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SMAC NEWS



**Introducing
the 2022-2023
SMACNA Executive
Committee**



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SMACNA Focuses On 2023 Priorities

It was wonderful to see so many SMACNA members at our convention in Colorado Springs. The Broadmoor is one of my favorite destinations, and it did not disappoint. I have always admired their ability to provide outstanding customer service every time I visit.

This year was probably my 15th convention — I missed a couple when the triplets were little. It was amazing to see the convention from “behind the curtain,” and I now have a better understanding of all of the work that goes into putting together a large, seamless event. All of our staff worked hard to pull the meeting together,

especially our meetings department of John Franco and Kristin DeGuzman. I could not have been happier with our speakers, networking events and entertainment.

In any large event, no matter how successful, we get both positive and negative comments. The convention can't be all things to all attendees, and choices that make one member happy perhaps makes another unhappy. SMACNA staff reads every comment and carefully considers your feedback. We appreciate your time in filling out the survey and invite you to provide ideas at any time. Convention locations and format

are decided years in advance, but there are opportunities to make improvements.

As we move past convention, SMACNA's work moves into scheduling 2023 committees, our budget development for 2023 and executing our plan for the rest of the year. Government relations remains busy, with lots of regulatory activity around tax incentives expected soon. We also have many education programs in the last quarter of 2022 and the first quarter of 2023. And, as always,





FROM THE PRESIDENT

Tony Kocurek

the technical department is on the road doing seminars and providing technical support.

As I noted in my comments at convention, our strategic planning process is moving ahead at full speed. We had an engaging, highly creative meeting during the convention

indoor air quality is to our industry, and we are already undertaking several initiatives that will help change consumer perception about the importance of indoor air quality. There will be a lot more on this topic in the coming months, so stay tuned.



AS WE MOVE PAST CONVENTION, SMACNA'S WORK MOVES INTO SCHEDULING 2023 COMMITTEES; OUR BUDGET DEVELOPMENT FOR 2023; AND EXECUTING OUR PLAN FOR THE REST OF THE YEAR."

with board members and the strategic planning committee. Many ideas were generated and discussed. Our next meeting will focus on narrowing the list to the most promising proposals from which the strategic planning committee will craft their final recommendations.

A personal convention highlight for me was watching Tony Kocurek take the helm as SMACNA's president. Tony and I have gotten to know each other well over the past year, and I could not be more pleased to work with him. His knowledge will be a credit to all of SMACNA, especially with his expertise in testing, adjusting and balancing. We are both aligned in how important

And lastly, I would like to thank Angie Simon and Al LaBella for their service and tenure on the executive committee. For both past presidents, their terms weren't exactly what they pictured when they started, but both navigated work, family and SMACNA in the best ways possible. SMACNA is forever grateful for their time and commitment. ▼

Aaron Hilger is CEO of SMACNA, bringing more than two decades of executive association leadership to this role. Hilger is focused on building a stronger, more competitive environment for all SMACNA contractors.

Spotlight On Indoor Air Quality

It is a great privilege to serve as SMACNA's president and to have seen so many of you at SMACNA's National Convention in Colorado Springs. As I mentioned on stage, one of my favorite sayings to live by is, "If it's worth doing, it's worth doing right," and that applies to the work ahead of us this year.

In my role as SMACNA's president, I am seeing so many opportunities to win new business and build relationships with broader audiences. Our government's response to COVID-19 has created unprecedented opportunities for SMACNA contractors to capture new work, including mega projects, energy efficiency projects, retrofits, and school HVAC systems installation and upgrades. Even in the residential and commercial office sectors, the focus on air quality is an important opportunity for SMACNA contractors.

SMACNA is working to heighten indoor air quality awareness among consumers, real estate owners and school superintendents to the point where they are motivated to contact SMACNA contractors directly about new projects. In fact, SMACNA has reached more than one million people, with 5,500 school officials, including superintendents and other stakeholders visiting SMACNA's online resources to learn more about indoor air quality.

Our member contractors are uniquely positioned to provide private and public stakeholders with indoor air quality solutions that ensure comfort and cleaner air. There are a wide range of solutions our members offer, including testing, adjusting and balancing air systems, servicing HVAC systems and full-scale retrofits or new builds.

As the overall importance of indoor air quality grows in the public consciousness, it is more important than ever for us to communicate with consumers and building owners about the positive impacts our industry has on indoor air quality.

It was a proud moment in August when the White House cited SMACNA as a subject matter expert, highlighting our resources and how SMART and SMACNA can help the public address existing challenges with dynamic solutions. That credibility goes a long way in fueling new work for our members.

This achievement marks the beginning of a multi-tiered effort to heighten consumer awareness about indoor air quality. SMACNA will be rolling out new initiatives to shine a spotlight on the issues of greatest concern to consumers and building owners to further illustrate how critical air quality is to health.

It's going to be an exciting and productive year for SMACNA filled with opportunities and challenges, but I am committed to seizing the moment that stands before us. ▼

Tony Kocurek, SMACNA President



In-House, Local Fabrication Helps Secure Building Project

IMC's location, unique skillset and general contractor relationship secures them a 5-story, mixed-use building project in Sioux City, Iowa.

When Interstate Mechanical Corporation (IMC) was able to offer some fabrication options that would save a general contractor time and money, it was a persuasive selling point on a large building project in their headquarters hometown. That — along with a previously built relationship — helped the Sioux City, Iowa-based company land the job.

Urbane1220 in downtown Sioux City was planned as a 5-story mixed-use building. Now complete, it boasts 56 residential units, approximately 3,000 square feet of commercial space and a parking garage. IMC was invited to bid on this project after having previously worked with the general contractor on an unrelated project.

“We had developed a relationship with Estes Construction (General Contractor) on a past project, so they

interviewed us,” recalled James Olson, president of IMC. “Our office is just two blocks from the jobsite, which was definitely a comfort to them. They liked that we were local and could provide that local element of support as their project team was from out of the area.”

While all of these factors were important, IMC's ability to save significant dollars (and time) on planned panels by taking the fabrication in-house was perhaps most appealing of all. The design plan involved sourcing product from outside of the region.

“We found out the project was overbudget, and we provided some options in which we could fabricate the panels right in our own facility,” Olson says. “We could keep everything local and save them time and coordination. This also saved a lot of money. Slingshot Architecture was open to learning more about what we could



The fabrication of the aluminum dry reveal honeycomb panels began about six months leading up to the start of the jobsite. Photos: Interstate Mechanical Corporation

“IN THIS CASE, WE WERE ABLE TO CREATE PANELS THAT PROVIDED THE RIGHT AESTHETIC LOOK AS WELL AS THE FUNCTIONALITY AND PERFORMANCE THAT THEY WERE SEEKING WITH THIS EXTERIOR FAÇADE.” – JAMES OLSON

projects since the pandemic. The other challenge was the location. The jobsite was very close to a bridge overpass, so there had to be a lot of precision with staging materials.

“We had to use some swinging stage scaffolding that cantilevered

off of the building in order to safely handle and stage our materials during installation,” Olson said. “That is not a process we have to use often, so it just required some extra care and out-of-the-box thinking.”

The fabrication of the panels began about six months leading up to the start of the jobsite. Installation began in August 2021 and was finished at the start of the new year. The building opened in March 2022.

As a local project — just around the corner from their office — this project brought a lot of pride. IMC has served Siouland and its surrounding area for more than 100 years since the company’s inception with Olson’s grandfather. What started as an architectural sheet metal contracting company has grown into full-service mechanical contracting and metal fabrication.

The company’s project radius is approximately 100 miles, but Olson said that they strive to build ongoing relationships with customers, which has taken them even further when the right project presents itself.

No matter the project, Olson said the goal is the same: to form a partnership and help provide custom solutions that fit the client’s needs. In the case of this project, that goal has certainly been met. ▼

provide, so we built a mock-up wall to show them.”

The scope of the project involved the fabrication and installation of approximately 8,000 square feet of .040” aluminum dry reveal honeycomb panels, 12,000 square feet of 22-gauge custom roll formed flush wall panels, and approximately 500 square feet of 22-gauge wood grain flush soffit panels.

“By using our panels as product substitutions, it offered cost savings and positively impacted the schedule,” Olson said. “I think having already gained trust from the other project gave us the foot in the door that allowed us to really listen to their wants and needs and offer viable solutions.”

Olson said that there’s nothing more important than really being able to understand what the client needs — and crafting the right solution.

“In this case, we were able to create panels that provided the right aesthetic look, as well as the functionality and performance that they were seeking with this exterior façade,” Olson continued.

As far as challenges, Olson said that the procurement of materials due to supply chain issues had to be on their radar. But this was an issue they’d dealt with on other



Focusing on Fire Safety

SMACNA introduces *Fire, Smoke, and Radiation Damper Installation Guide for HVAC Systems, 6th Edition*.

Fall is the perfect time for education on the latest fire safety standards. This year, it is also time to talk about SMACNA's well-timed release of its *Fire, Smoke, and Radiation Damper Installation Guide for HVAC Systems, 6th Edition*.

The 6th edition guide is updated from its 2002 version with some new resources and insight for contractors.

"Fire dampers are at the forefront of what we do every day," said Nathan Dills, president of the Oklahoma-based

where it is supposed to be, or are commonly used to seeing it there ... or if we notice there's no fire sprinkler plan, we have to ask questions and find out why."

John E. Sickle Jr., president of Duct Fabricators Inc. in Cleveland, Ohio and Ohio Fabricators Inc. in Akron added that fire prevention and safety are critical in HVAC work. After all, if fire and smoke enter the system, it becomes a major path for its spread. Sickle is passionate about fire safety and keeps a strong focus on it at his company all year long.

The new guide offers some updates that give contractors the tools they need to succeed in this area of the business.

LEARNING THE CODES PROVIDES INCREDIBLY VALUABLE KNOWLEDGE AND MATERIAL TO USE FOR EMPLOYEE AND CUSTOMER EDUCATION.

ACP Sheet Metal Company, past president of SMACNA, and chairman of the SMACNA task force in charge of creating the updated *Fire, Smoke, and Radiation Damper Installation Guide for HVAC Systems*. "When we estimate jobs and notice a fire damper isn't going into a hallway

WHY IS FIRE SAFETY AND LEARNING ABOUT FIRE DAMPER INSTALLATION AND INSPECTIONS SO IMPORTANT?

First and foremost, Sickle urges everyone to become versed in the model codes, which includes those of the

FIRE, SMOKE, AND RADIATION DAMPER INSTALLATION GUIDE FOR HVAC SYSTEMS



SHEET METAL AND AIR CONDITIONING CONTRACTORS' NATIONAL ASSOCIATION, INC.
www.smacna.org

A Duct Fabricators Inc. crew goes through Toolbox Talks training on jobsite safety topics, including fire safety. Photos: John Sickle Jr. (far left), SMACNA's updated Fire, Smoke, and Radiation Damper Installation Guide for HVAC Systems (left)

NEW GUIDE ADDITION #2: FIRE DAMPER INSPECTION GUIDE

Two of Sickle's companies are family-owned businesses, started by his father. Both are large commercial/industrial HVAC contractors with a nucleus of the business surrounding sheet metal ductwork. According to Sickle, the Cleveland office conducts a good majority of HVAC work with governmental contractors, including the NASA facility in Cleveland and the Cleveland VA Medical Center. The Akron firm conducts a good majority of work in the hospital arena.

Both companies have a large presence in the Fire Life Safety Damper inspection and repair market in Northeast Ohio.

Sickle says that in recent years, clients

have also become increasingly aware of fire safety — and of the importance of maintaining and monitoring Fire Life Safety devices on a regular basis. In fact, Duct Fabricators has an ongoing contract with the County of Cuyahoga/Cleveland that includes inspecting and repairing all Fire Life Safety Damper devices in their buildings and facilities.

"The county is well versed on the requirements and standards for Fire Life Safety within the HVAC system," Sickle says. "Duct Fabricators works closely with the county to maintain their devices. Continuously maintaining and monitoring Fire Life Safety devices on a regular basis is a huge step in the proper direction of assisting in the battle of fire prevention. We also have a similar ongoing contract with the VA Hospital in Cleveland."

More contractors are offering fire damper inspections as a service, Dills said, which made adding an inspection section to the *Fire, Smoke, and Radiation Damper Installation Guide for HVAC Systems* essential. The new section gives contractors insight on how often they should inspect and test fire dampers. Depending on the type of commercial-institutional property, this can be every 4 or 6 years, per NFPA.

"This section talks about how to properly conduct a fire damper inspection, which is important because a lot of places like hospitals need these services," Dills said. "Health inspectors are asking for fire damper inspection reports, and contractors are able to offer this service and help them ensure their fire dampers are working properly."

Inspections can potentially save commercial property managers and building owners from liability issues in case a fire should occur, making these reports essential for them to have as necessary.

To get a copy of SMACNA's *Fire, Smoke, and Radiation Damper Installation Guide for HVAC Systems, 6th Edition*, visit SMACNA's Bookstore at www.SMACNA.org. ▼

National Fire Protection Association (NFPA). Learning the codes provides incredibly valuable knowledge and material to use for employee and customer education. The NFPA also regularly updates their standards as the industry and codes evolve.

"We make sure that all of our employees are well-versed on the latest NFPA standards and that they have a strong knowledge of the installation methods for Fire Life Safety Devices within the HVAC system," says Sickle. "A good majority of this knowledge is conducted through our local JATC's as well as our own in-house seminars."

In addition to having fire extinguishers in every gang box, Sickle's crews go through weekly Toolbox Talks pertaining to all jobsite safety topics — fire safety being a critical and frequent topic of discussion.

Knowing how to do this work properly is also important, which is what SMACNA's new guide brings to the table.

NEW GUIDE ADDITION #1: FIRE DAMPER INSTALLATION RESPONSIBILITY

First, the new guide gives contractors the tools to determine where the responsibility for fire damper installation lies.

And this is extremely important, Dills said, because fire damper installation is not the contractor's job. "This responsibility actually falls on the engineers or design professionals," he explained. "We need to alert the design professional or engineer if we notice a fire damper is required by code on a property, but it's not in the plan. But it's not our job to install what is not shown on the plans."

As an informational service to design professionals, the new guide also includes an appendix in the back explaining the proper location for fire dampers. Contractors can use the appendix for their educational purposes and to work better with design professionals.



Big Project Requires Big Ductwork

Apollo Mechanical tackles a project for one of the world's largest manufacturers in the semiconductor industry.

From the outside, the site of Apollo Mechanical Contractors' recent project in Oregon appears to be a simple box. "It's basically a big warehouse that looks like a Home Depot," said Richard Cooper, project manager for Apollo Mechanical Contractors. But inside, it's the newest campus for a top supplier to one of the world's largest manufacturers in the semiconductor industry.

Apollo's client recently consolidated several outlying locations into a single 280,000-square-foot facility for demonstrating and selling tools to their customers. "In the microprocessor world, a tool is a device used for dry etching and wet etching computer chips," Cooper explained. The client needed office space, labs and a warehouse.

Apollo's client also needed classrooms, because they provide education and support to their customers even after selling the tools. In the center of the building, they have an enclosed second story with 24,000 square feet of space as a cleanroom for training their customers' workforces to use the etching tools.

Cleanrooms allow Apollo's client the tight air quality control its employees need to fabricate semiconductors. A typical office space might have a half million to one million particles floating in each cubic foot of air, but a single speck of dust can destroy the microscopic connections inside a chip. Semiconductors are also sensitive to temperature fluctuations, humidity, noise, or other vibrations. At this campus, one cleanroom allows 10,000 particles per

Installing massive ductwork comes with its own set of challenges. The crew had to disassemble it for transport and then reassemble it on site. Photos: Apollo Mechanical Contractors



COOPER CREDITS THE GENERAL CONTRACTOR WITH CREATING A WORKING RELATIONSHIP THAT STAYS STRONG DURING DIFFICULT TIMES.

cubic foot of air, and an even cleaner section allows only 1,000 particles per cubic foot.

Particulate contamination is only one of the problems Apollo had to help solve for the client. Outgassing is a constant byproduct of the etching process, so they had to remove dangerous fumes from the workspace while protecting the outside environment. The system shunts hazardous gases to vaping units and venturi exhausts, where the gases are burned off and scrubbed. Then the process exhaust system forces the remaining gaseous waste high into the atmosphere through specialized Teflon-coated stainless-steel duct. Apollo installed 21 exhaust fans and six fume exhaust fans with an effective plume height of 45 feet to raise the scrubbed fumes to a safe level.

To meet the client's strict IAQ and pollution control requirements, Apollo installed 130,000 pounds of galvanized ductwork and 15,000 pounds of stainless-steel duct, with the largest duct topping out at 122 inches by 48 inches. The massive ductwork presented logistical challenges. "Some duct is so big that we couldn't ship it fully assembled," Cooper said. The shop disassembled it for transport, and his team reassembled it on site before raising the duct 35 feet in the air to its final location under the trusses.

Apollo has a small shop near the job site in Oregon, plus a crew of about 100 in their main shop in Kennewick, Washington. They fabricated most of the duct in-house, but they bought the custom Teflon-coated stainless-steel

duct from an out-of-state supplier. The system also required 12 rooftop units from 4,000 to 30,000 CFM each, a 22,000 CFM makeup air unit, and 66 terminal units.

Apollo did the BIM for the whole job during April through July of 2021, but the pandemic forced delays. Procurement was the biggest difficulty. "Just trying to get enough stock for the fab shops was a challenge. We had to call around and find somebody who matched us," Cooper said. Hardware was even further behind. "We had everything scheduled to deliver in October of 2021, but equipment that was supposed to be here in the third and fourth quarter of 2021 didn't arrive until 2022."

Apollo reorganized their process to compensate for delays. "We wanted to run pipe to our pumps, but there were no pumps to pipe to." To keep on schedule, Apollo installed the systems 'backwards,' positioning the duct and pipe before the fans and pumps were available. Apollo relied on their detailers and left strategic outs for field adjustments once the final equipment arrived. "Our installation started in October of 2021 and finished in June of 2022," Cooper said. "Our biggest crew size was about 15 sheet metal installers at a time."

Apollo has many years of experience working for the semiconductor industry and this client. Cooper credits the general contractor with creating a working relationship that stays strong during difficult times. "It's one of those deals where you're comfortable. People are honest, and when we have problems, there's no issue. We have that type of relationship with this contractor. We always keep the best interest of the client in mind with quality and safety. I think the client appreciates that, and it works." ▼



Building Based on Relationships

This Canadian sheet metal company is thriving without a shop, building a successful business on the back of great relationships.

There was a time when Summit Sheet Metal Ltd. was working toward owning and operating their own shop. But co-owner and project manager Phil McDonald said that the closer they got toward that goal, the more they began to realize it didn't actually make that much sense. The Port Coquitlam, British Columbia-based company has been able to operate lean and efficiently without a shop. While it might seem to buck the norm, McDonald said they've made it work to their success.

Summit installs complete HVAC systems for high- and low-rise residential buildings, as well as within the commercial and institutional sectors. They also do some custom work, such as architectural flashings. Though they don't handle the fabrication in-house, they are able to supply the materials by working closely with another fabricator.

As far as why they decided against adding a shop, McDonald said it boiled down to a "pros and cons list" in which there were a lot more cons in their minds. These included adding significant overhead costs like a larger building, new skilled labor, the purchase of machinery, extensive utility costs and more.

McDonald said that even the ongoing maintenance of the equipment was a big consideration.

"For many years, we were working toward having a shop, but the closer we got to making it a reality, the more we saw the ways in which our business would have to change," McDonald said. "We came to realize that owning a shop is almost like owning a second company, and it honestly just didn't make sense for us."

McDonald said that the company would have needed a building four to six times larger than what they were



Summit Sheet Metal Ltd. installs complete HVAC systems for high- and low-rise residential buildings — all without having their own shop for fabrication. Photos: Summit Sheet Metal Ltd.

"WE CAME TO REALIZE THAT OWNING A SHOP IS ALMOST LIKE OWNING A SECOND COMPANY, AND IT HONESTLY JUST DIDN'T MAKE SENSE FOR US."

— PHIL McDONALD



already in, and that alone was daunting.

They handle a lot of projects (at press time they had 16 going at once) and finding the space for the volume of fabrication they do began to seem unattainable. Yet, McDonald said they would constantly have to be taking on new jobs to maintain a healthy cashflow to afford the shop.

Having shop employees would have also been a big change.

"In addition to the crew in the field, we currently have three office staff members: my business partner, myself and our office manager," he said. "If we added an office, we would likely need a foreman, someone handling data input and likely a sales team that could bring in enough work to keep the shop busy."

While all signs have pointed toward the shop being a no-go, McDonald said that doesn't mean it has always been easy. In fact, he said that it wouldn't work had they not found the right shop to work with for their fabrication.

"Obviously when you are relying on another company to do your fabrication, it has to be one that meshes with you and that you really trust," McDonald said. "It took us a little bit, but we found a really good fit."

McDonald said making it all work has largely come down to lots of planning.

"We constantly emphasize to our team that we must always be thinking ahead," he explained. "When there have been emergencies, they've come through for us.

But we've really focused on getting everything submitted in advance."

Since the company's crew all come from an installation background, he said that not having an in-house shop is of no impact to them. And he said that as long as the product produced is high-quality — and making it to the jobsite in a timely fashion — clients are not concerned where it's fabricated.

"This model might not work for everyone, but it has definitely been the right path for us," McDonald summed up. "It allows us to focus on what we're best at while continuing to operate in a lean and highly efficient way." ▼



All photos: SMACNA



COVER STORY

BUILDING RESILIENCE THROUGH ADAPTATION

Amid constant change, SMACNA members learn to adapt and grow.

“Change is inevitable. Growth is optional.”

This infamous quote by leadership author and speaker John C. Maxwell was a continuous theme heard throughout SMACNA’s annual convention, which welcomed nearly 1,000 attendees Sept. 11 – Sept. 14 to Colorado Springs, Colorado.

Big changes continue to happen across the industry — from workforce challenges to selective supply chain issues to an increasing need for technology to remain competitive. The association is also working on its own processes and services, addressing things such as increasing engagement and membership, strengthening its chapters, building stronger ties with the labor union and coming up with a strategic plan to determine its path forward, according to SMACNA CEO Aaron Hilger.

“Most of us have a lot of business in the pipeline, but trouble finding the labor to do the work,” said Tony Kocurek, SMACNA’s new president. “We have federally funded programs with prevailing wage mandates, registered apprenticeship requirements, as well as buy American. We have strong labor partners and an association that supports all our needs.”

“Filling these jobs won’t be easy, but it must be done,” Hilger added. “Finding solutions is necessary.”

Here are some of the major topics covered during networking opportunities, the trade show, and numerous, relevant educational sessions that help members address and adapt to constant change.

2022 FUTURES STUDY UPDATE

Speakers Angie Simon, advisor to the board of Western Allied Mechanical, and Guy Gast, president, Iowa division, The Waldinger Corp., shared trends from the 2022 Futures Study,



Tony Kocurek, SMACNA's new president

“This is our moment,” explained Joseph Sellers, Jr., general president of SMART, the international association of sheet metal, air, rail, and transportation workers. “We are poised to see growth of our companies, growth in SMACNA and growth in SMART. And we must do this together. We must come together and have trust in each other to grow nationally and locally.”

how they impact SMACNA contractors, and what steps they recommend for conquering these challenges.

The session examined project risks contractors can expect to face now and into the future, including retaining a skilled workforce to meet growing demand, post-pandemic supply chain disruptions and calamitous contracts, to name a few.



SMACNA's Safety Award winners

First, the workforce shortage is expected to continue, highlighting risks to the industry’s work pipeline that won’t be fully realized without adequate labor supply. Contractors who embrace diversity in their organizations won’t be impacted as much as those who don’t. To stay ahead of this, Simon and Gast suggest contractors increase recruiting, create pipeline programs like the Heavy Metal Summer Experience and internships, boost inclusion, and beef up onboarding and mentoring programs.

Supply chain and contract risks are also expected to continue, but they will be more specific to individual products and supplies and not as pervasive as they were in the recent past, Simon and Gast revealed.

To reduce risk and increase productivity, Simon and Gast advised contractors better man-



Peter Jenkins, SMCA's CEO, asks a question.

age contracts to protect themselves. Additionally, learning more about their target markets, educating customers and exceeding customer expectations will be key ways to build client loyalty. Also, using technology like BIM (building information modeling) is not an option anymore for those contractors who want a seat at the table with certain clients; the use of BIM will continue to evolve to effectively tackle complex projects and work within tighter project schedules.

National demand for HVAC services and construction is expected to grow as a result

of increasing building activities, infrastructure funding and necessary HVAC replacements and upgrades.

"Faced with labor shortages, compressed schedules and price constraints, contractors will be compelled to innovate and deliver more with the same or fewer resources," Gast said.

"Change is the only constant out there," Simon said. "Change is all around us in the industry now. Learning about new opportunities is the only way to

grow your business and adapt to this change."

DEVELOPING BETTER COMMUNICATION TO ATTRACT EMPLOYEES

Many of the key speakers at the SMACNA annual convention focused on ways to improve communication and handle conflict to streamline business operations and attract and retain top performing employees.

Ann Rosser, principal at Finding Resolution Consulting, said



SMACNA CEO Aaron Hilger addresses attendees of the annual business meeting at the conference (top), Joe Sellers (bottom left), Frank Callendo portrays one of his many characters while performing during a Keynote (bottom right).



during her session called “Handling Conflict with Collaborative Communication” that fights left to fester in an organization only magnify struggles.

Leaders in a business can sometimes be too distracted or exhausted to address the root cause of negative situations in their organizations. To improve, leaders can identify listening blocks, use techniques to shift conflict situations into prob-



lem-solving modes, and use simple phrases to frame disagreements more constructively.

“After all, employees perform better when they are in situations where they feel like they belong,” added speaker D.J. Allen with Xs and Os of Success, a leadership, organizational and professional development company that uses the platform of sports life lessons to help individuals and teams maximize their potential, during his three educational sessions, “Creating a Collaborative Environment,” “Communicating for Results,” and “Great Leaders are Great Teammates.”

Business leaders, like coaches of a team, can put their employ-

ees (or team players) in the right positions to make a positive impact on their results. To do this, Allen recommended that leaders be upbeat, consistent, good communicators and efficient. “You will find success in your results if you spend time creating the proper environment,” Allen said.

What also helps is recognizing the differences between being a top producer in a business and being a leader. “Just because you’re a good player does not mean you will be a good coach — it’s a different mindset,” Allen said. “To be a strong leader you need to understand how to be a good teammate and why teams work and why they don’t.”



2022 Award Winners

CONTRACTOR OF THE YEAR:

Jack Knox, RF Knox Co., Smyrna, Georgia

CHAPTER EXECUTIVE OF THE YEAR:

Nathan Cooper, executive director of SMACNA Colorado, Denver, Colorado

LEGISLATIVE CONTRACTOR OF THE YEAR:

Karen Fox, Precision Air Balance Co., Anaheim, California

CHAPTER EXECUTIVE LEGISLATIVE ADVOCATE OF THE YEAR:

John Sindyla, SMACNA Cleveland

A leader's verbal and non-verbal communication is important to create this positive culture. Remember, "It's not about what you say, it's about what they hear," he said.

Mike Clancy, partner and strategy practice leader at FMI, agreed that improving employee engagement is a top to-do for contractors looking to attract and retain workers during his session, "The Changing Project Risk Environment."

Turnover in the construction industry has doubled in the last five years, driven by a lot of factors, he said. "But, ultimately, people leave jobs because they are not engaged," Clancy explained. "Make sure your employees see a future for themselves, get along with their teammates and get along with supervisors. Those three things can knock out any disengagement issues."

TECHNOLOGY TRENDS ABOUND

Amid major industry changes that are outside of contractors' control, such as price changes, supply chain issues, regulations and economic challenges, learning how to adapt and better navigate these business disruptions is how contractors can thrive.

"You have to have good processes to consistently manage risk and get a feedback loop going in your business," Clancy advised.

By recognizing and quan-



Angie Simon presenting awards to Karen Fox, Nathan Cooper (top, left to right) and Jack Knox and John Sindyla (bottom, left to right).

tifying risks, you can be more prepared as a business owner, he said. "If you can see risk and put a value on it, then when it does occur you can make a more informed business decision when you respond to it," Clancy explained.

One way to adapt to and better manage risk is with new technology that simplifies business and saves time and labor.

For instance, during his talk on "Augmented Reality and Artificial Intelligence," Ian Warner, construction systems architect, Trimble Digital Delivery Services, suggested contractors focus on the following to help get jobs done on time amid labor shortages:

- **Optimizing details in design and preconstruction** — Doing this can make sure logistics and materials are set so contractors can reduce labor needs during the project.
- **Prefabrication and modularization** — Prefabrication can have a dramatic impact on schedule performance,

"TO BE A STRONG LEADER YOU NEED TO UNDERSTAND HOW TO BE A GOOD TEAMMATE AND WHY TEAMS WORK AND WHY THEY DON'T."

— D.J. ALLEN, XS AND OS OF SUCCESS

construction costs and workplace safety. By prefabricating where possible, contractors can design, build and load finished materials, going straight from the fabrication area to get final materials to the jobsite. But this all depends on the contractor having a business model that makes this possible.

- **Digital project management** — Many times, contractors on a job aren't playing from the same sheet of music when it comes to updates or changes. "If you're not working off of the latest plans or change orders, you're risking having to do costly rework," Warner said. "Having quality checks and assurances in place and



A sweeping view of the College of Fellows Golf Tournament at The Broadmoor West Course in Colorado Springs, Colorado.

all updates in the same project management location can streamline the process.”

- **Digital layouts and as-builts using 3-D modeling** — Using an architect’s 3-D model can ensure more accurate measurements, as can checking measurements while workers sleep, such as using Spot the Robot Dog from Trimble and Boston Dynamics. This machine uses a laser scanner on an autonomous robot to create 3-D imagery of a space and compare it against CAD/BIM models to improve accuracy. Laying out to a 3-D model and building to a 3-D plan using autonomous robotic solutions can help get things done right, maximizing job productivity.

Another time consuming aspect of running a business that involves risk is contracts. In fact, 75 percent of contractors say reviewing contracts is a big pain point for them, 60 percent say it takes them more than one day to review a contract, and 81 percent of contractors say they’ve been hurt financially by another party using a contract against them, according to Josh Levy, CEO and founder of Document Crunch.

Contractors are beginning to use software today to help quickly scan legal documents for concerning language to alert them before they sign on the dotted line. This saves them from paying lofty legal fees, waiting days to be able to get contract language reviewed or

from potentially losing money by signing a contract that could put them at risk.

Levy said contractors who better understand contract language and negotiating contracts can:

- Reduce overhead, which means more profit
- Reduce fee erosion or the likelihood of someone using a contract against them
- Increased pricing efficiency to drive profitability
- Reduce litigation

“Productivity has gone down 27 percent in the last 25 years in construction,” Levy said. Other industries like manufacturing and mining are beating construction in productivity. Adopting technology can help here. There are solutions out there that can make us better as an industry. Identifying areas where we are inefficient, like in contracts, and streamlining the process can give us a much-needed edge.”

Another key session, “Everything You Need to Know About Laser Welders,” informed attendees on cutting-edge laser welding technology, as well as



Introducing The 2022-2023 Executive Committee

CEO: Aaron Hilger, SMACNA

PRESIDENT: Tony Kocurek, owner of Energy Balance & Integration, LLC, Albuquerque, New Mexico

PRESIDENT-ELECT: Carol Duncan, CEO and owner of General Sheet Metal, Clackamas, Oregon

SECRETARY-TREASURER: Tom Martin, president, T.H. Martin, Cleveland, Ohio

VICE PRESIDENT: Todd Hill, president Ventcon, Allen Park, Michigan

IMMEDIATE PAST PRESIDENT: Al LaBella (not pictured), owner and president of Blue Diamond Air Systems, Medford, New York

NEW DIRECTORS:

Bernie Antchak, NW Sheet Metal, British Columbia, Canada

Matt Cramer, Dee Cramer Inc., Holly, Michigan

Kathleen Kerber, KSM Metal Fabrication, Troy, Ohio

Ken Kleeberg, Yankee Sheet Metal, East Hartford, Connecticut

Matt Sano, Fisher Balancing, Williamstown, New Jersey



Gerry O'Brien (left) says "your customers don't want a better relationship, they want a more valuable relationship."



provided training and safety tips for using this equipment. Michael Harris, program director for iTi, shared grant information available for this machinery, while Luke Bland, director of client services at Poynter Sheet Metal in Greenwood, Indiana, and John Keating, sales manager of the western region at IPG Photonics, talked about available uses for laser welders, showcased sample welds and described set-up requirements.

Additionally, SMACNA's technical services staff had multiple sessions informing members on new projects and research updates, including new duct design standards, as well as updates to SMACNA's Guide for Free Standing Steel Stack Construction and a look into the fourth edition of the Seismic Restraint Manual due to be out in 2023.

MARKETING TIPS FROM BIG BRANDS

In crowded, competitive, commoditized markets, how can contractors convince customers

to buy from them over others?

Keynote speaker Gerry O'Brien, founder of What Big Brands Know, simply said they must "give customers more of what they want and less of what they don't."

Easier said than done, O'Brien offered some relevant examples, such as how Amazon makes it so easy to do business with customers, giving them insight on their packages from the moment they place orders to the time they ship and even through various stages of their delivery journeys. "Your customers don't want a better relationship," he explained, "they want a more valuable relationship."

As customers make decisions, they need reasons to choose you over others. To get more attention from your customers, first determine what your customers want more or less of. "People are twice as motivated to avoid what they don't want and get more of what they do want," O'Brien pointed out.

Next, make sure your custom-

ers understand why they should buy from you. O'Brien used the example of two plumbers — one who provided customers with a traditional four-hour service window and another who gave customers an exact time of arrival because his customers demanded it. "They weren't the cheapest and it took them a bit of time to perfect this method, but people loved that they showed up when they said they would, and it drove their business up," O'Brien said. "Your 'because' makes you a business that people want to continue doing business with. It makes you repeatable, which is a highly valuable business trait to covet today."

Another tool that big businesses use for marketing is social media.

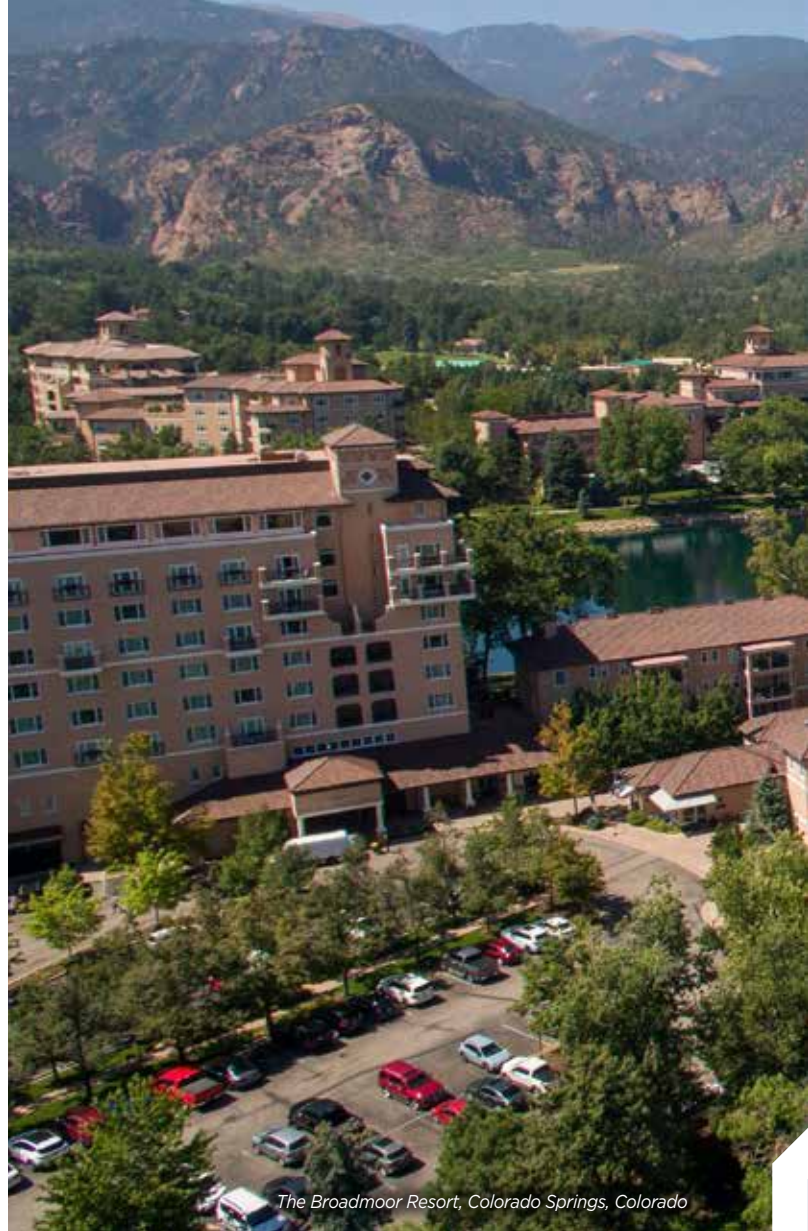
“SOCIAL PLATFORMS ARE DESIGNED TO GIVE BUSINESSES A LEG UP. THE SOCIAL MEDIA LANDSCAPE IS CONSTANTLY CHANGING BUT GIVES ENDLESS OPPORTUNITIES TO DRIVE POTENTIAL CUSTOMERS TO YOUR BUSINESS.”

— LAUREN WATTIE, VAULT COMMUNICATIONS

It increases brand awareness, introduces users to new products, humanizes a company, connects you with customers daily, and increases website traffic, according to presenter Lauren Wattie, vice president at Vault Communications, during her session, “Leveraging Social Media Platforms to Market Your Business.”

But to find success on social media, a business must follow some important steps.

1. **Know the Audience** — “Know who you want to engage with, why they are using social media, which platforms they are on and what content they like,” Wattie said.
2. **Choose Platforms Wisely** — Facebook helps build overall brand awareness and acts as an extension of a website, Instagram is great for presenting strong visuals, LinkedIn reaches other businesses and professionals and is a recruitment and retention tool, and TikTok is ideal for engaging video content and interaction. Comment engagement on all platforms is important for connecting with potential and current customers and employees.
3. **Invest in Video** — People share videos at twice the rate of any other form of content. According to Wyzowl, 84 percent of people were convinced to buy a product



The Broadmoor Resort, Colorado Springs, Colorado

or service based on a brand’s video, Vidyard said 68 percent of people will happily watch a business video if it’s less than one minute, and Retail Dive revealed that 72 percent of consumers prefer videos to text marketing.

4. **Be Consistent** — Consistency is more important than frequency and quality is better than quantity. Before posting, “ask yourself, ‘What’s the point of this content? How does this relate to our brand and message? What are users learning from this? Is this interesting and will people enjoy this content?’” Wattie advised.
5. **Establish a Brand Voice** — “Be consistent to familiarize people with your brand, be unique to separate your-

self from the competition, focus on simplicity so your business is easy to figure out, and make your content engaging and interactive,” according to Wattie.

6. **Engage With Customers and the Local Community** — Regularly monitor social channels and respond to reviews, as well as thank people for sharing. Always remain calm, courteous and professional.
7. **Allocate a Budget for Boosting** — Use this tool to reach a wider audience and improve visibility. “Social platforms are designed to give businesses a leg up,” Wattie said. “The social media landscape is constantly changing but gives endless opportunities to drive potential customers to your business.”



Tony Kocurek, SMACNA's 2022-2023 president

WELCOME SMACNA'S NEW PRESIDENT

During the convention, SMACNA members got the chance to welcome their new President Tony Kocurek.

Kocurek, owner of Energy Balance & Integration LLC in Albuquerque, New Mexico, said his dad used to say one thing all the time that sticks with him

each day as a business owner: "If it's worth doing, then it's worth doing right."

"That mindset resonates with me more than any other, and it remains a core part of who I am today," he explained.

Following this core value requires "strength in your convictions, confidence to commu-

nicate effectively, and the work ethic and hustle to execute on whatever needs to be accomplished to get the job done as fast as possible without compromising validity and integrity," Kocurek continued. "These are all traits that I have learned and plan to use in my time as president of SMACNA." ▼



FY2023 Budget: Chaos Again With No Final Budget

Given the political uncertainty leading up to the midterm elections in November, congressional leaders are unlikely to strike a bipartisan spending agreement before current funding runs out, necessitating a continuing resolution to keep the government funded for a few more months.

The House has passed one government funding package consisting of six spending bills for the fiscal year that begins on Oct. 1. But the remaining six measures — including the two biggest bills, Defense and Labor-HHS-Education — won't see any floor time until later in the year.

FALL WEEKS IN CONGRESS: LIMITED TIME, MORE PRIORITIES

Having passed the CHIPS and Science Act and the reconciliation package (Inflation Reduction Act), the fall agenda remains focused on passing a FY23 budget resolution, a tax reform and extender package and countless nominations on the Senate side. Other high-profile targets will be the SAFE Banking Act, Section 179 bonus depreciation extension, and change order reforms. The final Davis-Bacon and PLA are expected in final form and a new draft rule boosting enforcement against independent contractor cheating in construction is coming soon.

The newly enacted Inflation Reduction Act (IRA) legislation includes more than \$369 billion in commercial, residential, industrial and commercial energy efficiency projects and retrofits, \$300 billion in deficit reduction, negotiates some prescription drug prices and extends Affordable Care Act subsidies through 2024. It adds to revenue by collecting due but uncollected federal taxes estimated at \$1 trillion outstanding and growing monthly, by increasing IRS oversight.

Adding the IRA's massive retrofit tax credit incentives to the historic infrastructure law signed last year to the \$60 billion in CHIPS and Science tax credits for

prevailing wage, registered apprenticeship contractors, it is easy to see a flood of high-value contracts coming soon. In addition, federal contractors will soon be using SMACNA-endorsed rules for PLAs and largely reformed Davis-Bacon Act regulations for the coming five years or more to boost even more demand for union contractors in the marketplace.

SMACNA ENDORSES LOOMAN FOR DIRECTOR OF WHD

SMACNA contacted the U.S. Senate with a strong and enthusiastic endorsement for Jessica Looman to serve as Administrator of the U.S. Department of Labor's Wage and Hour Division (WHD). SMACNA rarely endorses a nominee for federal office. However, we make a special exception to support Jessica Looman to be WHD Administrator due to years of appreciation for her dedication and ability, as well as our first-hand experience viewing her fairness, judgement and professionalism at the state and federal levels. Our member corporations have appreciated her work up close, from her service as Minnesota Commissioner of Commerce, Assistant and Deputy Commissioner of the Minnesota Department of Labor and later as Executive Director of the Minnesota State Building and Construction Trades Council.

Looman has made significant progress on important goals most labor and management organizations support, from expanding construction career pathways to including greater diversity and inclusion in the construction industry to protecting the physical and financial health of the construction workforce. In addition, in Minnesota she worked to increase private and public investment in construction infrastructure, an effort benefitting contractors and workers alike, as well as the Minnesota taxpayer. During tenure at the Minnesota and U.S. DOL, she actively supported increasing construction workforce training

quality, public project safety and productivity. Three high-priority policies for our member corporations and skilled workers include: reforming the nation's prevailing wage laws, enforcing construction worker misclassification rules, and reforming and enforcing registered apprenticeship standards. On these long-ignored regulatory matters she has earned the trust of our industry and introduced policy proposals important to our firms and their highly skilled construction trades employees.

SMACNA SUPPORTS ADMINISTRATION PLA REFORMS

The Biden administration proposed a new rule that would require Project Labor Agreements (PLAs) on federal construction projects valued at \$35 million or more. The new regulation comes after President Biden's executive order requiring PLAs on nearly all federal projects. Earlier this year, the Biden Administration issued a Presidential Executive Order #14063 requiring federal construction projects of \$35 million or more be issued under a PLA with certain exceptions. Under certain circumstances the EO allows PLAs under \$35 million but are not required.

An estimated \$262 billion in federal construction contracts and around 200,000 construction workers are expected to be impacted by projects under the Executive Order. As part of the process on Aug. 19, the Federal Acquisition Regulatory Council (FAR Council) released their proposed regulations for a 60-day public comment period. SMACNA submitted detailed comments in general support of the proposed new rule. SMACNA continues to champion the use of PLAs on all federal projects where appropriate.

PLAs routinely clarify expectations between all involved parties while also ensuring that a project is completed in a manner that delivers maximum value to the taxpayers in conformance within budget and timing parameters. PLAs are most often found on private projects of significance where quality and expertise are highly valued by building owners and developers, but to date have not been frequently issued on federal projects. That should quickly change once the new PLA rules are in place. ▼



LEGAL

Bill Lowe

NLRB's Recent Activity Constrains Employer Dress-Code Rights, Increases Joint-Employment Exposure

A flurry of late-summer activity from the Biden-dominated NLRB has produced at least two noteworthy changes for employers regarding displays of union insignia, and joint-employer status. In *Tesla, Inc.*, 370 NLRB No. 131 (Aug. 29), a divided Board overruled its own 2019 decision regarding employers' authority to restrict the wearing of union clothing or insignia, holding that employers must prove "special circumstances" that justify any restriction. And in a Sept. 7 notice of proposed rulemaking, the Board issued a proposed rule that would rescind its own 2020, Trump-era guidance on when an employer can be considered a "joint employer" to another entity's employees under the NLRA, instead substituting a relaxed standard that could affect any employer that regularly deals with vendors, contractors, franchisees or staffing agencies.

In *Tesla*, prior Board precedent had held that employers could not use uniform or designated-clothing requirements to avoid the display of union insignia and garb, without showing "special circumstances" (such as the need to ensure safety, maintain an image that does not alienate customers, or to stop offensive message displays like pro-union slogans using profanity). However, a 2019 Board decision reached a more pragmatic conclusion, holding that "special circumstances" were not necessary where the employer applied a neutral workplace policy and did not completely restrict the use of union insignia.

Tesla presented the Board with a clothing policy that required employees in the general assembly area of an auto manufacturing plant to wear company-issued "team wear" (or other supervisor-approved black cotton clothing), when working with unfinished vehicle bodies, in order to avoid damage to the cars' new paint jobs caused by buttons, zippers, rivets or other clothing items. As part of the "team wear" policy, *Tesla* prohibited union t-shirts, but did allow production employees to wear union stickers on their "team wear" t-shirts.

The Board's 3-2 *Tesla* decision made it clear that the

"special circumstances" test does not just apply when an employer seeks to completely prohibit union displays; instead, an employer will be forced to show "special circumstances" justifying its restrictions any time it seeks to limit union displays, whether those limitations are partial or total. Two members of the Board dissented from the decision, noting that by applying the "special circumstances" test to any kind of restriction on union displays, the Board effectively made it impossible for an employer to maintain any kind of uniform or dress code without showing "special circumstances" — sacrificing employer interests (e.g., an orderly workplace) in favor of employee rights to display union insignia.

In the wake of the *Tesla* decision, employers should revisit their dress codes to determine the extent of any restrictions on union apparel or insignia displays and consider whether those restrictions can meet the Board's demanding "special circumstances" test.

Little more than a week after the *Tesla* decision made it more difficult for employers to control their workforce dress codes, the Board issued a Notice of Proposed Rulemaking, aimed at broadening the test for joint employment between employers and third-party entities (such as staffing agencies, contractors and suppliers) whose employees are, or could be, subject to the employer's control. Under the Board's own 2020 Rule, an employer "shares or codetermines" the terms and conditions of another employer's employees only when it "possessed and exercised ... substantial direct and immediate control" over at least one essential term or condition of employment — for example, where the employer (through its own managers) directed, disciplined, gave performance reviews or terminated the other employer's employees. Key to the Board's 2020 Rule was the idea that a potential joint employer not only had to have the ability to exercise control over another employer's employees; it had to use that ability regularly and continuously. The 2020 Rule

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LEADERSHIP

Ethan Cowles

Finding and Keeping Good Field Leaders

Field supervisors, project managers and superintendents represent an outsized slice of the struggle to attract and retain talented people. There are two major challenges to finding and keeping good field leaders. The first is the overall construction talent shortage; the second is the trend toward being asked to do too much too soon. Overwork and a lack of skills training and career support are huge issues in construction. Research shows that stress and burnout are more pervasive among less experienced construction workers and that professional development is the antidote.

Most firms recognize the importance of talent development, but many of them overlook the need for field staff to hone their business skills. Field supervisors are in a position of leadership and need experience and training to plan projects, prevent rework and keep crews productive. Both formalized skills training and systemic processes that foster learnings have an outsized impact on project performance.

PRE-PLANNING INVOLVEMENT

Often, field supervisors only come into the office when they are between projects. This is a missed opportunity because when field leaders are involved in project planning, they can assess the logistics of mobilization and document what they need based on the scope of work. Once they have been brought into the loop, field supervisors can visit the job site and consider their manpower, tools, equipment, materials and additional information needs.

On job site visits, field supervisors should consider:

- Access to the site for delivery trucks and machinery.
 - Traffic patterns, school zones, foot traffic and neighborhood particulars.
 - Utility locations, locates and overhead restrictions.
 - Locations for parking and portable toilets.
 - Location and size of laydown yards.
 - Status of project: Is it/will it be ready to mobilize?
- Following the site visit, a field leader should:
- Create a list of tools and equipment needed.
 - Set out the first set of goals and short-interval plans. What do we need to be productive for day one, hour one?
 - Provide input/confirmation on budget and schedule.
 - Any questions or concerns prior to mobilization.

Early involvement lifts productivity, profitability and overall project success. Field leaders with budget

management, performance tracking, mentoring, time management and other project management training can do a better job of lifting overall performance.

SKILLS TRAINING AND MENTORSHIP

Previous generations of field leaders learned through on-site experience and may not have had formal training. Now, with a shortage of experienced field leaders, people are being asked to lead without the experience they may have had in the past. Building the right skills in your next generation of field leaders requires intentionality.

Start by assessing your employees' skills and competencies. Define the minimum requirements for roles and what is needed to meet or exceed those expectations. Next, measure these skills and offer resources to support them.

Creating a learning lab for younger project managers exposes them to complex projects and operations. This builds confidence and can reduce burnout. Formal mentoring arrangements enable knowledge transfer and allow more staff members to take ownership of projects.

INVEST IN FIELD LEADERS OR RISK LOSING THEM

Field leaders, supervisors and project managers understand projects better than anyone else. No matter how finely tuned the communication channels, no one knows where a project stands unless someone in the field is tracking its performance. Field leaders touch almost all aspects of a job and shoulder a significant share of project risk. They are at risk of burnout, being poached and/or leaving the industry. Investing in their skills isn't just a project imperative; it can help you win the game.

Companies that invest in field supervisors can lower business risk by building a deep pipeline of strong talent, enhance their ability to execute on projects, increase employee engagement and organizational loyalty, and improve field leaders' ability to take on greater responsibility. Only then can individuals reach their peak potential as leaders, understand their leadership effectiveness through feedback and coaching, and learn how to improve their leadership performance. ▼

Ethan Cowles, partner, FMI's Performance Consulting, helps labor-intensive contractors become more effective and financially successful. Reach him at ethan.cowles@fmicorp.com.



FINANCIAL STEWARDSHIP

Ronald J. Eagar

Expanded Section 179D Tax Savings for Energy-Efficient Building & Design

The Inflation Reduction Act, signed and passed into law on August 16, 2022, includes \$369 billion in climate and energy spending. One of the most exciting parts of the package expands the benefit of Section 179D, which provides a tax deduction for contractors who install or design energy-efficient HVAC, building envelope and lighting assets in qualifying structures.

Finally, we have a change we've been waiting for since the deduction's inception in 2006. Do you want your piece?

While much of the 179D deduction as we know it remains unchanged, the Act contains some new win-win changes. Previously limited to work performed on government-owned buildings, the 179D deduction can now be applied to projects completed for other tax-exempt entities, including nonprofit organizations, religious groups and educational institutions.

The Act also expands the benefit to more contractors by lowering the eligibility threshold. The deduction can now be taken for buildings that show at least 25% energy savings – half of the previous 50% requirement.

The amount of the deduction will be determined by the amount of energy savings achieved. Starting at 50 cents per square foot at the 25% threshold, the deduction increases by 2 cents per square foot for each percentage point above that, up to \$1 per square foot.

Under prior law, the deduction maxed out at \$1.88 per square foot. Contractors can now exceed this amount and earn a “bonus” deduction (up to \$2.50 per square foot at the base 25% threshold) if they pay prevailing wages and meet apprenticeship requirements. This “bonus” deduction increases 10 cents per square foot, up to \$5 maximum. It is important to note that each job stands on its own, with regard to this deduction.

The Act also removed the previous lifetime cap of \$1.88 per square foot on the deduction, replacing it with a three-year cap. This allows the deduction to be claimed on the same building after three years if qualified upgrades have been made.

Obviously, this becomes a decision for the contractor. Depending on size and building components involved,



WHILE MUCH OF THE 179D DEDUCTION AS WE KNOW IT REMAINS UNCHANGED, THE ACT CONTAINS SOME NEW WIN-WIN CHANGES."

the contractor will need to come up with the best combination of increased payroll cost on a job and 179D deduction.

As always, the 179D deduction applies to both new construction and renovation of qualifying commercial buildings (retail, office, industrial or warehouse) and apartment buildings (four stories or more). It is available to building owners, as well as contractors and designers. To qualify, the building must have been placed in service after December 31, 2005. ▼

Our Construction and Architecture & Engineering professionals can help you maximize the 179D deduction on completed installations and determine your eligibility for future projects. For more information, please reach out to your Grassi advisor or contact Ronald J. Eagar, Partner, at reagar@grassicpas.com.



CYBERSECURITY

Nick Espinosa

What All Contractors Need To Know About CMMC

Honestly, this is the freight train that is heading toward the construction industry, and while some contractors are aware and working on this, so many companies in construction have no real clue about this potentially harmful (financially) compliance standard. So let's break down some of the critical points about the CMMC.

What we are talking about here is the Cybersecurity Maturity Model Certification, or CMMC. Essentially, this is the Department of Defense's (DoD) response to years of having its supply chain of more than 300,000 corporations and entities, known as the Defense Industrial Base (DIB), continuously fall victim to cyberattacks, resulting in the loss or exfiltration of sensitive DoD data. In other words, sensitive military information is falling into the hands of potential adversaries around the globe and they are moving to stop this.

Historically, DoD contractors could self-attest to their cybersecurity practices and those of their subcontractors. What the DoD was finding that many of the companies that had been compromised over the years were attesting to adequate security controls that weren't really in place.

The CMMC, now in version 2.0, has three levels of certification from Level One or "Foundational" which encompasses 17 critical cybersecurity practices up to Level Three or "Expert" which utilizes more than 110 critical cybersecurity practices.

As the CMMC 2.0 becomes the new standard for the DoD, each company that wishes to do business with the DoD or its contractors may have to be audited by a qualified CMMC auditor in order to become certified to a CMMC level that will allow the company either to work on DoD contracts and/or to handle sensitive DoD information, known as Controlled Unclassified Information (CUI). Over 90% of companies seeking this certification are going for the Level 2 certification or "Advanced" as that is the level required to handle CUI (think architectural designs for a military base that needs construction and all of the aspects of subcontracting that go with it). Everyone from the General Contractor to the subcontractors that will be doing the mechanical, electrical, plumbing, and

more, work will need to adhere to Level 2 standards.

Implementing a complete cybersecurity solution for a business will take time, money and energy but it is needed if one of the core revenue streams for the business is the DoD work or if the company's growth strategy is focused on increasing their bids for the DoD and other government agencies. Even though the CMMC is not fully online yet (more on that in a moment), multiple federal agencies have already announced that they will be adopting these standards and there is an expectation that within five to ten years we will also see elements of CMMC flow down to state, municipal and local governments as we have a serious problem with ransomware and extortion at the local level as well. In that vein, understanding that cybersecurity certifications may be required for most of the construction industry is important for companies who have multi-year growth strategies that include these entities as well.

Already the DoD is increasing the amount of contracts they release annual that have CMMC requires. CMMC 2.0 rules have also been written and the DoD announced in mid-2022 that they were submitting these rules to the federal government in March of 2023. This activates a 60-day comment period for the public to weigh in and then in May of 2023, the CMMC will go online. This means that those companies that have not started implementing CMMC controls in preparation for certification are behind their competitors. Fortunately, the first phase of CMMC 2.0 in May of 2023 will start with a self-attestation phase as many companies are still not ready but working towards it, however the second phase will bring certification requirements for many companies depending on the type of CUI they will be handling and many companies at that point will begin to lose business. If the company isn't certified then, by law, the company cannot handle some types of CUI and therefore cannot be used for the contract. The threat of losing most favored status with the general contractor should be a serious consideration here.

The CMMC is not for all contractors. As I mentioned it takes time, money and energy and the multitude of contractors that stick to residential and commercial may not see the need for this certification, though I would

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also mention having a certification like this gives any company a competitive sales edge regardless of the type of work they do. So best of luck to all construction companies out there! Sooner than later foreign intelligence will stop eating our lunch! ▼

Nick Espinosa is a cybersecurity and network infrastructure expert. He consults with clients ranging from small business owners to Fortune 100 companies through his business Security Fanatics, a cybersecurity/cyberwarfare outfit dedicated to designing custom cyberdefense strategies. Learn more at www.securityfanatics.com.

LEGAL

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also allowed employers to exercise authority over another party's employees "sporadically" without triggering joint-employer exposure.

The 2022 Proposed Rule, however, makes it clear that the Board intends to return to a much more lax test for joint employment, under which any ability to directly or indirectly control even one essential term or condition of employment, will render an employer a "joint employer" over another party's employees. Under the Board's proposed rule, an employer that has the "authority to control" or to "exercise the power to control" another party's employees, is considered a joint employer — whether that control is exercised directly or indirectly (for example, by communicating work assignments to the other employer's managers or overseeing that job tasks are being performed properly). The proposed rule also takes a broad view of what amounts to "essential terms and conditions" of employment — including "wages, benefits, and other compensation; hours of work and scheduling; hiring and discharge; discipline; workplace health and safety; supervision; assignment; and work rules and directions governing the manner, means or methods of work performance."

In the face of the 2022 Proposed Rule, employers should revisit their contracts and operating practices with staffing agencies, vendors, contractors, suppliers and franchisees to identify contractual provisions or day-to-day practices that might invite a joint-employer finding. ▼

Bill Lowe is a labor and employment law attorney with Bolanos Lowe, Pittsford, N.Y. Reach him at 585-643-8440 or via www.bolanoslowe.com.

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SMACNA CALENDAR

2022

NOVEMBER

November 13-16

Advanced Project Managers Institute
Tempe, AZ

DECEMBER

December 11-13

Council of Chapter Representatives
Scottsdale, AZ

2023

JANUARY

January 11-13

MEP Innovation Conference
Austin, TX

January 23-24

Collective Bargaining Orientation
Tempe, AZ

January 31-February 2

Chapter Executive Institute
Phoenix, AZ

MARCH

March 5-9

Business Management
University 2023
Tempe, AZ

March 16-17

Association Leadership Meeting
Las Colinas, TX

March 26-29

Project Managers Institute
Raleigh, NC

APRIL

April 17-19

Supervisor Training Academy
St. Louis, MO

MAY

May 21-24

Financial Boot Camp
Phoenix, AZ

**Welcome New
SMACNA Members**

Cutting Edge Metal Fab	Elkhart, IN
UPM Mechanical LLC	Henderson, CO
SiteTrace	Millbrae, CA
Hermanson Co.	Kent, WA
Springfield Sheet Metal	West Babylon, NY
Tru-Sheet Metal Inc.	Holtsville, NY
Penn Air Control Inc.	N. Chesterfield, VA

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