

THE COSTS OF *NONPAYMENT*

A STUDY OF NONPAYMENT AND LATE PAYMENT
IN THE FREELANCE WORKFORCE



THERE ARE NEARLY

54 MILLION

FREELANCERS IN AMERICA

These independent workers make up a full third of the country's workforce, but as companies increasingly rely on short-term, specialized workers to fill their needs, employment laws have not kept pace with the changing economy. At alarmingly high rates, freelance workers today struggle to collect payment for their work. Because they lack the same protections as traditional employees, they have little recourse to collect late and unpaid payments. These instances of nonpayment have a severe impact on a freelancer's livelihood.

Based on a national survey of over five thousand workers, this new report from the Freelancers Union finds that late and nonpayment is one of the top challenges facing the independent workforce today. One in every two freelancers had trouble getting paid in 2014, and 71% cite trouble collecting payment at some point in their career. An overwhelming 81% of those who had payment trouble in 2014 said they were paid late; 34% cited instances of not being paid at all. These issues significantly affect a freelancer's bottom line: freelancers lost an average of \$5,968 in unpaid income in 2014, detracting 13% of the average respondent's annual income. Late payments averaged \$5,735 in the same time period. When asked what was the longest they had to wait to get paid, the average respondent said 98 days—over three months.

This report finds that late and nonpayment occurs at high rates across all industries and types of work. Furthermore, it shows that freelancers have few ways to collect when nonpayment occurs: labor laws do not protect their payment practices and legal action can be costly and prohibitive. As a result, repeated phone calls and written requests are often a freelancer's only recourse, which can consume significant time and have limited efficacy. Meanwhile, late and nonpayment has significant lifestyle impacts on freelancers, often forcing them to dip into savings and credit card debt.

Our recommendations offer solutions to the widespread problem of late and nonpayment. In particular, in light of the finding that only 28% of freelancers regularly work under written contract, key recommendations include establishing contract standards and prohibiting unlawful payment practices. Guiding these recommendations is the acknowledgement that late and nonpayment affects not only freelancers, but the broader economy as well.

This survey was conducted by Freelancers Union, which surveyed 5,358 freelancers across the nation (both members and nonmembers of the Freelancers Union) between July 7, 2015 and July 31, 2015.

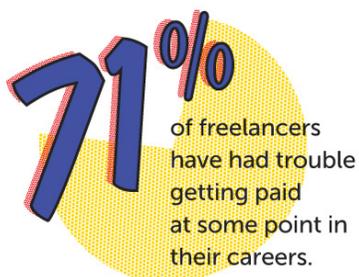
THE COSTS OF NONPAYMENT: THE PRIMARY FINDINGS

Late payment and nonpayment affects freelancers at alarmingly high rates: **half of freelancers had trouble getting paid last year.**

50% OF FREELANCERS REPORTED TROUBLE COLLECTING PAYMENT IN 2014.

With 54 million Americans working freelance—one-third of the U.S. workforce this suggests that last year alone, millions of freelancers encountered trouble getting paid.

Late and nonpayment is a longstanding problem: 71% of respondents say they had trouble getting paid at some point in their career.



THE INCIDENCE OF LATE PAYMENT IS EXTREMELY HIGH—AND NONPAYMENT IS COMMON TOO.

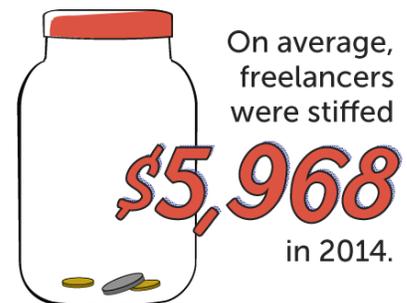
Among respondents who had trouble getting paid last year, 81% were paid late, and 34% were not paid at all for some portion of their work.

In fact, when asked “what is the longest you had to wait to get paid?” the average response was 98 days.

Payment issues come in many forms: nearly a quarter (24%) reported instances of being paid less than the agreed-upon amount in 2014, and 11% of those who had trouble getting paid accepted less money just to be paid on time.

LATE OR NONPAYMENT TAKES A HUGE TOLL ON A FREELANCER’S INCOME.

When clients fail to pay, it puts a real dent in a freelancer’s annual income. The average amount of unpaid income reported in 2014 was \$5,968. For the average respondent, that means nonpayment took away 13% of his or her income. Late payments (as opposed to unpaid payments) averaged \$5,735 in 2014.



WHEN DENIED INCOME, FREELANCERS STRUGGLE TO GET BY.

When clients do not pay, the results can be catastrophic. In addition to taking up working hours to chase down unpaid income, nonpayment can put freelancers at risk of personal bankruptcy and debt.

Payment troubles directly impact how a freelancer pays bills and covers expenses. When asked about how they got by in the face of missing payments, here's what respondents said:

- 63% used personal savings
- 44% used credit cards
- 37% paid some of their expenses late
- 25% borrowed money from a friend
- 17% didn't pay some of their expenses
- 17% took a job outside of their field
- 7% received government assistance
- 7% sold a car or other item

Freelancers already contend with episodic income, saving for retirement and paying off debt; nonpayment makes this challenge even worse. Among respondents who weren't paid at some point last year, 59% say freelancing is their primary source of income—suggesting they may not have other revenue to fall back on when a client fails to pay.

THE ECONOMY SUFFERS, TOO, WHEN FREELANCERS STRUGGLE TO GET PAID.

"I lost my house due to not getting paid back in 2010.

Two clients, approximately \$6,000 total. I learned the hard way it's best to demand partial payment along the way."

Sonya W, Web Design & Development
Texas

"A magazine I wrote for several years ago owed me almost \$5,000. After months of putting me off, they declared bankruptcy and I never saw a cent. My total income that year ended up being only \$15,000, so needless to say that money would've really helped. It started a cycle of going into debt for basic living expenses that took several years to recover from."

Wendy C, Writer *
Austin, Texas

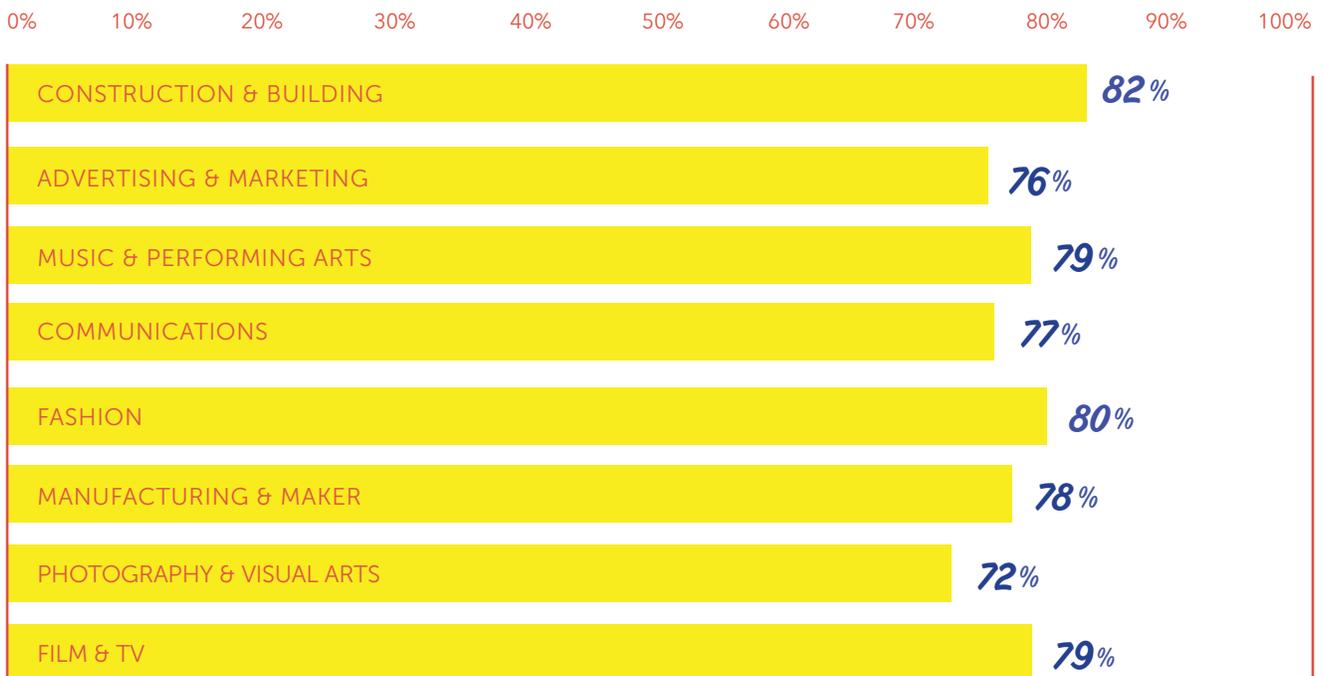
*Name has been changed

There are broad implications to the economy when freelancers are paid late or not at all. City, state, and federal governments lose not only personal income tax, but also income that would inevitably be produced as these workers purchase more goods and services in their communities and beyond.

WHO ARE THE OFFENDERS? *WHO IS NOT GETTING PAID?*

NONPAYMENT HAPPENS ACROSS ALL INDUSTRIES AND TYPES OF WORK.

Late and unpaid income are prevalent throughout the freelance workforce. However, nonpayment is especially common in certain industries. Here are the rates at which freelancers reported trouble getting paid at some point in their careers, by industry:



*of freelancers reported trouble getting paid at some point in their careers

Furthermore, clients and businesses of all sizes are responsible for these delays and denials of payment.

- 43% of respondents had trouble collecting payment from microbusinesses (1-5 employees)
- 40% had trouble collecting payment from small businesses (5-49 employees)
- 36% had trouble collecting payment from medium (50-149 employees) and large (150+ employees) businesses

WHY IS THIS HAPPENING?

Why are the rates so high? The reasons vary—from short, contract-free engagements to cumbersome payment processes to downright neglect. Regardless, the fact is that companies increasingly rely on freelance workers without having to adhere to the same payment standards as enjoyed by traditional employees.

In this respect, the report revealed a glaring vulnerability:

- Most freelance engagements aren't protected by clear, written contracts.
- Only about one-quarter of freelancers (28%) say they always use a contract
- 33% say they always put the terms of agreement in an email
- 42% always use a verbal agreement
- 21% of freelancers have worked with clients who have refused to sign a contract

"I spent so much time trying to dig up how to get a lawyer and how to deal with the small claims court without it costing me a fortune. This would have cost me a 16 hour drive round trip, a hotel, additional court fees (beyond the fees I had already paid my local court to no avail), and three days worth of billable time where I wouldn't be able to get work done. **I can't afford to do all that for \$800 - when at this point, I've spent over \$500 and lost plenty of billable hours chasing them in futility.**"

Kacie L, Graphic Designer
Washington

For most traditional full-time employees, unpaid income complaints are handled by their state's department of labor. Freelancers, however, have little recourse and few resources when clients refuse to pay. Without the weight of labor laws behind them, they are often forced to resort to ineffective collection methods, such as repeated phone calls and written letters.

We asked freelancers facing nonpayment what they tried to do to collect their money:

- 92% made repeated phone calls to try to recover the money
- 20% charged late payment fees
- 7% posted negative public feedback online about client
- 5% hired an attorney to pursue invoices
- 5% went to small claims court

The methods for collecting unpaid income are limited for freelancers. Hiring an attorney or going to small claims court may induce a client to pay, but this takes time and money and may still not be effective. At the same time, some freelancers may decide not to aggressively pursue lost income out of concern for future business: their reputation, reviews and relationships are critical for engaging potential clients. Given these barriers, as indicated in the findings above, independent workers rarely turn to legal means to obtain their owed income.

Unfortunately, when repeated emails and calls do not work, and an attorney is too expensive or not worth the trouble, many freelancers find themselves left to simply write off their unpaid work as a loss. Given the limited tools at their disposal, it is no wonder that so many independent workers suffer from client nonpayment.

Freelancers need protection against late and unpaid income. With one-third of the workforce operating on a freelance basis, too many workers and incomes are on the line to let them go unprotected. But there are simple solutions to ensure independent workers collect the income they deserve.

“It’s very common for freelancers in creative industries not to get a formal written contract because of the quick turnaround times. ...there is an increasing number of clients who take advantage of this fact, and **nonpayment has become much more prevalent**, with the freelancers bearing the economic burden of this unscrupulousness.”

L.S., Film and Commercial Production
New York City

RECOMMENDATIONS

We recommend legislation to help ensure that independent workers are protected and have an efficient and effective means to collect payment for work performed. Such legislation would:

- Prohibit unlawful payment practice (i.e. nonpayment, payment on delayed schedule or reduced rate of payment in exchange for timely payment)
- Mandate that clients pay freelancers 30 days after the stated payment date in the contract or the completion of the project
- Mandate that clients who work with freelancers use contracts, which include specific provisions regarding payment and other protections
- Hold violators accountable by making them subject to double damages and attorney’s fees and costs
- Protect freelancers from retaliation based on bringing a claim under the law

We recommend creating a fund to help workers who haven’t been paid. The process can be lengthy for freelancers seeking judgments, who often need the money right away. Even when freelancers are able to win judgments, they are often still unable to collect owed sums from their clients. A freelancers’ fund would enable freelancers to receive awarded funds in the case that they are not able to collect. The fund could be capitalized by a variety of sources, including penalties paid by client offenders and charitable donations.

We recommend the creation of free and low-cost legal services for freelancers. With just over one-quarter of freelancers consistently using written contracts, freelancers would benefit from affordable legal services to help them draft contracts and pursue nonpaying clients. We recommend that freelancers and supporting institutions group together to access affordable legal resources.

By collectivizing this expense, which could be administered by worker groups, freelancers could get the expertise and representation they need at lower costs.

These proposals will clarify work agreements for independent workers and employers, establish

payment terms from the outset, and give freelancers a legal leg to stand on when a client fails to pay. The recommendations also acknowledge the tremendous presence freelance workers already have in the economy—a presence our employment and payment practices should reflect as well.

CONCLUSION

Late and nonpayment is one of the top challenges facing the independent workforce today. These workers are at greater risk of nonpayment than traditional workers, but the law does not reflect this reality. The current way that independent workers must deal with nonpayment is inequitable, time wasting, damaging to one's finances and harmful to the economy. Instead of having to deal with nonpaying clients on their own, freelancers should have access to worker protections similar to those extended to traditional employees. These workers comprise one-third of the U.S. Workforce; they deserve protections suitable to such a significant part of the economy.