



Committed to Quality Subcontracting  
 16112 Wake Street NE  
 Anoka, MN 55304  
 Ph. 763-413-0669 | Fx. 763-413-1131  
 asamn@msn.com | www.asamn.org

Mark Your Calendars for  
**ASA-MN's 11<sup>th</sup> Annual Golf Tournament**  
 June 16, 2009 (**Tuesday**) at StoneRidge Golf Club

Visit us at [www.asamn.org](http://www.asamn.org)



ROUTING	

Join us April 16 for workshop entitled  
**"Proving, Pricing and Defending  
 Differing Site Conditions"**  
 ...See Inside for Details



- **Business: MCI Paint & Drywall**  
 From drywall, to painting, from light gauge framing to roll-offs and temporary storage, we can service your needs.
- Founded: 1976 Started sheet rocking, then moved to Minneapolis in 1986, added painting services in 1999.
- Scope: Steel framing, complete drywall and painting, residential, multi family, condominiums.
- Employees: 30.
- Website: [www.mcidrywall.com](http://www.mcidrywall.com)
- Mission statement: Provide the finest quality finish in our industry. Serving top quality builders and contractors. by exceeding their expectations. Significant accomplishments: Over 20+ awards for quality contractor form numerous general contractors.
- Other group affiliations include: BBB, CC, AWCI, NFB, BA
- ASA member contact: Mark Mathiowetz, 952-985-7778  
 Email: [markm@mcidrywall.com](mailto:markm@mcidrywall.com)

**Patrick D. Kennedy**  
 e-mail: [pkennedy@kainsurance.com](mailto:pkennedy@kainsurance.com)

420 Gateway Boulevard • Burnsville, MN 55337-2790  
 Phone (952) 707-8200  
 Fax (952) 890-0535  
 Website: [www.kainsurance.com](http://www.kainsurance.com)

**THE BLUE BOOK**  
 BUILDING CONSTRUCTION

**Kevin Douglas**  
 Regional Sales Manager  
 Cell: 952-334-7532  
 Email: [kdouglas@mail.thebluebook.com](mailto:kdouglas@mail.thebluebook.com)

Contractors Register, Inc. Regional Office:  
 P.O. Box 300 3001 American Blvd W, Ste B25  
 Jefferson Valley, NY 10935-0300 Bloomington, MN 55417  
 800-431-2584 ext. 3361 952-831-0142  
 Fax: 914-245-0932 Fax: 952-835-4806

COMMERCIAL • INDUSTRIAL • RESIDENTIAL

**ME**  
**MEDINA ELECTRIC, INC.**  
 22510 Hwy. 55  
 Hamel, Minnesota 55340

**ROGER GEORGES**  
 President  
[rogerg@medinaelectric.net](mailto:rogerg@medinaelectric.net)

(763) 478-6828  
 FAX: (763) 478-6055  
 Cell: (763) 286-0275



# SUB-NEWS

## The Voice of Subcontractors

Volume 12, Issue 38



### Welcome New Members

**Custom Expressions**  
*Richard Lee, President*  
 1800 East Cliff Road  
 Burnsville, MN 55337  
 952-693-5100 - Fax 952-895-5108  
[rllee@customexpressions.com](mailto:rllee@customexpressions.com)  
[www.customexpressions.com](http://www.customexpressions.com)  
 Finishes, window treatments

**Goliath Hydro-Vac**  
*Rachelle Volk, President*  
 24491 Dakota Avenue  
 Lakeville MN 55044  
 612-727-3444 - Fax 952-461-0322  
[goliath@integra.net](mailto:goliath@integra.net)  
[www.goliathhydrovac.com](http://www.goliathhydrovac.com)  
 Hydro excavation, vacuum



### Calendar At A Glance

**National ASA Business Forum & Convention 2009**, March 5-7, 2009 - Nashville, Tennessee

**Education: Proving, Pricing & Defending Differing Site Conditions**, April 16, 2009, 8:00-4:00 pm - Mendakota CC

**10th Annual Golf Tournament**, Tuesday, June 16, 2009, 12:30 Shotgun - StoneRidge Golf Club, Stillwater



### Member News & Notes

GC Showcase sponsored by The Blue Book of Building and Construction: Wednesday, April 29, 2009. 3:00-7:00 at the Prom Banquet Center in Oakdale

Carciofini is pleased to introduce two new employees, Ryan Schniepp as Estimator/Project Manager and Adam Bauchle as Project Assistant.

### ASA-MN Presents General Contractor of the Year Awards

The American Subcontractors Association of Minnesota (ASA-MN) held its awards and recognition program on Thursday January 22, 2009 at Mendakota Country Club in Mendota Heights. The annual program entitled "ASA-MN's 9<sup>th</sup> Annual General Contractor of the Year, Scholarship and Membership Excellence Awards Dinner."

The program included an introduction of the general contractor finalists for ASA-MN's 2008 T.O.P.S award. The T.O.P.S. award recognizes general contractors who embody working relationships that illustrate Teamwork, Opportunities and Partnering with Subcontractors.

Recipients:

*2008 General Contractor of the Year Recipient Sales Under \$150 Million*

### GUNDERSON CONSTRUCTION

Finalists: Lund Martin Construction and The Bainey Group

AND

*2008 General Contractor of the Year Recipient Sales Over \$150 Million*

### KRAUS-ANDERSON CONSTRUCTION COMPANY

Finalists: OPUS Northwest and Weis Builders.

Mark your calendars for our 10th Annual Event January 28, 2010.



Mike Schultz, ASA-MN Executive Director, Dick Gunderson, Jr., President, Gunderson Construction, John Lloyd, ASA-MN President, Lloyd's Construction Services



Mike Schultz, ASA-MN Executive Director, Doug Jaeger, Vice President, Kraus-Anderson Construction Company and John Lloyd, ASA-MN President, Lloyd's Construction Services



## ASA-MN Recognizes Membership Excellence and Presents Scholarship Awards at the January 22 Awards Dinner

Members were recognized for their on-going support and commitment to the local construction industry. Awards were presented at the 9<sup>th</sup> Annual General Contractor of the Year, Scholarship & Membership Excellence Awards Dinner

### 5-Year Membership Award Recipients:

- *Fabyanske, Westra, Hart & Thomson P.A.*
- *Mavo Systems*
- *National Fire Sprinkler Association*
- *Premier Restaurant Equipment Co.*

The ASA-MN also announced the recipients of this year's Construction Scholarship awards at the annual dinner. Students majoring in construction were selected based on several criteria. Their schools were presented with \$750.00 in tuition funds for each student.

### Congratulations to the following award recipients:

- *Anoka Technical College: Estimating Student, Maureen Black*
- *Dunwoody College of Technology: Electronic Technology, Andrew Bethke*
- *St. Paul College, Carpentry Student, Jehu Soria*



ASA-MN's annual Golf Tournament is a key fundraiser for these scholarship. Please mark your calendars and consider attending and or sponsoring this important event: June 16<sup>th</sup> 2009 StoneRidge Golf Club.



## A Message from President John Lloyd

Turn on the television, flip open your local newspaper or any other industry trade publication, and chances are you will find messages filled with gloom and despair about our current economic situation. Indeed, almost all of our businesses are suffering, or at the very least are not getting the work needed to remain vibrant.

However, ready for some good news? ASAMN is leading the way with the Contractors Bill of Rights Coalition (CBRC) and is pushing forward with legislation to make Minnesota a better place to perform construction-related activities. The problems we, as subcontractors, face with retainage, prompt payment, indemnification as well as the residential exclusions to current laws are being presented to your representatives at the state level. The organizations that normally oppose the changes we are seeking also seem to be acknowledging that there are some faults in industry that need fixing. The quality general contractors play by the rules and hold the subcontractor to the exact same terms that their contracts require. They release payments in a timely manner and do not shop the number after they get a job to put dollars in their pockets. The changes ASAMN is pushing for will improve accountability for all involved and transparency to the entire project team.

The legislators are listening. We seek fairness and are demanding the simple Golden Rule, "Treat others as you want to be treated". There are many general contractors out there that we work for who follow this and we want the work in their hands; resulting in better projects for owners, generals, subcontractors, and suppliers alike. The timing is right, and this is the opportune moment when we join together for these monumental changes in the law. We will be calling on you for help and sincerely hope that the call is answered. Please do not hesitate to contact myself, Mike Schmaltz, your Executive Director, or any board member with any questions, comments, or concerns. More importantly, do not hesitate to contact subcontractors, suppliers, and associates that share a vested interest in this cause; strength in numbers with a common focus is crucial when attacking an issue such as this.

Despite the economic downturn, the changes the CBRC is pushing for will immensely improve our industry not *if* but *when* the market returns.



## "Providing, Pricing & Defending Differing Site Conditions Claims"



Presented by Anwar Hafeez, SDC & Associates, Inc., Claim Experts & Construction Managers

Date: Thursday, April 16, 2009

Place: Mendakota Country Club, 2075 Mendakota Drive, Mendota Heights MN 55120, ph. 651-454-2822 [www.mendakotacc.com](http://www.mendakotacc.com)

Time: 7:30 Registration, Continental Breakfast

8:00-4:00 Educational Seminar (lunch 11:45-12:15)

This seminar teaches you about the lively and urgent topic of differing site conditions, and is a must for anyone working on renovation and underground projects. This seminar will help you to further develop their skills in preparing, negotiating, preventing and defending change orders and claims as well as teaching you the "best practices" for owners, designers and contractors, and proven techniques for successful claims resolution for this very complex type of claim. This seminar includes a very interesting interactive actual case study...specific topics covered include:

- Avoiding & Managing DSC Risks
- DSC Policies that "WORK"
- Site Investigation Clauses
- Actual legal cases contractors won/lost
- "Implied Warranty" of Plans/Specs
- Disclaimers vs Design Warranty
- Claim Preparation: practical guide
- Case Study
- RECOVERY: Type I & II Claims
- "REVERSE" differing site conditions

### Who Should Attend?

- Business Owners
- CFO's
- VP's of Construction or Marketing
- PM's
- Contract review depts.

The Instructor: Anwar Hafeez is the president and owner of SDC & Associates, Inc. He has over 30 years of hands-on construction experience working as a Contractor/Construction Manager. He has personally supervised over \$1.4 Billion in such landmark projects as the San Diego Convention Center, LA Central Library, LA International Airport, and Washington DC Subway. He has also successfully settled over \$175 Million in claims/change orders. Mr. Hafeez along with SDC has trained construction personnel by seminars and workshops all over the USA. *This program has been well received at many other chapters of ASA.*

Cost: Members \$75.00 and Guests \$150.00 - **INCLUDES Breakfast, Lunch and Course Book**

**\*\*ASA-MN Members: Sponsor a Guest at the Member Rate!!**

➔ **DEADLINE: Please Respond by April 10 via mail or fax**

Please REMIT to ASA-MN, 16112 Wake St., Anoka, MN 55304 | ph: 763-413-0669, Fx: 763-413-1131

Email: [asamn@msn.com](mailto:asamn@msn.com) web: [www.asamn.org](http://www.asamn.org)

ASA-MN has a 48 hour cancellation policy Thank You!

Attendees		REGISTRATION FORM	
		ASA Members \$75	Guests \$150
Company			
Street Address (((GUESTS...Please supply all contact information)))			
City/St/Zip			
Phone	Fax	Total - Remit to ASA-MN	
Email		\$	



## Legislative Update

Mike Schmaltz, ASA-MN Executive Director

Economic issues dominate the news regardless of the media and it will be the primary focus for every governmental entity this year.

Minnesota's projected budget deficit during the upcoming budget biennium, July 1, 2009 to June 30 2011, is estimated to fall in a range of \$5 billion and perhaps as high as \$7 billion. To balance the budget during the current period the governor applied existing reserve funds and an additional \$271 million in spending cuts. Nationally, we are hearing talk of nationalizing banks; anyone suggesting this as little as a few months ago - even as a remote possibility - would have been regarded as a raving lunatic.

This scenario forms a lens through which all legislative action will be seen. Every unit of government will be under pressure to deliver services with fewer people and resources. Any work you do that is linked with the government,; permits, licensing, etc. will be affected. Interest groups are actively campaigning for their constituencies. The state teachers union is running television ads supporting education funding. Long standing political alliances are under pressure as demonstrated by the work of Supreme Court Chief Justice Magnuson to increase funding, putting him at odds with Governor Pawlenty.

The ASA-MN and the Contractors Bill of Rights Coalition (CBRC) will continue to work on bills that affect subcontractors:

### CBRC Bill Drafted

We have a draft bill and CBRC lobbyists are working on identifying the best authors. The bill amends Minnesota statute 337.10. In summary, as drafted the bill will:

- > Prohibit pay if paid clauses
- > Eliminate residential construction exclusions
- > Require interest payments and recovery of legal costs on late progress and retainage payments
- > Requires lenders to notify contractors and subs of defaults on loans and allows suspension of work until the default is cured. Failure to provide such notice will subordinate the lenders interest to the contractor.

### Minnesota Bill Increases Subcontractor Liability

Companion bills SF 6 and HF 239 were introduced this session. The bills eliminate language in 327A.05 that limits damages and would permits homeowners to recover all damages incurred due to faulty construction. This would allow homeowners to recover any amount of money arising out of damages, not just limited to repair amounts or the difference between the value of the home with the defect and without it. It would essentially expose contractors (and subcontractors) to punitive damages and attorneys' fees with no provision for proportional liability. This bill should be opposed in any communication you have with legislators.



## ASA Releases Updated Anti-Indemnity Chart

ASA has released an updated "Subcontractors' Chart of Anti-Indemnity Statutes" for members' use. The chart puts information about state laws that restrict the indemnity provisions of construction contracts into an easily digestible format. It lists each state, cites the applicable statute or statutes (if any), and indicates with a check mark those states whose statutes bar indemnity for sole fault, bar indemnity for sole or partial fault, and/or close the additional insured loophole. The chart is an important resource because prime contractors commonly use indemnity provisions to shift risk to subcontractors. States without indemnity restrictions allow prime contractors to contractually obligate subcontractors to pay the whole cost of losses, such as bodily injury and property damage, no matter how little fault the subcontractors have — even none. States that do not restrict additional insured clauses also allow this wholesale transfer of risk to subcontractors through insurance requirements. States that bar indemnity for sole fault are marginally less risky for subcontractors; these states do not allow prime contractors to obligate subcontractors to pay for losses for which the prime contractors are 100 percent responsible. However, from a practical point of view, project complexities often make it difficult to prove that prime contractors are solely responsible for causing losses. The best kind of anti-indemnity law bars indemnity for both sole and partial fault. Such statutes allow prime contractors to require subcontractors to indemnify prime contractors against losses only to the degree that the subcontractors actually cause the losses. ASA member Ceco Concrete Construction updated this chart for all ASA members to use. *This resource is available to members under the "Risk Transfer" section of the Member Resources page at [www.asaonline.com](http://www.asaonline.com).*



## 2009 Version of the Stimulus Bill Provides Some Tax Opportunities

Paul Longsdorf, HLB Tautges Redpath

Key tax changes affecting business in the recently enacted "American Recovery and Reinvestment Act of 2009" (the 2009 economic stimulus act).

**Extension of bonus depreciation.** Last year, Congress temporarily allowed business to recover the costs of capital expenditures made in 2008 faster than the ordinary depreciation schedule would allow by permitting these businesses to immediately write off 50% of the cost of depreciable property acquired in 2008 for use in the United States. The new law extends this temporary benefit for qualifying property purchased and placed into service in 2009.

**Extension of enhanced small business expensing (Section 179).** In order to help small businesses quickly recover the cost of certain capital expenses, small business taxpayers may elect to write off the cost of these expense in the year of acquisition in lieu of recovering these costs over time through depreciation. Last year, Congress temporarily increased the amount that small businesses could write off for capital expenditures incurred in 2008 to \$250,000 and increased the phase-out threshold for 2008 to \$800,000. The new law extends these temporary increases for capital expenditures incurred in 2009.

**Expanded loss carryback of net operating losses for small businesses.** Under pre-Act law, net operating losses (NOLs) may be carried back to the two years before the year that the loss arises and carried forward to each of the succeeding twenty years after the year that the loss arises. For years ending in 2008, the new law extends the maximum NOL carryback period from two years to five years for small businesses with average annual gross receipts of \$15 million or less. May apply to years beginning in 2008 at the election of the taxpayer.

**Incentives to hire unemployed veterans and disconnected youth.** Businesses are allowed to claim a work opportunity tax credit equal to 40% of the first \$6,000 of wages paid to employees of one of nine targeted groups. The new law expands the work opportunity tax credit to include two new targeted groups: (1) unemployed veterans; and (2) disconnected youth. Individuals qualify as unemployed veterans if they were discharged or released from active duty from the Armed Forces during 2008, 2009 or 2010 and received unemployment compensation for more than four weeks during the year before being hired. Individuals qualify as disconnected youths if they are between the ages of 16 and 25 and have not been regularly employed or attended school in the past 6 months.

**Delayed recognition of certain cancellation of debt income.** To benefit certain businesses that buy their own debt at a discount, the new law lets the businesses recognize cancellation of debt income over 10 years (defer tax on COD income for the first four or five years and recognize this income ratably over the following five tax years) for specified types of business debt repurchased by the business in 2009 or 2010.

**S corp holding period.** The new law temporarily shortens the holding period of assets subject to the built-in gains tax from 10 years to seven years.

**Repeal of IRS's built-in loss rules.** The new law provides a prospective repeal of Notice 2008-83, the controversial IRS guidance which provided that if a bank recognizes a loss from the disposition of a loan or takes a bad debt deduction under the specific charge-off or reserve methods of accounting after a change in ownership, that loss or deduction will not be treated as a built in loss attributable to the pre-acquisition period.



## ASA-MN Annual Golf Tournament Call for Sponsorships

Summer is almost here and it's never to early to make a tee time! Mark your calendars this years ASA-MN's 11<sup>th</sup> Annual Golf Tournament:

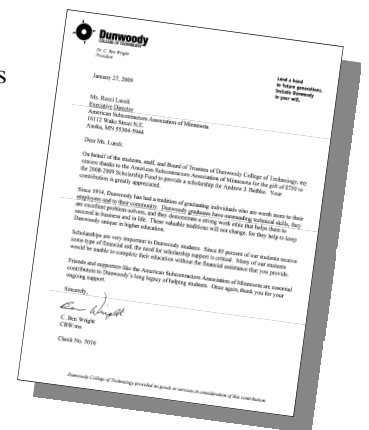
TUESDAY, June 16, 2009  
12:30 Shotgun at StoneRidge Golf Club in Stillwater.

Our annual golf event is the cornerstone of our scholarship program. We rely on contributions from our members and colleagues to help us raise the funds we later give to deserving construction students.

Please go to [www.asamn.org](http://www.asamn.org) to download the sponsorship form. By making your commitment early, you will maximize your sponsorships dollars and be eligible for early bird sponsorship perks!

## Dunwoody College of Technology says "Thank You!"

In a recent letter received from Dunwoody College of Technology, Ben Wright, President, expressed his thanks on behalf of the school and the students who have received scholarships. Funds from organizations like ASA-MN are essential to helping deserving students enter the construction trades.





## Precast LEED Article for ASA-MN

Erik Molin, Molin Concrete Products Co.

Over the past few years people have likely started to notice Green Design, Sustainable Building Practices and the LEED rating system. Here I will give a basic overview of Sustainable Design and how it relates to precast/prestressed concrete.

In recent years, designers have become more aware of the impact buildings have on the environment. A glance at the facts illustrates how buildings are a great starting point for reducing adverse impacts on the Earth. For example, worldwide, buildings use 40% of the available raw materials used in construction and operations. In the U.S., buildings consume 65% of the electricity generated, 36% of all primary energy (such as natural gas) and 12% of the potable water used. With this large amount of consumption, it makes sense that providing a system for dealing with buildings would be a good place to start. Sustainability, in addition to concerns about reducing impacts on the environment, looks at the community where the building is built as well as the life cycle of the building. Does the building take advantage of existing infrastructure, or will it require new roads and utilities? Is the building constructed with durable materials and building practices? Sustainability tries to address the building as a long-term resident where it is built.

The LEED Rating System, issued by the United States Green Building Council provides a framework for how buildings should be built. It uses a basic point system varying from certified, bronze, silver, gold and ultimately platinum rating levels. The rating system is a guide that deals with many aspects of the building's construction and occupation. The categories of LEED are: Sustainable Sites, Water Efficiency, Energy & Atmosphere, Materials & Resources, and Indoor Environmental Quality. These categories address issues from as simple as "where should we build?" to the more complex issues of commissioning of the various building systems.

The Precast/Prestressed Concrete Institute has identified credits within almost every segment of the LEED program that precast concrete can help (the exception being credits that deal with water efficiency).

- In the Sustainable Sites category precast helps by preserving open space and helping to lower the "heat-island" effect. One way it accomplishes this is by allowing parking to be possible below the structure; this results in more open space on the site and prevents parking lots from heating up and affecting the microclimate.
- Due to its thermal mass when used in wall panels, precast concrete helps with energy efficiency by slowing heat convection. It slows down the large swings in temperature that a building will experience from day to night-giving a more stable heating and cooling cycle.
- Precast concrete assists in the Materials and Resources section by the mere fact that it contains many recycled elements and is likely from a regional precast facility. For example, precast concrete contains a cementitious material called "fly ash" which is a by-product of making electricity. This is reused in precast mix designs to achieve workability and improved durability. Precast concrete also contains tensioned steel strand which is made from melted down scrap steel. In addition, most precast concrete manufacturers are regional due to the shipping costs that incur. Thus, most precast concrete are within 500 miles of their destination, which makes them eligible for additional LEED credits.
- Finally, precast assists in Indoor Environmental Quality points by providing a quick envelope to a building during construction. With a quick envelope in place, precast can protect the building from moisture or air pollutants during construction.

This has been an extremely brief introduction to sustainability and precast/prestressed concrete. I hope that you were able to get a better understanding of how sustainability works with precast as well as the built environment. For additional information, please point your web browser to: <http://www.pci.org/resources/sustainability/index.cfm/home>.

## Special "Thank You" to Participators of the February Event

Presenter



Alana Sunness Griffith, FCSI, CCPR  
EMPIREHOUSE, Inc.

Educational Sponsor



Patrick Kennedy  
Kraus-Anderson Insurance

Networking Sponsor



Kevin Douglas  
The Blue Book of Building & Construction



## What Kind of Customers are You Really Working for?

Mike Schmaltz, ASA-MN Executive Director

ASA's most recent education program was held at Grumpy's in Roseville.

The program was designed to enable subcontractors to understand the difference between various project delivery methods. With this understanding, subcontractors can better avoid pitfalls found in contracts, understand project control hierarchy and the communication protocol involved with each method.

The ASA was fortunate to have as a keynote presenter and ASA-MN member, Alana Sunness Griffith FCSI, CCPR. Alana is the Vice President, Marketing for Empirehouse, a leading Minnesota commercial glazing specialty contractor. In addition to her involvement with the ASA-MN, Alana is an MCA director, and has a noteworthy background with the Construction Specifications Institute having served as a board member for nine years, on its strategic Planning Committee and as its National President in 2000.

Alana outlined and described the three major delivery methods: Design/Bid/Build; Construction Manager (both as an owner agent and "at risk") and Design/Build or Direct to Owner. Following this initial presentations attendees broke into three groups to focus on the various deliver types. The groups were moderated by Alana Griffith and ASA Board members Julie Nielson and Jami Anderson.

Discussions were intense and went beyond the time initially allotted as members shared experiences and practices they employ for best results. Following the formal program attendees enjoyed the opportunity to network with refreshments sponsored by the Blue Book of Construction.



Alana Sunness Griffith,  
Empirehouse



## Implement a Workplace Drug Testing & Background Screening Program

Patrick D Kennedy, VP, Kraus-Anderson Risk Management., Statistical Information by Daniel G. Getzinger,  
National Association of Drug Free Workplaces

In today's fast-paced environment, sometimes it is easy to overlook the seriousness of the effect of drugs and alcohol in the workplace.

With the inconvenience of having to send people to a lab, along with the lost time and production, sometimes it's easier to just let them keep working. This kind of thinking has been the cause of the downfall of companies—large and small. Businesses failing to drug test and do background screenings of their employees are open to customer service risks, serious legal costs and operational losses.

Consider the following:

### Drugs testing:

- Over \$100 billion annually is the projected cost to U.S. employers in 2007 for on-the-job drug abuse.
- 85% of drug abusers steal from their workplaces.
- 65% of all work-related accidents are the direct result of substance abuse.
- 77% of all drug users over the age of 18 are employed.

### Background Screening:

- 30% of business failures are due to poor hiring practices.
- An estimated 1 of every 20 working age adults (4.1 percent) will serve time in a prison during his or her lifetime.
- 53% of job applicants provide false information.
- In the US, on average, at least half of all new hires do not work out.

Drug testing and background screening should be up-front in a risk management program. It is a fairly simple program to implement and one that can make a positive financial impact on your business.

You should also check with your Insurance Broker, many Liability & Workers Compensation Insurance Companies in Minnesota and Wisconsin give policy credit to businesses with a documented and active Workplace Drug Screening Program.