

# FEEDING NEW YORK

Challenges and Opportunities for Workers  
in New York City's Food Manufacturing  
Industry

**Brandworkers**  
Good Jobs. Local Food.

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COMMUNITY DEVELOPMENT PROJECT





## ABOUT THE AUTHORS

### Brandworkers

Brandworkers is a membership organization of workers in the local food production industry joining together for dignified jobs and a just food system for everyone. Founded in 2007 in Queens, Brandworkers helps the workers who feed New York to design, build, and lead their own campaigns for workplace justice and an enduring voice on the job. We are working to ensure that the fast-growing demand for local food contributes to a dynamic economy and healthy communities.

### Community Development Project at the Urban Justice Center

The Community Development Project (CDP) at the Urban Justice Center strengthens the impact of grassroots organizations in New York City's low-income and other excluded communities. CDP's Research and Policy Initiative partners with and provides strategic support to grassroots community organizations to build the power of their organizing and advocacy work. We utilize a "participatory action research" model in which low-income and excluded communities are central to the design and development of research and policy.

## ACKNOWLEDGEMENTS

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Research, writing and editing support was provided by Alexa Kasdan, Lindsay Cattell and Pat Convey from the Community Development Project.

### Policy Advisers:

Zayne Abdessalam, Retail, Wholesale and Department Store Union (RWDSU)

Daisy Chung, Restaurant Opportunities Center of New York

Bettina Damiani, Good Jobs New York

Josh Kellermann, ALIGN NY

Adam Obernauer, United Food and Commercial Workers Local 1500

Paul Sonn, National Employment Law Project

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## INTRODUCTION

On January 24, 2012, a memorial was held for Juan Baten. A year prior, Juan, a 22-year-old Guatemalan immigrant, was crushed to death in a Brooklyn tortilla factory. His employer had failed to place a required guard on a flour-mixing machine.<sup>1</sup> Both the federal Occupational Safety and Health Administration and the Workers' Compensation Board promptly fined the factory owner, Erasmo Ponce.<sup>2</sup> Soon afterwards, the State Attorney General expeditiously responded to advocates pressing for justice and brought criminal charges against Ponce. Ponce pleaded guilty to payroll and workers compensation violations, which conforms to a common pattern of wage theft and tax fraud going hand-in-hand with health and safety violations in New York City's food processing and distribution facilities. On July 8, 2013, the Brooklyn Criminal Court sentenced Erasmo Ponce to pay restitution of \$450,000 for wage violations and to serve 90 days in jail.<sup>3</sup> While a measure of justice was achieved for Juan Baten's family, hazardous working conditions and widespread disregard for basic labor protections continue to be the norm in New York City's food manufacturing industry.

With some \$5 billion in gross annual sales, New York City's food manufacturing industry provides the livelihoods of 14,000 workers and their families.<sup>4</sup> Approximately 900 firms do business across the five boroughs of New York City. Across New York State, the industry employs 43,142 workers.<sup>5</sup> Food manufacturing provides an important source of employment for those with a range of educational backgrounds and familiarity with English—according to a 2007 study by the Fiscal Policy Institute, 70% of workers in the sector are immigrants, 72% are people of color, and 64% have less than a high school diploma. Increasingly, the industry also provides opportunities for women, though they are often paid less and face obstacles to better jobs.<sup>6</sup>

Historically, manufacturing has provided a source of stable, living wage jobs. However, conditions in manufacturing have shifted. While some limited well paying union jobs remain, many new jobs in the industry are low-wage and lack benefits. Many of these positions are not being captured by official government data because many of the workers are undocumented immigrants.

Today, businesses in Brooklyn and Queens employ many of these food processing and distribution workers who provide New Yorkers with the food they eat at restaurants and purchase from grocery stores. These workers produce a diverse array of food, including artisanal bread, specialty food such as hummus and wontons, prepared seafood and smoked fish, sweets and desserts, and more. These businesses have the opportunity to create good jobs while also producing a key ingredient to New York City's success: good local food. In addition to upholding New York's culinary reputation; stocking our restaurants, small businesses and grocery stores; and supporting the expanding local food movement, these workers also serve as an engine of economic growth for the city.

Our vision: Apples grown in the Hudson Valley are delivered to a spotlessly clean factory in Bushwick, where well-trained workers process it into high-quality apple sauce, apple pie, or even a specialty product such as apple bread. The workers who prepare the food enjoy their work and care intensely about their product. They apply their traditional cultures to the preparation, as well as learn about new preparations from other cultures in New York City's vibrant immigrant communities. The machines with which they work have been recently inspected, and all health and safety requirements have been met. In turn, this concern for the dignity and safety of workers protects the health of the families who purchase the locally grown and prepared food. Far from being produced for only an elite customer base, local food is readily available in all New York City neighborhoods. The price is competitive, because all New York City food factories conform to the same compensation and safety standards: no factory can undercut another for long by cheating its employees.

But the current reality is very far from this vision of a just and sustainable food system. Even as they prepare and deliver our food, the thousands of recent immigrants from Latin America, China, and elsewhere—as well as African-American and white workers—who are employed in this sector are often denied basic worker rights and must contend with health and safety hazards.

Brandworkers is a non-profit membership organization of workers in food processing factories and distribution warehouses and sees these conditions on a daily basis. While some research has been done to examine the economic impact of the food manufacturing and distribution sector in New York City, there has been little exploration or documentation of employment practices and working conditions in this industry. In order to lift up the voices of workers, document their struggles, and identify systemic solutions to the issues plaguing workers in this industry, Brandworkers partnered with the Community Development Project at the Urban Justice Center to conduct research about the food manufacturing and distribution sector in New York City.

While conscientious consumers are showing increasing awareness and concern for farm, restaurant and grocery store workers, those in the food processing and distribution industry continue to be out of sight and out of mind. Workers, like Juan Baten, face pervasive wage theft, discrimination, dangerous working conditions—and even death. However, there are few laws and policies in place that prevent or address these conditions, and those that do exist are not sufficiently enforced. The experiences of Brandworkers' membership, combined with recent empirical data, demonstrate the need for heightened labor standards in this vital industry. This report offers common sense policies for workers, business owners, and policy makers that will create good jobs and ensure a safe supply of quality, locally-produced food.

## New York City Programs for the Food Manufacturing Sector

The desire for locally grown and produced food is not just for foodies and restaurateurs. Increasingly, consumers realize that a secure local food system provides food that tastes better and is more nutritious while also improving the environment and fueling a dynamic economy in the city. Over the past several years, the New York City government has developed several initiatives focused on the food manufacturing and distribution sectors in NYC. In 2010, then-Speaker Christine Quinn introduced the “Foodworks” initiative, designed to strengthen the food system from farm to table to waste processing. Explicitly, the initiative is intended to make better food accessible in low-income communities and create new, entry-level jobs.<sup>7</sup> Melissa Mark-Viverito, the current council speaker, has promoted local food production in New York City and, along with Mayor Bill de Blasio, has championed extending paid sick leave to manufacturing workers, including those who handle our food.

In early 2013, the NYC Economic Development Corporation launched the “Food Manufacturers Growth Fund” to provide “affordable financing to enable eligible local small businesses in the City’s food manufacturing sector to expand...”<sup>8</sup>

While the Growth Fund indicate a step in the right direction for the City’s food policy, it overlooked a key issue in this sector—the treatment of workers. In response, Brandworkers developed an employer “Code of Conduct” to protect fundamental workplace rights that the NYCEDC has incorporated into the program. However, under the Bloomberg administration, the NYCEDC did not comply with public demands to install transparency provisions into the loan program so that industry workers and the concerned public could work together to screen out “bad actor” employers before the loans are made in the first place.

Brandworkers hopes that the new administration will insist on economic development policies that incorporate transparency and take into account the well-being of the workers who produce our food. As Mayor Bill de Blasio has said “The days of spending taxpayer dollars to fuel poverty-wage jobs are over. We’re going to demand living-wage jobs in exchange for public investment.”

Other food-related programs are sure to be unveiled and expanded in the coming months and years. To ensure that workers’ rights and safety are incorporated into these important government programs, Brandworkers, in collaboration with our partner organizations, has developed a comprehensive list of policy recommendations, which are included in this report.



## METHODOLOGY

In order to find out more about the food manufacturing and distribution sectors in New York City, Brandworkers, with the support of the Community Development Project, developed the following research questions:

- What are the workplace conditions at food manufacturing factories in NYC?
- Who works in food manufacturing and distribution, and what are their economic and social characteristics? What stories do they have to tell that have not been told through existing research and literature?
- What city, state, and federal policies and programs focus on the food manufacturing industry? In what ways do these policies and programs protect workers?

To explore the above questions, Brandworkers and CDP used the following research methods:

- 1. Surveys:** Brandworkers conducted 106 surveys to collect data on working conditions and history for employees in the food processing and distribution sectors in NYC. The surveys were translated into Spanish and Chinese languages and administered by staff and members of Brandworkers. The surveys were part of a larger national study by the Food Chain Workers Alliance in partnership with Data Center.
- 2. In-depth Interviews with Workers:** Brandworkers conducted in-depth interviews with eight workers to collect qualitative data about their experience working in the food manufacturing and distribution sectors in NYC.
- 3. Census Research:** Researchers analyzed data from the Census Bureau (Economic Census, Survey of Business Owners, Annual Survey of Manufactures and American Community Survey) and Department of Labor to support and supplement the findings from our field research (see Census Methods in the appendix).
- 4. Legal and Policy Research:** Researchers reviewed relevant laws and policies to determine the universe of city, state, and federal policy for this sector. We also identified gaps in enforcement for laws and policies that are currently on the books.
- 5. Literature Review:** Researchers reviewed literature about the food manufacturing and distribution sectors to identify historical lessons and best practices to apply to today's industry.



# BACKGROUND

## Overview of food manufacturing sector in NYC

Food manufacturing in New York City is a \$5 billion industry that is composed of complex economic and social networks: there are approximately 900 businesses that employ 14,000 New Yorkers as well as 2,500 independent contractors.<sup>9</sup> This industry provides an important source of employment for those with limited education and English skills—according to a 2007 study by the Fiscal Policy Institute—70% of workers are immigrants and 64% have less than a high school diploma.<sup>10</sup>

Brooklyn and Queens are home to an industrial corridor of food processing and distribution companies that provide a large amount of the food New Yorkers eat at restaurants and purchase from grocery stores. Census data indicates that many of these factories produce baked goods, tortillas, and meat products. Types of jobs include bakers, machine operators, truck operators, and freight operators. In addition, many food manufacturers are small businesses: 52.3% of food manufacturing establishments have 4 or fewer employees, and 45.1% have between 5 and 100 employees.<sup>11</sup> Accordingly, the sector provides opportunities for business creation and entrepreneurship as well as providing jobs for a diverse range of New Yorkers.

Table 1: Number of Employees and Establishments in the Food Manufacturing Sector in NYC<sup>12</sup>

Food Manufacturing in NYC, by County	Total Number of Paid Employees	Total Number of Establishments*	Average Employees per Establishment*
Bronx	1,450	90	16
Kings	5,304	343	15
Queens	4,565	250	18
New York	2,584	212	12
Richmond	161	33	5
TOTAL NYC	14,064	928	15

\*Establishment = each location of one business

## Demographics, Wages, and Distribution of Power in the Food Manufacturing Sector

Inside the food factories and warehouses in Brooklyn and Queens, recent immigrants from Latin America and Asia work alongside African American and white co-workers. Latinos make up 32%; Asians 20%, African Americans 17% and whites 27% of all food manufacturing workers.<sup>13</sup> Among frontline workers, Latinos account for 53% of workers, Asians 16%, African Americans 16% and whites 12%.<sup>14</sup> Women comprise 38% of the industry’s workers and are a growing segment of the industry.<sup>15</sup> According to Census data, frontline workers make on average \$12.06 per hour and work an average of 37.4 hours per week.<sup>16</sup>

Unfortunately, while the industry may be diverse, employers privilege white male workers, who are much more likely to have supervisor positions. Although women are increasingly being hired for new jobs, their jobs are lower paying and less stable than those of men. While only 38% of the workforce are women, they represented 43% of job losses in 2010. In addition, on average, women make \$1,454 less than men per month. Likewise, while white workers make up only 27% of the workforce, they represent 38% of all new hires.<sup>17</sup> Furthermore, on average, white workers earn nearly twice the income of workers of color per month

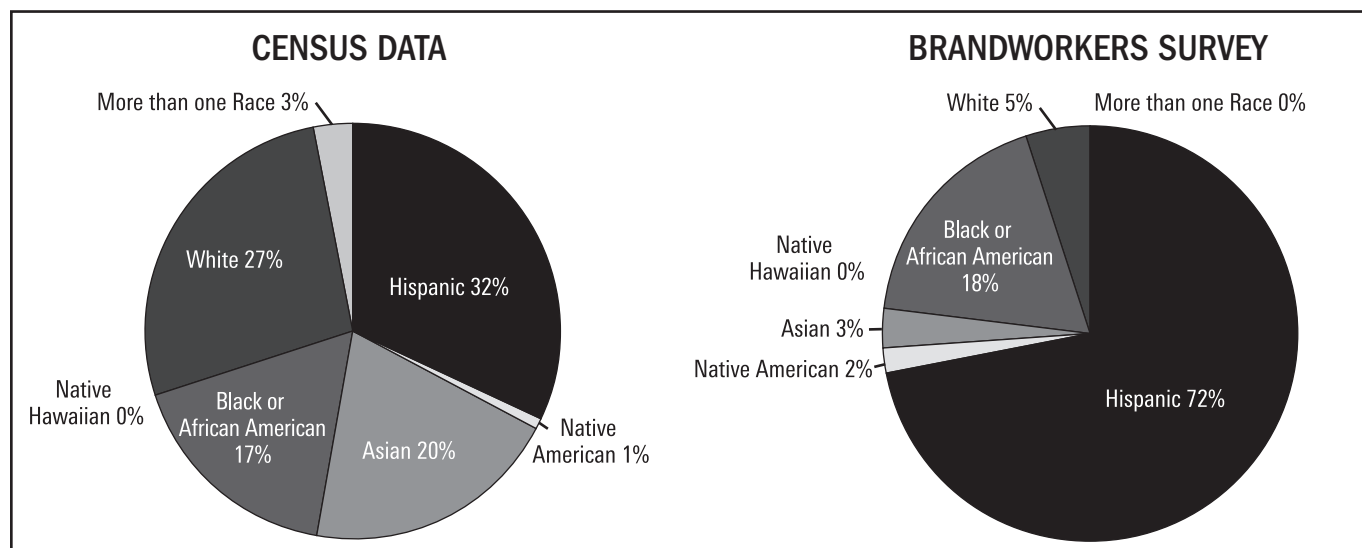


and hold 40% of the managerial positions in the sector.<sup>18</sup> Frontline workers in the census make \$5.98 less per hour than workers in the industry as a whole. On average, undocumented survey respondents made \$7.52 less per hour than those workers captured by the census.<sup>19</sup> Accordingly, while the industry has a strong potential to provide good jobs, racial and gender inequalities must be challenged and changed.

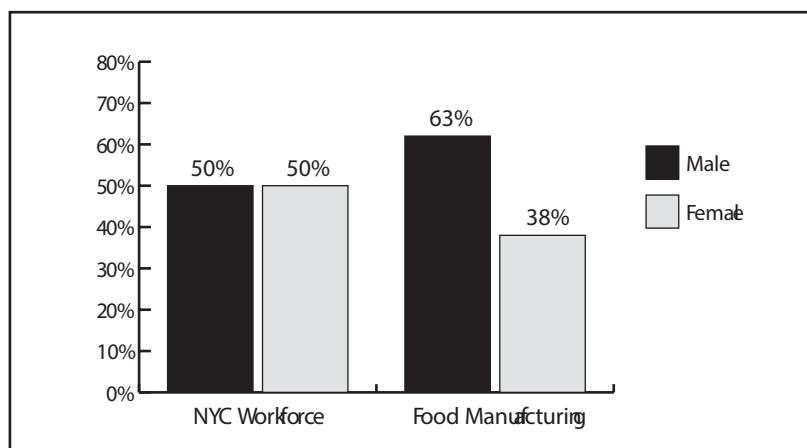
**Table 2: Demographics for New York City food manufacturing, Brandworkers survey, and NELP report on workers in unregulated work**

		NYC Food Manufacturing <sup>20</sup>	Survey	NELP <sup>21</sup>	
<b>Total</b>		14,536	106	4,387	
<b>Ethnicity</b>	Hispanic	32%	72%	63%	
	Native American	1%	2%	0%	
	Asian	20%	3%	17%	
	Black or African American	17%	18%	14%	
	Native Hawaiian	0%	0%	0%	
	White	27%	5%	6%	
	More Than One Race	2%	0%	0%	
<b>Age</b>	14-18	2%	0%	29%	18-25
	19-21	5%	6%		
	22-24	5%	9%		
	25-34	18%	32%	25%	26-35
	35-44	22%	26%	21%	36-45
	45-54	26%	19%	25%	46+
	55-64	17%	7%		
	65-99	6%	0%		
<b>Education</b>	Less than High School	26%	33%	45%	
	High School or Equivalent	26%	44%	31%	
	Some college or associate degree	26%	18%	24%	
	Bachelor degree or above	22%	5%		
<b>Gender</b>	Male	62%	89%	44%	
	Female	38%	11%	56%	

**Figure 1: Race and Ethnicity of Food Manufacturing Sector in NYC,  
Brandworkers survey and Census data**



**Figure 2: Employment in the Food Manufacturing Industry  
compared to NYC workforce by Gender**



**Table 3: Average monthly earnings for Long-time Food Manufacturing Employees (2010)<sup>22</sup>**

All Workers	\$3,108.63
Asian	\$2,156.49
Black or African-American	\$2,571.15
Hispanic	\$2,498.59
White	\$4,414.19
Frontline Workers	\$1,744.03
Survey Respondents	\$2,171.12

## **Flaum Appetizing: A Case Study in Workers and Consumers Standing Together**

Kosher food processor and distributor, Flaum Appetizing, maintained deplorable working conditions for over a decade. Workers at the Brooklyn-based factory were subjected to massive wage theft—including a failure to pay overtime and, at times, the minimum wage—for grueling work weeks as long as 80 hours. Workers faced discrimination and verbal abuse, including anti-immigrant insults from senior management. When workers demanded payment in accordance with the law, seventeen were illegally fired. The National Labor Relations Board ruled that the company had violated the law and ordered the workers reinstated with back pay. Instead the company resisted compliance with the court order by using unfounded allegations about immigration status.

The workers subsequently approached Brandworkers for support. The workers decided to launch a workplace justice campaign with Brandworkers, using an array of sophisticated tactics to educate consumers and persuade the owners of Flaum to respect workers' rights. Through Brandworkers, the workers were able to connect with committed supporters and an ally that played a crucial role in the campaign, Uri L'Tzedek, an Orthodox Jewish social justice organization.

By the end of the campaign, the workers had partnered with over 120 grocery store locations that stopped selling Flaum products until the company returned unpaid wages to its employees and respected workplace rights. Additionally, with support of allies from around the world, the workers were able to persuade the world's largest kosher cheese company, Tnuva, to discontinue its relationship with Flaum. In May 2012, due to the success of the workers' campaign, Flaum Appetizing accepted a global settlement, which returned \$577,000 in unpaid wages and other compensation to the workers and signed a binding code of conduct protecting workplace rights.



## RESEARCH FINDINGS

The following findings are the result of analysis of data from the U.S. Census, the Bureau of Labor Statistics, the Occupational Safety and Health administration (OSHA), and surveys and interviews with food processing and distribution workers. The data reveal that:

- Employers systematically ignore health, safety, and wage laws.
- Similarly, employers routinely discriminate on the basis of gender, race and immigration status.
- Employer-provided health insurance and paid sick days are the exception in the industry.
- Finally, a workforce empowered by a union or worker center constitutes a powerful remedy to these challenges, but workers who organize successfully must overcome a serious risk of retaliation by their employers.

### 1. WORKERS ARE FORCED TO ENDURE HAZARDOUS WORKING CONDITIONS.

In surveys and interviews, NYC food manufacturing and distribution workers describe dangerous working conditions and on the job injuries that result. Many workers do not receive proper training for the use of safety equipment, which could prevent many of these accidents. Furthermore, despite injuries, bosses demand that workers continue working or risk losing their jobs. While official government data reports some injuries and illnesses on the job, survey and interview respondents fill in the gaps where the government data falls short.

**According to survey respondents, 42% have suffered an injury at work. This includes:**

- 15.1% have slipped/fallen;
- 14.2% have been cut;
- 11.3% have headaches;
- 10.4% have a back injury;
- 7.5% have been hit by equipment;
- 43.5% reported injury but did not get free medical care from employer;
- 9.7% have come into contact with toxic chemicals; 4.9% aren't sure;
- More than 1 in 10 report that their employer required them to do something that put their safety at risk.

**According to the Bureau of Labor Statistics for NYC food manufacturing in 2010, there were:<sup>23</sup>**

- 46.6 illnesses per 10,000 workers. This is nearly double the rate of the previous year.
- 2,400 total illness and injury cases. 400 more cases than the previous year.



## **According to the Occupational Safety and Health Administration (OSHA):<sup>24</sup>**

- Number of Fatalities from 2001-2011: 13
- Total inspections conducted from 2002-2011: 78
- Average number of assessed violations: 4.0
- Average number of serious violations: 3.1
- Average assessed penalties per inspection: \$6,561

### **One worker describes multiple on the job accidents because of dangerous stairs at his workplace:**

*“On one occasion, my job was bringing down the delivery boxes to the basement. And the stairs there are too dangerous. They are small, slippery, and steep. Then the load fell and I slipped. And sometimes when you slip the hand truck gets trapped in your feet. Then the hand truck pulls your feet and it flips. Your foot ends up really hurt. I have had many accidents, some of them have been severe and it has taken me up to a month-and-a-half to recover.” – Mario*

### **Another worker explains that he was forced to go to work despite a serious injury:**

*“So when he called out to me I turned around and that was when I had the accident. And...[I] don't have benefits. So the only thing that they did was bring me to my house because I couldn't work. And the next day they told me that I had to go to work like that. I went and I told them that I didn't feel well. They gave me Chinese medicine that they had there. They put it on me and the next day it was the same thing. I wanted to go to work but I couldn't stand up. So I called him [supervisor] and he told me that I had to work because he was paying me anyway. I went to work like that, and even though I was telling him I was in pain, they sent me to do deliveries.” – Luis*

### **At root is a callous disregard on the part of owners and management for the health and safety of their employees. Another worker describes the careless lack of response when safety hazards are pointed out:**

*“Management doesn't want to buy proper safety measures for food processing equipment. They don't care if you're ok or not. If someone, or if we, workers, tell them to fix the machine, what they say is that they will hire a mechanic, and time goes by, and nothing ever gets fixed.” – Leonardo*

*“They make sure the machine gets fixed only when it stops working on them...But about having protection for workers, they're not concerned about that, because the work is being done for them and the machine is working for them. But that's a problem for us, because it's about our safety... As long as their machine is working, they don't really care.” – Leonardo*

## 2. DESPITE THESE DANGEROUS CONDITIONS, THERE IS A LACK OF ON-THE-JOB TRAINING.

Professionalized training, safe work procedures, and providing safety equipment are common sense, inexpensive solutions to reduce on-the-job injuries, but they are often not available to workers. Workers cope by sharing with each other the knowledge that they do have, but that is no substitute for systematic and comprehensive training, particularly for new employees.



### According to survey respondents:

- 44.1% did not receive any training;
- 72.1% did not receive any training from employer;
- 56.7% never received training on workplace health and safety.

### Workers describe a lack of training and professional management:

*“I didn’t have a good experience because they weren’t professional. I mean I didn’t get the proper training that I was supposed to have gotten. You know, if I go out on a route, I’m supposed to be trained for that route. They would just give me the route and say, their words were, ‘Either sink or swim.’ And basically I had to swim so I would get stressed out and just got really tired of doing it that way.” – Shawn*

### The same worker explains how he was punished even though he was not given the proper training and information to do his job:

*“...I said to him (supervisor), ‘I don’t know the route I’m gonna be late. I need some help.’ He told me, ‘There’s no help do the best you can to handle it.’ Now the whole route went crazy, all the customers are complaining as this is happening. And he actually had a write up for me when I came back. He said I didn’t call.” – Shawn*

### Another respondent describes workers training themselves because of lack of formal training by employers:

*“The employers are supposed to provide training, but they never do. One has to learn by watching other people. I think the safety in my company is poor for this reason... I never received training, but [learned] by watching other people and being very cautious, above all.” – Leonardo*

## 3. WAGES ARE LOW, HOURS ARE INCONSISTENT, AND WORKERS ARE NOT COMPENSATED FOR OVERTIME.

The workers surveyed for our report earn considerably less than the national average, even though they live in one of the most expensive cities in the country. Workers try to make ends meet by working overtime, but frequently employers flout overtime laws. By not providing a pay stub, the employers try to evade creating a paper trail of their wage theft.



## According to survey respondents:

- 82% are paid an hourly wage;
- Mean hourly wage: \$10.48; Mean weekly wage: \$519.98;
- 63% worked more than 40 hours in the past week; 22% worked exactly 40 hours;
- 79.2% don't receive a paystub.

## According to Census data:

Frontline food manufacturing workers earn an average of \$12.06 per hour, working 37.4 hours per week. The workers who we surveyed, largely workers of color and immigrants, reported earning an average of \$10.48 per hour for a 47.8 hour work week. The Census data average wage jumps to \$18.00 per hour when you include managerial positions, which in our experience are largely held by white people. Latino and African-American workers earn far less according to Census data, averaging \$11.45 and \$11.78 per hour, respectively.

**Table 4: Comparing hourly wage between all food manufacturing workers in NYC, frontline workers, and survey respondents**

Year	Brandworkers Survey average hourly wage (47.8 hour work week)	Census Frontline Worker average hourly wage (37.4 hour work week) <sup>25</sup>	Census City-wide average hourly wage (based on a 35.9 hour work week) <sup>26</sup>
2010	\$10.48	\$12.06	\$18.00

## Workers describe unclear and inconsistent working hours:

*“Yeah, I mean they had me under false pretenses. They didn’t say, ‘Ok listen, you’re gonna fill in for positions when people aren’t here.’ They gave me the impression that I was going to be trained now as a full-timer. It’s a big difference so it’s rough to support your family here and they don’t want to give the hours, the proper hours, they’re trying to cut back ... it’s rough.” – Shawn*



## Workers also describe working overtime but not getting paid for this work:

*“I think I’ve been losing around 6,000 or 7,000 dollars a year because I’ve been counting overtime because of that so really I’ve been struggling because of the overtime issue.” – Martin*

*“The job was supposedly was from 8:30 to 5:30 and no, he would make us work from 8:30 until the truck was done. Sometimes I would get out late. It was me and another guy that didn’t get out until 7:30 sometimes not until eight. And no, they never paid us overtime.” – Luis*

## **Workers explain the difficulty caused by low wages and inconsistent hours:**

*“The truth is that it’s very difficult. The reason is that salaries are too low. Apart from that it’s a combination of exploitation and low salaries. Then, in reality it’s too difficult to live and deal with all of this in this economy, and be in charge and support your family. Even a person living alone sometimes cannot make ends meet because they have to send money to their relatives maybe in their home countries; also there are personal problems and debt. Realistically, these types of salaries are not enough to make ends meet and practically they only allow you to live day to day.” – Mario*

*“Regarding benefits and salary, well I started making six dollars an hour. At the beginning I didn’t have kids and I would work up to eighty hours a week. That money would be used to pay my rent and my phone bill. Then when I had my daughter, I worked even harder because now I had a daughter to take care of and I also have daughters in Mexico and also had to provide for them. Like I said, I worked up to eighty hours a week and my wife would work as well.” – Gabriel*

## **4. FEW WORKERS HAVE HEALTHCARE COVERAGE, OR PAID DAYS OFF, AND MANY END UP WORKING WHILE SICK OR INJURED.**

Early intervention for health conditions can make a big difference. Workers in the industry do not have access to regular healthcare or the opportunity to take a sick day at the onset of an illness, fostering a condition in which a minor health problem can escalate to a major one. A personal health issue can become a public health issue, since, as food handlers, industry workers can transmit communicable diseases to consumers.

### **According to survey respondents:**

- 52.9% don’t have health insurance;
- Only 4.7% get their health insurance through their employer;
- 54.9% have gone to work sick in the past year;
- 30.7% don’t get any paid sick days; 25.7% aren’t sure if they do or not.

### **Some workers also highlight the disparity in benefits between workers who are undocumented and those with legal status.**

*“I believe that all of us work equally hard in the work we do. And some of the workers where I work do have medical insurance — the company also pays for their visits to the dentist, they have paid vacation — and we don’t have that. And some of us aren’t allowed to do more than forty hours. So I think that, well, it should be equal for everyone...” – Miguel*

*“We should have all types of benefits like, for example, to go to the doctor, or days off. All of the benefits that people with papers have. I think that would be fair.” – Esmeralda*

# Workers also describe working while they are sick or injured.

*“Well, you know, I came to work sick many times because sometimes the pressure we have in our department it’s so much that you don’t care about how you feel at that point. You just want to come to work because you don’t want to lose your job.” – Martin*

*“So I had to go like that to show him my foot because if you tell him you’re sick he doesn’t believe you. I had to go like that with a swollen foot and tell him ‘Look, I can’t work.’ And it took me a long time to get there because I went walking and it hurt me. Then he told me that it wasn’t his problem. That what he wanted was for me to work. So then I told him that I couldn’t. And there was a man there who tells me, ‘For little things like that, there are bosses who fire people.’” – Luis*

## 5. WORKERS OF COLOR AND UNDOCUMENTED WORKERS ARE MORE LIKELY TO BE PAID LESS, ENDURE ABUSE, AND EXPERIENCE DISCRIMINATION.

Institutional racism and anti-immigrant bias can have long-lasting implications, closing off economic opportunity and growth for not only the people directly affected, but for the region as a whole.

### According to survey data:

- On average, undocumented workers made \$2 less per hour than workers with legal status;
- Workers surveyed for the report, 95% of whom are people of color, made almost \$8 less per hour than the average wage in the industry that was captured by the U.S. census;
- 20.2% reported that they have been discriminated against at their current job:
  - 11.3% say it was based on race/ethnicity;
  - 4.7% say it was based being an immigrant;
  - 4.7% say it was based on being undocumented;
  - 3.8% say it was for speaking out about workplace issues.

### As a result of the discrimination:

- 9.4% report not being promoted;
- 7.5% report verbal abuse;
- 6.6% say their pay was lower than others;
- 6.6% report being given less hours;
- 5.7% report being given harder, dirtier, or more dangerous work;
- 3.8% report being “disciplined.”

### According to Census data, workers of color make dramatically less than white workers

Table 5: Average hourly wage (long-time employees) <sup>27</sup>		Table 6: Average hourly wage (new employees) <sup>28</sup>	
Asian	\$9.88	Asian	\$7.25
Black or African American	\$11.78	Black or African American	\$7.95
Hispanic	\$11.45	Hispanic	\$8.17
White	\$20.23	White	\$10.20
Survey Respondents	\$10.48		



## 6. DESPITE THEIR GROWING PRESENCE IN THE SECTOR, FEMALE WORKERS ARE UNDERREPRESENTED, ARE PAID LESS, HOLD LESS POWER, AND EXPERIENCE HIGHER JOB INSTABILITY COMPARED TO MEN.

Women in the industry make 60 cents on the dollar compared to men. They are given the lowest-paid, most tedious jobs, and are treated as expendable. Highly qualified women report being passed over for promotions by less qualified male workers.

### According to survey respondents:

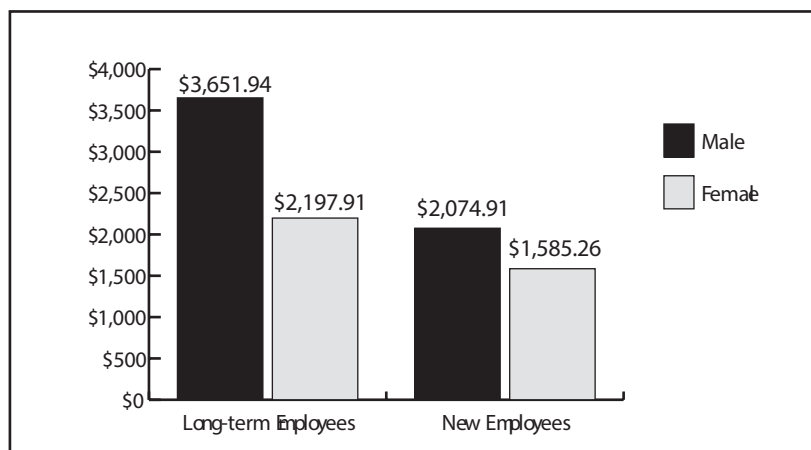
- 11% of survey respondents were women.
- The average hourly wage for women is almost \$2 less than the average hourly wage for men.
- 27% of females report facing discrimination compared to 20% of males.



### According to Census data in 2010<sup>29</sup>:

- 46% of newly created jobs in food manufacturing went to women.
- Only 38% of food manufacturing workers are women, compared to 50% of the NYC workforce.
- 43% of separations (fired, quit or resigned) were women, while they comprise only 38% of the food manufacturing workforce.

Figure 3: Average Earnings by Gender (Census data)



## **A worker describes a clear instance of gender discrimination in a promotion decision made by her employer:**

*“At the company where I work, a young man arrived to work a little while back, and now he is already a manager in spite of the fact that there’s another coworker, a woman, who had more experience, more knowledge, and everything. She was not valued. It’s terrible. She had been there for 12 years, and this particular male didn’t even have any background in what he’s doing, and he’s been on the job for barely 2 years. This is very unjust in my opinion... And it’s not that she didn’t know how to do her job. Through first-hand experience, she knows a lot. It’s not right that in such a short amount of time he was made a supervisor or manager.”- Esmeralda*

## **7. DESPITE THESE CONDITIONS, WORKERS FACE GREAT DIFFICULTIES JOINING A UNION TO NEGOTIATE FOR BETTER STANDARDS, AND WORKERS THAT DO STAND UP FOR THEIR RIGHTS OFTEN EXPERIENCE RETALIATION FROM THEIR EMPLOYERS.**

History has shown that worker organizing is a key strategy for improving pay and working conditions. The National Labor Relations Act of 1935 prohibits retaliation by management against workers who exercise their free association rights. However, because of weak remedies and a protracted legal process, employers often resort to retaliation and treat penalties as a cost of doing business.

### **Survey data:**

- 62.1% report their workplace does not have a union;
- 70.9% would join a union if they were free to do so (21.4% aren’t sure);
- 9.2% are aware of an instance in which workers were subject to retaliation for unionizing;
- 3.8% say they have been discriminated against for speaking out about workplace issues.

### **Census data:**

- Food manufacturing unionization rate: 8.9%<sup>30</sup>



## Workers describe retaliation from their employers when they try to unionize:

*“When the boss saw that we were trying to organize ourselves, he would start to fire people, began to give them more work, perhaps beginning to discount more from the tickets...he deducted the money from our week to pay the tickets that they gave us during our work day. Which was his duty but did not want to do it and what he did was discount it from us. So he would then more seriously begin to collect the amount of the tickets and that was one of the things he did as retaliation against workers.” — Mario*

*“I think that yes, there was retaliation against everyone. For example, when we were organizing, the people that they viewed as leaders — like the people who most supported bringing in the union — well, they were fired, so those were the consequences they had to face for trying to assert their rights.” — Miguel*

*“My job does not have a union. I don’t think there’s been an attempt to form a union. Perhaps if there was opportunity, we could have one. But we would have to overcome a lot of fear. Some people just want to make do with what they have, and are afraid of going beyond that. And for some, they feel vulnerable because of their immigration status.” — Beatriz*

## The Distribution Arm of NYC's Industrial Food Sector: Hunts Point Case Study

Alongside food manufacturing, distribution plays a critical role in New York City's industrial food sector. The Hunts Point Food Distribution Center is the largest of its kind in the world.<sup>31</sup> Occupying 329 acres in the South Bronx, the distribution center generates more than \$3 billion in sales every year, directly employs approximately 6,000 people, and has over 155 wholesalers and three major markets: the Terminal Produce Market, the Cooperative Meat Market, and the New Fulton Fish Market.<sup>32</sup> This massive operation plays an important role in the food industry of New York City. While national chain supermarkets have their own distribution centers, the small businesses and bodegas that form a distinctive part of New York City's food landscape rely heavily on Hunts Point for buying goods wholesale.<sup>33</sup> The Terminal Produce Market alone accounts for approximately 60% of the annual produce sales in New York City.<sup>34</sup>

Although Hunts Point occupies an important place in New York's food industry, there have been recent challenges, including issues with lease agreements, the Business Integrity Commission, and workers' contracts. In January 2012, Teamsters local 202 union, which has 1,200 members, threatened a strike for the first time in 25 years.<sup>35</sup> These workers make \$35,000 - \$45,000 per year and were offered an increase of only 14 cents per hour after a two-year wage freeze.<sup>36</sup> A strike at the Terminal Produce Market would have had a serious effect upon the city. As one newspaper article put it, "If they don't [reach an agreement], this whole city will suddenly start paying a lot more attention to fruits and vegetables."<sup>37</sup> Although a strike was threatened, it did not occur because an agreement was eventually reached.<sup>38</sup>

In addition to the threatened strike, unions also came to the forefront at Hunts Point in 2008 when the Teamsters tried to organize workers at Baldor Specialty Foods, a company that has operations at the Hunts Point Food Distribution Center. In the run-up to the vote, Baldor had meetings to sway employees. As one employee states, "They have these meetings to say 'no union, no union, no union.' They treat you like you had no intelligence. Then they spread rumors that if the union wins, the company will be sold."<sup>39</sup> The vote for the union showed that this "harsh, anti-union campaign" was successful in the end—only 55 out of more than 150 employees voted to join the union.<sup>40</sup>

The Center's three largest unions are Teamsters Local 202, UFCW Locals 342 and 359. Altogether, the three unions represent 12,974 workers, most of them employed in distribution. Union membership in these locals decreased over 9% from 2003 – 2011. It is likely that the high unionization rate at Hunts Point is attributable to its unique history and that the market operates in a City-owned facility. While these locals represent many workers in the Hunts Point Distribution Center, it is clear that union density is decreasing while the food manufacturing and distribution industry is growing.



## REGULATION AND OVERSIGHT FOR FOOD MANUFACTURING IN NEW YORK

The Department of Agriculture and Markets regulates food manufacturing in New York State. The Department of Labor oversees labor standards for all industries, including food manufacturing, processing, and distribution. While the state does not currently have extensive regulations specifically concerning labor practices in the food manufacturing industry, the potential exists for various government actors to improve standards and policies for workers in this sector. The following entities could play a crucial role in improving standards for these workers.



**The New York State Department of Agriculture and Markets** has primary responsibility in the state for licensing food processing establishments.<sup>41</sup> These establishments are defined broadly as “any place, which receives food or food products for the purpose of processing or otherwise adding to the value of the product for commercial sale.”<sup>42</sup> The goal of the licensing regime is essentially one of consumer protection: to ensure that food is manufactured and processed safely and does not become contaminated or adulterated. The Commissioner of Agriculture and Markets must license establishments biannually.<sup>43</sup> The current Commissioner is Darrel Aubertine, who was appointed by Governor Andrew M. Cuomo in January 2011. Commissioner Aubertine previously served as an Assemblyman and State Senator from the Oswego area.<sup>44</sup>

**The Division of Food Safety and Inspections (DFSI)**, within the Department of Agriculture and Markets, handle the licensing process for food manufacturers and processors.<sup>45</sup> DFSI has over 200 employees and has the authority to undertake unannounced inspections to ensure that food manufacturers and processors comply with applicable laws and regulations.<sup>46</sup> To punish violations, DFSI can assess penalties, order recalls of contaminated products, close establishments following court order, or permanently revoke a license.<sup>47</sup>

**The New York State Department of Labor (DOL)** enforces the state labor laws regarding minimum wage, hours of work and overtime, and child labor in all employment sectors. The DOL also enforces specific regulations for migrant farm labor and the garment industry.<sup>48</sup> With some minor exceptions, no such special regulations exist for food manufacturing and processing; however, the garment industry and farm labor frameworks could provide models for new legislation on labor standards in the food manufacturing and processing industry.

## Amy's Bread: The Truth Behind the Community-Friendly Brand

As this report has shown, serious workplace challenges are the norm, not the exception, for workers in NYC's food processing and distribution industry—even at some of the most widely recognized and publicly lauded local brands. According to Dorian Warren, a political science professor at Columbia University and an expert on new models of low-wage worker organizing, “Immigrant and low-income workers produce much of the high-end food that is sold in New York's most exclusive restaurants. While New York City's food manufacturing industry continues to grow, the quality of jobs is not keeping pace.”



The experience of the workers at Amy's Bread is a good example of a prestigious NYC food manufacturer missing an opportunity to provide good jobs to its employees. Founded in 1992, Amy's Bread recently expanded into a 33,000 square-foot baking facility in Long Island City, Queens to keep up with fast growing wholesale demand. The company, routinely ranked as one of the top bakeries in the country, is an integral supplier to many of New York City's most prominent chefs and gourmet grocery stores. It also operates three profitable retail outlets in Manhattan. Amy's Bread has rocketed to success with a community-friendly brand and a highly skilled group of bakery workers. The bakery's workers represent a diverse cross-section of low-income New Yorkers, including Latino, Asian, and African immigrants, as well as African-American and white workers.

In contrast to the company's carefully cultivated brand image of employer responsibility, many workers at Amy's Bread struggle to afford basic necessities, including rent, utilities, and food for their own families' tables. The company's health plan is far too expensive for workers to afford, leaving many uninsured or reliant on public assistance. Many workers report being treated with disrespect and threatened with losing work days if they speak up.

The workers at Amy's Bread decided to do something to improve their jobs and their lives. With the support of Brandworkers, they have built their own campaign for workplace justice. The workers went through months of intensive training that included hands-on learning and a classroom-based leadership development program. Using this worker led-and-operated model, the employees launched their campaign in November 2013 by requesting a respectful dialogue with company management about improving Amy's Bread. As of this writing, the company has refused to come to the table and instead has launched a campaign in opposition to the organizing workers. Workers continue to press forward supported by a growing number of concerned New Yorkers.

Ana Maria Rico, a maintenance worker at the plant and a member of Brandworkers, puts the issue succinctly: “Amy's Bread has a great story and it's time for the company to make that story real for workers and consumers concerned with a responsible food system.”

## POLICY RECOMMENDATIONS



A compelling opportunity exists to create a sustainable food processing and distribution industry that provides both fresher food and better jobs for the New York City region. However, food manufacturers and distributors, institutional buyers, consumers, and government policy-makers must work together to end wage theft, discrimination, and violations of health and safety laws. Only after we end these unlawful business practices will our region's food system be able to provide quality jobs for workers, a fair competitive marketplace for business, grow the economy, and provide healthy, fresher, environmentally friendly food for us all.

### Government

Government agencies have two major avenues to help deliver on the promise of a sustainable local food processing and distribution industry. First, government must enforce existing workplace laws to crack down on unlawful operators. Even the best laws are meaningless unless they're enforced; therefore, we need to see more resources allocated to enforcing labor law.

Second, government can utilize economic development policies that promote workplace health and safety, workers rights, and protect and strengthen workers. Including transparency, public oversight, and wage and safety standards into economic development efforts is especially important.

**Increase Resources:** There are many federal laws and corresponding agencies to protect the interests of workers. Ideally, the state and federal departments of labor address issues of unpaid wages and illegal payment schemes. OSHA investigates companies for violations of employee health and safety laws. The Equal Employment Opportunity Commission oversees cases of discrimination. The National Labor Relations Board (NLRB) enforces federal labor law to protect the rights of workers to collectively address issues of common concern. However, all of these agencies have been starved of resources and cannot challenge illegal business practices in an effective and systematic way.

**Prevent Retaliation:** Stopping retaliation against workplace organizing is crucial. From deep experience, Brandworkers knows that workers themselves are in the best position to both stop abusive labor practices and assert stringent quality control for their fellow consumers. But businesses have been able to fire worker leaders with near impunity; undocumented immigrants are particularly

at risk. The National Labor Relations Board should take swift and vigorous action against retaliation regardless of immigration status and strive to use its full array of remedies whenever possible.

**Government Procurement:** New York City became the second government food procurer to provide guidelines for buying local food. While this is a positive step towards growing the local economy, government agencies can do more by applying labor standards to food purchasing. Federal, state, and local governments can ensure that their suppliers are paying workers according to the law, complying with health and safety protections, providing equal opportunities, and respecting their employees' right to organize for better working conditions.

**Do not exclude:** While there are increasing legislative efforts to improve the lives of workers, food manufacturing workers are often excluded from these laws. New York City's Living Wage Act, and the prior Paid Sick Days Bill, are two examples of legislative efforts that exempted manufacturing workers from coverage. In a win for workers and consumers, in 2014 the New York City Council extended the Paid Sick Days Bill to manufacturing workers, including those who produce our food. The workers that help New Yorkers survive and thrive should enjoy the same protections as other workers.

**Promote economic development that produces good jobs and good food in tandem:** New York has several programs intended to stimulate economic growth. These programs must require the enforcement of labor laws, require that employers pay a living wage, and incorporate rigorous standards of transparency and community involvement in decision-making. For example, the NYC Economic Development Corporation (NYCEDC) has taken an interest in the local food manufacturing industry. Partnering with Goldman Sachs and the New York Business Development Corporation, the NYCEDC launched the NYC Food Manufacturers Growth Fund, which is set up to loan public tax dollars to local food manufacturers. In the interest of growing NYC's economy and ensuring that taxpayer money is spent wisely, NYCEDC and its partners should adopt a transparent process of loaning out money so that workers have an opportunity to highlight a potential recipient that is operating unlawfully. To give taxpayers confidence that their money is being used to grow the economy and not drag down their quality of life, the NYCEDC should disclose information about loan recipients so that the public can assess their investment.

## Businesses

Food processing and distribution companies can improve their industry by complying with the law and by creating common sense internal policies that protect their employees and public health. This would turn around the local food system. Instead of fly-by-night companies racing to the bottom by hiding and deflecting responsibility for illegal conduct, the food economy would grow in ways that truly sustain and nourish our region.

**Follow the law:** Food processing and distribution companies must strictly comply with all workplace regulations, including full payment of wages and following overtime rules, equal opportunity laws, and health and safety codes. When employers shirk laws, they put their workers, consumers, and the community's health, safety, and economic well being at risk.

**A full, dignified life for workers:** Employers must provide jobs that allow workers to live on the wages they earn, retire with meaningful benefits, take vacations, enjoy holidays, and perform their work in a respectful environment. This will positively grow the local economy to benefit all New Yorkers.

**Equality for women:** Women face barriers to working and advancing themselves in the food processing and distribution industry. Many of the lowest paid and grueling jobs are assigned to women,



while higher paid jobs are exclusively assigned to men. Employers must comply with equal opportunity laws, crack down on sexual harassment, and pay women equally to their male counterparts. While there has been some positive growth in opportunity for women in the larger economy, there has been little to none in the food processing and distribution industry. This must change.

**Racial equality:** Employers must end the extreme pay discrepancy between workers of color and white workers. Workers of color must be offered equal opportunity for hiring and advancement. Employers must not engage in abusive behavior directed at workers of color.

**The right to organize:** Workers have the right under domestic and international law to freely associate, to work together to address issues of common concern and improve their workplace. More than 70% of workers in the food processing and distribution industry are immigrants. Employers must not retaliate against collective worker action regardless of immigration status.

## Workers and Consumers

History has shown that workers uniting their interests as workers and as consumers can be a powerful force for social change. Since everybody must eat, the food industry is an extraordinarily rich field to promote social equality and make widespread improvement in the quality of life.

**Community and Labor Partnerships:** Workers in the food processing and distribution industry can organize with their co-workers and communities to improve their workplace and end wage theft, discrimination, and health and safety violations. Workers have a right to work together on issues of common concern and have the opportunity to make positive changes in their industry without waiting for action from outside actors.

**Labor Solidarity:** The struggles of food industry workers are significant to workers outside the food system. When food industry workers take action to win paid sick days, it protects the health and well being of everybody.

**Buy union, buy local:** All workers and consumers can use their influence over the institutions they associate with to support high quality food jobs by demanding purchasing standards that prefer local, union-made food. From restaurants to grocery stores, churches to hospitals, governments to schools, and community organizations to charities, workers and consumers can collectively put pressure on unlawful and abusive employers.

## Private institutional buyers

Private institutional buyers, such as restaurants, grocery stores, caterers, and hospitals, are the major customers of food processing and distribution companies. High volume buyers have tremendous influence to direct how their supply chain operates. The public is increasingly concerned about how their food is created and how workers are treated. Institutional buyers can distinguish themselves from competitors by establishing supply chain standards that include labor standards as well as local sourcing, public health, and environmental standards. This will expand their market, give them a competitive edge, and add luster to their brand image.

**Supply Chain Standards:** When food buyers purchase products, they are engaging with a supply chain that includes distributors, processing plants, and farms. Institutional buyers can further their commitment to New York's local food system by having standards for their supply chain. These standards should insure that their suppliers are paying workers a living wage, complying with health and safety protections, providing equal opportunities, and respecting their employees' right to organize for better working conditions.

**Disclosure:** Institutional buyers should require disclosure of a vendor's supply chain all the way down to the farm. Buyers should make supply chain information such as company names, wage rates, location, safety and environmental practices accessible to consumers. This is an important way to ensure that consumers and workers' rights groups can hold vendors accountable to the standards required by the buyers.

**Buy Union, Buy Local, part 2:** Institutional buyers should emphasize buying food products that are produced locally and are union-made. By selecting local food products, private buyers will increase their contribution to growing NYC's economy and reduce the impact on the environment. By demanding union-made food, institutional buyers encourage a food processing and distribution industry that respects workers' rights and provides an avenue for workers to give input into how their workplace is run.

**Talk to Brandworkers:** Institutional buyers can take advantage of the opportunity to consult with Brandworkers. Since the members at Brandworkers work directly in the food processing and distribution industry, Brandworkers and other civil society groups have a unique perspective of local suppliers. Members of Brandworkers can provide timely and accurate information about a company's business practices to help buyers avoid problematic suppliers that could compromise their customers' health and their brand image. Brandworkers is committed to ensuring that companies fostering a sustainable food system are rewarded by consumers in the increasingly crowded food marketplace.

## CALL TO ACTION

As this report documents, even as they produce and distribute our food, the thousands of workers who are employed in the food processing and distribution industry are frequently denied basic worker rights and must contend with health and safety hazards that compromise workers' health and the health of consumers. This sector of workers include many recent immigrants, predominately from Latin America and China, as well as the native-born, especially African-Americans. Racial and gender discrimination are systematic problems in the industry.

This systematic discrimination and flouting of the law contradicts the growing desire for access to fresh, local food that respects the environment and the rights of workers along the food chain. The policy provisions at the level of government, business, and household to bring about lasting sustainable change are fair, sensible, inexpensive, and easy to implement.

Indeed, innovative worker organizing accompanied by thorough and lively public education is the key to creating a vibrant local food economy that provides good jobs and good food to all New York City communities, from the center of Manhattan to the edges of the other boroughs. While government has an important role, ultimately it will be united and empowered workers and communities who will transform the food system.



# APPENDIX

## Census Methods

For the census analysis, researchers looked at data available from the Census Bureau, the New York State Department of Labor, and the Occupational Safety and Health Administration for food manufacturing as defined by the North American Industry Classification System (NAICS) code 311. NAICS defines food manufacturing as businesses that “transform livestock and agricultural products into products for intermediate or final consumption,” and includes subsectors such as meat product manufacturing, bakeries, and tortilla factories.<sup>49</sup> This analysis includes employees who work in manufacturing plants and truck drivers who work for companies that primarily manufacture food. Our analysis leaves out many other truck drivers who work for distribution companies, even if a company primarily or only transports food.

Researchers relied on County Business Patterns for basic establishment data since it is the most up-to-date data available (2009), even though it is based on aggregates of other government and tax data. More in-depth establishment data comes from the 2007 Economic Census, which surveys the full population and doesn’t rely on administrative data. For both products, the Census Bureau defines “establishments” as “a single physical location where business is conducted or where services are performed,” so each chain of a chain store is counted as a separate “establishment.”<sup>50</sup>

Demographics of workers for the entire food manufacturing industry were calculated citywide based on the Quarterly Workforce Indicators for each county in New York City. For each county, researchers took the aggregate of four fiscal quarters ending with 2010 Quarter 3. At various places throughout the report, census data between all workers and frontline workers in the food manufacturing industry are compared. Frontline worker data are from the American Community Survey and include demographic and wage data for specific frontline occupations within the food manufacturing and distribution industries. Examples of some of the occupations included in these data are bakers, butchers, food cooking machine operators, packers and packagers, and driver/sales workers.

Occupational Safety and Health Administration data was collected from the Manhattan and Long Island Offices or for the entire New York State. When possible, we isolated just New York City data from the New York State Department of Labor data.

## Limitations of Government Data

Although it is the best comparison we have to track large food manufacturing trends, for a number of reasons government data fails to provide a complete picture of the industry’s economic impact, workers, and working conditions. Most government data is administrative data, like tax forms, from which information about companies and industries is gleaned. Companies self-report this data, so they tend to grossly undercount some data (like injuries and illnesses) and exclude the undocumented population. Furthermore, the food manufacturing industry, even by census data, has a high representation by communities of color, which census data historically undercounts in most of its surveys due to a lack of outreach and follow-up. Additionally, for confidentiality reasons, sometimes establishment data is suppressed, giving only a range of possible variables.<sup>51</sup> Thus, we were unable to use some of these estimates in our analysis, producing an undercount of the real number of census identified establishments and workers. Finally, some census surveys exclude non-employers (small business owners that do not employ anyone), representing a further undercount of the total real number of establishments and total employment.



## Data on the Food Manufacturing Industry in NYC

**Table 9: Economic Impact of Food Manufacturing Industry in NYC<sup>52</sup>**

Economic impact of Manufacturing in New York City	Total Manufacturing	Food manufacturing
Annual Payroll	\$3,818,367,000	\$442,210,000
Value Added	\$10,531,423,000	\$1,331,027,000
Total Value of Shipments	\$20,411,572,000	\$2,732,952,000
Total capital expenditures (new and used)	\$615,299,000	\$102,648,000
Avg hours worked by employees	36.54 hrs/week	35.93 hrs/week

**Table 10: Most Prevalent Types of Food Manufacturing Establishments<sup>53</sup>**

NAICS Code	NAICS Industry	Number of Establishments	Number of Employees	Annual Payroll
311*	Food manufacturing	895	14250	442210
3113	Sugar and confectionery product manufacturing	30	500 - 999	
31133	Confectionery manufacturing from purchased chocolate	20	684	18080
311330	Confectionery manufacturing from purchased chocolate	20	684	18080
3114	Fruit and vegetable preserving and specialty food manufacturing	23	665	23604
3116	Animal slaughtering and processing	48	1283	41411
31161	Animal slaughtering and processing	48	1283	41411
311612	Meat processed from carcasses	32	899	31541
3118	Bakeries and tortilla manufacturing	645	7253	182500
31181	Bread and bakery product manufacturing	607	6451	151498
311811	Retail bakeries	435	2500 - 4999	56319
311812	Commercial bakeries	166	3399	92722
31182	Cookie, cracker, and pasta manufacturing	35	500 - 999	
311821	Cookie and cracker manufacturing	22	500 - 999	28156
3119	Other food manufacturing	102	3560	134835
31199	All other food manufacturing	58	2417	78679
311991	Perishable prepared food manufacturing	29	1584	50601
311999	All other miscellaneous food manufacturing	29	833	28078

\* The 311 food manufacturing NAICS code, does NOT include beverage manufacturing (NAICS code 312), which includes the manufacturing of soft drinks, bottled water, breweries, wineries or distilleries. It also does not include tobacco manufacturing (NAICS code 313).

**Table 11: Job titles in Food Manufacturing Sector**

Occupational Title	Percent of NYS Food Manufacturing Industry
Bakers	9%
Packaging and Filling Machine Operators and Tenders	8%
Food Batchmakers	7%
Packers and Packagers, Hand	6%
Counter Attendants, Cafeteria, Food Concession, and Coffee Shop	4%
First-Line Supervisors of Production and Operating Workers	4%
Mixing and Blending Machine Setters, Operators, and Tenders	3%
Helpers--Production Workers	2%
Industrial Truck and Tractor Operators	2%
Janitors and Cleaners, Except Maids and Housekeeping Cleaners	2%
General and Operations Managers	2%
Laborers and Freight, Stock, and Material Movers, Hand	2%
Food Cooking Machine Operators and Tenders	2%

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- <sup>40</sup> Egbert, Bill. "Baldor Specialty Foods truckers vote against joining teamsters union." New York Daily News, June 9, 2008. <http://www.nydailynews.com/new-york/bronx/baldor-specialty-foods-truckers-vote-joining-teamsters-union-article-1.292966>
- <sup>41</sup> See N.Y. AGRIC. & MKTS. LAW, Article 20-C. The Department also deals, obviously, with agriculture in the state, promotes New York food products, handles kosher certification, provides for licensing dogs and other pets, and even regulates gas stations. See, e.g., "Judges Affirm Indirect Funding of Private Business by State Taxes," N.Y.L.J. (Nov. 11, 2011) (describing distribution of money to Department of Agriculture and Markets for promotion of New York apples and wine).
- <sup>42</sup> N.Y. AGRIC. & MKTS. LAW § 251-z-2. The section specifies that food processing establishments include, but are not limited to, "bakeries, processing plants, beverage plants and food manufactories. However, the term does not include: those establishments that process and manufacture food or food products that are sold exclusively at retail for consumption on the premises; those operations which cut meat and sell such meat at retail on the premises; bottled and bulk water facilities; those food processing establishments which are covered by articles four, four-a, five-a, five-b, five-c, five-d, seventeen-b, nineteen, twenty-b, and twenty-one of this chapter; service food establishments, including vending machine commissaries, under permit and inspection by the state department of health or by a local health agency which maintains a program certified and approved by the state commissioner of health; establishments under federal meat, poultry or egg product inspection; or establishments engaged solely in the harvesting, storage, or distribution of one or more raw agricultural commodities which are ordinarily cleaned, prepared, treated or otherwise processed before being marketed to the consuming public."
- <sup>43</sup> N.Y. AGRIC. & MKTS. LAW § 251-z-3 provides the basic licensing requirements. An applicant must "furnish evidence of his or her good character, experience and competency, that the establishment has adequate facilities and equipment for the business to be conducted, that the establishment is such that the cleanliness of the premises can be maintained, that the product produced therein will not become adulterated [ . . . ] The commissioner, if so satisfied, shall issue to the applicant, upon payment of the license fee of four hundred dollars, a license to operate the food processing establishment described in the application. However, the license fee shall be nine hundred dollars for a food processing establishment determined by the commissioner, pursuant to duly promulgated regulations, to require more intensive regulatory oversight due to the volume of the products produced, the potentially hazardous nature of the product produced or the multiple number of processing operations conducted in the establishment." *Id.*
- <sup>44</sup> See, e.g., Brian Amaral, *Commissioner Aubertine*, WATERTOWN DAILY TIMES, Jan. 6, 2011, available at <http://www.watertowndailytimes.com/article/20110106/NEWS09/110109898> (describing support for Aubertine's appointment from Cornell University, the North Country Chamber of Commerce, and the New York Farm Bureau).
- <sup>45</sup> See <http://www.agriculture.ny.gov/FS/general/foodprep.html> (describing the regulated processes); <http://www.agriculture.ny.gov/FS/license/pdfs/FSI-303.PDF> (application for license).
- <sup>46</sup> N.Y. AGRIC. & MKTS. LAW § 251-z-8. The statute provides that "[t]he commissioner and his duly authorized representatives in the performance of his licensing and inspection duties under this article shall have access to and may enter at all reasonable hours all places where food or food products are being manufactured, packaged, processed or stored, or where food or food products are being bought, sold or handled." This gives the Commissioner power to inspect establishments to ensure compliance with Article 20-C and with the regulations promulgated under the Article's authority at 1 NYCRR § 276.1 *et seq.* The applicable regulations specify record-keeping and package coding requirements and, more generally, hold processors to the "good manufacturing practices" pertaining to food sanitation set out at 1 NYCRR § 261 *et seq.*
- <sup>47</sup> N.Y. AGRIC. & MKTS. LAW § 251-z-5, 251-z-8, 251-z-10, 251-z-11 (providing for inspection, penalty, and other remedy powers); "Department of Agriculture and Markets: Enforcement," <http://www.agriculture.ny.gov/FS/enforce.html>.
- <sup>48</sup> "Department of Labor: About Us," <http://labor.ny.gov/about/index.shtm>.
- <sup>49</sup> "North American Industry Classification System." The United States Census Bureau. <http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=311&search=2012%20NAICS%20Search>
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**For More Information, Please Contact:**

**Brandworkers**  
**45-02 23rd Street, 2nd Floor**  
**Long Island City, NY 11101**

**(646) 568-5870**

**[www.brandworkers.org](http://www.brandworkers.org)**