial visit, the agency sent both testers the same email about a job opening in Wisconsin.</p>
Onin Staffing	Two female testers: one Black tester and one Latina tester	<p>After online applications were submitted on behalf of both testers, the testers called to ask for employment on the same day.</p> <p>Onin Staffing told the Latina tester to follow up on another day, and an agency employee later contacted her to ask if she was still looking for employment.</p> <p>The agency told the Black tester that they did not have her resume (though screenshots show the resume was submitted with her application). The Black tester submitted her resume a second time and asked for an appointment, but the agency never responded to her.</p>

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Agency	Race & Gender	Results
TMD Staffing	Two male testers: one Black tester and one Latino tester	TMD Staffing told the Latino tester about an available unloading position that paid \$11/hour, but did not tell the Black tester about any available jobs. TMD Staffing followed up with the Latino tester for a shipping and receiving position, but the agency did not follow-up with the Black tester.
TMD Staffing	Two female testers: one Black tester and one Latina tester	TMD Staffing offered the Latina tester a job packing plastic “biohazard tubs” for \$10/hour while they offered the Black tester a job packing “styrofoam and plastic” for \$9.50/hour without mention of the higher paying job.
Flexforce	Two male testers: one Black tester and one Latino tester	During their initial visit to the agency, Flexforce told the Latino tester about a shipping job in a clothing factory for \$13/hour, starting the next day, but did not tell the Black tester about any available jobs.

In ERC’s Harris County matched-pair testing, **female applicants also appeared to face discrimination in access to employment in several tests at multiple agencies.** In these tests, male testers appeared to receive preferential treatment.

Results That Demonstrated Access to Work Discrimination Against Female Testers

Agency	Race & Gender	Results
DHR Staffing	Two Latinx testers: one male and one female	DHR Staffing told the male tester about an available “general labor” job at \$12/hour and a “crane operator” job, but did not give the female tester any information about available jobs.
Labor Source of Texas	Two Black testers: one male and one female	<p>During their initial visit to the agency, Labor Source told neither tester about currently open jobs, though an employee did mention a night shift job to the female tester that he said would have openings in the future.</p> <p>During follow-up interactions, the agency offered the male tester a position unloading furniture that paid up \$12/hour and followed up with him about the position but did not provide any job opportunities to the female tester.</p>
Labor Source of Texas	Two Latinx testers: one male and one female	During their initial visit, Labor Source did not offer either tester any specific information about jobs, but the agency left a voicemail for male tester and gave no follow-up calls to the female tester.
Onin Staffing	Two Black testers: one male and one female	Onin Staffing told the male tester about a job with an oil company at \$16/hour. The agency told the female tester about a lower paying job at \$14/hour with a supplement distribution company and not about the higher paying job.
Memco	Two Latinx testers: one male and one female	Memco told the male tester about a job with a carwash company paying \$14–\$16/hour, and sent the male tester a follow-up text about the job, but the agency did not give the female tester any information about available jobs and did not follow-up with her after her initial visit.
Ascend Staffing	Two Latinx testers: one male and one female	<p>Ascend Staffing set the male tester up with an interview the following day for a machine operator position, and sent him a follow-up reminder to go to the interview as well as messages asking him about interest in the job. The agency told the female tester to call back four days later about a possible job involving plastics and did not follow up with the female tester in the days following her visit.</p> <p>The agency called both testers back several months later and an employee encouraged both of them to come in for a material handler position.</p>

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Agency	Race & Gender	Results
ProLogistix	Two Latinx testers: one male and one female	ProLogistix told the male tester about a loading and unloading trailer job at \$14/hour, but only told the female tester about a potential future job on a newspaper production line. The agency followed up with the male tester confirming availability of the job, but sent the female tester an email saying no jobs were available that fit her qualifications.
Core Personnel	Two Latinx testers: one male and one female	Core Personnel told the male tester about two jobs—one at a car auction shop at \$9/hour and one at a tire shop at \$13/hour with a possibility of a raise. The agency told the female tester about a driving/parking job at \$12/hour. Both testers received follow-up calls, but the agency left a voicemail only for the male tester asking if he had started work.

In ERC’s Harris County matched-pair testing, job offers were often segregated—male and female testers were offered jobs that were different, potentially contributing to gender-segregated worksites. Black and Latinx testers in two tests at one agency were offered jobs that were different, potentially contributing to race-segregated worksites and denying options to both testers.

Results That Demonstrated Segregated Job Offers to Testers

Agency	Race & Gender	Results
Pacesetter Personnel Services	Two female testers: one Black tester and one Latina tester	<p>Pacesetter initially offered the Black tester a higher paying job at \$15/hour and the Latina tester a job at \$12.51/hour. They were both asked to call different recruiters.</p> <p>Eventually, the agency told the Black tester the job was on hold, and provided follow-up, and offered the Latina tester a machine operator job at \$13/hour, following up four times.</p>
Pacesetter Personnel Services	Two male testers: one Black tester and one Latino tester	<p>Initially, Pacesetter provided information to the Black tester about a job that paid \$13/hour. The agency provided information to the Latino tester about a job that paid \$15/hour, but the job involved heavy lifting and standing for long periods of time as well as the use of a back brace he would need to purchase at his own expense. The agency also contacted the Black tester after the initial visit to follow-up with the job application process and did not follow-up with the Latino tester.</p> <p>Given these circumstances it is unclear whether the agency provided preferential treatment to either tester, but job offers were segregated.</p>
Pacesetter Personnel Services	Two Latinx testers: one male and one female	<p>Pacesetter initially told the female tester nothing was available and told her to call the next day. The agency told the male tester the same but to come to the agency the next day at 4am. The agency followed up twice with the female tester and not at all with the male tester.</p>
TMD Staffing	Two Black testers: one male and one female	<p>TMD Staffing told a male tester about a job with Cirque du Soleil that paid \$16/hour, but initially did not tell the female tester about any jobs.</p> <p>Two weeks later, the agency sent the female tester information about a shipping and receiving job at \$12/hour and a driver position at \$16/hour. Four weeks after the initial visit, the agency sent the male tester information about a position in a freezer warehouse at \$13.50/hour.</p>
Ascend Staffing	Two Black testers: one male and one female	<p>Ascend initially told the female tester about a possible packaging job, without details on pay or when it would be available. The agency told the male tester about a potential job at \$16/hour with the potential for a raise and permanent hire.</p>

In ERC's Harris County matched-pair testing, there was **only one** test where the Black tester appeared to receive preferential treatment, and **only three tests** where a female tester appeared to receive preferential treatment. Pridestaff told a Black tester about multiple job opportunities, as well as a recruiting assistant role at the staffing agency. The agency told the Latino tester about some entry level positions that may become available but not told any specifics. In three tests at TMD Staffing, Manpower, and Prologistix, the agency appeared to give preferential treatment to female testers for job opportunities and assignments.

In ERC’s Nashville matched-pair testing, **Black applicants appeared to face discrimination in access to employment in several tests at multiple agencies.** In these tests, Latinx testers appeared to receive preferential treatment.

Results That Demonstrated Access to Work Discrimination Against Black Testers

Agency	Race & Gender	Results
Hire Quest	Two male testers: one Black tester and one Latino tester	<p>Initially, Hire Quest told both testers about two general types of construction and hospitality jobs.</p> <p>After the initial visit, the agency employee contacted the Latino tester 20 times about a hospitality job and never contacted the Black tester, even after the Black tester contacted the agency asking about hospitality jobs. Later, an agency employee told the Black tester he was “off her list” because he had turned down jobs from the agency (even though he had neither received nor responded to jobs from the agency).</p>
Hire Quest	Two female testers: one Black tester and one Latina tester	<p>Initially, Hire Quest told both testers about construction and hospitality jobs, treating them the same.</p> <p>In follow up, the agency told the Black tester about a one-day security job, whereas the agency told the Latina tester about the same job in addition to three additional ongoing jobs, including a food service position at \$16/hour, a warehouse janitor position at \$15.25/hour, and a temporary event position.</p> <p>In additional follow up, Hire Quest only told the Black tester about a warehouse position with no specified employer or pay rate and the Latina tester was again told about the food service role.</p>
Industrial Staffing	Two female testers: one Black tester and one Latina tester	<p>In their initial visits, Industrial Staffing told the Latina tester about several job opportunities, including one that paid \$20/hour, as well as that she could come back to the agency in the morning for dispatch. The agency did not tell the Black tester about the \$20/hour job, and only told her about the dispatch process, mentioning a drug test requirement which the agency did not mention to the Latina applicant in her initial visit.</p> <p>When ERC’s Black tester refused a drug test at the agency, ERC replaced her with a different Black tester. The agency called in both the Black and Latina testers for a drug test and told them to come back in the morning for dispatch. The employee only then followed up with the Latina tester and never followed up with the Black tester.</p>

In ERC’s Nashville matched-pair testing, job offers were often segregated—Black and Latinx testers in two tests at one agency were offered jobs that were different, potentially contributing to race-segregated worksites and denying options to both testers.

Results That Demonstrated Segregated Job Offers to Testers

Agency	Race & Gender	Results
<p>Randstad</p>	<p>Two female testers: one Black tester and one Latina tester</p>	<p>Randstad offered the Latina tester a job that paid \$18.50/hour with “really good benefits” and where people were “very happy.” The role was only available for the third shift and required a long commute.</p> <p>The agency offered the Black tester jobs at a bakery, one at \$14.50/hour for the first shift, and \$15.50/hour for a second or third shift. Randstad did not offer her the \$18.50/hour job.</p>
<p>Randstad</p>	<p>Two male testers: one Black tester and one Latino tester</p>	<p>Randstad told the Black tester about three job options—one at \$17.50/hour loading and unloading bicycles, one at \$18.50/hour as a barista, and one working with concrete and rebar at an unspecified rate.</p> <p>The agency only told the Latino tester about one option—working at a snack manufacturing company at \$15.50/hour.</p>

TESTING ANALYSIS



While these tests document only a portion of job seekers' experiences, when coupled with existing research, these tests highlight that Black and female temporary workers appeared to face job access discrimination. Testing found, in many instances, that agencies gave less follow-up to Black workers than Latinx workers with similar qualifications and who went to testing agencies at the same time. Agencies offered Black testers, particularly in Nashville, more limited job opportunities, whereas agencies often offered Latinx testers multiple job opportunities in follow-up messages. **Testing found, in many instances, that agencies did not present female workers with the same, higher-paying jobs as male workers.** Agency employees followed up with female workers less often.

Agencies also, in at least three instances, mentioned drugs or alcohol only to Black testers or required them to take a drug test when they did not do the same for Latinx testers. At Labor Now in Harris County, an agency employee subjected a Black male tester to a detailed lecture about disciplinary procedures, which included a warning that the agency would fire him and reduce pay if he came to work “drunk” or “high” or stole anything or disrespected anyone at the job site. At Industrial Staffing in Nashville, the agency initially told one Black tester that it required drug tests, which it did not initially mention as a requirement to the Latinx tester. At Randstad in Nashville, the agency told one Black tester about a drug test and did not tell the Latina tester about a drug test.

While Latinx testers were often given preferential treatment, they still faced poor hiring conditions, low-

wage offers, and other forms of discrimination. At least one agency employee asked a Latino tester if he was “legal” and asked him to provide his Green Card. At least one agency employee joked with a Latina tester about losing her documents and also told her that most of the jobs involved “pushing brooms” and cleaning up and carrying trash, a description which the agency employee did not share with the Black tester. The male agency employee told the female Black tester that he had given her a job because “I must like you or something. You got a smile or something.”



Photo by Remy Gielingon on Unsplash

This discrimination is no accident—the temporary staffing industry is built by design to exploit poor Black, Brown, and women workers. The pattern of job access discrimination found in Harris County and Nashville are reflective of and contribute to other research finding racism at the core of temporary staffing agency policies and practices, as well as the industry’s long history of relying on low-wage Black, Brown, and immigrant temporary labor.

More broadly, ERC found that obtaining temporary work was a challenging process in Harris County and Nashville, contributing to existing research about the challenging working conditions that temporary workers face. For example, employees at Pacesetter in Houston repeatedly told testers that they had to show up at 4 AM with no guarantee of work. Jobs

available across agencies were working with hazardous chemicals and heavy lifting in cold or unairconditioned warehouses. Pay rates were between \$9/hour to \$16/hour. Testing in Nashville found that many agencies required workers to show up between 4 AM and 6 AM to be possibly assigned to a job, with no guarantee of work.

Our analysis of ERC’s matched-pair testing in Harris County and Nashville makes evident that Black and female temporary workers appear to face discrimination in access to employment at temporary staffing agencies. This research

demonstrates the urgent need to regulate the temporary industry to ensure that Black and female workers are provided the same opportunities for work as Latinx and male workers, and that temporary staffing agencies **raise the standard of work for all workers.**

THESE TESTS HIGHLIGHT THAT
BLACK AND FEMALE
TEMPORARY WORKERS APPEARED TO
FACE JOB ACCESS DISCRIMINATION.



At Pacesetters,
Jack* only makes \$10.50 an hour.
He works there four days a week. With the limited amount of income he makes, he is barely able to afford the room he is renting and often doesn’t have money for food. At one point, he used to sleep inside of the agency, but the agency has tightened up their policies and threatened to throw away his belongings. He doesn’t always get the tickets he has earned. He often gets ‘good’ and ‘excellent’ as his ratings, but Pacesetters’ workers give the better tickets to their buddies.”

—Based on UWU interview with Jack*, Houston, TX (*pseudonym)

PUBLIC DOLLARS SUBSIDIZING TEMPORARY WORK & ECONOMIC BONDAGE



Temporary staffing agencies, which discriminate and exploit low-wage workers, rely on our public dollars to sustain their operations. The temporary staffing industry is one of the largest recipients of the Work Opportunity Tax Credit (WOTC) and receives public contracts totaling hundreds of millions every year.¹¹¹

Work Opportunity Tax Credit (WOTC)

The Work Opportunity Tax Credit, or WOTC, incentivizes employers like temporary staffing agencies to target poor workers, formerly incarcerated workers, and other vulnerable groups for unstable, unsafe, and low-paying jobs. This tax credit allows the temp industry and other recipients of the WOTC to enjoy tax-payer-subsidized profits while workers are trapped in precarious working conditions and sometimes inescapable work arrangements.

Employers receive the tax credit if they hire workers from categories including workers who are ex-felons, workers qualified for Supplemental Nutrition Assistance Program (SNAP) benefits and state-funded Temporary Assistance for Needy Families (TANF) benefits, and other categories of workers who face barriers to stable employment.¹¹²

The temporary staffing industry's reliance on WOTC is a prime example of how the industry entrenches economic bondage. Black, Brown, and poor people are overrepresented in categories that are eligible for the tax credit.¹¹³ Through the promise of “job opportunity,” already vulnerable people are funneled into unstable and unsafe jobs that pay them low wages. Black, Brown, and poor people, who are most targeted by policing and incarceration, are pushed into and stuck with temporary work.¹¹⁴ This cycle traps those who have already been

harmed by prison and poverty and extends their bondage into the form of a temporary work arrangement—what we could call the poverty and prison to temporary work pipeline. The federal government incentivizes this practice by allowing temporary staffing agencies to receive this tax credit.

WOTC certifications are rapidly growing. In 1997, there were 126,113 certifications issued to employers, and in 2022, this number is now 2,569,056 certifications.¹¹⁵ In the last five years, 36% of certifications went to jobs that pay less than \$10/hour.¹¹⁶ Although WOTC data is not exclusive to temporary staffing agencies, temporary staffing agencies comprise a large portion of the data, as they are some of the largest recipients. One of the largest temporary staffing agencies, ManpowerGroup, received **\$12.4 million in tax credits from WOTC in 2022**, up from \$10.9 million in 2021.¹¹⁷ Kelly Services received close to **\$10.7 million in tax credits from WOTC in 2022**, up from \$9.7 million in 2021.¹¹⁸

Temporary staffing agencies are some of the top recipients of the WOTC, particularly for workers who were formerly incarcerated. **New records obtained from the Texas Workforce Commission show that five of the top ten recipients of the 2022 Work Opportunity Tax Credit (WOTC) for formerly incarcerated workers are temporary agencies.**¹¹⁹ Memco Staffing and Express Services, both temporary staffing agencies, are the **top two recipients** of WOTC for formerly incarcerated workers in the State of Texas. Randstad North America, Harris Management Solutions, and TrueBlue are also in the top ten recipients of WOTC for formerly incarcerated workers in the State of Texas. These five agencies combined received 859 authorizations for the “ex-felon” category of the WOTC in Texas in 2022.

Agencies generally receive a maximum of \$2,400 per certification each year.¹²⁰

Records also show that many temporary staffing agencies, including some of those at which ERC conducted gender and race discrimination testing in Harris County, are recipients of WOTC funding in Texas for 2022. Express Services, a temporary work agency, ranked ninth with a total of 1,994 WOTC authorizations in Texas. Randstad North America ranked twelfth with a total of 1,337 WOTC authorizations in Texas. Many other agencies that ERC conducted testing at also received WOTC certifications in Texas, including ManpowerGroup, Memco Staffing, Onin Staffing, TMD Staffing, and Labor Now. ERC’s testing found evidence of race and/or gender discrimination at several of these agencies.

In data obtained from Nashville, we found a similar pattern.¹²¹ **Express Services received the most WOTC authorizations in the state with 1,805 WOTC authorizations in 2022.** Randstad North America ranked seventh with 1,029 WOTC authorizations. Many other temporary staffing agencies like Staffmark Holdings, Employbridge, TrueBlue, Elwood Staffing Services, and Adecco were **among the top twenty recipients out of over 2,000.** Many other agencies where ERC conducted testing also received WOTC certifications in Tennessee, including HireQuest, Industrial Staffing, and Randstad North America.

For workers who were formerly incarcerated, Express Services received the highest number of WOTC authorizations, **more than triple the number of the next corporation**, Tyson Farms, a company which, as noted above, has been implicated in child labor allegations. Randstad North America, Employbridge, Staffmark, and Elwood Staffing Services ranked third through sixth—indicating that temporary staffing agencies are overwhelmingly the top recipients of WOTC for formerly incarcerated workers in Tennessee.

Similar to what reporting has found in other states,¹²² Walmart and Amazon ranked in the top two for WOTC authorizations across categories in 2022 in the State of Texas. Dollar Tree and Dollar General were also in the top six recipients in Texas. Tennessee data also included Walmart and Dollar General in the top three, after Express Services. All of these corporations have also been challenged, and even penalized, for offering low pay, subjecting workers to unsafe working conditions, and increasingly relying on contract labor.¹²³

Public Contracts

In addition to tax credits, temporary staffing agencies depend on local, state, and federal public contracts to boost their revenues. For example, in FY2022, ManpowerGroup Public Sector, ManpowerGroup’s business arm that works with government agencies, was awarded **\$4.9 million** in contracts; over the last several years, ManpowerGroup has been awarded millions in contracts with agencies like the Department of Justice, Department of Homeland Security, and Department of Treasury.¹²⁴ Many of these contracts are for translation services, which are likely largely “temped out” to immigrants and workers of color.

Temporary staffing agencies have public contracts in Houston and Nashville, as well as across Texas and Tennessee. The following are some examples of these contracts:



Location	Agencies	Amount
Harris County	16 temporary staffing agencies. ¹²⁵	\$33 million for one year of temporary work services in 2022. \$28.3 million for a renewal in 2023. ¹²⁶ One of the agencies, A-1 Personnel of Houston, quoted wages well below the \$15 minimum for permanent county employees, including some as low as \$8.92 per hour.
Texas Department of State Health Services	Kelly Services	\$7.5 million through several contracts since FY2021. ¹²⁷
University of Texas Rio Grande Valley	Express Employment Services	\$144.9k contract for staffing services. ¹²⁸
Metro Nashville	Randstad, Abacus Corporation, and Infojini, Inc.	\$5 million contract value over five years. ¹²⁹
Metro Nashville	Industrial Staffing, where ERC conducted matched pair testing that appeared to reveal discrimination against Black applicants.	\$3 million contract for five-years for staffing services. ¹³⁰ This contract shows agency markups as high as 37%, with the City paying Industrial Staffing \$17.81 per hour for “general labor,” and Industrial Staffing paying the worker only \$13/hr.
Metropolitan School District of Nashville	Industrial Staffing, where ERC conducted matched pair testing that appeared to reveal discrimination against Black applicants.	\$750,000 contract for five years for staffing services. ¹³¹ This contract shows markups of 33%, with the City paying Industrial Staffing \$17.30/hour for warehouse and delivery workers, and Industrial Staffing paying those workers only \$13/hr.
Tennessee Department of General Services	M Force Staffing	\$1 million contract for five years for staffing services. ¹³²

In the form of tax credits and government contracts, all levels of government spend millions, and possibly billions, of public dollars on subsidizing the exploitative temporary work business model. Temporary work agencies are poised to receive large amounts of federal investments into clean energy jobs, like through the Inflation Reduction Act, in the form of subcontracts for these projects.¹³³ Temporary labor undermines efforts at creating stable, safe, and well-paid jobs in our communities. **Our public dollars should be invested in good, public-sector union jobs, instead of temporary labor.** At minimum, government agencies that contract with temporary staffing agencies should outline clear guidelines for fair and equal wages, as well as improvements to working conditions and equitable access to work.

PRIVATE EQUITY'S EYES ON THE TEMPORARY INDUSTRY



As the temporary staffing industry balloons, private equity firms have set their eyes on the industry. Private equity firms are financial institutions that invest capital in private companies and aim to make a profit for investors by any means—often by saddling corporations they invest in with large amounts of debt, gutting workforces and labor costs, and avoiding tax obligations through loopholes. In 2021, Employbridge, the largest industrial temporary staffing agency in the United States, was bought by private equity firm Apollo Global Management.¹³⁴

Temporary staffing agencies are enticing to private equity because, with little regulation and a vulnerable workforce, the industry has the potential to maximize profits for investors, particularly through permatemping. The industry provides a decentralized business model that makes it harder for workers to organize and easier for private equity to make even more money by consolidating temporary work agencies through mergers. Private equity firms will likely further push for permatemping arrangements, which are the most financially beneficial to investor returns. In fact, the founder of one private equity firm, Infinedi Partners, said in an interview that businesses that offer longer staffing durations are the most attractive for maximizing profits.¹³⁵

Private equity has taken a special interest in temporary staffing in healthcare. Through 2022, a suite of healthcare temporary staffing agencies were bought or invested in by private equity firms. These staffing agencies include Alto Healthcare Staffing, The Liberty

Group, LaSalle Networks, and FleetNurse.¹³⁶ Hospital systems are also increasingly subject to private equity takeover, as hospital staffing relies more and more on temporary labor. July 2023 reports found that New York City Health and Hospitals Corporation spent over \$2 billion on temporary staffing which is provided by RightSourcing, a private equity-owned agency.¹³⁷

More broadly, private equity hurts workers. Research from United for Respect found that private equity firms push companies into bankruptcy, leading to shut downs and hundreds of thousands of workers losing their jobs.¹³⁸ As largely-unregulated private equity firms enter the temporary staffing industry, they will likely further drive down wages to prioritize profits over workers.



CONCLUSION & RECOMMENDATIONS



Today's temporary staffing industry is built on a history of labor that extracts from and exploits Black, Brown, and immigrant workers, dating back to earlier forms of racist labor practices where agencies sold slave labor and landowners trapped Black workers in debilitating debt. From the early formations of temporary staffing to the modern-day temporary work agency, temporary staffing is about increasing corporate profits and reducing corporate risk at the expense of workers. The temporary staffing business model relies on trapping workers into substandard working conditions for long periods of time, often making temporary work arrangements permanent. All levels of government incentivize this business model through tax credits and public contracts—funneling poor, formerly incarcerated, and other vulnerable people into this form of economic bondage.

ERC's matched-pair testing in Harris County, TX and Nashville, TN identifies consistent patterns of racial and gender discrimination in access to work at temporary staffing agencies. These results, alongside existing research on discrimination in temporary work, make clear that racial and gender discrimination is a symptom of a broader problem—an industry rooted in structural racism and gender discrimination which prioritizes profits over people.

The temporary work industry continues to expand as more corporations rely on temporary labor to distance themselves from their workers, avoid paying workers a fair wage, deny them basic workplace benefits, and hinder union organizing. Legislators and regulators must act now to stop subsidizing substandard temporary jobs and start investing in good quality, union jobs for the workers who are targeted by the temp worker industry.

Recommendations

Temporary workers across the country are fighting back against this exploitative business model, demanding that legislators and regulators pay attention to the harms of the temporary work industry. From New Jersey to Illinois, temporary workers have already won historic regulation, including equal pay for equal work to safety and reporting requirements. We must continue to build momentum together, strengthening alliances between unionized workers, direct-hire workers, and temporary workers to challenge the temporary work business model and the impacts it has on our wages, working conditions, and ability to organize. We offer the following recommendations.



Houston temp workers gathered with organizers with Unemployed Workers United for a committee meeting.

At the local, state & federal level, regulators and policymakers should:

1

Enact policy changes to improve the quality of temporary jobs and outcomes for temporary workers including:

- a Addressing pay and benefit inequity by mandating equal pay for equal work policies that ensure temporary workers have the same pay and benefits as permanent, direct-hire employees performing similar work.

- b Lifting workers out of poverty by increasing the minimum wage to at least \$15 per hour.

- c Addressing wage theft, discrimination, and health and safety violations by strengthening enforcement through increased allocations to labor enforcement agencies, allowing third party complaints to be filed by unions and worker centers, and developing and resourcing strategic partnerships between labor enforcement agencies and community organizations working at the ground level with low-wage and contingent workers.

- d Providing health and safety protections for temporary workers by guaranteeing access to paid sick days without onerous barriers on eligibility, like waiting periods or slow accrual timelines; banning temp work in high-risk jobs that require substantial training and experience, such as construction; and requiring host employers to provide workers' compensation for all temp workers in the event of injury or illness at work.

- e Ending permatemping by establishing strict, enforceable limits on the duration of temp assignments (such as 90 days). After the time limit, workers should be offered the position on a permanent, direct-hire basis.

- f Establishing automatic joint employer liability for staffing agencies and host companies, to improve compliance with labor standards. Enforcement agencies should adopt joint employer regulations. Additionally, employers should be required to create plans ensuring companies in their supply chain comply with employment laws and should be held jointly liable if those companies fail to do so.

- g Fostering economic mobility and creating opportunities for career advancement by banning conversion/bondage fees and non-compete clauses.

- h Addressing retaliation by establishing "just cause" termination policies to rein in employer retaliation, which would require employers to provide a good reason for termination as well as a fair warning and chance to improve performance.

- i Strengthening and renewing the Deferred Action for Labor Enforcement program to ensure immigrant workers can defend their labor rights without fear of immigration-based retaliation.

- j Integrating [good jobs principles into federal grant opportunities](#) to favor applicants who commit to minimizing the use of temporary labor and ensuring that temporary workers receive equal pay and benefits.

- k Integrating [good jobs principles](#) into the Department of Labor's administration of the Work Opportunity Tax Credit (WOTC) to ensure that temporary agencies are not subsidized for funneling formerly incarcerated people, poor people, and other vulnerable groups into exploitative, low wage work.

2

Strengthen reporting requirements and enforcement of existing labor laws in the temporary staffing industry by:

- a Amending the Equal Employment Opportunity Commission (EEOC) and Department of Labor's Office of Federal Contracting Compliance Programs (OFCCP)'s reporting requirements to ensure employers report on the size and demographics of their temporary workforce, along with their permanent employees. The EEOC must also require temporary staffing agencies to report EEO-1 data that includes both temporary and direct-hire workers.
- b Requiring temporary staffing agencies to register with a local, state or federal regulator and keep records about each temporary assignment, including its length, pay, and hours; each temp worker applicant and placement, including each applicant's race, gender and ethnicity; and, for those applicants who are hired, the type and length of the assignment, whether the worker received health insurance, and whether the assignment leads to a permanent position.
- c Introducing regulations that require temporary staffing agencies to provide temporary workers with written notice of the terms and conditions of each assignment in their primary language, including the length of the assignment, the criteria for transitioning to permanent employment, and the "markup" rate (the difference between the temporary worker's hourly wage and the agency's hourly charge to the client company). Additionally, temporary workers should be provided with notice and the right to refuse work assignments at worksites where strikes, lockouts, or other labor disputes are ongoing.

Specific recommendations for local officials in Harris County, TX and Nashville, TN:

1

Based on ERC's matched-pair testing on the pattern of racial and gender discrimination in access to work at temporary staffing agencies in Harris County and Nashville, local officials should act as soon as possible to pass local legislation and regulations that:

- a Require temporary staffing agencies to register with local agencies and maintain the records described above in sections 2a and 2b.
- b Establish and meaningfully enforce the standards described above in section 1.

2

Local officials should immediately review and, as appropriate, terminate public contracts with any temporary staffing agency found to be engaging in discrimination. In particular, Metro Nashville should review its contract with Industrial Staffing, where ERC's matched pair testing appeared to reveal discrimination against Black applicants.

GLOSSARY



Temporary staffing business model

A business model where a corporation contracts with temporary staffing agencies to hire workers, leaving workers unclear who their employer is, and allowing the corporation to obscure responsibility for and enforcement of basic labor rights.

This model is often referred to as a “triangular employment relationship,” between the worker, the staffing agency, and contracting corporation.

Temporary staffing agency

The agency that temporary workers rely on for work assignments and that corporations rely on for temporary labor.

Host corporation/contracting corporation

The corporation which relies on the temporary staffing agency for temporary labor.

Permatemping

A form of temporary staffing in which a worker is essentially “permanently” a temporary worker, from several months to a year or more.

Conversion/bondage fees

Fees that temporary staffing agencies include in contracts with corporations, charged when corporations seek to hire temporary workers into permanent, direct-hire positions.

Temp out

Phrase that describes when corporations contract labor from temporary staffing agencies instead of hiring employees directly.

Sharecropping

A system of labor, drawing from slavery, in which Black farmworkers were trapped in “debt bondage,” forced into indentured servitude to their landowners and not paid in wages.

Debt bondage

When workers are trapped in work arrangements due to debt they owe to their employer or landowner. Historically, systems of sharecropping trapped Black workers in debt bondage, in which they were not being paid in wages but “paying off” debt.



Subsidies

Taxpayer dollars from federal, state, and local governments in exchange for services provided by or commitments from a corporation to governments or the general public.

Joint employer

A legal standard which requires that multiple employers are “jointly” held responsible for working conditions for an employee when there are multiple employing parties.

Revenue

The total amount of income that a corporation generates before expenses. Revenue is a helpful metric to measure the growth of a corporation or industry.

Discrimination in access to work

In this report, discrimination in access to work includes temporary staffing agencies offering Black and female workers fewer job opportunities, lower wages, and/or less follow-up than to their Latinx or male matches. Discrimination in access to work can also come in the form of racism and targeted harassment throughout the process of seeking temporary work.

Matched-pair testing

A research method for measuring and documenting patterns of discrimination. In this report, each pair of testers presented the same job-relevant qualifications such as education and work experience, but differed in either race or gender.

Work Opportunity Tax Credit (WOTC)

A federal tax credit which incentivizes corporations to employ certain categories of workers, including formerly incarcerated people and poor people. Temporary staffing agencies are some of the largest recipients of this tax credit. By allowing temporary staffing agencies to receive this credit, the federal government subsidizes poor quality, low-paying, and unsafe work, and funnels people who have been harmed by incarceration, policing, and poverty into temporary work.

Private equity

Private equity firms are private investment firms that sometimes buyout companies through a method called a “leveraged buyout.” A leveraged buyout is when the private equity firm loads a company with debt. This practice often harms workers by leading to cost-cutting measures and bankruptcies that allow private equity investors to maximize profits.

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This report was written by Aly Panjwani from the Action Center on Race & the Economy (ACRE).



National Legal Advocacy Network (NLAN) is racial and economic justice organization dedicated to shifting the balance of power towards greater equity in our economy and society by leveraging legal strategies and resources to build worker power. We do this by working in deep partnership with base-building organizations. Together, we empower systematically marginalized people, challenge predatory and exploitative workplace policies, and advance policies that build wealth and power in poor and working-class communities. Since inception in 2019, we have partnered with over 40 base-building organizations, put over \$5 million back into the hands of low-wage workers and their communities, and provided technical and capacity support for more than 30 worker-centered campaigns. Starting January 2024, NLAN will be transitioning to Grassroots Law and Organizing for Workers (GLOW).



Unemployed Workers United (UWU) works at the intersection of worker power and modern digital and data-driven organizing to help our movements reach millions. We utilize online and offline base building and organizing strategies, comprehensive campaigns, strategic litigation and communications, and policy advocacy to win concrete demands that improve the conditions of workers' lives and promote democratic engagement at the local, state, and national levels. We have reached 30 million people since our launch in 2020, have built an active list of 350,000, predominantly Black and Brown working class people across the Southeast and Southwest, and have partnered with over 50 organizations to build data and digital infrastructure and capacity for our movement.



Equal Rights Center (ERC) is a nonprofit civil rights organization that identifies and seeks to eliminate unlawful and unfair discrimination in housing, employment, and public accommodations in its home community of Greater Washington, D.C. and nationwide. ERC's core strategy for identifying unlawful and unfair discrimination is civil rights testing. When ERC identifies discrimination, it seeks to eliminate it by using its testing data to educate the public and business community, support policy advocacy, conduct compliance testing and training, and, if necessary, take enforcement action. More information about civil rights testing is available on the ERC's website at www.equalrightscenter.org.



Action Center on Race & the Economy (ACRE) is a campaign hub for organizations working at the intersection of racial justice and corporate accountability. We provide research, communications infrastructure, and strategic support for organizations working on campaigns to win structural change by directly taking on the financial elite that are responsible for pillaging communities of color, devastating working class communities, and harming our environment. www.acrecampaigns.org

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