

THE CONSTRUCTION USER

A publication of The Association of Union Constructors | www.tauc.org | SUMMER 2011



ACHIEVING SUCCESS THROUGH COLLABORATION

Highlights from the TAUC Leadership Conference

METRICS DRIVE MINDSETS
MISCLASSIFICATION TRAPS
STANDARDS OF EXCELLENCE





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On the cover: Left to right: Rick Neill, Matrix; Jerry Westerholm, IBEW; Kevin Reimer, PSEG; Brian Lang, IBEW Local 164, winner of this year's Craftperson of the Year Award; Bill Hering, S.M. Electric; Peter Cheche III, S.M. Electric. See complete coverage of the awards on Pages 12-13.

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ABOUT TAUC

THE ASSOCIATION OF Union Constructors (TAUC) is the premier national trade association representing the 21st Century union construction industry. TAUC consists of more than 2,000 contractor firms, local union contractor associations and vendors in the industrial maintenance and construction field. We demonstrate union construction is the best option because it is safer and more productive, and it provides a higher-quality and cost-competitive product.

OUR MISSION

OUR MISSION IS to act as an advocate for union contractors, advancing the cause through an educated and action-driven membership. We aim to enhance labor-management cooperation, workplace safety & health and collaboration among construction users with the greater goal of making union contractors more competitive in the marketplace.

ADAPTATION IN THE 21ST CENTURY

THE ASSOCIATION OF Union Constructors evolved from the National Erectors Association, which was founded in 1969 by the leading union steel erectors in the construction industry. Over the years, membership grew to include all types of union contractors, and, consequently, the name and structure of the association was changed to The Association of Union Constructors in 2007. The new association reflects the changing face of the construction industry and more accurately reflects the growing diversity of TAUC members.

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Working for our members on issues that matter



by **ROBERT SANTILLO**
TAUC President

The dogmas of the quiet past are inadequate to the stormy present. The occasion is piled high with difficulty and we must rise with the occasion. As our case is new, so we must think anew and act anew.
—Abraham Lincoln

AS THE PRESIDENT of TAUC, I often have the privilege to witness firsthand how much our organization does for its members. Many of TAUC's contributions are well-known — for instance, organizing informative annual events such as the Leadership Conference (see pages 8-13 for complete coverage) and the State of the Union Construction Industry forum, which offers industry professionals a chance to network and hear from experts on a variety of hot-button topics.

TAUC remains highly proactive and continues to serve as an advocate for our members by enhancing labor-management cooperation, workplace safety and health as well as collaboration among construction users. However, some of you may still not be aware of all the work TAUC does to make sure that union construction maintains its competitive position in the marketplace.

Working on behalf of contractors' best business and financial interests has always been a core part of TAUC's mission. But recently, we've also expanded our efforts in two critical areas and are partnering with a "who's who" of construction associations to facilitate change.

As you may already know, the Financial Standards Accounting Board (FASB) is considering implementing new financial disclosure requirements for contractors participating in multi-employer pension plans. TAUC believes the original proposed standards are seriously flawed because they would have required the disclosure of information that is two years out of date, is not auditable and would ultimately be misleading to any end-user of financial statements.

Napoleon Bonaparte once said, "Ten people who speak make more noise than ten thousand who are silent." To ensure that your voices are heard, we joined the Construction Industry FASB Coalition (CIFC) to collaborate with FASB in a constructive fashion. CIFC's stated objective was to guarantee that FASB's proposal did not include the severe, negative, collateral consequences for construction firms and their plans, which were inherent in the original FASB draft. Based on the outcome of FASB's May 31 meeting, it appears that our constructive criticism paid off and the alternative disclosures recommended by the CIFC have replaced withdrawal liability. We believe these new disclosures will still help FASB achieve its goal of greater transparency.

Along with TAUC, the following groups are also partnering with CIFC: the International Council of Employers of Bricklayers and Allied Craftworkers (ICE), National Electrical Contractors Association (NECA), National Finishing Contractors Association (FCA), Mechanical Contractors Association of America (MCAA), Sheet

Metal and Air Conditioning Contractors' National Association (SMACNA), Ironworker Management Progressive Action Cooperative Trust (IMPACT), National Association of Construction Boilermakers (NACBE), Associated General Contractors of America (AGC) and the National Association of Surety Bond Providers (NASBP).

Another crucially important issue for our members is misclassification. Unscrupulous competitors are intentionally misclassifying workers as independent contractors, rather than full-time employees, to avoid paying the required taxes and benefits — thus enabling them to submit lower bids than those contractors who abide by the rules (see page 14).

We are beginning to see tenable movement on this issue at both the federal and state levels. The Department of Labor has launched a new initiative to aggressively fight misclassification, while more state legislatures (including the one in my home state of Pennsylvania) are passing laws to crack down on this practice.

Despite these active efforts, there's still much more work that needs to be done — and TAUC is leading the charge. We have partnered with our fellow members of the Campaign for Quality Construction (NECA, MCAA, SMACNA, ICE and FCA) to support legislation at the federal level that would make it even more difficult for employers to engage in misclassification. For example, last summer a representative from our coalition testified in front of the Senate Labor Committee to emphasize how important this issue is to our members.

Whether it's pushing back against onerous accounting regulations or protecting our contractors from underhanded business tactics, make no doubt about it — TAUC is constantly working on your behalf. ■

Metrics drive mindsets

by MARK BRESLIN

IT'S TIME FOR contractors and their labor union partners to add a new success metric for the field workforce that can encourage change and innovation. Sure, it will take a little extra time, perspective and energy — especially when it comes to making sure the guys on the job understand what the new metric means — but by making the extra effort, you could help revitalize the union construction industry.

Traditionally, when labor and management sit down to negotiate, several metrics always stand out as the primary discussion points: wages and fringe benefit levels; market share percentage; what other unions or management organizations gave or received; and, of course, the level of unemployment at the local hall. The only one of these that the union workers usually understand is the total package amount and sometimes the amount another craft received as an increase.

But I want to suggest there is one additional metric that can and should be regularly discussed during negotiations, a metric that should become a standard reference point for contractors, associations, labor leaders and union members.

Average hours worked per union member can be an important indicator of the economic success of the union business model and compensation base

Without new metrics, the industry risks becoming locked into chasing larger jobs balanced on the backs of fewer big contractors.



for employees. Why? Because the number of hours worked is the primary driver of:

- Qualification and continuance of health benefits
- Contributions necessary to earn pension credits
- Contributions necessary to reduce unfunded pension liability
- Annual earnings of union craftsmen

Work hours might be the most important thing about his job that an average craftsman doesn't fully understand. I can't find a handful of field guys who know exactly how many hours they worked last year or the year before. They know the amount of the total package, but don't always understand how that relates to hours worked. When I demonstrate this relationship to the union personnel in some of my presentations, it really surprises and educates them.

The examples are basic, but compelling. In your geographic area, how much more does a craftsman make if he works an extra 100 hours in a year? At \$50 total package, it would be \$5,000 for only *two extra hours a week*. For 200 hours at \$50 total package, that translates to \$10,000 additional earnings and for 400 hours, \$20,000 extra.

My point is that work hours drive earnings. Understanding this simple fact changes a worker's perspective. The question changes from "What is my annual increase this year?" to "How many more hours can I get this year?" Changing the nature of the question can result in a completely different discussion between labor and management.

Here are a few recommendations on how to implement this new metric into everyday negotiations:

- The union membership needs to know the annual average hours worked in the local union and the long-term trends. How these numbers relate to benefits and pension liability are equally important. This needs to become part of the ongoing discussion of what constitutes success because it impacts people personally.
- Any specialty agreements, market addendums or market recovery programs need to have work hour increase reports tied to them. Risks that are rewarded with work hours should be recognized. A quantification of success breeds greater willingness for change, risk and trust.
- The union membership needs to know how their earnings are impacted by working an extra two, four or eight hours per week. Two extra hours per week might well exceed the annual earning equivalent of a \$1.50 raise. This opens the door to a discussion that says, "Hey, would you consider change if

it put more work hours and money in your pocket?"

- Every labor-management discussion, debate or negotiation needs to both open and close with this simple question: How do we increase work hours?
- Changes, programs, strategies or market agreements cannot be seen by the field personnel as concessions or "80 percent" agreements anymore. They have to be framed as work hour improvement or benefit restorations. Focus on work hours and real earnings. Changes that boost annual earnings overall should not make the worker feel like he is getting shorted.
- Contractors have to manage like their competition to get back into markets they left behind. Compensation differentials and use of available classifications and apprentices are common tools of the competition. If the mind-set of the worker can change, so must that of the managers and leaders.

Absent new metrics, the industry risks becoming locked into chasing larger jobs balanced on the backs of fewer big contractors. Change is only as good as our ability to explain its benefits and build a culture that embraces it. Metrics that are easily understood, quantifiable and relevant need to make it down to the field level. Without them, people naturally fill in the blanks. Those gaps in knowledge influence beliefs, slow culture change and impact the politics and performance that govern this industry.


Metrics drive mindsets. It's time to start taking both seriously. ■

Mark Breslin is a strategist and author who focuses on improving organizational performance, leadership and work ethic. Known for his blunt and uncompromising style, he has addressed more than 500 audiences and well over 200,000 leaders,



managers and craft workers. He is the author of Survival of the Fittest, Million Dollar Blue Collar and Alpha Dog: Leading, Managing & Motivating in the Construction Industry.

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TAUC's 2011 Leadership Conference: Achieving Success Through Collaboration



Iron Workers General President Walter Wise

TAUC'S 2011 LEADERSHIP Conference was held May 10-13 at The Greenbrier in White Sulphur Springs, W. Va. The annual event brought together 175 representatives from the contractor, building trades and owner-client communities to discuss the latest industry trends and hear from an A-list collection of experts on a variety of topics.

This year, TAUC was pleased to feature as speakers two building trades general presidents. Walter Wise, general president of the Iron Workers, gave attendees an update on his union's plans for the next several years. Wise outlined ongoing efforts to increase and modernize training opportunities for members. He also stressed the importance of getting individual ironworkers to think in terms of strengthening their competitive advantage in the marketplace. That means letting a co-worker know when they don't live up to quality or safety expectations on the job. "It's far more powerful when [workers] talk to one another and stand up for what's right," Wise said.

Wise also reiterated his commitment to an ambitious goal: double the Iron Workers' market share in 10 years. "With the creation of our Key Performance Indicators and the formation of IMPACT, we were on a great run from 2006-2008," Wise said.

He believes his union can not only regain that past success, but exceed it. "We're going to expand our existing contractor work in low-density areas, and make sure there are areas where you can go in and secure that work," he pledged to the audience.



LIUNA General President Terence O'Sullivan

"But we're also going to need more contractors, and we need them to go after small work that has been abandoned. We will also develop programs for our members so they are fully aware of what it means to go into contracting."

Terence O'Sullivan, general president of LIUNA, spoke on the second day of the conference. He covered a range of topics, from healthcare to immigration reform, and was characteristically blunt about the challenges currently facing his union: membership has dropped by roughly 30,000 over the past two years. On average, work hours are also down roughly 30 percent nationwide, with some regions, such as Las Vegas, harder hit than others. Hours worked under the NMA program were also down about 7 percent in 2010 compared to 2009.

"Here's a very telling statistic: 81 percent of our construction membership lives in 14 states and one [Canadian] province," O'Sullivan said. With numbers like that, "we can't be a viable, long-term organization." Thus, LIUNA plans to spend roughly \$250 million over the next five years on organizing. O'Sullivan noted that he has talked with Wise about planning some joint organizing efforts as well.

"We want to stay strong where we are [already] strong and focus a lot of our organizing efforts on medium-, low- and no-density areas," O'Sullivan added.

This year's keynote speaker was James Conway, retired four-star general and former Commandant of the U.S. Marine

Corps. Conway focused on leadership and over the course of his speech he gave the audience 10 suggestions for improving their management styles. First and foremost, he emphasized the importance of doing the right thing regardless of the circumstances. "It may take longer, be more difficult and more expensive, but you have to suck it up and push forward," he advised. "In the end, you won't have to worry about someone questioning you or whether your story is straight. Do the right thing and tell the truth about it."

Conway said it was vital to communicate this message to subordinates as well. "Make sure your people understand what the rules are," he told the crowd of senior executives. "They are going to want to do what they can to make your life easier and heighten their value to you. Make sure your people understand that there's a red line and they shouldn't get close to it."

The conference also featured a number of other events, including the Thomas J. Reynolds Awards luncheon and the presentation of the James J. Willis Craftperson of the Year award. Be sure to read our complete event coverage in the following pages.



Gen. James Conway (Ret.)

Joseph La Rocca Honored with TAUC Spirit of Union Construction Award



L-R: TAUC CEO Stephen Lindauer, Joseph La Rocca, TAUC President Bob Santillo

THE ASSOCIATION OF Union Constructors (TAUC) on May 12 honored Joseph R. La Rocca with its prestigious Spirit of Union Construction Award, reserved for individuals who have dedicated their entire careers to the advancement of the industry.

La Rocca was presented with the award during a special ceremony as part of TAUC's annual Leadership Conference, held May 10-13 at The Greenbrier.

Joseph La Rocca is a true pioneer in the union construction industry. He served as executive vice president of TAUC's predecessor organization, The National Erectors Association, from its inception in 1969 until his retirement in 1986. In addition, he also served as the first impartial secretary of the National Maintenance Agreements Policy Committee Inc. (NMAPC) and was instrumental in spearheading its creation and shepherding its unprecedented growth throughout the 1970s and 1980s.

"Though I never had the opportunity to work with Joe directly, his dedication to our organizations and the industry as a whole still influence what we do every day," said Steve Lindauer, CEO of TAUC and Impartial Secretary/CEO of the NMAPC. "Joe and I speak often and I can assure you that his passion for the business and the people who are served by it are still a part of his legacy. His approach, particularly as impar-

tial secretary to the NMAPC, was that you don't just serve the contractors, the participating unions and/or the owner; your service under the NMAPC Program is an even higher calling to the union construction industry as a whole. That is a true testament to his — and our — approach to leadership."

Colleagues from around the industry gathered to honor La Rocca. "Joe changed the way union construction work is

executed in the industrial sector of our industry,” said Bob Hoover of Aker Solutions. And past Spirit award winner James Mirgliotta of Forest City Erectors said, “As a nationally recognized and active leader in union construction, Joe is constantly building and strengthening relationships with labor, contractors and customers for the benefit of all.”

“They say we stand on the shoulders of the giants who came before us. I am one of the many fortunate individuals who can say we stand on his shoulders,” added Eric Waterman, CEO of the Ironworker Management Progressive Action Cooperative Trust (IMPACT).

“I always took the attitude that I wasn’t a contractor representative, I was an *industry* representative,” La Rocca told the audience during his acceptance speech. “Every captain of the ship gets credit, but I had an enormous amount of help from

a first-rate membership, a blue-ribbon board and wonderful counterparts in labor.”

La Rocca also remembered the association’s rough early years. “When I took this job, we had \$11,000 in the bank and \$58,000 worth of debt, and we didn’t have any furniture — we even had a borrowed typewriter! In the first year, I wrote 3,000 letters trying to get people to come aboard as members.”

Now, more than 40 years later, both TAUC and the NMAPC are among the most prestigious and influential organizations in the entire union construction industry — a testament to his vision and tireless efforts. La Rocca, who will soon turn 87 years old, left the audience with a valuable piece of advice. “If you don’t stick together, you’ll fall apart and disappear,” he said. “Despite all of the problems our industry is having right now, you’re on the right track.”

Safety award winners honored at annual Leadership Conference



TAUC HONORED THE winners of the annual Thomas J. Reynolds Awards for Excellence in Construction Safety and Health during a special ceremony at the 2011 TAUC Leadership Conference, held The Greenbrier in White Sulphur Springs,

Thomas J. Reynolds Awards were created nearly three decades ago to recognize and commend the exceptional efforts made by TAUC members to prevent the occurrence of serious injury — or worse — on the jobsite. Winners are recognized for achieving a zero DART (Days Away, Restricted or Transferred)

rate in one of four categories. Participants who achieved a DART rate of 25 percent or below the BLS National Average in 2010 received a Certificate of Achievement to acknowledge their accomplishments.

This year, a record 62 members submitted for the Thomas J. Reynolds awards. Those members who submitted amassed more than 69 million work hours with 190 DART cases. The average DART rate of these TAUC members was .55 for 2010, well under the BLS National Average of 2.3.

A complete list of winners and certificate recipients can be found on the facing page.

TAUC would like to thank the generous sponsors of this year’s awards luncheon: Solid Platforms, Mobile Medical, Nooter, Boilermakers Local 13, Pioneer Pipe, Shelby Mechanical, Vulcan Industrial Contractors, JJ White and Stevens Engineers & Constructors. Their support of this important celebration underscores their commitment to being the best.



TAUC Safety Committee Chair Tony Downey of Day & Zimmermann NPS, Inc.

Three new members elected to TAUC Board of Directors

At this year’s Leadership Conference, TAUC governing members elected three new members to the association’s Board of Directors:

- Michael Archer of Pioneer Pipe
- Mark Douglas of Ben Hur Construction Company
- Randall Ray of Copper Range, Inc.

The election took place at the 2011 TAUC Leadership Conference, held at The Greenbrier in White Sulphur Springs, West Virginia.

TAUC President Robert Santillo congratulated the new members, whose names were placed into nomination by the nominating committee. Outgoing board members Eric Waterman of IMPACT and Terry George from Bechtel were also recognized by Santillo and thanked for their contributions to the association.

Thomas J. Reynolds Awards

Recognizing Excellence in Construction Safety and Health

CATEGORY ONE

Over 1 Million Hours Worked Without a DART Case

- Cherne Contracting Corporation
- Matrix Service Industrial Contractors
- Nooter Construction Company
- Williams Specialty Services, Inc.

CATEGORY TWO

500,000–1 Million Hours Worked Without a DART Case

- Atlantic Plant Services, Inc.
- Power Maintenance & Constructors
- S.M. Electric Company, Inc.
- Scheck Mechanical

CATEGORY THREE

100,000–499,999 Hours Worked Without a DART Case

- APi Electric Company
- Blackmore & Buckner Roofing, Inc.
- Bruce & Merrilees Electric Company
- Dearborn Mid-West Conveyor Company
- Fuellgraf Electric Company
- Gribbins Insulation Company
- J.R. Jensen Construction Company
- M&O Insulation Company
- Minnotte Contracting
- Piping & Equipment Company
- Power Process Piping, Inc.
- Rand Construction Company
- Roncelli, Inc.
- Shelby Mechanical, Inc.
- The State Group Industrial (USA) Limited
- Triangle Enterprises, Inc.

CATEGORY FOUR

Less than 99,999 Hours Worked Without a DART Case

- Delta Nooter
- GVH Environmental, Inc.
- Scheck Mechanical Wisconsin Corp.
- Scheck Technical Services, Inc.
- Walbridge East

CERTIFICATES OF ACHIEVEMENT

In addition, 29 companies received Certificates of Achievement for posting a DART rate of 25 percent or more below the national average, as calculated by the Bureau of Labor Statistics. Those companies receiving certificates were:

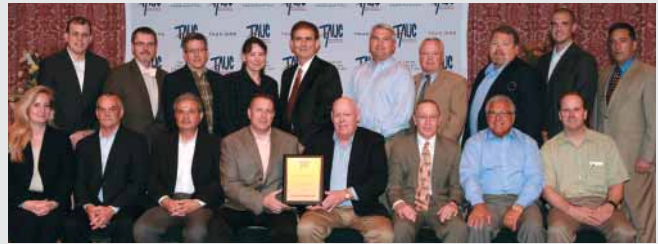
- Alberici Constructors
- The American Group of Constructors
- AmQuip Crane Rental LLC
- Anderson Electric, Inc.
- APComPower, Inc.



Left to right: Bob Santillo, Bud Burns (Scheck), Joseph Lasky (Scheck), Stephen Lindauer



Left to right: Bob Santillo, Rick Neill (Matrix), Stephen Lindauer



Thomas J. Reynolds Certificate of Achievement recipients

- APi Construction Co.
- Atlantic Plant Maintenance
- Barton Malow Company
- Brown Electric Co., Inc.
- Construction & Turnaround Services, LLC
- Day & Zimmermann NPS, Inc.
- Enerfab Corporation
- Forest City Erectors, Inc.
- George V. Hamilton, Inc.
- Independence Excavating, Inc.
- J.J. White, Inc.
- Kelley Steel Erectors, Inc.
- MC Industrial
- McCarl's Inc.
- Performance Mechanical, Inc.
- Pioneer Pipe, Inc.
- RMF Nooter, Inc.
- Ryan & Associates, Inc.
- Sachs Electric Company
- Solid Platforms, Inc.
- Stevens Engineers & Constructors, Inc.
- Superior Construction Company, Inc.
- Vulcan Industrial Contractors Co., LLC
- Williams Plant Services, LLC

Awards were given based on work performances during the 2010 calendar year. All direct-hire work-hours under all collective bargaining agreements were eligible.

IBEW's Brian Lang Named TAUC Craftperson of the Year



L-R: Kevin Reimer (PSEG), Bill Hering (S.M. Electric), Brian Lang (IBEW Local 164), Jerry Westerholm (IBEW), Peter Cheche III (S.M. Electric), Vincent Dabrio (S.M. Electric)

THE ASSOCIATION OF Union Constructors presented Brian Lang with the annual James J. Willis Craftperson of the Year Award during a special ceremony on May 12 at the 2011 TAUC Leadership Conference in White Sulphur Springs, W. Va.

Lang is an electrician and member of the International Brotherhood of Electrical Workers Local No. 164 in Paramus, N.J. He is being honored for his work as general foreman on a special back-end technology project at PSEG's 1,115-megawatt Hudson Generating Station in Jersey City, N.J. He was nominated for the award by S.M. Electric Company, which completed the project for PSEG.

The complex air quality control job involved adding scrubbers to the plant's coal-burning process to reduce harmful emissions. Lang was responsible for overseeing all electrical installations on the massive two-year-plus project, including 20,000 feet of cable tray, 120,000 feet of conduit, 45,000 terminations and one million feet of cable.

"When the project started, no one thought we could actually do the job in the time that they allotted," recalled Vincent Dabrio, project manager for S.M. Electric. But thanks to Lang's leadership and hard work, the

project was actually completed ahead of schedule and under budget.

"Coordination was very important and the fact that Brian could get along with the general foremen for all the other crafts was a big part of why this project was successful for us," Dabrio added.

"Never have I seen a project of this size go this smoothly and that's all because of Brian Lang. He's second to none," said Richard Dressel, business manager for IBEW Local 164.

"I'm very proud to be an electrician and I'm very proud to be a member of Local 164," Lang said. "The fact that I can start a project like this and then have the project recognized on a national level...It's amazing."

Lang's performance caught the attention of both the contractor and the owner. "S.M. Electric and our parent company, Matrix, nominated Brian because we saw his expertise and the results he produced, and how he ran this entire project," noted William E. Hering, safety manager for S.M. Electric.

"He's not only a skilled craftsman, but he's got competencies in communication and he runs a good job, a productive job," added Kevin Reimer, director of construction projects for PSEG. "Safety is never compromised."

TAUC President Robert W. Santillo said Lang exemplifies the best that union construction has to offer. "You've proven that you can work at the highest level and get the job done without sacrificing the core values of safety, quality, leadership and cooperation," Santillo told Lang at the award ceremony. "You've earned the respect not only of your fellow electricians, but of the contractor and the customer as well."

The James J. Willis Craftperson of the Year Award recognizes outstanding labor-management cooperation and quality craftsmanship in the construction industry. Nominations are evaluated against five criteria: safety and health; schedule and budget; productivity; cost savings innovation; and outstanding craftsmanship.

Nominations are forwarded to our judge's panel to be evaluated and ranked in each category. This year, the members of the Willis Award judge's panel were:

- Bill Cornell, McCarl's
- Charles "Bud" Burns, Scheck Mechanical
- William Ligetti, Ironworker Employers Association of Western Pennsylvania

Each year it is extremely difficult to select only one recipient from the superb slate of craftpeople who are nominated by contractors for this award. On the facing page are the four nominees who received honorable mentions in this year's competition.



Brian Lang of IBEW Local 164

James J. Willis Craftperson of the Year

Honorable Mentions



John Suiter

Union: Carpenters Local No. 687
Nominating contractor:
Barton Malow Company

John Suiter was nominated for his work on an ongoing modernization program at Severstal North America's Dearborn, Mich. facility, which will take more than 1.2 million work hours to complete. Suiter loves a challenge and this project has presented him with plenty of them, from dynamic civil and concrete work and tight scheduling to difficult site logistics and complex trade coordination planning. His work on this massive undertaking has earned Suiter respect throughout the company. One of Suiter's strongest qualities is his attention to budget and scheduling details. His proactive approach has brought about a number of schedule gains for Severstal. His commitment to efficiency directly affects the bottom line and Barton Malow's ability to stay within budget. Suiter has a contagious passion for the projects he leads, which inspires and challenges his crew members to perform at their best.



Chad Fulkerson

Union: IBEW Local No. 16
Nominating Contractor:
The State Group Industrial (USA) Limited

Chad Fulkerson was nominated for his work at the Alcoa plant in Newburgh, Ind., where he was responsible for managing general maintenance, outage work and upgrades to existing systems. Fulkerson is the type of individual who takes on a challenge with confidence and is a proactive leader. He maintains an open dialogue with The State Group as well as the customer to make sure the project is successful and embraces safety as a core part of the work culture. He considers the safety department to be part of his team, there to help him recognize hazards that exist on the project. Fulkerson makes sure to incorporate a pre-job walk-through into the routine and works with the safety professionals to create procedures that take into account associated hazards and ensure a safe environment for all workers.



Stanton Swain

Union: United Association
Local No. 430
Nominating Contractor:
Construction & Turnaround
Services, LLC

Stan Swain, a pipefitter, was nominated for his work on the ConocoPhillips COP project in Linden, N.J., which included retubing a furnace and replacing a convection section as well as various piping sections and valves. Swain's attitude is always positive and his ability to effectively communicate helps demonstrate his leadership skill, resulting in safe and productive jobs. On this project, despite piping issues that had delayed the project by over one week, he was able to efficiently complete the work. Swain maintained a constant dialogue with operations and his crews to keep the work flowing in a safe and productive manner. With more than 600 flange openings on the project, Swain kept up with inspections and testing to make sure there were no leaks at startup.



Jeff Gross

Union: Boilermakers Local
No. 582
Nominating Contractor:
Construction & Turnaround
Services, LLC

Jeff Gross worked on the replacement of a 5mm power recovery turbine and expander at the BP Whiting Refinery in Whiting, Ind.

The project was completed in conjunction with several other tasks, including duct work and the replacement of a 72" heavy wall. Gross was chosen as the project lead because of his extensive welding background and attention to detail. He carefully balanced the budget, his crew's work hours and the overall schedule. As a result, the project came in \$67,000 below budget. Gross worked hand-in-hand with a member of the quality control group to create the proper procedure for welding the alloy duct work, which ranged from one to one and a quarter inches in thickness. Due to hexavalent chromium issues, all of the duct welding was done with supplied air. ■

10 steps to avoid problems with employee misclassification

by LAWRENCE L. HOENIG

THE INTERNAL REVENUE Service, Congress and the President have indicated that they plan a major focus on correcting employee/independent contractor misclassification. As part of this effort, the IRS has created an Employment Tax National Research Project and is conducting a series of more intense employment tax audits, in addition to the usual enforcement actions. Companies should be reviewing their compliance in this area to reduce the potential for significant tax, penalty and interest exposure.

Here is a list of 10 important steps your company should/could take today to reduce future tax/labor exposures on employee misclassification as well as similar executive compensation, expense reimbursement and Section 409A deferred compensation issues.

1. Review the treatment by (i) each division or business group to see whether such division or group has any service providers not treated as employees; and (ii) across the divisions or business groups to confirm that the treatment of service providers providing similar services is consistent.

2. With respect to service providers not treated as employees, make sure that there

Editor's Note: Employee misclassification is a huge problem in the construction industry. Some companies classify workers as independent contractors rather than full-time employees to avoid paying the required taxes and benefits (see Page 5). However, even contractors who strive to play by the rules may find themselves in hot water with federal and/or state tax authorities if they're not careful. The following article by Lawrence Hoenig, a partner in the national law firm Pillsbury Winthrop Shaw Pittman LLP, outlines several easy steps every contractor should take to ensure their company is in full compliance with the law..

is a written contract in place for each such service provider.

3. With respect to such contracts, make sure that each form of contract helps to establish why such service provider is an independent contractor under the 20-factor and other relevant tests. Pay careful attention to service providers claiming to be independent contractors but using SSNs (rather than EINs), who are likely subjects of agent inquiries in the event of an audit.

4. With respect to such contracts, make sure that the service provider has been told and accepts the fact that he or she will not be entitled to any benefits, stock plan rights, medical coverage, etc., which are limited to employees — and include this exclusion in the contracts.

5. Consider whether it would be possible to have some or all of the independent contractors hired by a third-party employer and then contract with that employer to provide the services.

6. Confirm that your company is complying with the various tax reporting requirements for independent contractors, primarily the issuance of Form 1099s.

7. Confirm that your company is complying with the various federal and state tax

and labor requirements for all employees, including issuance of W-2s, filing of Form 940s and 941s, etc., and overtime requirements under wage and hour laws.

8. If your company is publicly held, confirm that your company is in compliance with the Internal Revenue Code section 162(m) rules and documentation requirements for performance-based executive compensation.*

9. Review expense reimbursement policies and confirm compliance with the same.*

10. Identify “deferred compensation” arrangements subject to Internal Revenue Code section 409A and confirm compliance with the documentation requirements effective Dec. 31, 2008, or that such documents have been corrected in accordance with IRS Notice 2010-6.*

* These steps are included as they are issues that are also subject to audit under the IRS's Employment Tax National Research Project which focuses on worker misclassifications. ■

Lawrence Hoenig is a partner with Pillsbury Winthrop Shaw Pittman LLP. He can be reached at lhoenig@pillsburylaw.com.

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The National Maintenance Agreements: Progress through collaboration

Part two of four

by DAVID ACORD

THE UNPRECEDENTED GROWTH

of the NMA during the 1970s, while gratifying, came with one major negative side effect. The Agreement was being adopted and utilized by so many contractors and local unions that the related administrative costs, including the number of hours spent administering the Agreement, were going through the roof.

Since its inception in 1971, the vast majority of the NMA's operational costs had been underwritten by the NEA (*see Editor's Note*); users of the NMA weren't charged anything. Technically, an NEA member company "paid" for the right to use the NMA through its annual dues payment to the Association, but hundreds of non-NEA contractors were using it as well, essentially getting a "free ride." During the first 10 years of the NMA, the NEA had spent upwards of \$700,000 in support of the Agreements and its staff was devoting an increasing amount of time to NMA issues — keeping track of the voluminous paperwork, collecting work hours, organizing conferences and meetings, etc.

If something wasn't done relatively soon, contractors wondered if the NMA would become a victim of its own success. The fear was that as more companies began using it, a "tipping point" would inevitably be reached and the cost of running the NMAPC — coupled with the sheer volume of back-end administrative work — would overwhelm the NEA's staff (not to mention its bank account), causing the Agreement to collapse of its own weight.

Editor's Note: This year marks the 40th anniversary of the National Maintenance Agreements (NMA), one of the most successful project labor agreements in the country. Many TAUC members use the NMA on a daily basis and the Agreements were actually created by TAUC's predecessor organization, the National Erectors Association (NEA). In this issue, we continue our special four-part series on the history of the NMA and the unique role it has played in the growth and development of our country's industrial infrastructure and union construction over the past four decades.

Throughout the late 1970s, signatory contractors and unions also grappled with a closely related problem: the future direction and viability of the NMAPC. As the Agreement grew in stature, the decisions that were made regarding how and when it could be used began to have an enormous influence on the union construction industry as a whole. It was truly a national Agreement by that point and its implementation had far-reaching consequences. The unions



were uneasy about the influence of the contractor-focused NEA, since it was the Agreement's principal financial source. Contractors, meanwhile, were skittish about the possibility that the unions might decide to withdraw from the NMA altogether and demand to use agreements under the unilateral control of the Building Trades Department. As influential as the NMA had become, its future appeared to be precarious.

Debate over the NMA's fate continued for several years. Finally, in 1979, the Committee decided to embark on a course of action that would alleviate the financial concerns, as well as the uncertainty over the control of the Agreements: a motion was passed to legally incorporate the NMAPC and turn it into a stand-alone entity. To ensure its independence, a flat-rate administrative fee structure was also eventually created. The money generated by the fees — which would be paid by contractors who wished to use the NMA on a particular project — would be used to cover the organization's administrative costs and fund marketing and promotional efforts. The NEA would no longer have to foot the bill, thus muting any concerns about potential undue influence.

Incorporating the NMAPC also gave it certain legal protections, thus providing enhanced structure and stability through the appointment of a board of directors. Most importantly, though, the move meant that the NMAPC's impartiality would be preserved and the unique tripartite structure and joint labor-management oversight of the Agreements would continue as well; everyone could count on a level playing field.



“We were growing up,” Steve Lindauer, current Impartial Secretary and CEO of the NMAPC, said of the development. “The unions and the contractors recognized that the program needed to have a different structure in order to continue to grow and compete on a national level. It was time for a new strategy. Incorporating allowed us to become self-sustaining, hire more staff and keep the momentum and mission going.”

Incorporation was a lengthy process. Two years after the initial decision was

made, the final documents were signed in October 1981 — 10 years after the first NMA was signed. The NMAPC also had the honor of being the first group within the construction industry to be formed under the auspices of the Labor-Management Cooperation Act of 1978, a federal law designed to improve cooperation between unions and employers.

CHANGING THE FLIGHT PLAN

The early 1980s was a time of change, both positive and negative. Following on

the heels of the NMAPC’s incorporation, the Roofers signed the NMA in 1982, becoming the 13th building trades union to do so. However, the country was still in the middle of a crippling recession. In 1982, total work hours dipped below 30 million for the first time in six years. In 1983, more than 5,000 contractors in various industry sectors went out of business, topping the previous year’s record of just over 4,900 contractor failures.

The next several years saw a “one step forward, one step back” pattern, as work hours would rebound one year only to drop the next. But despite the dire economic conditions, the general trend line was still positive and work done under the NMA continued to grow. In 1988, work hours topped 50 million for the first time

By the late 1970s, the NMA was truly a national agreement, and its implementation had far-reaching consequences.

In 1988, NMA work hours topped 50 million for the first time since 1978, and they would stay above that level for the next 16 years.

since 1978, and they would stay above that level for the next 16 years.

As if dealing with a lousy business climate wasn't bad enough, in 1985 the NMA had to face an even tougher challenge: an attempt by the Building and Construction Trades Department of the AFL-CIO to merge the NMA with its existing General Presidents Maintenance Agreement and create a single agreement for the industry. Despite the fact that the NMAPC had been incorporated several years earlier in order to maintain its impartiality, the Building Trades wanted to administer and control the NMA. The general presidents of all 13 NMA-signatory building trades unions were asked to make a choice — and it wasn't even close. Ten of the 13 unions came out in support of the NMA. They argued that the NMA and GPMA had existed side-by-side for 15 years and there was no need to change things now. As a result, the NMAPC remained an independent body under the joint control of labor and management.

Another major change occurred in 1986 when Joe La Rocca, who had been heading up both the NEA and the NMAPC since their inceptions, announced his retirement. It was truly the end of an era. The phrase "he did the job single-handedly" is frequently used as a compliment, but in La Rocca's case, it had the added benefit of actually being true. For many years, La Rocca worked with a shoestring staff to keep both organizations running efficiently. When he took over the reins as the NEA's executive vice president in 1970, the organization had just \$11,000 in the bank and a debt of more than \$50,000 — plus he had the arduous task of uniting a fractured group of contractors who had never before belonged to a trade association and were content to continue acting as "lone wolves." Through his tireless efforts, La Rocca not only turned around the fortunes of the NEA, but he also

helped spearhead the creation of the NMA and, perhaps most importantly, changed the very culture of the steel erection and industrial maintenance industries. When he left in 1986, the NMA had been responsible for more than \$85 billion worth of work and more than 500 million cumulative work hours.

After an extensive search, the NMA chose as La Rocca's replacement Noel Borck, who had previously served as the senior labor representative for Bechtel Construction, one of the largest industrial contractors in the country. It proved to be

the beginning of a 20-year tenure, during which time Borck oversaw many vital changes to the NMAPC.

Also in 1986, the International Brotherhood of Electrical Workers signed on with the NMA, becoming the 14th and final building trades union to do so. The winds of change were blowing — and the NMAPC was poised to enter an exciting new phase of development. ■

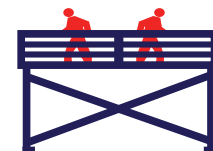
Look for part three of the history of the NMA in the Fall 2011 issue of The Construction User.

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Safety on the Agenda

Update from the TAUC Safety Committee

by WAYNE CREASAP, TAUC Safety and Health Director

THE TAUC SAFETY and Health Committee met on May 10 at The Greenbrier in White Sulphur Springs, W. Va. as part of the association's annual Leadership Conference. The well-attended meeting included a number of new participants and featured several dynamic presentations on substance abuse, safety accountability and other relevant issues.

Following is a brief summary, but nothing beats actually being in the room. Committee Chair Tony Downey, director of safety for Day & Zimmermann NPS, pointed out that these meetings offer an excellent chance for safety professionals to network and share important information so that everyone can do their job better. If what you read below interests you and you'd like to learn more about the committee and/or inquire about how to join, please contact me at 703.524.3336 x123 or wcreasap@tauc.org and I'd be happy to share more information with you.

THE CHANGING FACE OF DRUG TESTING

Marianne Karg of Mobile Medical Corporation delivered an excellent presentation on substance abuse programs, focusing on the pros and cons of various testing methods and positivity trends in the industry by region. Medical and synthetic marijuana was also a topic of discussion. Now that many states have legalized medical marijuana, Karg stressed the importance of updating substance abuse policies to better deal with this new wrinkle. Further, she reminded participants to follow their reasonable suspicion protocols to document and address potential problems before they lead to incidents and injuries.

Additionally, Karg delved into the growing concern over prescription drug



abuse. With our aging workforce, it is quite common for employees to be prescribed something to deal with aches and pains associated with physical labor. While prescribed legally, these medications can be abused on the job, and there's also the danger that they will be sold illegally to fellow employees.

Finally, Karg shared the latest craze hitting the street — bath salts. These products are not necessarily bath salts at all, but are labeled as such so they can be legally sold over the counter. The "salts" are inhaled into the body to produce hallucinogenic effects. Many states are banning these products, but they can still be purchased in other states and, of course, over the Internet. They are especially dangerous to children and young adults and have the potential to create feelings of anxiety and paranoia that may result in very aggressive and dangerous behavior.

SAFETY ACCOUNTABILITY AND SCORED AUDIT PROGRAMS

Rick Neill, CSP, CHST, corporate safety director of Matrix Service Industrial Contractors, shared with the committee some key components to building an effective safety accountability program. He also identified some of the pitfalls associated with getting proper feedback and implementing appropriate safety and health corrections. The most important factor: having the support of the top company executive to help drive the safety culture and hold people accountable for their safety performance.

Neill provided attendees with a process of evaluating and grading safety performance on the job. Part of his presentation included a spreadsheet that scored the overall safety performance. The project had to exceed a predetermined minimum score; failure to do so would result in a conference call with the company

Now that many states have legalized medical marijuana, Karg stressed the importance of updating substance abuse policies to better deal with this new wrinkle.

president. For example, a company could set a minimum passing score of 80 percent compliance. If a project failed to achieve that grade during an audit, the operations lead and site team would then discuss the audit with the company president, including corrective actions and a timeline for them to be implemented.

OSHA UPDATE

The OSHA Update, a regular feature at our committee meetings, provides attendees with an opportunity to discuss the agency's enforcement of relevant safety and health issues in

the workplace. Along with many other topics, a lengthy discussion took place regarding changes to the OSHA Outreach Education Training Program. Many contractors have OSHA 500 Authorized Outreach Education Instructors who teach the OSHA 10- and 30-Hour courses for their employees and will be affected by these changes. Some examples of the changes include:

- Two documents released in April — Outreach Training Program Requirements and Outreach Training Program Procedures (Specific to Construction) — must be followed by trainers.
- Cards must be provided directly to students within 90 days of class completion.
- Trainers must keep a copy of every card issued for a minimum of five years (however, if a card is lost, OSHA Ed Centers will not replace a card if older than three years).
- Fees can be charged to the instructor requesting replacement cards (fees ranging between \$5 and \$50 per card have been reported; fees

vary based on where the most recent instructor trainer or update course was completed).

Instructors should go to <http://www.osha.gov/dte/outreach/index.html> to see all the changes and to obtain additional required training materials. Changes to the Outreach Training Program go into full effect on July 1, 2011.

TAUC-IMPACT RAB III SAFETY INDEX FOR IRON WORKERS — PILOT PROGRAM

TAUC is also in the process of collecting data for Iron Worker employers in IMPACT RAB III (local unions in the states of Ohio, Pennsylvania, West Virginia, Kentucky, Indiana and a small portion of Illinois). This is a pilot effort to determine if it is worthwhile to expand data collection efforts to all of the IMPACT Regional Boards. The goal is to develop a baseline of safety performance within those local areas. Most of the information can be found on an employer's OSHA 300 forms. Contractors who have hired Iron Workers out of these participating locals are encouraged to collect and submit data. ■

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TAUC and QCA members push Congress for action



Sen. Saxby Chambliss (R-GA)

THE QUALITY CONSTRUCTION Alliance — a coalition of five specialty contracting associations, including TAUC — held its annual legislative conference in Washington, D.C. May 9-11 to urge Congress to provide legislative solutions on a variety of issues vital to the continued success of union contractors.

The conference featured a number of presentations relating to multiemployer plans — specifically, the reporting changes for contributors to plans proposed by the Financial Accounting Standards Board (FASB). TAUC and the QCA believe these proposed changes are seriously flawed and will require contractors to provide out-of-date and ultimately misleading information to end-users of financial statements.

Assistant Secretary of Labor Phyllis C. Borzi spoke to the group candidly about the proposed FASB rules and expressed her concern that reporting withdrawal liability figures on financial statements could be counter-productive. “Reporting pension fund contributions and reporting

facets about the pension plan make sense,” she said. “Reporting withdrawal liability makes sense when you know you are going to withdraw.” Borzi also discussed the Department of Labor’s (DOL) increased audits and enforcement actions relating to apprenticeship training programs. Borzi explained that fiduciary rules were not being observed as stringently as necessary in some of those programs; hence, the extra government attention.

Deputy Secretary of Labor Seth Harris also spoke at the conference and covered a number of topics, including the DOL Wage and Hour Division’s efforts to target the misclassification of employees as independent contractors. “We’re also increasing information sharing and coordination with other agencies,” Harris said. “That means when we find misclassification, we will refer those cases to the appropriate agency, whether it’s the IRS, State Unemployment, or Workers Compensation offices.”

Sen. Saxby Chambliss (R-GA) spoke on deficit reduction and fiscal responsibility. Several other members of Congress also made appearances, including Reps. Chuck Fleischmann (R-TN), Thaddeus McCotter (R-MI), Carolyn Maloney (D-NY) and Bill Pascrell (D-NJ). Many of the speakers voiced support for QCA’s legislative priorities, including:

ENERGY EFFICIENCY COMMERCIAL BUILDING TAX DEDUCTION

The commercial business sector pays more than \$170 billion in energy bills each year. What’s needed is a tax incentive provision specifically targeted toward encouraging existing building upgrades. It should provide for measuring energy savings based on the building’s energy use before and after the upgrade, with incentives beginning when a 20 percent improvement over the building’s prior performance is achieved.

BID LISTING

Members of QCA are also adamant about putting an end to the practice of “bid shopping,” wherein a general contractor, after winning a federal government contract, goes back to his subcontractors and tries to get them to lower their initial price that he included in the bid. If they refuse, the contractor will often “shop” the bid to other subs in order to get a lower price. The Construction Quality Assurance Act of 2011 would cut down on bid shopping by requiring prime contractors to list in their bids subcontractors that would perform work of \$100,000 or more.

PROJECT LABOR AGREEMENTS

Executive Order 13502 permits agencies and contracting officers to use Project Labor Agreements (PLAs) when they deem it appropriate as a tool in acquisition planning. It does not mandate, in any way, the use of PLAs on public projects. PLA opponents have mistakenly said that the executive order mandates PLAs and locks out non-union firms and small disadvantaged businesses. Neither is true. The order permits and encourages agencies to use PLAs on projects above \$25 million. Union and non-union firms may bid on a PLA project once the bidding parameters are set. QCA members requested that their legislators oppose The Government Neutrality in Contracting Act (S. 119, H.R. 735) and any amendments that would effectively prevent the implementation of PLAs on federal government construction projects. ■

For more information about the QCA, contact Todd Mustard, TAUC Senior Director of Government Affairs and Membership Services, at tmustard@tauc.org or check out the group’s web site at www.quality-constructionalliance.org.

Yes, it *can* happen to you

by STEVEN FELLMAN

OVER THE PAST few issues, I've been writing about the federal government's aggressive efforts to crack down on collusion, bid rigging and violation of antitrust laws. It's important to realize that in many cases, it's not just huge multi-national corporations that are being targeted, but small- and medium-sized operations, too. The biggest mistake construction contractors can make is to think, "It can't happen to me."

Consider the following true story about two recent criminal cases.

Defendants Steven VandeBrake and Kent Stewart appeared before Judge Mark Bennett in the U.S. District Court for the Northern District of Iowa, Western Division on Feb. 8, 2011 for sentencing. Both pleaded guilty.

VandeBrake, a lifelong resident of Orange City, Iowa, was just 42 years old. He had a wife and three daughters ages 13, 9 and 7. He was the sales manager of a ready-mix concrete operation owned by Grupo Cementos (GCC), a Mexican corporation that owns 23 plants in the state. His net worth was reported to be about \$10 million. The government alleged that he participated in three separate bid rigging conspiracies in northwest Iowa. One of those conspiracies involved the other defendant, Kent Stewart. The total volume of commerce in VandeBrake's three conspiracies was more than \$5.6 million. The court concluded that the amount of the price increase caused by the bid rigging was more than \$400,000 but less than \$1 million.

Stewart was 51 years old at the time of sentencing and, like VandeBrake, was an Iowa native. He lived in Spirit Lake

with his wife and had two stepchildren ages 29 and 27 and a 21-year-old daughter in college. He was president of a small ready-mix business, Great Lakes Concrete in Ochededan, Iowa. He had a net worth of about \$4 million. He was involved in one bid rigging conspiracy with VandeBrake. The amount of commerce involved covered 12 to 15 projects with total ready mix sales of just over \$743,000.

Prior to sentencing, both defendants had reached an agreement with the prosecutor, whereby the government recommended a fine and jail sentence for both men. However, the judge said he wouldn't accept the agreed-upon recommendation for punishment and might impose a more severe sentence. He gave each defendant an opportunity to withdraw their guilty pleas, but neither did, so he issued an order that began:

"Writer Pearl S. Buck cogently observed in her novel 'The Good Earth,' 'Hunger makes a thief of any man.' Defendants Steven Keith VandeBrake and Kent Robert Stewart came before the Court for sentencing on February 8, 2011 for violations of the Sherman Act, 15.U.S.C.1. Neither defendant, however, suffered from hunger, at least as Pearl Buck knew



it, but from insatiable greed, which is all the more shocking because both were already wealthy, multi-millionaire business men," Judge Bennett began.

"Sir Francis Bacon wrote, 'Opportunity makes a thief.' While Stewart's greed was a least tempered a modicum by Stewart's misguided motivation to ensure the jobs and livelihood of his employees, VandeBrake's appalling greed knew no such bounds and was fueled by the unique and easy opportunity that his

The biggest mistake construction contractors can make is to think, "It can't happen to me."

industry, concrete sales, gave him in establishing a concrete cartel in north-west Iowa. The defendants, although dressed in the attire of hardworking business men, were nothing more than common thieves, and serial ones at that. Like a neighborhood thief, they stole from friends, acquaintances, businesses and local governments. The defendants' tools of their trade were not dark clothing worn in midnight burglaries facilitated by pry bars and screw drivers. Instead, in ordinary business attire and in the glare of broad daylight, they

It's important to realize that in many cases, it's not just huge multi-national corporations that are being targeted, but small- and medium-sized operations, too.

used the ordinary communication tools of modern commerce and business, cell phones, Blackberries and email to rob their victims.

"Unlike the neighborhood thief who values high end TVs, computers, jewelry, and furs, the defendants specialized in cold, hard cash. Unlike the neighborhood thief whose victims immediately recoil in shock at the loss of their property, the defendants stole from their victims without them ever knowing it. Their actions were clever, cunning, but taken with full knowledge and intent to violate this Nation's criminal antitrust laws," Judge Bennett wrote.

The judge then sentenced VandeBrake to 48 months in jail to be followed by five years of supervised release, during which he will be required to perform 500 hours of community service. In addition, the judge fined him more than \$829,000.

The judge sentenced Stewart to a jail term of 12 months and one day to be followed by three years of supervised release and 100 hours of community service. Stewart was fined more than

\$83,000 and required to pay nearly \$26,000 in restitution to a contractor.

A QUESTION FOR THE READER

I ask the reader one question: If Judge Bennett sentenced the sales manager of a small ready-mix operation in northwest Iowa to four years in jail for engaging in a bid rigging conspiracy involving a total of \$5.6 million in bids, what would he do to the sales manager or president of a large national contractor who engaged in a bid rigging conspiracy involving \$500 million (or more) in bids?

I hope I — and you — never learn the answer to that question. I urge all of my readers to review their policies, consult with their legal advisors and make sure everyone on their management team understands the letter of the law when it comes to contract bidding and negotiation. ■



Steve Fellman is president of GKG Law in Washington, D.C. He is also general counsel to The Association of Union Constructors. He can be reached at sfellman@gkglaw.com.



The Construction User Joins Platinum Ranks

THE CONSTRUCTION USER, TAUC's official magazine, took home three prestigious prizes in the Association of Marketing & Communication Professionals' (AMCP) 2010 MarCom Awards competition.

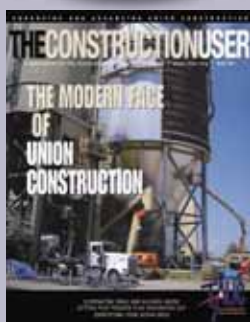
The MarCom Awards is an international creative competition judged by industry professionals that recognizes outstanding achievement by marketing and communication professionals. Judges are industry professionals who look for companies and individuals whose talent exceeds a high standard of excellence and whose work serves as a benchmark for the industry.

This year, AMCP received nearly 5,000 entries from the U.S. and several foreign countries.

Building on our success in the competition last year, when *The Construction User* took home a Gold Award, this year our magazine was awarded the highest honor possible — the Platinum Award — for our Fall 2009 issue, along with yet another Gold Award (Spring 2010 issue) and also an Honorable Mention (Summer 2010 issue).



Spring 2010



Fall 2009



Summer 2010

A new attitude toward safety

by TONY DOWNEY

SAFETY FOCUS. SAFETY Awareness. Safety Culture. Safety This and Safety That, blah blah blah. Even to a safety professional, sometimes all the safety talk can become routine, just another collection of catchphrases.

So how can we keep safety fresh? Great question! If I had the answer, I wouldn't be writing this column. I'd be rich and retired, sitting somewhere enjoying one of those adult beverages garnished with an umbrella and fruit spear...but back to reality.

In order to ensure that each employee is able to come back to work tomorrow and enjoy life away from the job, every member of the management team has to include some form of safety in his operating discipline. A well-established business principle is that the byproduct of an improved safety operating discipline will be that *everything* improves. Yes, everything: schedule, cost, profit, quality, productivity and so on.

Think about it this way. In the construction industry, the advantage we enjoy is that safety provides the earliest opportunity to create the project culture. With safety, you begin the process of developing your organization's behavior on *day one*. No other aspect of management allows for that.

But construction is different, you may say. Yes, in many ways construction is different from other industries. Construction activities can be hazardous; projects are always in a state of change and we deal with a mostly transient workforce. While these facts may sound like excuses to accept injury incidents, we all have the responsibility to recognize and mitigate the hazards that exist, not to mention the risks people take while doing their jobs.

Let's take on these differences one by one.

Construction is hazardous. Many industries — refinery, chemical processing,



gas and aviation, to name a few — deal with high-hazard environments, but work is performed safely every day, and as a result they have stellar safety records. Engaging in hazardous activities does not have to equate to higher injury rates.

Construction projects are constantly changing. Yes, the construction site changes hourly. Because of this fact, we must address the hazards associated with a constantly shifting work environment by instituting hazard recognition and mitigation training.

The construction workforce is transient. This is truly a challenge. Because our employees may work for many employers over the course of several months, they are exposed to varying safety cultures. Expectations from company to company may be very different. Yet, if we recognize the special challenges associated with our workforce, we can implement effective management strategies to deal with them.

In safety, you get what you accept, not what you expect. Your management plan

for a project should include accepting nothing less than total adherence to the safety rules — no exceptions. In other words, make no rule you are unwilling to enforce! If leadership accepts less, then leadership is responsible for the consequences. This is a “WE” problem, not a “THEM” problem.

Build people-based safety management into your safety processes. Don't make compliance the keystone of your safety program. Focus on capturing the hearts and minds of your employees by engaging them in the solutions. People will work more safely and productively when they willingly make the decision to follow the rules.

And, oh by the way, enjoy the summer season safely at work and at home! ■



Tony Downey is the director of safety for Day & Zimmermann NPS, Inc. and chairman of TAUC Safety and Health Committee. Day & Zimmermann is a TAUC Governing Member.

Standards of excellence: Are we there yet?

by GARY L. BOHN



IN MY LAST column I discussed the “codes of excellence” currently in use by nine of the building trades (see Spring 2011, page 23). These codes set forth goals for every part of a job, including safety, on-time performance and communication. Unfortunately, many contractors and owners either don’t know about these codes or fail to make sure they are implemented on the job.

I believe these codes can be very powerful tools in the quest of our common goal: to increase market share for the unionized construction industry. These programs can be implemented on individual jobsites or, ideally, across a contractor’s entire workforce, as long as there is strong support from both the unions and the contractor’s staff. When this support is present, and is coupled with equally strong encouragement and advocacy from the owner-client, amazing things can happen.

As I mentioned last time, if you’re not familiar with the codes, read them! You can download all nine of them from the TAUC website at www.tauc.org, or contact David Acord at dacord@tauc.org and he’ll send you a link. Read through each one thoroughly and decide for yourself which of the programs you may wish to use on your

jobsite or within your company. Next step: Set up a meeting with the local business manager for that union and discuss the standards in depth. Gauge the manager’s enthusiasm for the program. If you don’t feel he is absolutely committed to supporting the use of the code among the union workers, contact the area representative for the International Union. Every General President that I have spoken with or heard speak about these programs is 100 percent committed to seeing them through to implementation and educating members about the benefits of following the code.

But contractors must pull their own weight, too. Make sure you take a good look at the responsibilities of the employer and management that are written into each specific program. Are your employees up to the task? Will they support a program where they, as well as the craft employees, have full accountability for their actions? Are they willing to change some ingrained habits, try some new things, ratchet up their commitment to workplace safety and be more encouraging and supportive of the people they supervise? Most importantly, are they willing to take ownership for their mistakes? These questions may seem simple or obvious, but they are vitally important.

If we expect our craft workers to change old habits that have annoyed us for years, take more responsibility, seek out more training and present themselves as highly skilled professionals, then we, as employers, need to lead by example. Have you ever listened to someone play a piano with one hand? It’s not that great. But when the piano player uses both hands in a coordinated fashion, the music is much more pleasing. The same is true when a contractor and his craft employees follow the precepts of a code of excellence and all hands are brought in and begin to

For those willing to innovate, try something different and push for change, implementing the codes is an ideal place to start.

“own” the program: Safety on jobsites will improve. Productivity will too, along with quality and on-time schedules. Owners will see the results and realize the distinct value-added benefits union construction can bring to a project.

For those willing to innovate, try something different and push for change, implementing the codes is an ideal place to start. When you can set expectations at a high level and boost confidence when goals are achieved, you are moving in the right direction as a contractor and a representative of our industry. The key is to approach it in a tripartite manner. The codes of excellence need to be discussed at all of our meetings. Owners need to become familiar with existing codes and standards and insist on utilization plans when meeting with their contractors. Likewise, contractors need to work with their own employees and the unions to drive home the importance of learning (and living) the precepts found in the codes.

Let’s get to work and make the codes of excellence a standard part of our work plans. It can only make us better at what we do! ■



Gary Bohn is the TAUC Labor Committee Chairman. A 45-year veteran of the heavy industrial construction field, he currently serves as senior advisor to Kiewit Power Constructors.

The benefits of a national all-union contractor association

by WILLIAM LIGETTI



WHAT'S IN IT for my members?

That's a natural question any representative of a local employer organization (LEO) should ask when considering joining a national organization like TAUC — especially if its LEO represents iron worker and steel erector contractors. Unlike the NECA, MCAA and AGC chapters that make up a portion of TAUC's LEO membership roster, the local iron worker/erector employer groups don't have a nationwide arm that can serve their broader interests. That's where TAUC comes into play and fills a much-needed role.

Like it or not, the politicians and regulators in Washington, D.C. hold a lot of power over our industry. They're

the ones who craft new legislation that impacts our members' businesses and issue new OSHA safety standards. Luckily for those of us who are members of TAUC, we can rely on our national association (located just a stone's throw from the Capitol) to ensure we're kept up to date on all of these activities. A recent example: two Exposure Drafts released by the Financial Accounting Standards Board (FASB) that would require any employer that participates in a multi-employer pension plan, or Taft Hartley Plan, to provide its potential withdrawal liability for any plan it participates in on its annual financial statements. I'm not an accountant, but I do participate as a trustee in my local Pittsburgh Ironworker Pension Plan and I fully understand how devastating something like this could be to the members of my local association. TAUC was out on the forefront of this issue, working with other national trade associations that have union contractors as members. TAUC, along with many of its members, has written comments to FASB and conducted extensive outreach to union contractors and their members' financial institutions, all with the goal of getting FASB to remove this horrendous requirement.

Each year, TAUC also hosts, along with five other union contractor trade associations, a national legislative conference that brings in politicians and others within government to "give it to us straight" on issues that impact our businesses and industry. This conference provides our association and membership the opportunity to meet with our state congressional representatives, or their staffs, in their offices on Capitol Hill. Having access to a national trade association located

Like it or not, the politicians and regulators in Washington, D.C. hold a lot of power over our industry.

near Washington, D.C. is a significant added benefit to my local association, not only as it relates to government affairs activities but also because TAUC is located close to many of the international unions' headquarters.

TAUC and its sister organization, the National Maintenance Agreements Policy Committee, Inc., have a long-standing relationship with 14 of the building trades international unions that work in the building and construction industry. Whether you're a single-craft trade association like myself, or a multi-craft like so many of my counterparts within TAUC's LEO member category, utilizing those relationships that TAUC has at the international level can pay dividends when you need them.

If anyone in a leadership position at a local union trade association is interested in learning more about TAUC and the benefits of being a Local Employer Organization member, simply go to www.tauc.org or feel free to contact me at wligetti@aol.com. ■



Bill Ligetti is chairman of TAUC's Local Employer Organization Committee and the executive director of the Ironworker Employers Association of Western Pennsylvania.

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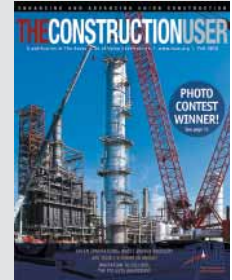
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Want to see your project featured on the cover of *The Construction User*?

TAUC CONTRACTORS ARE invited to submit their favorite industrial construction and maintenance project photos for our third annual magazine photo contest. Labor representatives and industrial business owners are eligible to submit entries, as long as the project work featured in the photograph was completed by a TAUC contractor. The winning photograph will be the cover image of the Fall 2011 issue of *The Construction User*!



To enter, download the submission form at www.tauc.org/photo, fill it out and return it along with a photo(s). Photos submitted without a completed form will not be eligible for the contest. **Deadline for submission is Friday, July 22.**

If you have any questions, please contact David Acord at dacord@tauc.org or 703.524-3336 x124. Good luck!



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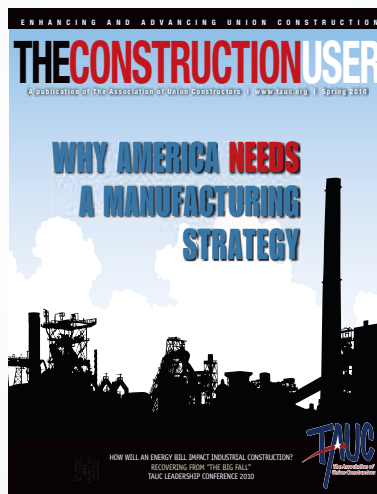
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