



April 10, 2014

This newsletter is delivered electronically to our members.

INDUSTRY

NEW ACORD Form 855 – Industry Webinar, May 21, 2014

NY Construction Certificate of Liability Insurance Addendum

The ACORD 855 (to be released in June 2014) is a tool developed to help contractors ensure that their subcontractors are providing adequate coverage. The ACORD 855 was developed by the AGC NYS Risk Management/Insurance Committee with the help of the speakers, Kevin Viaña—Marshall & Sterling Insurance, Marilyn Maher—E. W. Howell Co., LLC and William Greagan, Esq.—Goldberg Segalla, LLP. We have worked hard to get this to the market so we hope you able take advantage of this opportunity.

In this current insurance market caused largely by the ravages of Scaffold Law, the need for this form is becoming more and more apparent. This program will provide information about why this form is necessary and how to employ this tool. This program is a must for:

- Contractor/Subcontractor Executives
- Project Executives/Managers/Superintendents
- Building Owners/Managers
- Risk Managers
- Administrative Staff

Cost: \$25 AGC NYS Members, \$55 non-members. Click [here](#) to register on the Go-To-Webinar site.

Staff Contact: [Brendan Manning](#)

New AGC Affinity Partner

Win the War for Talent: An Introduction to the BirdDog Recruitment Software & Services

As a new Affinity Program Provider for the AGC of America, BirdDog can help AGC members overcome the challenges of recruiting top talent and maintaining compliance with the OFCCP. Join Bryan May, EVP at BirdDog and construction industry recruitment expert on an educational webinar to learn more about: top techniques companies are using to build bench strength, the BirdDog ATS in action—case study from Martin Marietta Materials and winning the battle with technology. Register for the [webinar](#) today.

Staff Contact: [Dennis Kiefer](#)

AGC NYS Membership Survey

AGC NYS recently e-mailed out a membership survey to our 500+ members to evaluate the value and importance of our services to you, our members. If you have not yet submitted your

feedback— you still have time. The survey will be open until April 16, 2014. If you need the link for the survey sent to you again please contact Michael Jamison at mjamison@agcnys.org.
Staff Contact: [Michael Jamison](#)

Interested in Advertising in the Membership Directory— You Still Have Time

Michael Jamison, our new Communications Director at AGC NYS, is still taking orders for advertisements in our member directory which is sent to over 600 members and organizations around the state. For inquires please contact Michael at mjamison@agcnys.org or call our office at 518-456-1134.

Staff Contact: [Michael Jamison](#)

AGC NYS AROUND THE STATE

Mike attended meetings in NYC and joined Chairman Vince Iannelli, AGC of America CEO Steve Sandherr and President Al Landes at the ENR Award of Excellence Dinner.

Mike also served as a panelist, alongside Albany Mayor Kathy Sheehan, Assemblyman Felix Ortiz and former AFL-CIO President Denis Hughes, discussing the infrastructure funding crisis at the Albany Law School Government Law Center's Warren M. Anderson Legislative Breakfast at the New York State Capitol.

An AGC NYS Board of Directors meeting was held on April 8th in Albany. The meeting was well attended and covered a variety of topics related to AGC NYS, the construction industry as a whole, and upcoming AGC NYS events.

BUILDING

Capital District/Northeast NY Building Membership Meeting

AGC NYS will hold a Building membership Meeting on April 28th beginning at 11:30AM at The Desmond. The luncheon meeting will feature Mike Tucker, President and CEO, Center for Economic Growth who will speak about economic issues of interest to you. In addition, AGC NYS Chairman, Vince Iannelli along with AGC NYS Senior Staff will be there to discuss the State of the Industry generally and in your region, the state of AGC NYS and issues of interest and concern that AGC NYS is (or should be) concerned with. Please click [here](#) to register online. If you prefer, you can click [here](#) for a pdf version of the registration form.

Staff Contact: [Joe Hogan](#)

2014 New York City Building Code Training

Don't miss the upcoming 2014 New York City Building Code Training classes beginning in April. Visit the NYC DOB websites for dates and locations. Click [here](#) for more information.

Staff Contact: [Joe Hogan](#)

Insurance Market Tightening?

What AGC NYS is Hearing about Limits, OCIPs and CCIPs

In an effort to stay on top of the issues facing our Members, AGC NYS keeps its ear to the ground relative to a variety of issues. Of great concern lately is the insurance market. Recently, we heard that the insurance market reaction to the scourge of Scaffold Law and the resulting issue of "horizontal v. vertical exhaustion" which offered in the last year or so in NYC is now

spreading to upstate. That reaction included a shift of coverage limit requirements - from the carriers – to a 2/4/4 from the traditional 1/2/2. While this is not universal in upstate, it appears to be spreading. Obviously, the potential insurance cost impact on general contractors could be significant. If NYC is a guide, not just the cost impact but the availability impact to subcontractors could be even more significant depending on the trade. It is for this reason AGC NYS worked so hard on the development of the ACORD 855 Supplemental Insurance Certificate. This form will afford some degree of assistance in your efforts to ensure that your subcontractors, in fact, have adequate coverage. If you haven't signed up for the webinar slated for May 21st, we encourage you to do so. Click on the link for more information.

As to OCIPs and CCIPs we are hearing that the more standard coverage limits these days is 4/6. More importantly, we are hearing that the loss costs due to Scaffold Law are to a degree that there is a great deal of concern over whether carriers will continue to write such policies in New York. What is interesting from our perspective is that these types of policies are touted to be of great assistance to the development of M/WBE's.

AGC NYS will continue to monitor these matters. Any insight that you can share would be most appreciated.

Staff Contact: [Joe Hogan](#)

AGC NYS Meets with SUCF and Designers to Discuss Design Delegation Issues

At the request of the State University Construction Fund (SUCF), AGC NYS joined with representatives of AIA NYS and ACEC to discuss what has, in the past, been the contentious issue of design delegation. SUCF has reportedly seen an expansion of delegation efforts from their designers and wanted to bring the industry together to determine what should be delegated and how the process should be managed. From the perspective of AGC NYS, we have generally seen a great proliferation in the marketplace of the degree of design delegation and of greatest concern a general failure to follow the rules of the Board of Regents relative to that delegation. With that said, the meeting was a very productive one, to the surprise of some, where there was a great deal more agreement than not. SUCF was very pleased. We think that this dialogue will provide a good template for the future on this and many other issues.

Staff Contact: [Joe Hogan](#)

FREE Webinar: Dispute Review Boards: How You and Your Project Can Benefit

Wednesday, April 16, 2014 2:00 PM - 3:30 PM EDT

Could you benefit from projects that resolve disputes at the project level, without litigation or arbitration? Then find out how you might structure a Dispute Review Board (DRB) in your next contract in this webinar on Wednesday, April 16, 2014 from 2:00 PM - 3:30 PM EDT. DRBs are recognized worldwide for their effectiveness in the real time avoidance and resolution of disputes on major projects. DRBs enhance project success through significant decreases in claims, costs, and time overruns.

The webinar presenters were leaders of the ConsensusDocs Working Group, comprised of a cross-section of construction industry professionals that collaboratively developed the recently published ConsensusDocs DRB Addendum (200.4) and Three-Party Agreement (200.5). The webinar will cover how you can use your contract documents to effectively structure a DRB contractually, as well as provide practice tips on the most effective use of DRBs to create "claims free zones" on construction projects.

Speakers:

Deborah Bovarnick Mastin, Past-President, DRBF Region 1
Kurt L. Dettman, President-Elect, DRBF Region 1
Ferdie Fourie, Kiewit Corporation

Register today for FREE [here](#).

New Standard Contract for Public State and Federally-assisted Infrastructure Projects Will Help Public Owners Get Better Project Results

ConsensusDocs 210 features emphasis on public works projects

The ConsensusDocs Coalition published a new standard contract with integrated general conditions for a public works project. ConsensusDocs tailored the terms and conditions and oriented them for public works owner projects that use state public funding or federal financial assistance. This new standard contract document is expected to be particularly helpful for local and state governments that are looking to use an off-the-shelf contract solution.

The ConsensusDocs 210 is based on the same fair and balanced, best practice principles as the previously-published ConsensusDocs 200 agreement, but is tailored to public works projects, especially those that are highly-engineered construction projects, such as water and wastewater facilities. The intent of this agreement is to provide a ConsensusDocs standard document specifically tailored to public works infrastructure projects.

“Creating a standard contract tailored for public works will help public owners get the best prices from the best general contractors, especially on underground projects where site conditions are potentially involved,” comments Charles Surasky, Chair of the ConsensusDocs working group that created the document and Partner at Smith, Currie and Hancock LLP in Atlanta, GA.

In support of the ConsensusDocs 210, the Coalition is also publishing the ConsensusDocs 271 Instruction to Bidders on Public Works. This new, standard instructions document will benefit all stakeholders to public projects.

One of the distinctions in public projects is that the engineer is more likely (than on vertical construction) to be the lead design professional on the project. Originally, the agreement was going to include exhibits to comply with federal regulations, but based on owner feedback, it was determined that it would best serve the industry for individual agencies to create their own supplements. The agreement is drafted so as to be flexible to meet public local, state and federal projects.

Simply put... ConsensusDocs help you build a better way!

ConsensusDocs are the only standard contracts written and endorsed by more than 40 leading design and construction industry associations, including AGC.

AGC members receive a 20% discount on all ConsensusDocs purchases. Simply use Discount Code “AGC100” at www.ConsensusDocs.org.

Long-Time Friend and Supporter of AGC NYS – Carl Ernstrom – Passes Away

AGC NYS was saddened to learn last week of the passing of Carl Ernstrom. Carl was a well respected insurance broker in the Southern Tier with his own firm of Ernstrom Associates which specialized in construction insurance. Carl was a long-time friend of the association and, for me, was someone I would regularly consult relative to construction contract issues and spec review.

For me, however, Carl will be best known for the key role he played in my greatest practical joke perpetrated on former GBC Staffer Phil LaRocque known as the “great computer caper.” Carl’s brother – Bill Ernstrom – is an executive with AGC NYS Member Firm The Walsh Group. We extend our deepest sympathy to his family and many friends.

Staff Contact: [Joe Hogan](#)

AGC NYS PAC— Political Corner:

TRANSPORTATION FUNDING ADVOCACY

Join the "Hardhats for Highways" Campaign to Alert Congress to Highway Trust Fund Crisis

With the federal Highway Trust Fund projected to be unable to support any new highway, bridge and public transportation improvements in fiscal year 2015, a national coalition of associations and labor unions launched a campaign to help educate Congress about the connection between local jobs and federal highway and transit investment. "[Hardhats for Highways](#)" is aimed at encouraging transportation construction firms and their employees to contact their U.S. representatives and senators and let them know how many local jobs depend on federal transportation funding, officials with the Transportation Construction Coalition said. "Members of Congress need to understand how many people back home are counting on federal transportation investments," said Stephen E. Sandherr, the coalition's co-chair and chief executive officer of the Associated General Contractors of America. "Investing in roads and bridges not only makes our broader economy more efficient and vibrant, it puts a lot of men and women to work in every part of the country." Learn more at www.HardhatsforHighways.org.

By following the three steps below, you and your employees, can tell Congress that we need a federal transportation funding bill to keep working. Tell your congressional representative that unless Congress acts, the Highway Trust Fund will go broke as early as this summer, forcing New York State to cut highway bid lettings, putting local construction projects and jobs at risk.

MAKE SURE YOUR MEMBERS OF CONGRESS KNOW HOW MANY JOBS AT YOUR FIRM ARE AT RISK.

BETWEEN APRIL 14-25 DELIVER YOUR FIRM’S HARDHAT WITH OUR SPECIAL STICKER WITH THE NUMBER OF EMPLOYEES WRITTEN ON IT TO YOUR SENATORS AND REPRESENTATIVE. (Stickers are available at the AGC NYS office or at www.hardhatsforhighways.org). April 14-25 - House and Senate Members are in District offices.

AND SEND AN [E-HARDHAT](#) TO MAKE SURE THEY GET THE MESSAGE.



Staff Contact: [Karen Morrison](#) or [Walter Pacholczak](#)

Register Now - June 10-11 Transportation Construction Coalition (TCC) Fly-In

The Transportation Construction Coalition's annual legislative fly-in will be held June 10-11, 2014 at the Mayflower Hotel in Washington, DC. In conjunction with the fly-in, AGC is hosting meetings with the Federal Highway Administration, Federal Transit Administration and Federal Railroad Administration. [Click here for registration and hotel details.](#)

In addition, a "Rally for Roads" will be held on the Washington Mall on Wednesday, June 11 to get attention from the media about the need for a highway bill.

Staff Contact: [Walter Pacholczak](#)

HIGHWAY

Work Zone Awareness Week – April 7 – 11

AGC of America is partnering with FHWA and others to get the message out to the public. This year's theme is "Work Zone Speeding: A Costly Mistake".

AGC of America ran a W-Z survey in conjunction with the W-Z awareness planning. AGC NYS members comprised the second largest group of respondents– thank you for participating. The national and NY survey results can be found [here](#).

Chapter President, Mike Elmendorf, sums it up: "I commend our partners on their efforts to educate the public about the dangers of distracted driving and speeding in work zones. I hope that such efforts will not only keep drivers safe, but protect the thousands of workers on our roads and bridges performing necessary repairs and upgrades to our infrastructure. These workers are out there working to keep the traveling public safe, and all New Yorkers need to do their part to keep them safe by slowing down and using extra care when traveling through work zones."

As always, safety first!

Regional Membership Meetings and NYSDOT/Thruway Roundtables

Please join us for our Highway Region 10 Meeting on April 15 at Marios Restaurant in Hauppauge. We will meet for lunch at 12 noon and we will follow with a business session with the NYSDOT representatives.

Click [here](#) for online registration. Other scheduled meetings are listed below so please mark your calendars for those you wish to attend. You can click below for online registration.

April

15th - AGC Region 10 Meeting, Hauppauge <https://www.agcnys.org/register?event=44>

28th - AGC Region 1 Meeting, Albany <https://www.agcnys.org/register?event=48>

May

8th - AGC Region 8/11 Meeting, Eastchester <https://www.agcnys.org/register?event=45>

15th - Region 6 Meeting, Hornell <https://www.agcnys.org/register?event=43>

20th - Region 4 Meeting, Rochester <https://www.agcnys.org/register?event=46>

Staff Contact: [Karen Morrison](#)

HMA Density Testing Inspector Certification – 2014 Course Schedule

Asphalt paving Density Testing Inspectors on NYSDOT and NYS Thruway projects are required to be certified and carry active certificates. Certification must be renewed via exam every five years.

Full Course plus exam:
May 1 & 2 Wellsville
June 12 & 13 Newburgh

5-year Re-certification (exam only) is held on the second day of each course.

Contact Tammy Woods Edwards for complete registration information:

WoodsTL@alfredstate.edu

Staff Contact: [Karen Morrison](#)

Recent Engineering Issuances Posted by NYSDOT

		<u>Effective Date</u>	
EB	14-011	Fuel, Asphalt & Steel Price Adjustments (April 2014)	3/25/2014
EB	14-010	Highway Design Manual Revision No. 78 – Chapter 1	3/28/2014
EI	14-001	Statewide Emergency Bridge Contract: Guidance	2/27/2014
EI	14-003	Standard Specification Section 737 – Geosynthetics	9/4/2014

SAFETY

Citation Contests and Challenges to Inspection Citations Fall in 2013

The percentage of citations that were contested by an employer during 2013 dropped to 8.5 percent. An employer may decide to contest a violation when they are unable to come to an acceptable settlement agreement with the Secretary after the citations are initially issued. When a citation is issued, the employer has fifteen working days to schedule an informal conference and/or contest the violation(s). An informal conference is held to discuss the issues and to see if the case can be settled. If the employer does not wish to settle on the terms offered, they can contest the violation(s). The highest level of contested citations during the Obama administration was 10.7 percent in 2011.

According to the Occupational Safety and Health Review Commission (OSHRC), challenges of OSHA citations declined in fiscal 2013 as well. During 2013, 5.64 percent of the Secretary's 39,271 inspections resulted in employers challenging citations through the review commission. A challenge occurs when one of the parties involved in the case disagree with the decision rendered by the Administrative Law Judge. If appealed, the case heads to Occupational Safety and Health Review Commission. The percentage noted for 2013 represents the lowest yearly result under the Obama administration and the drop marks the second consecutive year that challenges decreased.

Staff Contact: [Jim Redmond](#)

OSHA's 2015 Proposed Budget Underway

The Occupational Safety and Health Administration's proposed fiscal 2015 budget calls for increasing the number of health inspections by 3.5 percent (7,791) while safety inspections would increase by 1.2 percent (30,459) for a total of 38,250 inspections. Health inspections, which measure hazards such as noise levels or worker exposure to airborne contaminants – reflects “the fact that health issues are increasingly being identified as significant sources of serious hazards to workers in America,” the budget proposal said.

Construction inspections, which can cover safety or health issues, are predicted to reach 21,257, about 950 more than the 2014 goal. The new details for the \$565 million draft budget are contained in the agency's 139-page congressional budget justification document. The budget calls for federal enforcement staff authorizations to remain the same as 2014 at 1,542 positions. The budget projects that as safety compliance officers leave OSHA, the agency will replace many of them with health inspectors as part of the greater emphasis on enforcing health rules. The budget justification also provides details for OSHA's rulemaking goals for 2015. The agency intends to issue final rules for walking –working surfaces, recordkeeping modernization, the fourth phase of the Standards Improvement Project and crane operator certification. They also intend to release four notices of proposed rulemaking in 2015 as well. The proposed rules include: combustible dust, infectious diseases, preventing accidents caused by vehicles backing up and amending recordkeeping regulations to clarify that the duty to maintain accurate records of work-related injuries and illnesses is an ongoing obligation.

On a final note, the budget projects the agency will release its final version of their silica rule in 2016 and does not offer a date for action on the injury and illness prevention program rule.

Staff Contact: [Jim Redmond](#)