



September 19, 2013

This newsletter is delivered electronically to our members.

INDUSTRY

Information About the New Health Insurance Marketplace Coverage

IMPORTANT: A link below is the required New Health Insurance Exchange (Marketplace) Notices.

The Exchange Notice provides employees with certain information related to the new Exchanges (also called Marketplaces) which are expected to begin operating next year. Following a delay in the original effective date, employers are required to provide this written notice to each current employee not later than October 1, 2013. Employers must provide the notice to each employee (automatically and free of charge) regardless of plan enrollment status (if applicable) or of part-time or full-time status. The notice may be provided by first-class mail, or, alternatively, it may be provided electronically if employees have access to electronic documents as part of their position. Employers do not need to provide a separate notice to dependents or other individuals who are or may become eligible for coverage under the plan but who are not employees.

The Department of Labor (DOL) has released 3 model notices as a result of changes under Health Care Reform:

[Exchange Model Notice](#) for Employers Who Offer a Health Plan to Some or All Employees (must be distributed to current employees no later than October 1, 2013)

[Exchange Model Notice](#) for Employers Who Do Not Offer a Health Plan (must be distributed to current employees no later than October 1, 2013)

[Revised Model COBRA](#) Election Notice (provided to eligible employees and dependents when a qualifying event occurs)

Pat Foye Guest Speaker at Fall Membership Reception

Patrick J. Foye, Executive Director, Port Authority of New York and New Jersey is the guest speaker at the AGC NYS Fall Member Reception on Wednesday, October 9 from 5:00 pm – 6:00 pm at the Cornell Club, 6 East 44th Street.

Prior to joining the Port Authority, Mr. Foye served as Deputy Secretary for Economic Development for Governor Andrew M. Cuomo. Mr. Foye was a mergers and acquisitions partner at Skadden Arps and managing partner of the firm's Brussels, Budapest and Moscow offices. He was Executive Vice President of AIMCO, a real estate investment trust and a component of the S&P 500, and served as President and CEO of the United Way of Long Island.

If you have interest in attending, please [click here](#).

AGC Presents Scholarship Picture To Lucky Bidders

On Tuesday, AGC staff presented Rich Riccelli, Riccelli Enterprise, Dave Lane, JJ Lane Construction and Tom Kinsella, Kinsella Quarries with the breathtaking *fruit and wine* picture which will be jointly hung in their offices for 2013-2014. This beautiful velvet picture is used by the AGC Scholarship Committee to help raise funds for the scholarship program through live bidding at the Anthony S. Santaro Golf Classic. Thank you to Rich, Dave and Tom for bidding against each other and raising \$15,000 to benefit college students across the state. The bidding has raised over \$100,000 through the years.

Congratulations to Four More Members Who've Earned Their CM-BIM Credential

The AGC NYS would like to congratulate four members who've successfully passed the AGC Building Information Modeling, Certificate of Management Exam. Those members are Preston Lambert of M+W Group USA and Tony Onofrio, Jeff Critelli and David Kafel of Turner Construction. The AGC CM-BIM is an assessment-based certificate credential that denotes knowledge and understanding of concepts related to BIM adoption, practice and process transformation. If you would like more information on the AGC BIM course and the CM-BIM credential visit the AGC of America website at: <http://www.agc.org/cs/cm-bim> or contact Brendan Manning at the AGC NYS at bmanning@agcnys.org.

EPA Releases Revised Spill Prevention Guidance for Regional Inspectors

Site Inspections Are on the Rise

The U.S. Environmental Protection Agency (EPA) has just released its revised *SPCC Guidance for Regional Inspectors* (EPA 550-B-13-001, Aug. 28, 2013) to assist regional inspectors when they review a site's compliance with the federal Spill Prevention, Control and Countermeasure (SPCC) rule.

The guidance was originally published in 2005, and EPA has revised it to include SPCC amendments made in December 2006, December 2008, November 2009, and April 2011. The revised August 2013 edition is now available online at —

www.epa.gov/emergencies/content/spcc/spcc_guidance.htm. According to EPA, the new guidance is a “living document” and it will be updated, as necessary, to reflect any relevant regulatory amendments. To this end, the agency will accept comments from the regulated community and the public on the guidance. They will also be posting informational webinars on their site to help SPCC stakeholders.

EPA’s guidance is a 911-page, 31 MB file. Don’t fret...AGC has created the **AGC’s SPCC Fact Sheet**, which should (hopefully) be a more manageable read to get you started. You can find it by [clicking here](#).

The EPA will present two private webinars for AGC contractors to learn about and ask questions concerning what’s in the new inspector’s guide and what companies can expect during an inspection.

Each session will be approximately 90-minutes long, including time to address questions. The webinar schedule and registration links are below —

Sept. 27 at 2:00 p.m. EDT: <https://outreachwebinar927.eventbrite.com>

Oct. 17 at 2:00 p.m. EDT: <https://outreachwebinar1017.eventbrite.com>

Asphalt Plants be on the Lookout – EPA Site inspections Are on the Rise

Several AGC of America members have reported recent SPCC inspections at their asphalt plants. EPA’s Oil Program Office has shared that the agency has shifted its focus from outreach (i.e., increased awareness of the regulations) to inspecting individual sites/facilities to determine compliance. The regulated community should expect to see an increase in the number of SPCC compliance inspections being conducted in the near term. Based on EPA feedback, in some cases, inspectors will be giving verbal feedback and providing site owners/operators with a “check sheet” documenting potential violations at the conclusion of their inspections. If you provide a summary of actions taken to correct potential violations within 45 days of inspection, formal enforcement and penalties (up to \$37,500 per day/ per violation) may be avoided. But if the site/facility has *no* documented SPCC plan, then there is *no* chance for informal enforcement.

27th Annual Construction Industry Conference – December 10-12, Saratoga Springs

Block your calendar now in preparation for this year’s conference.

We have over 30 workshops and a number of training courses scheduled. Training opportunities require separate registration, some before mid-November.

Tuesday December 10 Training courses:

HMA Density Testing Technician Recertification Exam

ACI Flatwork Technician/Finisher course and exams

SPDES 4-hour Qualified Individual

Work Zone Competent Person and Flagger Train-the-Trainer

Featured Workshop: Choosing by Advantages – Tuesday December 10

Choosing by Advantages (CBA) makes decision-making more effective and emphasizes successful delivery of benefits to all stakeholders. CBA supports The Toyota Way Principle 13 – “Make decisions slowly by consensus, thoroughly considering all options; implement rapidly.” By focusing on advantages, CBA connects decision-makers with value.

Keynotes and Award Presentations:

Tuesday ; Build New York Awards Presentations and Program

Celebrate projects among the best in our state. Also, a national Build America winner.

Wednesday: Safety Survival with Marine Corporal and Purple Heart recipient, Mark O'Brien.

Amazing stories of courage and strength in facing and overcoming life's adversities. Using his life experiences, Mark describes 3 key weapons to win the war against accidents: Training, Personal Protective Equipment (PPE) and Support Systems

Thursday: The Social and Mobile Internet - Improving the Construction Industry

Construction projects are the epitome of a real world social network – multiple companies attempting to collaborate and communicate both internally and with one another. Yet many of the processes for communication and issue tracking don't allow for real-time, field-based collaboration. Julian Clayton, ENR Top 25 Newsmaker, joins Doug Chambers, founder and CEO of FieldLens, to discuss the impact of mobile & social technology on the construction industry.

Service for Construction Companies to Get Bonded

Through our Compete to Win services, The New York City Department of Small Business Services offers Bond Readiness, which *helps construction companies gain or increase a bond line*, helping them better compete on contracts. Interested firms can contact tlang@sbs.nyc.gov or 212-618-8952.

AGC NYS Members Recognized for their Safe Projects

ENR's New York Construction News recently announced winners of their Best Projects Safety Competition. AGC members comprise many of the sixteen winning projects and twenty merit recognitions. Of note is one project, which had already received national recognition as the winner of an AGC of America Alliant Build America Award – the NYS Capitol Building Restoration performed by Consigli Construction with Gilbane Building Co. Also recognized are EJ Electric, Lend Lease, Welliver, Erdman Anthony, Tishman, LeChase, BBL Construction Services, E W Howell, M+W, Skanska, ECCO III and more. For the full list of projects, [click here](#)

AGC Comments on FHWA's Buy America Waivers

AGC [submitted comments](#) to the Federal Highway Administration (FHWA) concerning the continuation of waivers from Buy America requirements for manufactured products that are not substantially made of steel or iron and for the minimal use of foreign steel products. Current

FHWA regulations require that steel and iron products permanently incorporated into Federal-aid highway construction projects must be domestically produced. Starting in 1983, FHWA waived this requirement for manufactured products that are not substantially steel (traffic signals, its equipment, etc.), even if some components of the manufactured product are made of steel. In December 2012, FHWA issued a clarification, indicating that “substantially” means that a manufactured product must be 90 percent steel or iron. FHWA has been challenged in court on this interpretation and is seeking support for the clarification. FHWA also asked for comments on its policy allowing the minimal use of foreign steel products if their cost does not exceed \$2,500 or .1 percent of the project cost, whichever is greater.

AGC’s comments support FHWA, indicating that these are reasonable interpretations and should continue to be implemented. AGC also raised concern about implementation of a MAP-21 Buy America provision that FHWA has interpreted as applying to utility relocation in conjunction with a highway improvement project.

For more information, please contact Brian Deery at (703) 837-5319 or deeryb@agc.org.

AGC's Construction Financial Management Conference

Oct. 23-25, 2013 / Las Vegas, Nev.

Jointly sponsored by AGC and the Construction Financial Management Association (CFMA), the **17th Annual AGC/CFMA Construction Financial Management Conference** offers programs and workshops designed specifically for financial professionals in the construction industry.

Additional discounts are available for subsequent registrations from the same firm. Register now and save up to \$210 – or 25 percent – off the standard registration fee.

The three-day conference features 36 interactive sessions covering the latest industry issues and their financial implications. Participants may earn up to 19.5 continuing professional education (CPE) credits.

Wednesday’s session will feature a panel of financial experts and a construction industry CFO who will provide real-world examples of the options available for transferring ownership of a construction business to employees or family members. Specifics covered will include: stock transfer techniques including ESOP and transfer to select managers, deal structuring, planning tips for undertaking an internal transfer, and lessons learned. This session will provide an introduction to plan mechanics but, more importantly, offer perspectives from seasoned stock transfer veterans on the pluses and minuses of the various stock transfer techniques, including ESOPs, which can be utilized by construction companies of all sizes. Speakers of this panel include Larry Mackiowak & Hugh Reynolds from Crowe Horwath LLP, Tim Szniewajns from FMI Capital Advisors, and Dan Murphy from Shiel Sexton.

To register online, please visit www.agc.org/AGC_CFMA.

Engineering News-Record New York Presents *What's Next for the SCA: Constructing Opportunities for the Future*

We are pleased to announce the upcoming **ENR New York NYC School Construction Authority (SCA) Conference: Constructing Opportunities for the Future**, being held December 6, 2013 at The McGraw Hill Headquarters in New York City. Construction professionals throughout the area will learn about new opportunities with The SCA. As a member of **AGC NYS**, you are invited to get your foot in the door early and [register today](#) at a discounted price.

[Attend this event](#) and hear first-hand about the successes the **SCA** has had throughout the Bloomberg years, the billions of dollars they have awarded in contracts, the seats they have added into the school systems, the small businesses that have benefited from their Mentor Program and more. Additionally, the SCA will announce their upcoming, proposed five year Capital Plan that will open up many new opportunities.

Benefits of attending:

- **Network with 200+** contractors for current and future projects
- **Hear** what the SCA is planning for 2014 and beyond
- **Learn** about the latest trends in school construction
- **Evaluate** new opportunities
- **Access** valuable information (view current agenda [here](#))

To register, [click here](#) or call Olivia Perez at 800-371-3238 or [email her](#).

*****ALERT*** AGC NYS Members: Save on Your Verizon Bill**

Verizon has the nation's largest and most reliable wireless 4G and 3G networks. Through NPP our AGC NYS members* receive 22% off corporate calling plans, and employees receive up to an 18% discount (15%, plus an additional 3% discount if enrolled in online billing) on their plans. Pricing options are also available on data plans, accessories and devices.

To sign up, please visit www.mynpp.com. If you have any questions or would like to have a Verizon business sales representative reach out to you, please call us at (518) 456-1134 or email us at: dkiefer@agcnys.org

LEGISLATIVE

Long Island – Senate Public Forum About Construction

The state Senate Majority Coalition is hosting a public forum about construction regulations and laws on Wednesday, September 25 from 1:00-3:00 pm at the Theodore Roosevelt Executive &

Legislative Building, 1550 Franklin Avenue. The purpose of the forum is to discuss which regulations and laws should be eliminated in order to foster accelerated economic growth in the construction industry.

I will be testifying on behalf of AGC NYS. The focus of my testimony is Scaffold Law reform.

Senator Patrick Gallivan (R-C-I, Elma), Senator David Valesky (D, Oneida), Senator Kathleen Marchione (R-C, Halfmoon) and Senator David Carlucci (D, Rockland/Westchester) are leading the Senate Coalition's legislative effort. Senator Gallivan is the sponsor of the Scaffold Law Reform legislation.

You are strongly encouraged to take action.

- Join me at the public forum.
- Submit your ideas about onerous regulations and laws.
- Submit a Scaffold Law Reform letter at www.rebuildnynow.org

If you have any questions or would like to submit your ideas, please contact me directly at 518.456.1134 or wpacholczak@agcnys.org.

Workers' Compensation Board Seeks Recommendations to Improve System

The Workers' Compensation Board has teamed with Deloitte to analyze the existing workers' compensation system in New York. The goal of this business process re-engineering (or BPR) project is to significantly improve the experience of injured workers and employers in the New York workers' compensation system.

The Board is seeking ideas, thoughts, and comments at open forum discussions to initiate a conversation and gather input regarding the current and future state of the workers' compensation system in New York.

Rochester	130 Main St. West Rochester	Thursday, October 3	3:00-4:00 p.m.
Brooklyn	111 Livingston Street, 22nd Floor, Brooklyn	Monday, October 7	2:00-3:00 p.m.
Schenectady	328 State Street Schenectady	Wednesday, October 16	10:00-11:00 a.m.
Albany	100 Broadway-Menands Albany	Thursday, October 17	10:00 a.m.-11:00 a.m.

Discussion Topics

1. Do you believe the workers' compensation system in New York is working well for injured workers and employers?
2. What works well today and what does not?

3. As an employer, what do you think would be the one impactful change that would benefit injured workers in the system?

Webinar

You can also participate via webinar. To attend the webinar, please click the link below to register and launch the webinar. Due to the large number of attendees for each webinar, attendees can only provide their feedback through comments/questions typed in the webinar chat box. First time attendees: Please review in advance setup instructions posted on our website

<http://www.wcb.ny.gov/BPR/Events> and select WebEx Instructions.

Certificate of Insurance Addendum Advances

A new **ACORD 25 certificate of insurance addendum** cleared an important hurdle as the ACORD Program Working Group approved the document. It now will go to the ACORD general membership for a vote in mid-November.

The addendum is a comprehensive summary of general liability policy provisions created by representatives from: Associated General Contractors New York State; Professional Insurance Agents of New York; Independent Insurance Agents & Brokers of New York; Council of Insurance Brokers of Greater New York; New York Insurance Association; American Insurance Association; Property Casualty Insurers Association of America; New York State Department of Financial Services; New York State Senate; New York State Assembly; insurance agencies; construction companies; and construction attorneys. The purpose of the addendum is to improve coverage information between general contractors and insurers.

The addendum was created to supplement legislation supported by AGC NYS (S.5804-A.3107-D) which establishes standards for the proper issuance of certificates of insurance. The legislation was passed by the state Senate and Assembly and is awaiting action by Governor Cuomo.

Upon approval by the general membership of ACORD and action by the Governor, AGC NYS and the insurance industry will provide written and webinar instructions applicable to the coverage specifications on the Addendum and new provisions of the law. I will keep you posted about the upcoming instructional opportunities.

Bills Awaiting Final Action by Governor Cuomo

New York City School Construction Authority. S.3551 (Ranzenhofer)/A.5443 (Brennan). Provides much needed clarity to the issue of when claims must be filed in construction contract disputes with New York City School Construction Authority by clarifying §1744 of the Public Authorities Law relative to when the 90 day period begins. **(AGC NYS Support. Passed Senate and Assembly.)**

Job-Order Contracting. S.3564 (Bonacic)/A.4810 (Abbate). Prohibits New York State agencies, authorities, and municipal governments from the practice of job order contracting (JOC) in relation to public work projects. **(AGC NYS Opposed. Passed Senate and Assembly.)**

HIGHWAY

Don't Miss the Highway and Utilities Contractors Issues Conference

The 2013 Highway and Utilities Contractors Issues Conference will be held Nov. 7-9, 2013, at the Arizona Biltmore in Phoenix, Ariz. Industry professionals from companies involved in building highway, bridge, utility and underground construction, transit, airport runway and rail projects will benefit from this conference. Presentation and discussions on major trends in highway and utility construction will be featured, including:

- Washington Update - Outlook for highway, transit, water and infrastructure funding. Tax and immigration reform, sequestration - will these changes happen and how will they impact your business?
- MAP-21 Implementation
- Highway Trust Fund & Water Trust Fund Innovative Financing
- Future Construction Opportunities: Bioreactors/Biodigesters at Wastewater Treatment Plants
- High-Tech and Low-Tech Project Management Solutions: A Panel Discussion
- New Technology Developments: BIM, CIM & Intelligent Compaction
- Alternative Contracting
- Potential Environment, Work Force and Other Regulations
- Project Case Studies
- Other Recent Developments

To register for the conference, please visit www.agc.org/highway_utilities.

For more information, please contact Brian Deery at (703) 837-5319 or deeryb@agc.org or Scott Berry at (703) 837-5321 or berrys@agc.org

AGC of America – Highway Work Zone Safety Committee

Is seeking participants to help identify new ways to jointly address worker safety in work zones with FHWA, AASHTO and other national stakeholder groups. AGC of America is seeking at least one person from each chapter. National coordinators are Brian Deery, Sr Director of the Highway and Transportation Division and the committee chair, Tom Brown of Sierra Pacific West, Inc. If you are interested, please contact Karen Morrison at morrison@agcnys.org

DOT Adding Two Additional Letting Dates

The additional lettings will be held on:

October 24, 2013 – Amendment Deadline is September 25, 2013

November 14, 2013 – Amendment Deadline is October 16, 2013

Short Term Continuing Resolution Introduced to Keep Government Operating Includes Transportation

This week, the House Appropriations Committee introduced a continuing resolution (CR) to fund the daily activities of the federal government, from the start of the fiscal year (FY) 2014 on Oct. 1 through Dec. 15, 2013. The CR will fund the government at current post-sequestration levels. The CR is necessary because the House and Senate have failed to enact any of their 12 annual appropriations bills, including the transportation funding bill. The length of the CR is intended to allow congressional leaders and the president time to deal with the need to raise the nation's debt ceiling and other budget issues without the threat of a government shutdown. However, an attempt by House republicans to cut off funding for enforcement of the Affordable Care Act (aka Obamacare) will be a major issue as the legislation moves forward and could lead to a government shutdown.

Transportation programs were included in this short term CR and will be included in the CR covering the rest of the fiscal year once approved. While both the House and Senate committees passed separate transportation appropriations bills neither body approved its version of the bill. Both committee bills funded the highway and transit programs at the MAP-21 approved levels, however, the CR would fund these programs at the FY 2013 level which is slightly below the MAP-21 FY 2014 authorized level. AGC will be weighing in to ensure that full funding is included in the CR when approved. One major difference between the House and Senate passed bills is for the Tiger grant program. The House bill provides no funding for this program in FY 2014 and rescinds any remaining FY 2013 TIGER funding while the Senate bill funds the program at \$550 million in FY 2014.

Alfred State Expands its Renewable Energy Portfolio with New Wind Turbine

The newest member of Alfred State's growing renewable energy family is currently catching the breeze above campus—a 100 kilowatt grid-tied wind turbine that will directly offset the college's main campus usage. The turbine came online just a few weeks ago and is already producing clean, green energy.

“This community wind project is another example of sustainability at the college and highlights the progress of our Center for Renewable Energy,” says Craig Clark, interim vice president for academic affairs at Alfred State.

The wind project has been 14 months in the making—an initiative made possible through grants from both the Appalachian Regional Commission and the New York State Energy Research and Development Authority (NYSERDA), which together provided more than 50 percent of the funding.

“The project will not only produce energy for the campus but also expose students to another wind turbine on campus,” Clark says. In fact, one of the project’s main goals is to establish a small wind laboratory for students within already existing programs, offering them even more hands-on experience with green technologies. “This knowledge will increase industry demand for these graduates,” he says.

Alfred State already has several other smaller wind turbines on the Wellsville campus, as well as a zero energy demonstration home, active and passive solar technology, geothermal, and a host of other green technologies already in place in facilities like the new \$33 million Student Leadership Center. And a second zero energy demonstration home—dubbed Pioneer Landing—is also in the works, with students getting involved in the design and building of the project.

In a world with rising energy costs, climate change, and dwindling resources, Alfred State is taking a proactive approach to the future of energy. This turbine will complement the college’s growing emphasis on sustainability and strengthen the region’s access to training and employment in green industries.

“Alfred State has been a leader in educating technical students since at least the 1940s and students in trades for more than 45 years. It’s what we’re known for,” Clark says. “There is a real lack of this type of skilled workforce in the region, and a lack of models to sell community wind. This project will allow Alfred State to continue training the highly skilled workers the industry requires and help meet national, state, and regional needs.”

BUILDING

AGC NYS Causes a Stir in Lewis County

Following an article in the Watertown Daily Times where Lewis County officials seemed to be suggesting that bids for a County Office Building project scheduled to be bid on September 19th was merely exploratory, AGC NYS wrote a pointed letter to the County suggesting that if it is only exploratory, please do not waste the time and money of the construction industry. We are not a free estimating service. That letter generated a flurry of activity with calls from the press, County Officials and even from an elected official with the Village of Lowville. As of this writing and after assurances from the County that they are ready, willing and able to award the project as long as the bids do not come in way over budget. We’ll be watching to see what actually transpires. For a copy of our letter, [click here](#).

Staff Contact – Joe Hogan

AGC NYS Sends Letter of Concern to the NYCSCA About the Potential Loss of their Wrap-Up Insurance Program

As we have been reporting, the New York City School Construction Authority (SCA) is at risk of losing their wrap-up insurance program that has been in place since the beginning of the SCA some 24 years ago. The potential loss of the program has been caused by the ravages of the “Scaffold Law” and the fact that much of the insurance industry seems unwilling to write a policy. Those that may be interested may offer proposals that are considerably higher than past policies.

The potential loss of the program is sending shockwaves through the industry in that the actual loss may result in catastrophic consequences to include jobs being shut down due to an inability of, in particular, subcontractors to obtain the necessary coverage and to hundreds of M/WBE subcontractors going out of business. The AGC NYS Building – NYC Committee met last week to discuss our concerns and and explore options. That meeting resulted in a letter being sent to SCA Leadership expressing our concerns and making constructive suggestions on how to proceed in this matter. [Click here to read a copy of that letter.](#)

Staff Contact – Joe Hogan

Architecture Billings Index Remains Positive, But Construction Sector Lags

The Architecture Billings Index (ABI) remained positive again in July with a 52.7 reading, improving on the June score of 51.6. As a leading economic indicator of construction activity, the ABI reflects the approximate nine to twelve month lag time between architecture billings and construction spending. This score reflects an increase in demand for design services (any score above 50 indicates an increase in billings). However, the construction sector was expected to be one of the key engines of economic growth this year, but results to date have been disappointing. Of the more than 1.3 million payroll positions added nationally so far in 2013, the construction industry has contributed only 82,000, or just over 6 percent.

Seventy Four Percent of Construction Firms Nationwide Report Having Trouble Finding Qualified Workers

Are AGC NYS Members Sharing that Experience?

Nationwide Survey Finds Most Firms Worry There Are Not Enough Craft Workers Available to Meet Growing Demand for Construction as Officials Call for Immigration and Education

Reform to Help

Nearly three-fourths of construction firms across the country report they are having trouble finding qualified craft workers to fill key spots amid concerns that labor shortages will only get worse, according to the results of an industry-wide survey released last week by the Associated General Contractors of America. Association officials called for immigration and education reform measures to help avoid worker shortages.

“Many construction firms are already having a hard time finding qualified workers and expect construction labor shortages will only get worse,” said Stephen E. Sandherr, chief executive officer of the Associated General Contractors of America. “We need to take short- and long-term steps to make sure there are enough workers to meet future demand and avoid the costly construction delays that would come with labor shortages.”

AGC NYS would like to know what your experiencing in this regard. Please contact Joe Hogan and let him know.