



SUB-NEWS

The Voice of Subcontractors

Committed to Quality Subcontracting

Volume 13, Issue 41



ASA Evaluates Member Needs

by Mike Schmaltz

Meeting customer or member needs is critical for every business organization. This applies to the ASA as much as any organization. ASA national provides a valuable service for chapters through a scientific Member Needs Assessment. ASA-MN chose to use this tool again in August; it was last performed in 2006. We were happy to see both the number of responders and the percentage of total members responding increase compared to the 2006 study.

The report has been presented to the ASA-MN Board and will be used by the Board and Committees as we develop legislative plans, programming etc. The report does not provide an analysis or action recommendations, we need to determine action based on the information provided. Any ASA member can obtain a copy.

Members rated issues as very serious, somewhat serious, not very serious and not at all serious. In order to help condense the information and make it easier to convert into action points we looked at issues that were ranked as either very serious or somewhat serious and selected those that ranked highest. We also compared that ranking with 2006 numbers to measure change.

Revenue - Earning It and Collecting It

Payment and sales concerns were in the top five issues again according to

(Continued on page 3)



ASA-MN's Calendar at a Glance

- January 28, 2010, 10th T.O.P.S. General Contractor and Scholarship Dinner
- *Save the Date...* ASA-MN's 12th Annual Golf Event
June 8, 2010, StoneRidge Golf Club, Stillwater



Welcome New Member

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Minnesota Advocacy - 2010

by Remi Stone

Going into the 2010 legislative session, ASA – MN is well positioned to be the voice of subcontractors at the State Capitol. Starting this year, and moving forward, our goal is to be the go-to entity for policy makers seeking input from the subcontractor community.

Legislators are highly sensitized to financial mismanagement and are looking for solutions designed to safeguard against abuses. This is where ASA-MN has the opportunity to step in and help guide policies to improve payment going into the future.

As troubling as it is, the nationwide economic crisis has highlighted the need for financial transparency as well as the need for more equitable payment practices on construction projects. This crisis has spurred an interest in improving payment practices, as evidenced in last year's passage of prompt and progress payment for residential construction.

(Continued on page 4)



Working to Stimulate Construction

by, Mike Schmaltz

Member E News in late October provided a brief summary on the **Building Jobs Coalition**. In response to the ongoing depression in the construction industry and seeing how members increasingly rate “Identifying New Customers/Jobs” as a very serious concern ASA-MN is actively supporting the Coalition in its work to stimulate building construction in Minnesota.

The group began efforts late in 2008 and went under the name Vertical Construction Coalition, Construction Jobs Coalition etc. Significant stimulus dollars had already been committed to notational infrastructure, but these funds largely went to roads, bridges etc. “Building” or the construction of buildings was not seeing these dollars. It was critical that we clearly convey this message to legislators, most of them are unfamiliar with the construction industry; and to many of them, construction was construction. Money had already been committed why does construction need more? We found that we had to spend a lot of time educating them on not only on the difference but on the profound impact the economy is having on us. This led to the careful choice of coalition name that would more immediately convey our purpose.

The Coalition is a collaboration of communities, industry and labor. Members represent the full spectrum of construction industry members: architects, contractors, engineers, labor, trade associations, developers etc. We have adopted a mission statement “Finding innovative financing solutions to put Minnesotans back to work in the design and construction industry, thereby strengthening communities across Minnesota.”

Several subcommittees are working on different aspects of the issue with assignments to develop and confirm data to support our position, to involve the financial community, to develop legislation in cooperation with key government players and to develop a comprehensive communications plan.

A number of key legislators have been identified; Senators Jim Metzen and Tom Bakk were authors and passionate advocates of the legislation in the 2009 session. The coalition has held fund raisers for these players and ASA-MN lobbyist Remi Stone and Executive Director Mike Schmaltz attended these events. We have been encouraged by messages we’ve heard from Governor Pawlenty - job creation needs to be a priority during the upcoming session. With the groundwork being laid by ASA and the Coalition we should get some of those dollars directed to the building construction industry.

During the upcoming session you will get calls to contact your legislators and other government officials to support our mission - please be ready to help.■



Credit & Collections Seminars

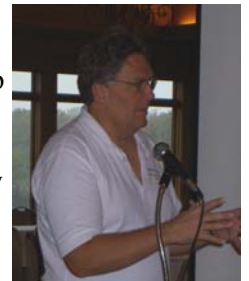
by Mike Schmaltz

The ASA and the MGA collaborated on a credit and collections seminar series. The material was broken into two segments to help ensure thorough coverage of the topic. Both segments were held at the Medakota Country Club.

The first segment on October 15 featured Duane Schwartz CCE. We found Duane through Forius, the Minnesota affiliate of the National Association of Credit Managers (NACM). Duane is a Certified Credit Executive (CCE) and has taught collections courses at the North Hennepin Community College and for other Associations. He has served on both the Minnesota and NACM Boards and is a past Forius Credit Executive of the year. His segment focused on the “prevention” aspect of collections enabling participants to enhance credit practices.



The second segment was held on November 11 and featured ASA Chapter Attorney Curt Smith (photo top right) together with Mike Etmund (photo at right bottom), both are with Moss & Barnett, P.A. Curt has presented a variety of seminars for the ASA over the years, the most recent on “Using the Law to Get Paid” last December. This segment focused on “remediation” or, from a legal perspective what a company can be doing to protect your rights.



The ASA is very grateful to all of the presenters identified here for the time and work that went into these presentations. In addition to developing their presentation the speakers developed extensive hand outs that included information and materials that could be taken back for day to day use in their businesses. Watch for information on seminars in 2010.■



Champions Academy - Congressional Visits

by Mike Schmalz

Every year ASA members gather in Washington to lobby on behalf of members. Mike Schmalz, Tony Grazzini and John Lloyd are pictured above with Congressman John Kline during those visits. They were also able to visit with Congressman Eric Paulson as well as legislative directors for Walz, Bachmann and Peterson and Senators Franken and Klobuchar. In those visits we focused on the impact this depression is having on our industry; construction unemployment is at 18.7% in October - up from 17.1% in September.



We also spent time on repealing the impending 3% withholding requirement (H.R.275/S 292) and requiring Bid Listing on Federal contracts (H.R. 3492). The visits were effective; support for the repeal of 3% withholding is growing and Kline added his name as an author to the bill after immediately our visit. Since then, Congressman Walz also added his name to the bill. We also feel they were effective because the legislators are used to hearing about construction issues from well funded architect and general contractor groups. We were able to tell them about the subcontractors role in the construction process. ■

(Continued from page 1) *ASA Evaluates Member Needs (cont.)*

members ranking these issues as very serious or somewhat serious.

The top rankings follow:

- 90.4% Retainage
- 90.3% Slow Progress Payments
- 85.6% Slow Final Payment
- 80.9% Identifying New Customers/Jobs
- 76.1% Pay if Paid

The biggest change when compared to 2006 results was the category: Identifying New Customers and Jobs. The combined rating was only 66.7% in 2006 with 40% of respondents identified the issue as very serious; this increased to 57.1% in 2009. Revenue concerns were further reinforced when subcontractors were asked; “What is the most serious problem your business will face within the next three years?” “Collecting Money” “Getting Paid” “Lack of Work” typified responses.

Unlicensed/Unqualified Competition

Though not in the top five, this issue is of growing concern 76.1% of members ranked it as very or somewhat serious as compared to 66.7% in 2006.

Other Subcontractor Issues

Additional Insured Requirements, Bid Shopping and Peddling, Indemnification and Liens also fell into the top ten concerns for subcontractors.

Association Practices

The Assessment also provides information that will help us in selecting the best means to communicate with members. Email was identified as the preferred method with US Mail being the second choice; fax is falling into disfavor, no one identified it as a preferred method.

When asked about the value of Activities and Services, 66.6% of members identified Governments Advocacy as being very valuable; this is an increase from 26.7% in 2006. Education and Training continue to be highly rated with 57.1% ranking it as very valuable. Members feel that the education topic far outweighs date, location and cost when choosing to participate.

The Report contains a significant amount of detail and I have tried in this article to summarize high points. As stated earlier the full report has been provided to the Board and committee; it will be used as we plan and determine priorities. Contact us if you would like a copy. ■



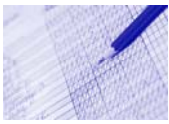
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Fax 715.831.8786



Report Workers' Compensation Claims Promptly

Delayed injury reports often cause the injury to become more severe, increasing cost.

by Cassandra Coopet and Laura Moore, RJF Agencies

Many company leaders don't realize that their company's workers' compensation claim reporting culture is undermining their efforts to be efficient and profitable.

Claims reporting culture

Workplace accidents happen due to unsafe conditions, inadequate training and ignoring near-misses. Although accidents can't be eliminated entirely, injury prevention is an essential component of efficiency and profitability. The goal is to reduce both the frequency and severity of claims. A culture in which employees are encouraged to speak out about safety concerns without fear of reprisal is imperative in averting claims. When a claim does occur, a culture invested in identifying and addressing the root cause will benefit the company. The key to a successful culture change in workers' compensation reporting is a shift in thinking and behavior that is consistently reinforced by management until expectations are realized.

Why claims go unreported

In a January 2009 article in Proofs Magazine, William Penney says that 69 percent of injuries may never make it into the BLS Survey of Occupational Injuries and Illnesses. The most probable driving force in underreporting workers' compensation claims is that employers pay the total cost of medical care versus health insurance which involves co-pays. Other factors include a lack of understanding of reporting requirements, economic and/or peer pressure, safety/bonus incentives, an attempt to maintain or gain government contracts or an avoidance of OSHA inspections. However, a claim submitted under an employee's personal health insurance does not affect a company's experience modification factor and workers' compensation premium.

Unreported claims cost more

It is illegal to conceal or fail to submit a workers' compensation claim. Although it may appear that underreporting workers' compensation claims is cost effective, studies have shown that this practice often increases costs. Unreported and untreated soft tissue injuries, especially back injuries, may become more severe over time and eventually require more medical care and possibly surgery. The National Council on Compensation Insurance (NCCI) reports that injuries reported within two weeks are 18% more costly than those reported within the first week and injuries reported in the fourth and fifth weeks are 45% more costly. Additionally, claims that are reported late are more likely to be litigated. The NCCI finds that injuries reported within 10 days are 22% more likely to be litigated whereas claims reported 31 days after the loss are 47% more likely to be litigated. Reporting claims in a timely manner not only is cost-effective, but creating an encouraging reporting culture can also promote a successful claims management program. ■

Cassandra Coopet is a claims consultant at RJF Agencies. She can be reached at 763-746-8263 or coopet@rjfagencies.com

*(Continued from page 1) **Advocacy (cont).***

In ASA-MN's recent member needs evaluation, payment issues were clearly identified as members' number one concern. Addressing various elements of payment is forefront to our 2010 agenda. In fact, at the end of the 2009 session, ASA-MN and its partners within the Contractor Bill of Rights Coalition introduced legislation getting to two very important aspects of payment, putting us ahead of the curve in getting our concerns heard at the Capitol.

This legislation, SF 2163 (Scheid) / HF 2393 (Nelson), bill addresses pay-if-paid concerns and notice regarding project financing. This bill is alive and well and serves as the starting point for our discussions with legislators heading into session. In addition, we are currently looking at retainage language, either to add to this bill or to introduce as a new bill.

The legislative session begins February 4, 2010 and ASA-MN will take every opportunity to have a seat at the table on payment issues as well as jobs creation activities. Members will be asked to engage in various grassroots activities – from making phone calls and sending letters to spending time at the Capitol for our “Day at the Hill”.

Leading up to the start of session, we are meeting with key legislators to prime them on our issues. In addition, we are reaching out to our industry peers at groups such as AGC, landscapers, and bankers to discuss areas of mutual interest or conflicts anticipated for 2010.

Engaging in the legislative process can be rewarding (sometime more so than it is frustrating). Please feel free to reach out to me any time to talk about our advocacy activities; I welcome your input. ■



Year-End Tax Planning for the Subcontractor – Now More Than Ever!

by Paul W. Longsdorf, CPA, HLB Tautges Redpath, Ltd.

While 2009 has proven to be a year filled with challenges for most subcontractors, there is opportunity to improve cash flow with the use of smart year-end tax planning strategies. Many companies are ignoring tax planning due to low or non-existent profits on their financial statements. This is a mistake. Recent legislation presents new opportunities that may work to your advantage.

On November 6, 2009 the President signed into law the Worker, Homeownership, and Business Assistance Act of 2009 (the Act). The provisions of the Act that received the most media attention were the extension of unemployment benefits and the extension and expansion of the first-time homebuyers tax credit. For many subcontractors, the big provision in this legislation was the extension and expansion of the five-year carry back of net operating losses (NOLs).

Generally taxpayers are allowed to carry NOLs back two years and/or forward 20 years. Previous stimulus legislation had provided for an optional three, four or five year carry back of 2008 NOLs. However, this only applied to small businesses (those with average annual gross receipts of less than \$15 million). The current legislation expands the provision to include the 2009 tax year and eliminates the small business requirement. This opens up the carry back to all taxpayers. Given the ability to carry NOLs back to more profitable years, subcontractors should strongly consider income deferral and/or deduction acceleration techniques.

Contractors using percentage of completion accounting for income tax purposes should consider delaying delivery of job materials from late December to early January. Contractors using the completed contract method for tax reporting should consider delaying the completion of jobs from December to January to defer reporting the job profit to 2010.

Consider prepayment of 2010 expenses. Prepaid expenses for goods or services to be consumed within the next 3 ½ months can be deducted in the current year. These should not be job-related expenses. Prepayment of job-related expenses can result in acceleration of income under percentage of completion accounting.

For 2009 a business can immediately deduct up to \$250,000 of qualifying equipment purchases (new or used), including computers and software. In addition, 50% first-year bonus depreciation is available in 2009 for qualifying property. Property eligible for the first-year bonus depreciation is generally property with a class life of 20 years or less placed in service before January 1, 2010. Only new property qualifies for the bonus depreciation.

Contractors should review their overall accounting methods and the methods they use to account for long-term contracts. Some contractors previously required to use the percentage of completion method (PCM) to account for long-term contracts, because their average annual gross receipts exceeded \$10 million, may no longer be required to use PCM due to reduced revenue levels. This may provide an opportunity to use another method that will reduce current-year taxable income or increase losses that can be carried back.

Many closely held companies are organized as Subchapter S Corporations (S corps) or Limited Liability Companies (LLCs) whereby the income flows through to the owners and tax is paid at the individual level. Losses flowing through to individuals are eligible for the 5-year carry back. However, S corp shareholders and LLC members should review their basis in their ownership interests to insure they have tax basis and are “at risk” with respect to any flow-through losses. At risk is defined differently for LLCs taxed as partnerships and S corps, but those planning for flow-through losses to generate tax refunds should be sure to review this issue thoroughly.

All subcontractors should review the work they perform or revenue they generate outside of their home state. In these difficult economic times many subcontractors have begun to travel to new locations. Care should be taken to insure the income tax filing requirements are being addressed in all localities in which the subcontractor is operating. Hard economic times have hit the states as well and they are aggressively pursuing companies doing business in their states and not filing tax returns. Noncompliant contractors are easy targets due to licensing and registration requirements for contractors in most states. ■

HLB Tautges Redpath, Ltd is a 100% employee-owned CPA firm with extensive experience serving the tax and accounting needs of subcontractors. Paul Longsdorf, CPA, can be reached at (651) 407-5831 or plongsdorf@hlbr.com.



ASA-MN Member News and Notes

- **Kraus-Anderson Insurance Acquires Minnesota Insurance Brokers and COMPTROL.** Kraus-Anderson recently announced the acquisition of the majority of assets of Minnesota Insurance Brokers (MIB) and its cutting-edge Workers Compensation management division, COMPTROL to its risk management services and resources. Both companies are currently members of ASA-MN. Kraus-Anderson Insurance is one of the largest privately-owned independent insurance agencies in Minnesota. The acquisition will greatly expand workers compensation management services for Kraus-Anderson. The announcement came from Kraus-Anderson Insurance Executive Vice President and COO Dennis Diessner. The acquisition, which was finalized October 1, strengthens KA Insurance's position as a national leader in risk management with COMPTROL, in addition to an expanded book of business, a greatly enhanced customer service portal, and new sales and training resources. Most of the MIB staff, including four producers, are joining KA's team of seasoned professionals, Diessner added.
- **MG McGrath, Inc of Maplewood** has recently completed work on TCF Bank Stadium, home of University of MN Gopher football and will soon be completing their work on Target Field, the new home of the MN Twins.
- **The Independent Insurance Agents & Brokers of America (IIABA)** – also known as Big “I” – has selected Minnesota Independent Insurance Agents & Brokers (MIIAB) member Goldleaf Surety Services to be its exclusive market provider for accessing the surety bonds needed by its membership.
- **Carciofini Company** announces Adam Bauchle and Chad Grazzini have completed the Hilti US Fire Stop Specialty Contractor Course maintaining Carciofini's status as a Certified Fire Stop Contractor.
- **Corval Group** recently announced that it has consolidated its construction, fabrication and business solutions capabilities under the corporate brand Corval Group. The focal on one brand makes it easier for customers to optimize process and facilities performance by providing one-source access to all of the company's services.
- **Aaron Dean Appointed to the ASA National Attorneys Council.** ASA- MN Board Member Aaron Dean of has been appointed to the ASA Attorneys Council. Aaron is also active on the ASA Government Affairs Committee and has been a featured speaker at ASA-MN events. The Council is charged to work cooperatively in the development of programs, procurement of speakers, and other matters of interest to the Association. Members also serve as authors and speakers to help ASA educate subcontractors about the contract documents and in ASA Publications. This appointment will connect and include Aaron in a group of top subcontractor attorneys across the United States. ASA-MN Counsel Curt Smith is also a member of this group. Congratulations Aaron and thank you for agreeing to shoulder this responsibility.■



Minnesota ASA Receives Advocacy Grant!

by Mike Schmaltz

ASA-MN has been awarded a \$10,000 advocacy grant from the national ASA office. ASA national established the Subcontractors Advocacy Grant program to give ASA State chapters seed money for a new government advocacy program or legislative initiative on a key subcontractor issue. The objective is to help association chapters establish an effective local government advocacy program.

We established a Government Affairs Committee earlier this year to direct our legislative and other government/regulatory efforts. Early on we determined that the steps involved in completing the application were a good course to follow in determining priorities and establishing an action plan for the future. This process led to our hire of Remi Stone as a lobbyist. Remi assisted with the grant application as did President John Lloyd, members Aaron Dean, Curt Smith, Jennifer Sahler and Executive Director Mike Schmaltz.

We will continue to work with the CBRC as we strive to make real change in the business environment for subcontractors. See Remi's article for additional details on plans for the upcoming session.■



*The American Subcontractors Association of Minnesota
cordially invites you to attend our*

***10th Annual General Contractor of the Year,
Scholarship and Membership Excellence Awards Dinner***

January 28, 2010

Mendakota Country Club

Social Hour 5:30 pm

Dinner 6:30 pm

Program 7:30 pm

Introduction of ASA-MN Board of Directors

Introduction of TOPS Award Finalists

Scholarship Presentations: Anoka Technical College, Dunwoody College of Technology, St. Paul College

Membership Excellence Awards

General Contractor of the Year Awards

Please mail registration with remittance by January 15, 2010

\$75 Per Person or Table of 8 \$600 | Mendakota Country Club
Sponsorships available at \$250 / \$500 | 2075 Mendakota Drive, Mendota Heights, MN
Guests Welcome - Business Casual Attire | ph. 651-454-2822 www.mendakotacc.com

Name(s) of Attendees	Per Person \$75	Table of 8 \$600	Sponsor \$250 or \$500
Company			
Street Address			
City/State/Zip			
Phone:	Fax:	TOTAL DUE	

Mail Registration and Remit Fee to: ASA-MN 16112 WAKE Street NE Anoka, MN 55304
Ph: (763) 413-0669 Fx: (763) 413-1131 E-mail: info@asamn.org www.asamn.org

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ROUTING	

*Mark Your Calendars for ASA-MN TOPS Award Banquet
Thursday, January 28, 2010 at Mendakota Country Club*

Visit us at www.asamn.org



AMERICAN SUBCONTRACTORS
ASSOCIATION
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ASA-MN Appoints Lobbyist

by Mike Schmaltz

ASA of Minnesota is delighted to announce the appointment of Remi Stone as our lobbyist. ASA significantly stepped up advocacy efforts during the last two years; our needs and expectations have reached a tipping point - we need professional support as we move ahead.



Remi Stone

The ASA reinitiated the Contractors Bill of Rights Coalition (CBRC) in 2008 and drafted legislation with that Coalition. One provision passed and was signed into law during the 2009 session; other provisions have been introduced separately and will be considered during the next session. More recently, the ASA joined with the Building Jobs Coalition and is working with that group to stimulate construction in Minnesota.

Remi played a decisive role in the passage of the 2009 bill; this demonstrated an ability observed in the past. We are looking forward to employing that ability for subcontractors. She has extensive experience at the legislature, before state agencies, with cities, townships, counties watershed districts and the Metropolitan Council. Other experience includes representing The Builders Association, The League of Minnesota Cities, the Coalition of Greater Minnesota Cities, the Association of Minnesota Building Officials and individual private and public clients.

Remi began her career in politics working for US Senator Herb Kohl (Wisconsin) and Minnesota State Senator Jim Vickerman. She also served four years in the Minnesota Air National Guard. Remi sat as Chair of the Roseville Planning Commission Variance Committee and Chair of the St. Paul Capital Improvement Maintenance Budget Committee. A graduate of Hamline University - School of Law, she still spends time at her alma mater as an adjunct professor of law teaching legislation and lobbying.

Remi will work with ASA Executive Director Mike Schmaltz and the Government Affairs Committee in developing and implementing plans to advance our interests at the capitol. She will also assist us in working with the CBRC and the Construction Jobs Coalition. ■