



Subcontractors Association of the Metroplex

PUNCH LIST

The voice of the Subcontractor's Industry



Subbie Sam Says

- If you sit back and let your government take advantage of you without a fight, you deserve the consequences.
- The same goes for Contracts. Be armed with the knowledge to fix them at our SAM contract language seminar in September.

Inside this issue:

Hot Air Blog	1
September Contract Seminar	2
Will Newton from NFIB	2
Debt Ceiling Deal	2
Faces in the crowd.	3
Health Care	3
Education at a good price.	3
Our Officers	4

Hot Air Blog - News From Washington

Back in May we reported that the IRS was preparing to implement a 3% withholding tax on all payments made by Federal, State, or local government entities who contract more than \$100,000 per year. This withholding tax applies to all contracted materials and services, as well as payments to any person for a service or product provided to a government entity.

We had a flash that the implementation of the tax on existing and not substantially altered contracts existing on or before December 31, 2012 would not be subject to the withholding until January 1, 2014.

The modified law reads in part:

“§ 31.3402(t)-1 Withholding requirement on certain payments made by government entities.

\*\*\*\*\*  
(d) \*\*\*\*\*

(2) Payments made under a written binding contract that was in effect on December 31, 2012, are not subject to the withholding requirements of this section for payments made prior to January 1, 2014. The preceding sentence does not apply to payments made under any contract that is materially modified after December 31, 2012. For this purpose, a material modification includes only a modification that materially affects the property or services to be provided under the contract,

the terms of payment for the property or services under the contract, or the amount payable for the property or services under the contract. Notwithstanding the foregoing, a material modification does not include a mere renewal of a contract. A material modification also does not include a modification to the contract required by applicable Federal, State or local law. The amendment to § 31.3402(t)-1 (d)(2) applies with respect to payments made after December 31, 2012.”

This means to me that, if you have an existing contract with a government entity in force before January 1, 2013, you will not be subject to withholding on any payments on the contract until January 1, 2014.

It also means to me that if you sign a contract after December 31, 2012, any payment to you will be subject to a 3% withholding of the gross billing.

It's obvious that this practice will severely hurt any small business who does not take the onerous withholding into account. Many of us contract directly with a municipal, county, state or Federal Government. Many more of us sub-contract to General Contractors on government work.

How many of us believe that a General Contractor would pay us in full and not pass on the 3% withholding?

This law is patently un-fair, and it targets a specific industry. If we were lucky to make the 4% profit on a project and the Government withholds 3% we are stuck financing the government with their over-withholding. This is not to speak of the money kept from us to put toward future projects, make payroll, and finance the slow pay of General Contractors and Owners.

If you ever intend to do business with any governmental entity, this law will affect you.

We need to speak out now or live with the consequences.

**Make your comments no later than August 8, 2011.**

Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-151687-10), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov/>



Will Newton (above)  
Spike Cutler, Will Newton, James Mayhew, and Pete Snider (below)

## NFIB STANDING UP FOR US IN AUSTIN

We were lucky to be joined by our old friend, Will Newton, Executive Director of the National Federation of Independent Business, Texas. Will was fresh off his battles, and for the most part victories, with the State legislature. Many bills were presented that could hurt us small businessmen, but none of them passed. This year several of them actually helped us.

Will regaled us with his story about when he was in

the Cool-Aid room with several of the Senators. They were trying to get small business to drink some of their political "Cool-Aid", but Will wouldn't stand for it. His efforts killed that bill, and he had several more passed that will help us. See last month's punchlist for details on the legislation.

One of our battles over the past 2 sessions has been the vastly unfair Margins Tax, where most of us

have seen 200-800% increases in the tax we paid as opposed to the old franchise tax. We weren't lucky enough to get this law changed, but we will be making a full frontal challenge on it in the next legislature.

*SAM re-confirmed it's alliance with the NFIB in the upcoming battle to get the State legislature to abolish this most un-fair tax and replace it with one that is evenly paid by all.*

## SEPTEMBER - CONTRACT SEMINAR



Angela Gamel and Brad Wilson from Steel Fab Services

Contracts are an evolving document, made to protect the writer of those documents under any circumstance, whether it was the writing parties fault or not.

We've all heard, "No one else has a problem with this, they all sign it." or "I'd never do that to you, it's just written there by our legal people." If you believe that, sign away. You may just be signing

away your livelihood and the livelihood of all your employees. Is it really fair that you not only have to forgive the contractor, you also have to pay for his lawyers to defend him, even if its his fault or the fault of another sub-contractor. Do you really have to let him dictate the unreasonable schedule to you or make you work un-bid overtime because another sub or his own negligence caused a

delay in the job. If you've been to one of these before, a refresher course is always in order. If you haven't, it's time to learn how to get a square deal before the job starts.

The best news is that it's only \$75.00 for as many from your company as you wish to send. An educated crew is a money making (and money saving) crew.

## PRESIDENT OBAMA SIGNS DEBT CELING DEAL



Helen Wells and Sue Ranft from Tepco Contract Glazing

President Barack Obama on Tuesday, August 2, signed the bill passed by the House and Senate to raise the debt ceiling, avoiding the financial turmoil that would have come with default. The deal reduces the deficit \$917 billion over the next 10 years and

calls for the creation of a 12-member committee to identify an additional \$1.5 trillion in reductions by Thanksgiving. Moody's, a credit rating agency, said the U.S. would maintain its top-ranked debt rating for now, but indicated

it could still be in jeopardy in the near future.

Source: NFIB Smart Brief



Subbie Sam Says:  
Reducing the deficit does not eliminate the deficit. Our businesses cannot operate with losses every year

## FACES IN THE CROWD



Joe Cooper from Garland Concrete



Kerry Johnson from Fox, Byrd & Co



Stewart and Cindy Jones from Texas Specialties

## HEALTH CARE

### The fate of the health care law remains uncertain

The end effect of the health care law passed last year remains unclear as supporters and critics tussle over the significance of a study showing the law will increase the government's share of health spending. Many provisions of the law, such as a panel designed to rein in Medicare costs, face obstacles to implementation. State-run health care exchanges, a key part of

the law, have had mixed legislative success so far.

### NFIB: 57% of employers may drop coverage under the health law

The health care law will provoke employees to get government-subsidized coverage from health care exchanges, encouraging many employers to drop their coverage, writes The Wall Street Journal's editorial board. Fifty-seven

percent of small businesses reported being "very likely" or "somewhat likely" to drop coverage if their employees get government-sponsored coverage, according to an NFIB study.

Source: NFIB Smart brief



SAM is a proud member of the National Subcontractors Alliance

### Fast Facts

- ✦ Total yearly federal receipts have fallen below 2004 levels.
- ✦ Total federal receipts were \$2.5 trillion dollars in 2005, compared to \$2.1 trillion in 2010.

A plan approved by the President and Congress this week is aimed at reducing the deficit by about \$2 trillion over the next ten years.

## EDUCATION AT A GOOD PRICE

Every week I get several advertisements for seminars. Contract Language webinars - \$199, dealing with OSHA webinar - \$199, how to increase sales telephone seminar - \$250 and so on. These are webinars and phone seminars and they don't even give you a Coke! SAM was founded because we felt that we could get the industry leaders and industry novices together to share their strengths and knowledge and together they would raise their abilities and professionalism,

and in the process, raise the standard of our Sub-Contracting industry.

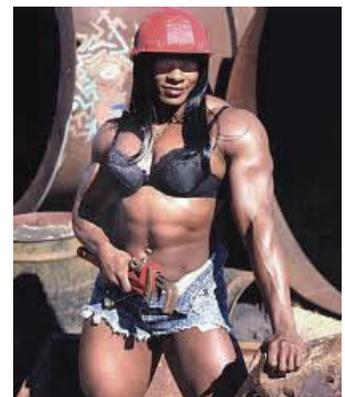
Every month we have an opportunity to learn the industry trends and profit from the experience of our other members through the Business Practices Interchange. The cost for this? ...The cost of a meal and maybe a cocktail or two.

We get interesting and informative speakers that increase our

knowledge of our industry.

Our seminars are \$75, not \$200 - \$400, and we'll buy you a Coke! Want to send some of your employees to a seminar so they can become more valuable to you? Fine, once you pay the minimal \$75 for one, you can send all you want and not pay a cent more. We'll even buy all of you a coke.

Education is not costly at SAM; all it takes is a little bit of money and you showing up.



I don't care what I signed!  
You're not going to get away with that!



# Subcontractors Association of the Metroplex



Pete Snider, Executive Director  
1420 Hubbard Drive  
Forney, TX 75126

Phone: (972) 771-0188  
Cell: (214) 908-9248  
E-mail: [execdir@sam-dfw.org](mailto:execdir@sam-dfw.org)



The Subcontractors Association of the Metroplex was founded with the purpose of creating an affordable forum for Subcontractors to exchange information and learn from each other how to be better business men or women.

Sam is a member of the National Subcontractors Alliance, the largest Subcontractors association in the USA, and also a member of the Association of Specialty Contractors where we have a voice in National Legislation.

Sam is also allied with the National Federation of Independent Business who has a voice in the Texas Legislature on small business issues.

**Your Source for Subcontractor's information.**



**Visit us at:**  
**<http://www.sam-dfw.org>**



## Our Association Officers

**President and B.P.I. Chair:**

**James Mayhew,**  
**Apex Services, Inc.**

[jmayhew@apexservicesinc.net](mailto:jmayhew@apexservicesinc.net)

**Treasurer:**

**Kay Schultz**  
**Baker Triangle**

[kschultz@bakertriangle.com](mailto:kschultz@bakertriangle.com)

**Member:**

**Eric Lindberg**  
**PCI Construction**

[ericl@pciconstruction.com](mailto:ericl@pciconstruction.com)

**Member:**

**Tim McSorley**  
**Storage Equipment**

[tmcsorley@secdfw.com](mailto:tmcsorley@secdfw.com)

**Associate Representative:**

**Clem Lesch**  
**PCL Contract Bonds**

[clesch@pclbonds.com](mailto:clesch@pclbonds.com)

**Counsel:**

**Spike Cutler**  
**Cutler-Smith, PC**

[scutler@cutler-smith.com](mailto:scutler@cutler-smith.com)

**Legal**



If you're not a member of SAM, you should be.

Call Pete Snider for a membership application.

(972) 771-0188

Cell (214) 908-9248

**SUBCONTRACTORS—  
THE ONES WHO  
REALLY BUILD THE  
BUILDING**