



Subcontractors Association of the Metroplex

PUNCH LIST

The voice of the Subcontractor's Industry



Subbie Sam Says

You don't have to be sick to get better. Often a qualified outside consultant can help you maximize your profits.

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LEGISLATION, RACE TO THE GAVEL

We are down to the last, frenzied, month of the legislative session, and as predicted, this year looks like a tough one to get things done. This session may go down as one in which more time was spent establishing new relationships and alliances, and less, in passing useful legislation. Here is the status of several pieces of legislation of interest to SAM members, and advocated for by our legislative representation, the Texas Construction Association (TCA).

Consolidated Insurance Programs

SB1081 by Senator Brandon Creighton was approved by the full Senate in late April, and sent to the House for consideration. On April 30, it was referred to the House Insurance Committee, where its House companion, HB1206, is still pending.

The CIP bill requires that crucial information about the CIP prior to a contractor entering into a construction contract. It also requires the principal to furnish promptly a copy of the insurance policies under the CIP.

Lender Notice of Default

HB1208 by Representative Cecil Bell, Jr. Reported favorably out of committee, and is in the House Calendars Committee waiting to be placed on the House Calendar for consideration by the full House. If passed there, it would need to go to the Senate for consideration.

Currently, lenders have no obligation to inform the construction team that the bank will no longer fund a construction loan, and so the construction team continues to work on a project. The lender gets a completed project and the contractors and subcontractors are left holding the bag. This bill will require the lender to provide notice to the contractor when the lender accelerates a loan or declares the loan in default.

Retainage Trust Fund

HB1966 by Representative Jim Keffer is in the House Calendars Committee for consideration of placement on the House Calendar to bring it to the full House for a vote. If passed there, it would need to go to the Senate for consideration.

This bill requires the owner to set aside the 10% retainage in a separate bank account protected from the owner's creditors.

Worker Classification

HB 434 by Representative Senfronia Thompson remains in the House Business & Industry Committee awaiting a hearing.

It is becoming increasingly prevalent that companies are not classifying workers properly as employees. By not classifying properly, a company does not pay its fair share of taxes. This bill provides a penalty for a construction company that fails to properly classify a worker as an employee or independent contractor. It provides protections for those companies that use independent contractors legitimately. Unfortunately, as time grows short, this initiative appears to be unlikely to get anywhere this session - but important groundwork has been laid for next session.

Sovereign Immunity on State Work

HB 1124 by Rep. Paul Workman was voted favorably from the House Judiciary & Civil Jurisprudence Committee on Wednesday, April 29, and is now in the House Calendars Committee awaiting placement on the House Calendar for consideration by the full House. This legislation will further strengthen the changes made to the waiver of sovereign immunity for state breach of contract legislation passed in 2013.

Statute of Repose Relief

HB 1784 by Rep. Workman was heard in the House Judiciary & Civil Jurisprudence Committee on Tuesday, April 28, and is now awaiting a vote from the committee. This legislation provides for a decreasing liability of 10 percent per year for defects in construction or repair of an improvement to real property. Again, the lateness in the session suggests that this Bill may not make it out in time for passage.

This late in the session, anything can happen - so watch your email, and if a call to action to contact your representatives and senators is issued by TCA and that Sam, be prepared to respond quickly. It is important!

Spike Cutler is SAM's legal Counsel and also SAM's representative on the NSA Attorneys Council.

SPECIALLY-FABRICATED MATERIALS

Many don't realize that, if you accept an order for "Specially Fabricated Material," you can file a mechanics lien against the property, even if the materials never get installed in the property. Importantly, many subcontractors also don't realize that, by accepting a subcontract which includes Specially Fabricated Material, the subcontractor, as well as its suppliers, is entitled to file a lien for them!

Timing is tight, though - you have to give notice to the owner of the property no later than the 15th day of the second month after you accept the order. If a project goes bad, this notice, along with the Lien you file, could make the difference between being stuck with a large payable to your supplier, and having nowhere to collect the money.

Feel free to consult with Association Counsel, Cutler - Smith, PC, and watch for the next SAM Mechanics Lien Seminar.



Top: Our Seminar Sponsor, Clem Lesch of PCL Contract Bonds, Bottom: Seminar Presenter, Garrin Fant of Cutler-Smith



Brad Gross of Lane Gorman Trubitt bringing us our June program.



Charter member Billy Neu of Neu-co



New member Clay Ratliff of Airport Technical Services



Jim Brewer of MasterThink, presenting May's program



Ricky Locke of Independent Insurance Agency

DEFENDING CONSTRUCTION CLAIMS

Thanks to PCL Contract Bonds for sponsoring our meals at our April Seminar.

Garrin Fant of Cutler-Smith told us of the nightmares that we can face when a General Contractor is determined to place the blame for construc-

tion defects on his subs. I doesn't matter if you're guilty or not; a subcontractor has to be in a position to defend his or her company, so they will be able to fix a defect economically, or to escape being charged for fixing a defect

when they weren't responsible for creating it. Garrin's message was: "Document, Document, Document, then Document some more."

Garrin does much of the courtroom Litigation for Cutler-Smith.

SAM MEMBER HIGHLIGHTS

All of us are proud of our companies. If you would take the time to write a small article on your company, or send in any news that you would like to share, SAM would like to publish it in our Punch List.

Send to: execdir@sam-dfw.org

TCA LEGISLATIVE ALERTS

You all should be getting timely legislative alerts from Mike White of the Texas Construction Association. Please take the time to read through them and let your legislators know how you stand on the issues. If you have had personal experience with an issue that is being addressed, let Mike White, of the TCA know, as well as your State

Representative and Senator. There may be times that it would be very helpful for those of you who have experience with an issue may be asked to testify to the committees in Austin. This is a tremendous service to your industry.

Mike White can be reached at: mwhite@texcon.org

Right: Our April Seminar: Defending a Construction Defect Claim seminar had a full house.



All members of SAM are also a member of the National Subcontractors Alliance, the largest Subcontractors Advocate in America.



Survey Says... College Graduates Are Not Prepared for the Workplace!



The Association of American Colleges & Universities (AAC&U) released a report *Falling Short? College Learning and Careers Success*, conducted by Hart Research Associates summarizes key findings of two national surveys. The key findings of the report are:

Employers greatest competencies when hiring recent college graduates are:

- 85% oral communication
- 82% written communication
- 83% teamwork
- 81% ethical decision-making
- 81% critical thinking
- 80% apply knowledge to real-world settings

- 90% employers responded that “a demonstrated capacity to think critically, communicate clearly and solve complex problems is more important than a candidate undergraduate major”
- 58% of employers stated that graduates need to be better prepared for entry-level positions
- 66% of employers stated that improvements are need to prepare college student for advancement and promotion

- 25% of employers stated that recent college graduates are well-prepared in critical thinking and analytic reasoning, written and oral communication, complex problem-solving, innovation and creativity and applying knowledge and skills to real-world settings
 - 30% of employers said that college graduates are well-prepare in the area of ethical judgment and decision making
 - 37% of employers said they were well-prepared in teamwork skills
 - 60% of students rated themselves well-prepared in the above competencies
 - 96% of employers surveyed stated that all students should have educational experiences that teach them how to solve problems with people whose views are different from their own
- 80% of employers stated that it would be useful to be able to see an electronic portfolio of the students' work that summarizes and demonstrates the student's accomplishments in key skill and knowledge areas
- The bottom line findings from this report is both employers and educators have a vested interest in the success of college graduates. We all need to work on developing these competencies in our students and employees.**

Reference: Maurer, R. (1/26/2015) Recent Graduates III-Prepared for Today's Workplace

UPCOMING PROGRAMS

June brings us a very important program:

“Contractor Internal Controls at the Office and Jobsite—Protecting your Company from Employee Theft and Fraud”

Donna Nuernberg and Lance Trammel will present a program to give you the details on how to set up you company to avoid employee and vendor theft and fraud. Donna and Lance have seen it all, and it's often times a trusted employee with years of service that tries to take advantage of their employer. Donna and Lance will give you the tools you need to eliminate the temptation to steal from your company before it happens.

Coming soon is our annual McGraw-Hill construction forecast. Our friend, Mike Mehno has retired from McGraw-Hill, but we are promised the best they have to once again bring us up to date with their always accurate and timely Construction Forecasts.



As a SAM member, you are also a member of the Texas Construction Association.



Ron Cagle of JCR Integrated Solutions



Maria Groves of Groves Electric, sidelined with a broken ankle, with Daughter Leeann Hawkins and Eric Lesch of PCL Contract Bonds



SAM supporter and regular attendee, Ian Buchanan of Interface Financial



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



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 a member of the Texas Construction Association, the unifying voice of the trades in the Texas Legislature and as such all SAM members have access to all the benefits of the TCA.

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

Paul Holden, Representative to the TCA
Facility Construction Services

paulh@fcsdallas.com

Gary Ardis

Anderson Asphalt and Concrete Pav.

gardis@andersonpaving.com

Member: Tim McSorley

Storage Equipment

tmcsorley@secdfw.com

Treasurer: Carrie Edomm

Astro Sheet Metal

carrie.edomm@astrosheetmetal.com

Member: Selena Zarate

Groves Electric

selena@groveselectric.com

Member: Don Weempe

Master Construction and Engineering

dweempe@masterconstruction.com

Associate Representative:

Clem Lesch

PCL Contract Bonds

clesch@pclbonds.com

Associate Representative: Program and Membership Chair

MaryEllen Evens

Trade Management

mevans@trade-mgmt.com

Legal Counsel: Spike Cutler

Cutler-Smith, PC

scutler@cutler-smith.com



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 or email to:

execdir@sam-dfw.org

**SUBCONTRACTORS—
THE ONES WHO RE-
ALLY BUILD THE
BUILDING**