



AGC NYS Newsletter October 15, 2020

The Associated General Contractors
of New York State
10 Airline Drive, Suite 203
Albany, NY 12205
(518) 456-1134 | www.agcnys.org

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UPCOMING EVENTS

October

- 15 [WEBINAR: Breaking Down the Basics of Construction Financials](#)
- 20 [Jeffrey J. Zogg Build NY and AIA NYS Excelsior Awards](#)
- 22 [STP Program - Planning and Scheduling \(Albany or Online\)](#)
- 27 [LEAN Education Program - Online](#)
- 28 [WEBINAR: NYS Paid Sick Leave Law and Other Pandemic Leave Laws](#)

Industry News

Online Jeffrey J. Zogg Build NY and AIA Excelsior Awards – Register Today!

On Tuesday, October 20, 2020 the virtual Jeffrey J. Zogg Build New York Awards and AIA Excelsior Awards [will be presented online](#). The event will open with a networking meet and greet at 11:30am with event presentations running from 12:00pm-1:00pm. We will also paying tribute to this year’s AGC Distinguished Service Award winner Mr. Christopher Alund, former Director of the Bureau of Public Works at the NYS Department of Labor. [Click here to register](#).

Jeffrey J. Zogg Build New York Awards

The Associated General Contractors New York State Build New York Award program was developed as a way to highlight the positive impact of the construction industry in New York State involving building and heavy/highway construction. The awards emphasize the construction team, not only the general contractor or construction manager, but also many others – the owner, architect, engineer, subcontractors, suppliers, and craftspeople – who contribute to the success of a project. Each winner is presented with a trophy made of Lake Placid blue granite, set on a sleek black pedestal, in recognition of the company’s efforts. The award is meant to symbolize substance, quality, and dependability, just as a piece of New York granite does. With the program now open to all types of construction, the winners of the Build New York Award will truly be able to claim that their projects are New York’s best.

Excelsior Awards for Public Architecture

The American Institute of Architects New York State, in partnership with the New York State contracting agencies, has created the Excelsior Awards to provide a model of excellence for future state-funded building design, professional practice and advocacy. The projects are a reflection of the collaborative efficacy of the design and construction team. The program showcases the best in public building design and the professionals who support and advocate for these buildings within the distinction of two award categories: Public Architecture Design Awards for New Construction, Historic Preservation, Renovation/Addition, Landscape Architecture (New Construction or Rehabilitation), and Public Art. The Professional Services Awards are The Daniel Patrick Moynihan Award, The Nelson Aldrich Rockefeller Award, and The Henry Hobson Richardson Award.

Thank you to our sponsors!

- Terrazzo Association of Northeastern States
- Couch White LLP
- Northwestern Mutual – Patrick A. Di Cerbo
- MEGA Contracting Group
- LeChase Construction
- Insurance Office of America
- Gallas Surveying Group

AGC NYS to Award AGC Distinguished Service Award on October 20 at Build NY Online Event

AGC NYS will present the AGC Distinguished Service Award to Mr. Christopher Alund who recently retired as the Director of the Bureau of Public Work in the New York State Department of Labor after 36 ½ years of service. The Bureau of Public Work is responsible with administering the State's prevailing wage statutes and the Wicks Law. It is the largest unit of its kind in the nation. Mr. Alund started with the Bureau as an Investigator in 1984, was promoted thru the ranks, and after serving as acting Director, was appointed Director in 2002. He was the Department of Labor's representative on the NYS Council of Contracting Agencies. He has also served as an officer and President of the Interstate Labor Standards Association, a group comprised of state and federal officials responsible for labor law enforcement in the United States and its territories, along with Canada and Taiwan.

Mr. Alund graduated with a Bachelor of Science degree from SUNY Plattsburgh in 1980. He is the proud father of three children, Courtney, Christopher, and Conor.

[Please join us at the event](#) to honor Chris.

2020 Excellence in Partnering Award Application - LAST CHANCE

The 2020 Partnering Award Application is now available for submission. **The deadline is October 21, 2020.** Awards will be presented VIRTUALLY at the 34th Annual Construction Industry Conference this December.

Please take your time in preparing your application! The application **MUST** be submitted to the Owner of the project for their approval **PRIOR** to submission.

[Please click here for a copy of the application.](#)

If you have any questions or need additional information, please contact [Sarah Hill](#).

WEBINAR: Breaking Down the Basics of Construction Financials

*Thursday, October 15, 10:00 a.m. - 11:30 a.m. | \$35 for AGC NYS, NESCA and ECA members
\$55 for non-members*

This session will explore the importance of accurate financial reporting and the components of annual financial statements prepared in conformity with generally accepted accounting principles (GAAP). This course will also highlight the important metrics utilized by internal and external users of the financial information. In this interactive session, attendees will benefit from hearing real-life experiences and examples. After this session you will be able to answer the following questions:

*What does my banker and bonding agent look for when reviewing my financial statements?
How do I decipher the components of a construction job schedule?
How important are accurate cost estimates anyway?
What do the "best in class contractor" do to get ready for year end?*

Speakers: Richard Bingham, Partner, CPA, CIA, CCIFP, CIT, Bonadio
Marie Gavin, Manager, Bonadio

[Click here to register](#) with Go-to-Webinar. After registering you will be redirected back to the AGC NYS webpage for payment.

WEBINAR: NYS Paid Sick Leave Law and Other Pandemic Leave Laws

Important Webinar for All Employers

The New York State Paid Sick Leave Law requires all private sector employers to provide sick leave to their employees each calendar year: employers with 0-4 employees to provide up to 40 hours of unpaid sick leave each calendar year; employers with 5-99 employees to provide up to 40 hours of paid sick leave each calendar year; and employers with 100 or more employees to provide up to 56 hours of paid sick leave each calendar year. Accruals begin September 30 and employees are eligible to begin using sick time January 1, 2021.

Get the facts about the NYS Paid Sick Leave Law and how all private sector employers need to change their policies to accommodate its accrual, carryover, and use requirements. Additionally, the presenters will discuss how the new law interacts with state and federal pandemic related paid sick leave programs.

Speakers:

Glen P. Doherty, Partner, Hodgson Russ LLP
 Charles H. Kaplan, Partner, Hodgson Russ LLP
 Melissa J. Kathan, Associate, Hodgson Russ LLP

Cost: \$35 for AGC NYS members and \$55 for non-members

[Click here to register.](#) Once registered online you will automatically be forwarded to the AGC NYS online payment page.

SBA and Treasury Announce Simpler PPP Forgiveness for Loans of \$50,000 or Less

The U.S. Small Business Administration, in consultation with the Treasury Department, released a simpler loan forgiveness application for Paycheck Protection Program (PPP) loans of \$50,000 or less. This action streamlines the PPP forgiveness process to provide financial and administrative relief to America's smallest businesses while also ensuring sound stewardship of taxpayer dollars.

[Click here](#) to view the simpler loan forgiveness application.

[Click here](#) to view the instructions for completing the simpler loan forgiveness application.

[Click here](#) to view the Interim Final Rule on the simpler forgiveness process for loans of \$50,000 or less.

Registration Open for AGC of America's Joint Contractors Conference

[The AGC Joint Contractors Conference](#) brings together AGC's Highway and Transportation, Utility and Building Contractors for three days of information sharing and best practices on issues affecting contractors of all types across the country, as well as education sessions unique to each market segment.

Don't miss your opportunity to learn from peers struggling with key issues germane to your market segment, as well as hear from industry leaders covering important topics affecting all contractors. For more information, [click here](#).

Government Affairs

STATE NEWS

AGC NYS Testifies at Thruway Toll Adjustment Hearing – Revenues Don't Meet System Needs

Walter Pacholczak, Vice President of Government Affairs [testified at a Thruway Authority virtual public hearing](#) about a proposed toll adjustment on the Thruway and Governor Mario M. Cuomo Bridge. AGC NYS stated that with the current Thruway toll freeze in effect, the road and bridge conditions have steadily deteriorated to a point where the revenues generated do not meet the system's needs. The Stantec Consulting report prepared for the Thruway Authority, found that since 2007, pavement conditions rated as poor or fair increased from 9.6% to 62%. The conditions of the Thruway's 809 bridges will continue to deteriorate because 492 of the bridges are more than 60 years old and require replacement. AGC NYS concluded that this proposed toll adjustment is a first step to a more sustainable toll increase that meets the Thruway's needs to improve pavement conditions and rebuild bridges.

Election Day 2020 – Employee Time Off to Vote / Voting Options

A recent amendment to the New York State Election Law, which provided employees with paid time off to vote, will help businesses to manage time allowing an employee "sufficient time to vote". Generally, New York State employees are eligible for up to two hours of paid time off to vote if they do not have "sufficient time to vote." An employee is deemed to have "sufficient time to vote" if an employee has four consecutive hours to vote either from the opening of the polls to the beginning of their work shift, or four consecutive hours between the end of

a working shift and the closing of the polls.

Voting Options for the 2020 General Election

New York State Law provides three options to registered voters to vote in the 2020 general election. The three options are:

- Vote during the early voting period. The early voting period will start on October 24th and will end on November 1st. To find where you can vote early, go to <https://voterlookup.elections.ny.gov/>
- Vote on election day, November 3, 2020. Poll sites are open statewide from 6 am to 9 pm. To find your election day poll site, go to <https://voterlookup.elections.ny.gov/>
- Vote by absentee ballot. Voters may request an absentee ballot using our online portal (link here), by email, phone, mail, in-person or fax. Please visit: <https://www.elections.ny.gov/VotingAbsentee.html> for more information on how to apply and return an absentee ballot.

FEDERAL NEWS

WebEd: Countdown to Election Day 2020 - Thu, Oct 15, 2020 3:00 PM - 4:00 PM

Please join Jim Ellis, a 30-year veteran of politics who is currently the publisher of Ellis Insight Publications, and David Ashinoff, AGC's Director of Political Affairs, for an in-depth discussion on the upcoming 2020 election. With only 20 days to go until November 3, they will share their insights on the latest developments in the presidential, congressional, and state races, including:

- Paths to victory for President Trump and former Vice President Biden
- Top U.S. Senate races in states like Alabama, Arizona, Colorado, Georgia, Iowa, Maine, Michigan, Montana, North Carolina, and South Carolina
- Overview of the competitive U.S. House races
- Gubernatorial races
- AGC Get-Out-the-Vote resources

[Register here.](#)

NEW YORK CITY NEWS

Building Wrap on Scaffolds and Construction Noise on Holidays Bills Introduced

Int. 2070 introduced by Council members Borelli and Kallos requires the use of building wrap on buildings with supported scaffolds that have been standing for more than one year. The building wrap would be required to be printed with an aesthetically consistent rendering of the building's facade. Installation would occur in conformity with Building Department and Public Design Commission rules. Status: referred to the Committee on Housing and Buildings.

Int. 2074 introduced by Council member Dromm would mandate that holidays that fall on weekdays are treated as weekends for purposes of construction noise. **Status:** Committee on Environmental Protection.

Education News

AGC Future Construction Leaders Program is Now Accepting Nominations

The 2020-2021 [nomination/registration form](#) is now available online for the "members only" AGC NYS Future Construction Leaders Program. This is our 22nd year hosting the program that offers attendees the opportunity to learn, in a structured environment, what they might otherwise spend years learning from personal experience. The first session will be held in person on December 16-17 in Albany, NY.

AGC NYS Contractor and Associate Members, AGC staff, and other industry experts will address the FCLNYS group on a variety of topics, such as: Introduction to AGC of NYS, AGC of America and other industry associations, Design, subcontracting, and other industry issues, Business management issues, Employer and labor relations issues, Bonding and insurance basics, Project delivery systems, Construction contract documents, Dispute resolution options, Work Compensation and Risk Management, Marketing & Business Development, Partnering and Specification Review, Basics of NYS government, state contracting agencies, bidding procedures, legislative

issues, and Human Resources Issues specific to our industry. **SPACE IS LIMITED.** [Click here to learn more and download a nomination form.](#)

AGC Student Chapter, SUNY Delhi Looking for AGC Members to Host Internships

SUNY Delhi who has been turning out some of the top construction management students in the northeast is in search of a few AGC NYS member firms who would like to host some of their students for a 2021 Summer-Fall internship program this coming year (May/June-December). If the intern works out, many of the students will be finishing up their bachelors degree with this internship and graduating in December 2021.

SUNY Delhi prides itself on their hands on approach to learning where their students physically build in labs to reinforce their coursework. SUNY Delhi has an average class size of 50 students and requires an 800 hour Internship (traditionally during their Junior year) as part of our graduation requirements. The intent of the internship is for the students to experience multiple sides of the construction industry.

In order to ensure this, they require that they complete at least 100 hours in four of the following categories: field supervision, estimating & cost control, scheduling & planning, surveying / site layout, hands-on building experience, project engineering, documentation and procurement. The balance of the hours can be filled in any category.

If your company is looking for interns for the upcoming year, traditional start times are January and May, please reach out to the Internship Coordinator, Sarah Poole at poolesa@delhi.edu.

Online LEAN Construction Training Set for the Fall

Beginning October 27, the LEAN Construction Education Program will be held online via zoom with instructor Colin Milberg. Classes will run on multiple days from 9am-12pm from October 27 to November 19 with Exam review on November 24. The course requires you to use a PC or Mac (no tablets or phones) with a webcam and mouse. Last round of training wrapped up in August with 25 attendees completing the 7 Unit course. [Click here for a registration form.](#)

AGC of America Education and Research Foundation Undergraduate and Graduate Scholarship is Now Open

Apply by November 1, 2020 - [Click here to apply.](#)

Each year the AGC Education and Research Foundation offers undergraduate and graduate level scholarships to students enrolled in construction management or construction related engineering programs. Over \$10 million in scholarships have been awarded to more than 4,000 students attending colleges and universities across the country. Through endowments made by AGC members and supporters, as well as AGC Chapters, the Education and Research Foundation awards over 100 scholarships each year to students dedicated to pursuing a career in the construction industry. Please be sure to share this with those in the industry, interns, college faculty or anyone you may know who qualifies.

Building News

Recent Spec Review Reveals Need to Remind Members of the Service

I received a request to review the bidding and contract documents recently that has caused me to remind our Members of the service available to them. When I dug into the documents, I was shocked that the bid date was only 3 days hence and the problems found in the documents were significant. They included: illegal experience pre-requisites, subcontracting limitations, a double-dip of retainage to be held, responsibility for design errors foisted on the contractor, equivalent and sublisting requirements to name a few. I couldn't understand why I hadn't been requested to review the documents sooner when there would have been a better chance of affecting some change. It seems that some members expect others to request the review or those in a members' firm that might make the request don't dig into the front end of the documents until the bid date gets closer.

To borrow the oft used saying – if you see something, say something. Rest assured, I will not let anyone know

who called it in. Relative to documents for private work, my comments only go to the person requesting the review.

If you would like me to participate in a lunch n learn to educate those who look at the front end documents early to ensure they know the kind of things I look for, I'd be more than happy to do that. Short of that, take a look at recent (or not so recent) reviews [on the AGC NYS website](#).

AGC NYS Staff and Leadership Hard at Work Preparing for This Years' Industry Conference

A Strong Offering of Programs For Building Contractors Planned

This years' AGC NYS Construction Industry Conference will be held December 8-10 this year and it will be virtual. We are in the process of planning a great Construction Industry Conference for this year. While it will be virtual (and partly because it will be virtual) the plans include some spectacular programs that include:

- Presentations from the 10 NYS Regional Economic Chairs discussing the market in their region
- Broader Economic Presentations from FMI and AGC of America Chief Economist Ken Simonson
- State of the Insurance and Surety Market Presentations
- How to Manage Design Delegation and Avoid the Pitfalls of Design Assist
- What are the Causes/Signs of a Contractor in Trouble
- How to Be Prepared for and Manage Subcontractor Default

And this is just a sampling. There will be much more. Stay tuned for details and registration information for this important Conference.

Highway News

Recent Engineering Issuances Posted by NYSDOT

EB 20-053 Local Projects Manual (LPM), Chapter 13, Civil Rights Requirements, Section 13.3.3, ADA Transition Plan and Section 13.3.4, Design and Construction

Effective Date: October 8, 2020

Sections 13.3.3 and 13.3.4 of Chapter 13, Civil Rights Requirements, is being modified to remove and replace language to the Local Projects Manual (LPM) and, thereby, provide additional references to NYSDOT's ADA Transition Plan and NYS Highway Laws clarifying the Sponsor's responsibilities.

EB 20-048 Adoption of Standard Specifications and Standard Sheet Books - Effective January 1, 2021

Effective Date: January 1, 2021

Announces the adoption of the Standard Specifications and Standard Sheets dated January 1, 2021 as published on the department's website as the official documents.

Safety News

EPA's Lead-Safe Renovation, Repair, and Painting (RRP) Rules

AGC NYS received several calls recently regarding The U.S. Environmental Protection Agency's Lead-Based Paint Renovation, Repair and Painting (RRP) Program. As a reminder to our members, construction firms must have an EPA certification to disturb lead containing paint as part of their work in pre-1978 housing and child-occupied facilities. In addition, all of these jobs must be supervised by certified renovators; specifically, individuals who have completed an EPA-accredited, full-day training course. Plus, other craft workers on such jobsites must be properly trained and equipped to follow the RRP Program's lead-safe work practices when performing their assigned tasks.

EPA's RRP Program is a federal regulatory program that affects construction firms and individual workers who disturb painted surfaces. It applies to residential houses, apartments and child-occupied facilities such as schools and day-care centers built before 1978. It includes training, certification, and work practice requirements, as well as pre-renovation education requirements that are currently in effect. Renovation is broadly defined as any activity that disturbs painted surfaces and includes most repair, remodeling and maintenance activities, including window replacement. *Because the term "renovation" is defined so broadly, many contractors who are not generally*



considered "renovators," as that term is commonly used, are considered to be "renovators" under the RRP Program and must follow the rule's requirements.

Training, Certification & Work Practice Requirements Take Effect April 2010!

Under EPA's RRP Program, both construction firms and individual workers who perform (or direct other craft workers to perform) renovations must be certified by EPA. In addition, all craft workers must be trained on the lead-safe work practices that they must use when performing their assigned tasks. A **construction firm** can become certified to perform renovations by submitting an [application for firm certification \(PDF\)](#) and fee payment to EPA. The Agency has up to 90 days after receiving a complete request for certification to approve or disapprove the application. The certified construction firm is required to ensure (1) that all individuals performing activities that disturb painted surfaces on behalf of the firm are either certified renovators or have been trained by a certified renovator; (2) that a certified renovator is assigned to each renovation project; (3) that the program's recordkeeping requirements are met; and (4) that the pre-renovation educational materials are properly distributed.

An **individual worker** can become a certified renovator by successfully completing an eight-hour initial renovator training course offered by an accredited training provider. The course completion certificate serves as proof of certification. The certified individual must then complete an accredited refresher course every 5 years. The certified renovator is required to ensure that the renovation is performed in accordance with the work practice standards of the RRP Program, among other things. These requirements pertain to warning signs and work area containment, the restriction or prohibition of certain practices (e.g., high heat gun, torch, power sanding), waste handling, cleaning and post-renovation cleaning verification.

NOTE: EPA's rule does not require everyone involved in performing a regulated renovation project to receive training from an accredited training provider. The rule allows firms to use other workers to perform renovation activities, as long as they receive on-the-job training (OJT) in work practices from a certified renovator.

Currently, contractors who perform renovation, repairs and painting jobs in pre-1978 housing and child-occupied facilities must, before beginning work, provide owners, tenants and child-care facilities with a copy of EPA's lead hazard information pamphlet, **Failure to comply with EPA's RRP Program requirements could result in monetary penalties.**

For additional information, [visit EPA's web site](#) or call the National Lead Information Center (NLIC) at 1(800) 424-LEAD [5323] to find out more or contact Jim Redmond at (585) 370-1853 or Dennis Kiefer at (518) 376-8221.

OSHA Increases Penalties Per It's Annual Directive

As a reminder, effective Jan. 15, 2020, the U.S. Department of Labor (DOL) has increased the maximum allowable penalty amounts for OSHA violations in federally-mandated states.

The new numbers are based on the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which former President Barack Obama signed in November 2015 in an effort to drive the effectiveness of civil monetary penalties and "maintain their deterrent effect," according to a memorandum posted through Loren Sweatt, the DOL's principal deputy assistant secretary for occupational safety and health.

Increases are required by January 15 of each year going forward.

Maximum Civil Penalty Amounts

	2018	2019	2020
Willful or Repeat	\$126,749	\$132,598	\$134,937
Serious or Other-than-Serious	\$12,675	\$13,260	\$13,494
Per Day Failure to Abate (limited to 30 days maximum)	\$12,675	\$13,260	\$13,494



OSHA Top 10 violations for 2019

1. Fall Protection – General Requirements
2. Hazard Communication
3. Scaffolding
4. Lockout/Tagout
5. Respiratory Protection
6. Ladders
7. Powered Industrial Trucks
8. Fall Protection – Training Requirements
9. Machine Guarding
10. Eye and Face Protection

Remember to call AGC NYS if you have had an OSHA inspection. We can help guide you through the steps of mitigation, right through contesting citations.

2020 AGC NYS Chapter Safety Award Application

The AGC NYS Safety Excellence Award recognizes and honors AGC NYS Members for having and implementing outstanding safety programs. Awards will be given to AGC NYS Members with excellent safety programs that meet the stringent minimum criteria, criteria which exceed industry standards, and also demonstrate excellent safety practices in the field.

Award recipients will be honored during the VIRTUAL 2020 AGC NYS Construction Industry Conference. They will also be recognized for their efforts in the winter edition of the AGC NYS Cornerstone magazine.

If your company is interested in applying for the AGC of America Safety Excellence Award, **YOU MUST APPLY FOR THE AGC NYS AWARD**. Winning applications of the AGC NYS Safety Excellence Award will be reviewed for qualifications for the AGCA Safety Excellence Award, but are not automatically enrolled. The AGCA award is based on your company's severity rate according to the National Average chart that is included with this packet. You must include those numbers on this application as well. The AGCA Safety Excellence Award program information will be mailed later this year.

Questions? Please contact Dennis Kiefer or Jim Redmond at (518) 456-1134 or via email to dkiefer@agcnys.org or jimr@agcnys.org. The 2020 application is [available here](#).