



AGC NYS Newsletter October 29, 2020

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

Index:

Industry News	
2020 Industry Conference.....	1
Reminder to Employers.....	1
WEBINAR: Job Costing.....	2
Construction Report.....	2
Joint Contractors Conference.....	2
Government Affairs	
Transportation Testimony.....	2
Diversity EO.....	2
Education	
Future Construction Leaders.....	3
Delhi Internships.....	3
LEAN Training.....	3
AGC Scholarship Open.....	4
Building	
SUCF Agreement.....	4
Building Agencies Meetings.....	5
Highway	
Recent Engineering Issuances.....	6
Pavement Renewal Projects.....	6
Safety	
AGC NYS to Meet with NYC DOB.....	7
Safety Committee Meeting.....	7
Safety Award Application.....	7



UPCOMING EVENTS

November

- 10-11 [OSHA 10-Hour - Albany](#)
- 12 [WEBINAR: Understanding Construction Job Costing and Overhead Allocation](#)
- 17 [Becoming a Notary Public - Online](#)

December

- 1 [Handling OSHA Inspections Course - Albany](#)
- 8-10 [2020 VIRTUAL Construction Industry Conference](#)

Industry News

The 2020 Construction Industry Conference Registration is LIVE

The 2020 Construction Industry Conference will be conducted as a virtual event from December 9-10. We're excited to bring our members and industry partners a dynamic two-day event through AccelEvents, with a full two-day trade show. Committee meetings will be hosted earlier in the week, sessions and expo will take place after and be available for replay after the event. Please take a look through the [schedule of events, sponsorship opportunities and exhibitor information](#) to see how you can best take advantage of this exciting virtual event. We look forward to updating you with more sessions—and seeing you, virtually in December! For registration, [click here](#).

A Reminder to Employers on COVID-19

COVID-19 has presented some significant challenges for employers as they continue to manage active worksites while ensuring their employees are following the guidelines for stopping the spread. AGC NYS wants to remind our members that it is critical that employers make sure that safety protocols and practices are being followed and your workplaces are compliant with the guidelines issued by New York State.

New York State issued a guidance document entitled "New York Forward" that outlines "Interim Guidance for Construction Activities During the COVID - 19 Public Health Emergency". All contractors had to affirm that they were going to follow the guidelines set forth in the guidance document. That being said, make sure your workplaces are adhering to the rules.

Flu season is upon us and there has been an uptick in COVID-19 cases in New York State. If these trends continue, we may find ourselves going backwards in this fight and there is real potential that shutdowns and/or restrictions will occur as a result. As an industry, we all need to do our part to help stop the spread.

Too much is at stake and, as an employer, you owe it to your employees. If an employer fails to comply, they will be putting their employees, company, and livelihood at risk. The rules are there to protect our workforce and they need to be followed. Please don't be complacent. Make sure your company is following the rules and being diligent. AGC NYS is available to answer any questions you may regarding associated safety guideline pertains to COVID-19. Please reach out to us if we can be of assistance. AGC NYS has a number of resources [available on the website here](#).

WEBINAR: Understanding Construction Job Costing and Overhead Allocation

Thursday, November 12 | 2:00 p.m. - 3:30 p.m.

This session will focus on the importance of accurate job costing. Done right, job costing can lead to accurate estimates and more revenue. Equipped with a thorough understanding of your costs, you will be able to better plan your jobs, negotiate contract terms, and change orders.

- After this session you will be able to answer the following questions:
- Why is job costing important?
- How often should job cost reporting be completed?
- What are the differences between direct, indirect, and SG&A costs?
- How can I allocate indirect overhead costs to my jobs?

SPEAKERS: Kait Bloss, CPA, Principal, Bonadio and Jared Amyot, CPA, Principal, Bonadio

FEE: \$35 for AGC NYS, BCA, ECA or NESCA Members and \$55 for Non-members

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

More Contractors Report Canceled Projects Than Starts, Survey Finds; Construction Employment Declined In Most Metros In Latest 12 Months

Construction firms are experiencing widespread project deferrals and cancellations, along with disruptions to ongoing work and few new project awards, as the economic damage from the pandemic drags down industry employment in metro areas across the nation, according to a new survey and an analysis of new government data that the Associated General Contractors of America released today. Association officials urged Congress to pass new coronavirus relief measures to head off further job losses. To read the full press release, [click here](#).

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 Assembly Transportation Committee

AGC NYS Vice President of Government Affairs, Walter Pacholczak, testified at the Assembly Transportation Committee public hearing about the NYS Department of Transportation capital program. AGC NYS comments included a look back on working during the COVID-19 pandemic; the current capital plan; budgetary challenges; road and bridge conditions; work zone safety; and a new five-year capital program. A copy of the AGC NYS testimony is [available here](#).

FEDERAL NEWS

New Executive Order on Diversity and Inclusion Training

As previously reported, AGC and other members of the business community called on President Trump to rescind [Executive Order \(EO\) 13950 on "Combating Race and Sex Stereotyping."](#) The EO has caused much confusion and uncertainty. AGC fears that it could fuel federal investigations of government contractors for simply trying to promote diversity and combating discrimination in the workplace. To that point, AGC engaged a leading law

firm to review the EO. AGC is pleased to share that firm's [analysis](#) with AGC members struggling to determine whether and, if so, how to adjust their training programs. The Office of Federal Contract Compliance Programs (OFCCP) recently issued a set of [frequently asked questions](#) on the EO and created an [EO landing page](#) that includes information on a Complaint Hotline. OFCCP also published a [Request for Information](#) requesting—not requiring—that federal contractors and their employees provide copies of their D&I related programming, among other things.

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

AGC NYS and SUCF Reach Agreement on COVID-19 Related Contract Language

As has been discussed in Membership and Board Zoom Meetings over the last few months, AGC NYS has been in regular communication with SUCF regarding language that had been inserted in their bidding and contract documents intended to respond to the current pandemic. The language caused grave concern that the cost and schedule risk of all future and, therefore, unanticipated orders by the government orders related to the current and future pandemics and epidemic as well as other safety and health related issues was being foisted onto bidding contractors.

While there were some changes to the original iteration of the language, the most recent issuance in jobs out for bid remained a serious concern and caused a flurry of activity and discussions. It really came down to one key sentence which stated:

"The bidder expressly understand and agrees that it accepts the risk that Project work includes the uncertainties of complying with government requirements that may be issued to protect public health and safety."

The matter culminated late last in discussions between AGC NYS VP of Building Services Joe Hogan and SUCF General Counsel JoAnne DiStefano and SUCF agree to remove the sentence of concern and their primary objective was to ensure that Contractors agree to include the current public rules and orders in their bid while also agreeing to comply with the future orders without delay but not precluding resolution of the impact of those future orders.

Given all that, the new language for Section 17 of the SUCF Information for Bidders to be issued via addendum and for new projects will read as follows:

Section 17 Information for Bidders

The Bidder agrees it is responsible for complying with any and all health and safety requirements issued by federal, state or local entities, including but not limited to New York State Governor Office Executive Orders, New York State Department of Health rules, regulations and guidance, and other New York State, Fund or Campus laws, rules, regulations or requirements that exist or may be issued and/or amended during the bidding and/or performance of work on this Project.

With respect to the COVID-19 pandemic, Bidder specifically acknowledges and agrees that the NYS DOH Interim COVID-19 Guidance for Construction Projects, "Guidance", in effect at the time of bid is made a part of the contract work for this Project, as set forth in General Requirements Section 01 35 29 10. Bidder affirms that all costs and time associated with compliance with the current Guidance are included in its bid. The current Guidance is available at the following website:

<https://forward.ny.gov/industries-reopening-phase#phase-one-construction>

Notwithstanding the foregoing, Bidder agrees to comply with the Guidance as it may be amended or superseded in the future.

AGC NYS greatly appreciates the responsiveness to AGC NYS and industry concerns on this matter.

AGC NYS Meets with the Building Agencies

Over the last couple weeks, AGC NYS Members and Staff held separate meetings with the NYC SCA, OGS, DASNY and SUCF. All were good and productive meetings. For reports on each, see below.

NYC SCA – The meeting began with great news as Gordon Tung noted that SCA got word a couple days earlier that 85% of their projects are unpaused. That includes nearly all of capacity and many CIP projects. SCA is in the process of sending notices out to contractors and designers – with the capacity projects getting notice first. Gordon noted that for the old jobs that had payment issues due to designers being paused, contractors should send out requests to expedite that process but cautioned that there will be a lot of that so prioritize where your going to get the most bang for the buck.

SCA asked that contractors get the updated schedules in quickly but also noted that if you've been recalcitrant on the last several updates don't inundate them with all the previous updates. Just provide the most recent.

They hope to get back to bidding jobs early next year. There will be a number of developer projects where the contracts will be simple interior fit-out contracts.

We also discussed the change order negotiation process which is – and will continue to be – done virtually. In general that is viewed as a positive on all sides.

Going forward, SCA is rolling out new software for project management (jettisoning CM 13) and a "ProEst" estimating software that will track change orders better and allow contractors to accept line item portions of the change order proposals such that all can focus on the sticking points.

They will be putting a dashboard into service to help them measure PO and project successes/shortcomings.

Overall it was a very good discussion.

OGS – Of the 300 projects that had been paused, all but 8 or 9 have re-started. By and large, those that have not are in correctional facilities. OGS noted the very good and ongoing cooperation from the industry relative to the various safety initiatives and Covid-19 protocols. They were particularly appreciative of the AGC NYS efforts at educating our members and noted the positive impact those efforts have had.

As for the workload, it remains high. It was noted that normal, of late, had been \$1.2 Billion and it currently stands at \$1.4 Billion. Going forward there is a good deal of work on the horizon but noted that there are more checks for approval from Division of Budget (DOB) and, therefore, some slowdown at present. Those DOB checks have included approvals within the bidding process and OGS is now getting ahead of that – before advertisement – so that it does not impact the award process.

It was noted that there is an effort through the Council of Contracting Agencies to maintain a fair, acceptable and consistent practice relative to the Covid-19 related claims issues and it is generally going well. So far, of the 65 claims submitted, 54 have already been approved.

An area of concern and discussion surrounded the suggestion that the status of a contractors' PPP loan may impact claims. AGC NYS has pushed back on that notion and we had a productive discussion on that point. While there is more discussion to be had, we feel progress was made.

A deep dive discussion of the newly granted Design Build Authority was tabled for another meeting in November due to a technical glitch.

DASNY – Our meeting this week revealed something we have heard from others – there is a real interest on the part of the Governor and the State to release projects when able from a fiscal perspective. As things stand, however, DASNY's portfolio is a mixed bag. There are currently no SUNY "capital projects" underway and the

Summer work which typically has 30-40 projects going, only had 10 this year. Besides the obvious, a SUNY Bond sale has been delayed and revenues are down for residence halls. This was to have been the largest SUNY capital program for DASNY and there are several projects that are on the shelf and ready to go. The CUNY program is in better shape with 150 projects approved. Community college projects within CUNY, on the other hand, are awaiting NYC OMB approval. OMH projects, they noted, are going in full force with some particularly large projects on the horizon.

We also discussed the Covid-19 related claims and DASNY's Steve Curro noted the process is going very well with an interest on both sides to resolve matters. He said that the time extension changes which came very quickly seems to have been a catalyst for resolution.

While we had some good discussions about the DASNY design build approach, we promised to have a more comprehensive discussion in the near future.

SUCF – As The Fund has just been granted authority to engage in a design build procurement and project delivery methodology, our meeting was a deep dive discussion of various aspects of the process. We discussed how projects would be selected for the design build methodology, the procurement process itself, the form of contract and key provisions in the contract and project management.

Relative to project selection, we discussed the questions of new project versus renovation as well as the thought process relative to the complexity of a project as well as how campus issues play into the decision making process. That discussion lead to the discussion about how the procurement process plays a role in the type of projects selected.

AGC NYS noted the importance of more of a qualifications based selection process and how such a process – perhaps with a target value design approach – will allow for a broader and more valuable view of the types of projects where design build may be used.

With regard to project management, AGC NYS stressed the importance of personnel and mindset. If the same mindset is brought to managing a design build project as with a design bid build project, projects will not be as successful as hoped. To that end, choice of personnel is critical on all sides. Interestingly, this discussion also brought about thoughts on the selection process and how SUCF should evaluate teams.

There is more discussion that will take place on this. As SUCF begins to develop their RFPs and contract documents, AGC NYS has promised to review and comment on language.

Highway News

Recent Engineering Issuances Posted by NYSDOT

EB 20-054 Fuel, Asphalt & Steel Price Adjustments (November 2020)

Effective Date: November 1, 2020

Provides information to be used in computation of progress and final payments for the fuel, asphalt, and steel price adjustment pay items.

EB 20-048 MURK Part 1A Contract Administration Manual (CAM) - Section 109-07 Prompt Payment

Effective Date: October 23, 2020

As a result of an FHWA Audit, the Contract Administration Manual (CAM) Section 109-07 Prompt Payment is being updated.

Governor Cuomo Announces \$357 Million in New Pavement Renewal Projects

Late Friday Governor Cuomo announced \$357 Million of funding for paving projects statewide. These projects will be let as both NYSDOT and VPP projects as early as Spring 2021. This federal funding is a welcomed earmark for the 2020-2021 budget.

To read the full press release from the Governor, [click here](#).

Safety News

AGC NYS To Meet With NYC DOB on November 4

AGC NYS was asked to participate in a second session of a construction industry meeting with the NYC DOB. Our main focus will be to present issues related to the Stop Work Order (SWO) process. This seems to be the most pressing issue, and the most confusing. We have heard from many NYC Members that SWOs are issued (sometimes) without cause or with a simple fix but still causing 3-4 days of work stoppage. We want to relay these issues to the DOB so that they can understand our perspective.

We appreciate the NYC DOB for their invitation and look forward to a very constructive discussion. If you are working in NYC and have experiences with the SWO process, or any other issue relevant to DOB processes, we ask you to share those (confidentially) and we will get them on the agenda. Send your comments to [Joe Hogan](mailto:Joe.Hogan@agcnys.org).

AGC NYS's Safety Committee Scheduled to Meet December 1, 2020

The next AGC NYS safety committee meeting will be held on December 1, 2020 at Eastern Contractors Association (ECA) office located at 6 Airline drive in Albany. The meeting is scheduled to run from 12:00 – 1:30 pm. If you are not currently a member of the AGC NYS safety committee, we encourage you to get involved. This group has really grown over the years and we are fortunate to have a talented group of safety professionals. We believe the efforts of the group have provided real dividends for the participants so please consider getting involved.

The group will be meeting in person but if you would prefer to link into the meeting through Zoom, that is also an option. If you are not currently a member of the AGCNYS safety committee and you are interested in being a part of this group, please contact Bryanna Kiselauskas at bryanna@agcnys.org. Bryanna will add your information to our distribution list and forward you additional details regarding our upcoming meeting. If you have any additional questions regarding the safety committee meeting scheduled for December 1, 2020 in Albany, please contact Jim Redmond at 585-370-1853 or Dennis Kiefer at 518-376-8221.

LAST CHANCE 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](#).