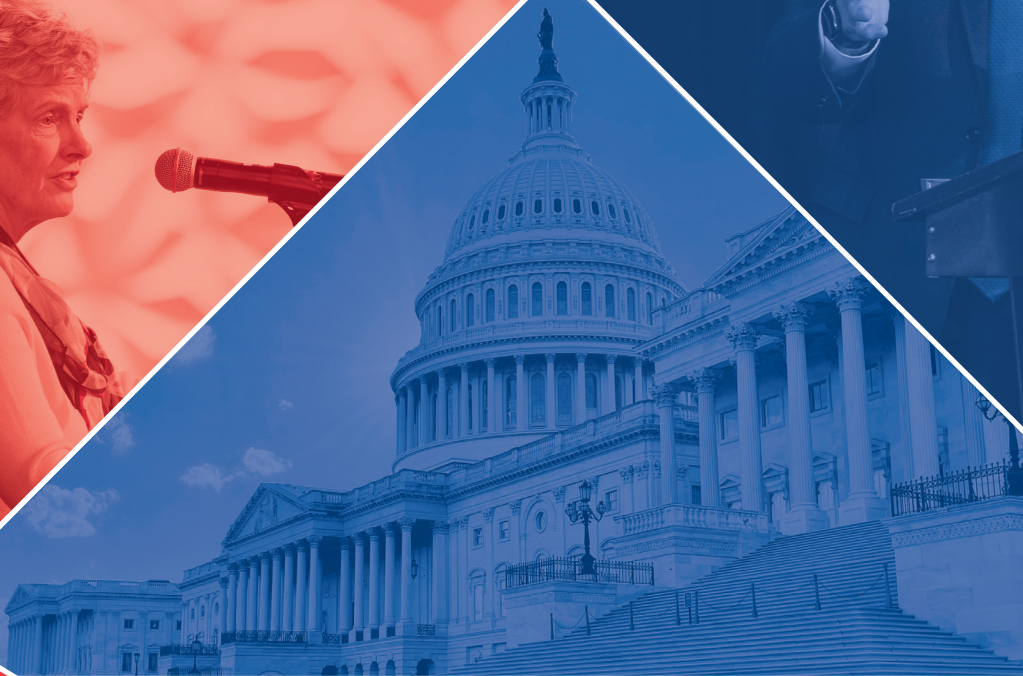
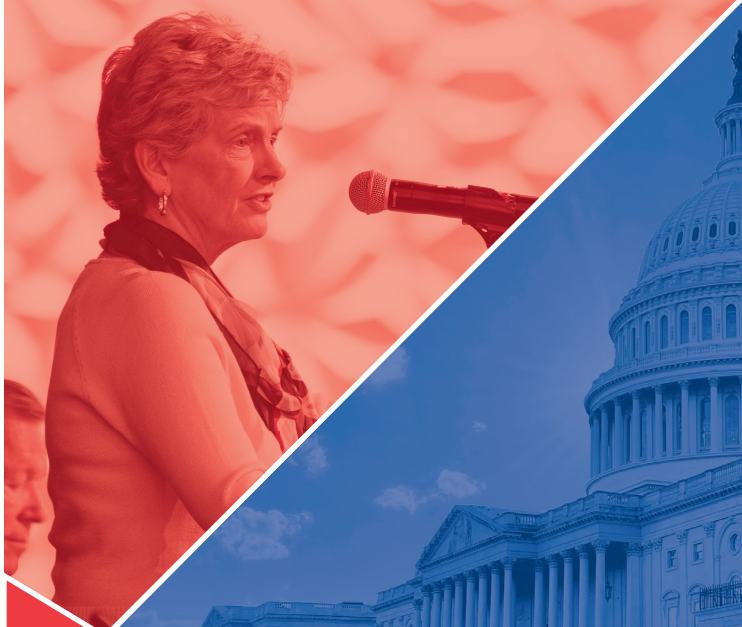


MAY/JUNE 2023

# SMAC NEWS

## Inside the CEA National Issues Conference



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## CEO UPDATE Aaron Hilger



## Creating a More Respectful Workplace

Throughout my time in the industry, I've seen (and heard) everything regarding the workplace environment. I grew up as a roofer and roofing contractor. As a kid, I was always in the shop, visiting job sites and learning about construction. When I was old enough, I graduated from working in the warehouse and doing deliveries to working on the roof. It was a great experience — from learning the skills of the trade to the value of hard work and understanding what union members experience every day. It was also Darwinian and brutal. We had many exceptional tradesmen — but every weakness was played with, every insecurity pushed, and casual harassment

was the norm. I bet this sounds familiar because it was the hazing many of you grew up in. We valued workers who could survive on the crew — hard workers with thick skin and the ability to fire back in kind.

What I just described was the “good work environment” we thought was normal in 1990. You earned your stripes by contributing to the crew and carving out your place in the pecking order. It was also simply a toxic environment, especially when measured by today's standards. Knowing what I know today and how laws have changed over time, the legal risk of that conduct is very high. Even worse, how many people who tried to be

roofers washed out because they couldn't cut it or deal with the teasing and bullying? With recruitment and workforce needs being the top concerns expressed by SMACNA members, how can we continue to risk our ability to not only attract top talent but retain the skilled workers that you already have? We need to reflect on what a respectful workplace looks like.

What would be the core tenets of a respectful workplace? For me, such an environment would be one where people are kind and professional





**FROM THE PRESIDENT**

Tony Kocurek

toward one another, one that values diversity, one where teammates trust each other and one where bullying and harassment are not tolerated. Our trade workers should earn their place on the job site through hard work and their skills — not their ability to tolerate hazing.

Talk on this topic. Please take a moment on your shop floor to review and discuss the issues outlined in this edition. It will help you understand some behaviors that do not contribute to a respectful workplace and learn more about some of the best practices that can enable you to build a thriving



**WHAT WOULD BE THE CORE TENETS OF A RESPECTFUL WORKPLACE? FOR ME, SUCH AN ENVIRONMENT WOULD BE ONE WHERE PEOPLE ARE KIND AND PROFESSIONAL TOWARD ONE ANOTHER, ONE THAT VALUES DIVERSITY, ONE WHERE TEAMMATES TRUST EACH OTHER AND ONE WHERE BULLYING AND HARASSMENT ARE NOT TOLERATED."**

There are some tangible benefits to your business for creating this type of atmosphere: higher employee satisfaction; your workforce is engaged with your firm's mission; morale remains high; and harmful activities such as safety incidents, sick time and turnover significantly drop. All these things can contribute to your company's higher bottom line and prosperity.

BE4ALL, the joint effort by SMACNA, SMART and ITI to create an industry-wide atmosphere of belonging, has designed its latest Toolbox

workplace where everyone is valued and welcomed. This can also spur discussion on what can be done at your shop to encourage this environment.

Thank you for everything you do in building a thriving sheet metal industry. ▼

*Aaron Hilger is CEO of SMACNA, bringing more than two decades of executive association leadership to this role. Hilger is focused on building a stronger, more competitive environment for all SMACNA contractors.*

## Amid Wildfires, HVAC Systems Can Help Improve Indoor Air Quality and Save Lives

Recent wildfires have caused smoke and air quality issues in Canada and several areas of the United States. Canada's fire season is just the beginning. Similar conditions are anticipated in several areas of the United States, according to CNN meteorologists.

As the fire season intensifies, it is crucial to emphasize the importance of maintaining and servicing your customers' home and business air conditioning systems to safeguard them from the effects of smoke.

One critical step is to ensure the installation of proper filters and verify the correct operation of economizer controls. These measures help guarantee the highest possible air quality in homes or businesses when smoke from wildfires spread.

When addressing inquiries about what to do with HVAC systems during an extreme air quality alert, it is vital to understand the specific HVAC systems in use, as different systems necessitate distinct actions to maintain a clean indoor air environment. For example, evaporative cooling systems utilize 100 percent outside air, while heat pumps utilize minimal outside air, if any. Consequently, each system requires different approaches to maintain a clean indoor air environment.

If your customer has an HVAC system with a fresh air intake, it is advisable to set the system to recirculate mode or set the outside air damper to its minimum position. A reliable HVAC air filter will effectively capture smoke particles within homes or businesses. However, customers with evaporative coolers should refrain from using them unless they are in a heat emergency, as these systems can introduce more smoke indoors.

It is also important to educate customers about the significance of air duct cleaning. The Environmental Protection Agency (EPA) recommends cleaning air ducts as necessary, particularly when excessive dust, debris or particles are clogging the ducts or being released inside homes and businesses through the registers.

Additionally, customers should schedule annual comprehensive maintenance checks and necessary repairs for their HVAC systems to ensure adequate airflow. A well-functioning cooling system plays a crucial role in regulating relative humidity inside homes and businesses, thereby enhancing the air quality for everyone inside. ▼

Tony Kocurek, SMACNA President



## Styling Sheet Metal Into Bold Canopies

Multi-component systems at two retail grocery sites required attention to detail, careful coordination and a dedication to teamwork.

Liberty Sheet Metal has evolved and grown with the expanding architectural sector, embracing the growing range of specialty products, a variety of finishes and demand for sheet metal that makes a statement. This was the case on a national retail grocer's two Michigan sites that called for a multi-component cantilevered Mapes canopy system—with detailed specifications on a tight timeline.

Liberty's architectural sheet metal projects are generally developer-driven, says Justin Becker, project manager and estimator. For this project, the general contractor had partnered with Liberty on previous projects, so the company was a natural fit when awarded the contract.

"The client came with specific details on what was required, and it was very important to follow all of those," Becker says. One of the critical specifications included a custom brand color. "We had to be sure all measurements and instructions were coordinated and cross-referenced,

as well as gather all the dimensions and know how different sheet metal products tied in together."

The back-to-back projects were a testament to Liberty's teamwork, attention to detail and the company's knowledge of the market's architectural products. "Most jobs, you can do a shop drawing and start off with the field team, communicate in the beginning and then it's on coast," Becker relates. "This one, it was the daily details. And we planned for it nearly a year ahead of time."

### A COMBINATION OF COMPONENTS

"The metal world is evolving, and clients are liking aluminum composite material (ACM) and what it can do, so we are seeing a transition from wood, stone and finish carpentry into ACM on exteriors and interiors," Becker says.

Sustainability is one reason, and maintenance is another. "We can introduce aluminum products that look like other materials — whether it's an insulated panel



*Liberty Sheet Metal uses aluminum composite material as a longer lasting and lower maintenance alternative to wood and stone for retail canopies.*



**THE BACK-TO-BACK PROJECTS WERE A TESTAMENT TO LIBERTY'S TEAMWORK, ATTENTION TO DETAIL AND COMPANY'S KNOWLEDGE OF THE MARKET'S ARCHITECTURAL PRODUCTS.**

with a tough stone look to it or an aluminum panel with a nice, woodgrain finish — and you're getting sustainability and a great finish warranty," he explains. "If you were to use real wood, your longevity is lower, and the owner is really looking at long-term maintenance. Some of these pieces are installed at high heights, where maintenance could be difficult."

The retail grocery sites called for several components: Stonewood architectural panels (compact laminate), an insulated backup system, furring and hat channels, concealed fastener corrugated panels with an insulation system, and Mapes canopies.

Additionally, the projects required custom cart corrals that mimic the look of the canopies. The traditional steel-framed roof structures required specialty pieces such as 6-inch soffit panels. "We coordinated with other manufacturers to make that happen," Becker says, emphasizing the level of organization necessary to complete these projects on time and on budget.

**WORKING IN CONCERT**

The 95- and 45-foot-long Mapes canopies project 5 feet off the buildings. Specifically, the product is Mapes' Super Lumideck all-extruded, pre-engineered canopy for high-load applications. They include cantilevered, custom-color fascia on soffit panels.

Becker explains, "There is a good amount of parts to the system, and being cantilevered, we needed outriggers or posts coming out of the building every 4 feet that

through tube steel into the building. Those were challenging to work through."

At one point, eight field team members worked on just the Mapes canopies.

The products are fabricated by the manufacturer and delivered in parts to build on-site. "Once you know how to put them together, you get into a rhythm and understand the system's nuances," Becker says.

The field team worked in concert on the first building's system and then applied what they learned onsite for the second location. "When you get to do something twice, you can work out the kinks, and that rarely happens in this business," he points out.

The depth of the canopy system was critical. "It ties into the Stonewood panel system, so the reveal on that was important," Becker adds, relating that the sequence of installation was vital for insulation, furring and panels.

When attaching the Mapes system, holes were drilled, and the piece was bolted in. "The drywall contractor had to wait for us, and overall there was a lot of on-site coordination with different contractors," Becker relates. Sometimes, this was a drag on productivity. But it was necessary.

The crew, shop and contractors were constantly reviewing architectural and shop drawings. "It took a lot of coordination between me, the shop that was fabricating the trims and custom components, working with different manufacturers, field superintendents, foremen and having all hands on deck to push to get this done," Becker says. "It confirmed that there is no project we can't tackle." ▼



## Delivering on Promises For A Safe, Collaborative Environment

The Helm Group helped the RUSH University Medical Center with its new facility, maximizing on-time and cost-saving services.

**R**USH University Medical Center, a private research hospital, is adding the Joan and Paul Rubschlager Building to their Chicago campus. The new 11-story, 500,000-square-foot facility houses the RUSH University Cancer Center. This outpatient care center will allow doctors to treat thousands of patients in a premier environment.

The Helm Group has been involved in this project since the earliest planning sessions in May 2017. “The owner wanted the specialty contractors on board early enough to have input into design and constructibility,” says Tom Matus, strategic growth manager for Helm Mechanical. “We had countless meetings with the owner, the design team and the construction manager during the bid process so we could get a solid understanding of what the project entailed.”

Helm encouraged the medical center to consider both

constructibility and function. “We have a long-standing relationship with the construction manager and the engineer as well as RUSH University, so we felt comfortable having frank discussions about the design,” Matus says. “Through meetings with the entire design/project team, we pushed each other to maximize the design to meet the needs of RUSH not only for the present but also the efficiency of system maintenance for the life of the system.”

RUSH University provided co-location offices for the design team on campus. “Quite a few clients in the health care market allow us space at their facilities,” Matus says. “Say the client assumes it will take us four and a half weeks to reach a goal, but we know we can do it in three. That conversation is not going to happen unless we’re all in the same room together, so co-location is extremely beneficial.” The office was within walking distance of the site. “If we needed to investigate something, we could go as a team.



The Helm Group did the HVAC and sheet metal work for an outpatient cancer center at one of the most renowned healthcare facilities in the world — The RUSH University Medical Center in Chicago.



We find this pushes the schedule a lot further along than sending an email and waiting for a call back.” At peak, Helm had seven people in the co-location office full-time.

COVID hit just as construction started. “We got boots on the ground in April 2020, but the city of Chicago shut down on March 14, 2020, at 5 p.m. and didn’t reopen for quite some time,” Matus says. Quarantine requirements disrupted the workforce, and minor supply chain issues ballooned, so Helm had to get creative to meet the target schedule. “Everyone in the world was in the same boat, but we asked how we could paddle our boat a little bit faster.”

To meet the schedule and improve costs, Helm Mechanical reconsidered its process for installing the rooftop units. “We had everything, including the curb and all flashing, combined into one unit during manufacturing,” Matus says. “This improved installation efficiency for all trades involved. When the integrated unit came to us, we set the units almost in a plug-and-play-method, which reduced the schedule.”

RUSH University’s dense, 8-acre campus, located right next to Interstate 290 in Chicago, has limited lay-down space, which means access to the construction site can become congested. “We utilized a 650-ton crane due to the nature of the picks from both a vertical and horizontal standpoint,” Matus says. The unique logistics required 60 to 70 hours of planning and training. “We don’t take shortcuts on safety. It’s too imperative that every single one of our employees goes home every single night.” Helm usually had about 10 sheet metal workers onsite, peaking at 30. The owners, general contractor and other tradespeople coordinated their schedules with the crane, ensuring everyone followed safety protocols.

The constrained workspace also influenced fabrication. “We fabricated every pound of ductwork in our own shop,” Matus says. “Through coordination with our project trade partners, we maximized all fabrication and modular-

ization that the building and site logistics would allow.”

This project kept a team of 25 to 30 people busy in Helm’s Rockford, Illinois, shop, which fabricates about 3 million pounds of sheet metal annually. “Most

of our shop is fully automated,” Matus says. “The laser cutting and plasma cutting are generated from exact measurements on a computer. We have many people doing traditional welds, but we also have an automatic seam welder. It’s more accurate, safer for the team, and fast.” To keep a highly skilled workforce, Helm helps with training in the JATC and provides advanced training from manufacturers in their shop.

Helm utilized just-in-time delivery, fabricating as much as they could everyday and putting it directly on a box truck or a semi to focus on LEAN principles. To avoid traffic, they timed deliveries to arrive either at night or extremely early in the morning, so the fabricated material was ready for immediate installation.

## HELM INSTALLED 780,000 POUNDS OF SHEET METAL FOR THIS PROJECT — MOST OF IT GALVANIZED STEEL.

Helm installed 780,000 pounds of sheet metal for this project — most of it galvanized steel. The lab space, pharmacy space and MRI rooms are primarily stainless steel with some aluminum. The building has four custom air handling units totaling 175,000 cfm, nine custom rooftop units totaling 252,000 cfm, and 788 VAV boxes — the two mechanical spaces total 24,000 square feet.

Helm’s team took pride in doing the best possible work. “We were building an outpatient Cancer Center at one of the most renowned healthcare facilities in the country,” Matus says. “Our top priority was to deliver on the promise we made for a safe, inclusive and collaborative environment. We worked closely with the entire project team not only on COVID mitigation on the job site, but also on any design changes necessary to combat the virus in the future. The design was so well done that no changes were necessary.” ▼



## Sharing the Lime (Stone) Light

Coordination with other trades is the key to success for this Ohio landfill project.

**F**or Craig Carpenter, the smell of success at the Carbon Limestone Landfill may not have been so sweet.

But that doesn't mean the D&G Mechanical project manager is less proud. The job certainly didn't stink — not figuratively, anyway.

Carpenter oversaw D&G's recent fabrication and installation work at an Ohio landfill. The 10-month project worked, Carpenter says, thanks in part to the work of D&G Mechanical's fabrication and installation team.

"My shop just did an amazing job," Carpenter says.

D&G, based in West Middlesex, Pennsylvania, was awarded a \$300,000 contract to install two Trane rooftop units (rated at 20,000 cfm each) for a new building's electrical room at the landfill. The contract also called for D&G to install all supply and exhaust fans and louvers. It also

required D&G's sheet metal workers to make and install all related rectangular and spiral ductwork — some of it up to 60 inches in diameter.

The client was SCS Engineers, a California-based environmental consulting and construction firm. It contacted D&G to see if it was interested in bidding on the landfill building project in Lowellville, Ohio.

D&G's shop is only about a mile from the Pennsylvania-Ohio border.

### **FACILITY CONVERTS GAS TO ELECTRICITY OR FUEL**

Known as the Carbon Limestone Landfill, the facility converts landfill gas — a byproduct of decomposing garbage — into electricity or fuel for vehicles. D&G won the contract over several other sheet metal contractors in the region.





Page 6: D&G Mechanical workers prepare to lift some of the large duct into place at the Carbon Limestone Landfill in Lowellville, Ohio. Left: Spiral ductwork up to 60 inches in diameter was used for a building at the Carbon Limestone Landfill. D&G Mechanical made and installed the duct. Below left: A close-up look at the landfill facility's large duct waiting for installation.



It was a unique project for D&G, which company Vice President Nikko Giangli said can trace its history back to the early 20th century. During this time, Giangli's great-grandfather emigrated from Italy, settling in New Castle, Pennsylvania. In need of a job, he applied at a nearby sheet metal shop, despite not knowing anything about the trade other than workers made a good living.

"He ended up going in there and telling them that he knew how to work the machines and he knew how to bend metal," Giangli says. "And he didn't."

But he got the job anyway. He often stayed after hours, learning how to make duct from co-workers willing to teach him. "And he stayed in the trade his whole life," Giangli says.

Eventually, Giangli's great-grandfather founded his own sheet metal company, which through a couple of generations and a few relatives later became D&G Mechanical in 1985.

## Carbon Limestone Project Fabrication Facts

Sheet metal used: 18 gauge, G90  
 Rectangular duct total length: 140 feet  
 Rectangular duct total weight: 2,150 pounds  
 Spiral duct sizes: 8-, 10-, 18-, 48-, 60 inches in diameter  
 Spiral duct total length: 340 feet  
 Spiral duct total weight: 8,465 pounds

Today, the company is a member of SMACNA of Western Pennsylvania. Its sheet metal workers belong to SMART Local 33.

Mostly a commercial HVAC contractor, D&G does occasional residential work and some industrial, such as the Lowellville landfill project.

But it's not every day that it gets a project that calls for ducts up to 60 inches in diameter, Giangli says.

"That's like once or twice a year when we make duct that big," he says. The company doesn't have the storage capacity for large ductwork, so D&G needed to get it to the job site for staging and installation as soon as possible. Much of the largest ductwork was stored in D&G's parking lot as it waited to go to the facility.

It helped that D&G's sheet metal shop is only about 10 miles from the landfill. Duct didn't have to spend a long time in transit.

## BIG DUCT MEANS A BIG COORDINATION EFFORT

Still, Giangli says, "It took a lot of coordination. Our guys did a really good job getting it built, getting it on the site and getting it set. Our shop did a fantastic job making all of the large duct."

And just like a piece of 60-inch duct, coordination is huge when you're dealing with these types of jobs, Carpenter adds.

"You have to know which piece goes in first," the project manager says. "Sequence of installation is huge with any big ductwork. You have to know where you're going to start and where you're going to finish. Do you build both runs simultaneously? You just have to keep your eyes wide open when it comes to that. Otherwise, you could find yourself in a really, really hard spot."

Carpenter said coordination with the other trades went well — something that doesn't always happen. Other contractors were on site 24/7, which could have led to confusion or clashes with the other trades.

But that wasn't the case, Carpenter says.

"And that was (thanks to) communication," he adds. "Without communication, we would've been dead in the water. They were willing to listen to our ideas as far as installation. The biggest success that we had was because they took our suggestions to heart and we had a proper plan in place and we executed it very well." ▼



## The Role of Duct Cleaning in Residential HVAC

Vogel Heating and Cooling resolves residential customer concerns about HVAC and duct cleaning in Missouri.

**A**s public health officials scrambled to understand and control the spread of COVID, homeowners invested more money into indoor air quality than ever. Subsequent research supports some of the positive results of their efforts, like increasing ventilation, says Grant Vogel, director of product development for Vogel Heating and Cooling in Fenton, Missouri.

When Vogel Heating and Cooling cleans ducts, it teaches the team to help customers think about their goals and decide on the best approach for their situations. In the long run, Vogel believes that teaching homeowners about the benefits and limitations of duct

cleaning helps differentiate premium services from the crowd. “Many companies know nothing about this, so they just sell duct cleaning,” Vogel says. “When you’re the type of company that doesn’t do other things, and all you care about is selling, you don’t really care about solving problems.”

Vogel believes in providing whatever service or product will resolve the customer’s concerns. “We are a building science company at our core,” he says. “We don’t care how we achieve air quality; we just care about achieving it, so we’re not tied to one solution or another.”

When customers request duct cleaning, Vogel



*Vogel Heating and Cooling focuses on educating customers about the importance of duct cleaning and other solutions that might be necessary for solving air quality issues in their homes.*



says Danny Gula, Vogel's marketing manager. Checking on people's systems is a great way to meet new customers and form relationships during slow seasons. "We ask why

they are calling and take time to diagnose problems. We wouldn't market duct cleaning during busy seasons when people are calling because their furnace or AC is broken, and the technicians are scheduled all day, every day."

A single technician can clean a home duct system in about eight hours. Preparation for the process starts directly above the coil, often in a basement. "We put a bag like an inflatable balloon above the coil to protect it from debris" that will be loosened by the process, Vogel says. They connect a hose from a negative pressure machine to the ducts to pull dust out of the system.

Once the system is ready, the technician goes away from the coil, often upstairs, and starts agitating the duct with a tool to loosen debris. They work from vent to vent, unblocking and blocking grilles and registers as they work through the house. When they have worked their way back to the coil, they make small holes in ductwork for the final agitation. Everything gets pushed back to that central point near the furnace and is sucked into the vacuum filtration.

Vogel is selective about adding chemicals to a duct system. "Competitors may offer deodorizers as an accessory item to boost sales, but it's not needed," he says. "We don't disinfect unless we have a problem to address." In those cases, Vogel recommends Oxine. "It's potent, but it's well-tested, well-regulated and safe for duct systems." The technician wears a respirator during the application, and the customer must stay out of the home for an hour afterward.

In the residential market, Vogel does both servicing and installation, which makes up about 15 percent of their total business. Vogel operates throughout most of St. Louis County and St. Louis City, as well as into Illinois. ▼

coaches his team to ask why it's important to them and what results they are looking for. Sometimes they have odors that indicate microbial growth. "I think microbes are your most common concerns," he says. "Duct cleaning can address fungal growth or mold." Some customers are moving into a new home and want the peace of mind of knowing it's completely clean. Other customers have evidence of pests. "Mice get into everything," Vogel says. "They might see droppings in the filter or in the return duct." Construction or remodeling projects can overwhelm filters. "After a construction project, providing duct cleaning and an evaporator coil verification and cleaning is not a bad idea."

A few problems are too extreme for duct cleaning. "I would not include a sewage issue," Vogel cautions. "I've seen situations where toilets backed up and leaked into the ductwork." When he works with remediation companies, anything contaminated by sewage is removed and replaced.

When customers have more normal concerns about dust or particulates, Vogel encourages frank conversations about filtration. "If you have a good filter in place, you're capturing everything," he says. "If they have dirty ducts, we need to figure out where the filtration problem is and fix that." Coils are wet and capture a lot of dirt, so coil cleanliness is a bigger issue than duct cleaning. "You probably need to take the coil out to wash it properly. But what you're going to emphasize with the customers is that they should not have this over and over again."

Vogel's duct cleaning advertisement strategy depends on the time of year. "We run marketing campaigns on social media and online in the late winter and early spring when we have technicians available,"



*Left bottom: Robin Carnahan, administrator of the General Services Administration. Left top: CEA National Issues Conference attendee. Center: Earl Pomeroy, CEA National Issues Conference moderator. Right: Jessica Looman, principal deputy administrator of the DOL's Wage and Hour Division.*



COVER STORY

# Inside the CEA National Issues Conference

**The Construction Employers of America event offers a robust, ongoing dialogue with policymakers in Washington, D.C. concerning issues impacting the unionized construction industry.**

Pre-pandemic, one of the spring rituals in our nation's capital was the arrival of advocates from various construction trade associations, including SMACNA, MCAA and TAUC. These individuals came to town with one singular purpose: To meet with their lawmakers from both sides of the aisle to urge action on issues of importance to the unionized construction industry at the Construction Employers of America (CEA) National Issues Conference. The attendees focused on improving awareness and promoting engagement on critical issues to signatory contractors, such as prevailing wage laws, infrastructure improvement and workplace safety.

However, much like the rest of the trade association world, events like the CEA National Issues Conference came to a halt during the COVID-19 pandemic. While there were efforts to continue the work virtually, in-person events bring opportunities to discuss policies with relevant stakeholders.

But in the 117th Congress, historic work was still getting done on a policy front. Congress successfully moved legislation, such as the CHIPS and Science Act, the Bipartisan Infrastructure Law and the Inflation Reduction Act, to the President's desk for signature. These long-needed policy initiatives advanced by Congress are responsible for generating a wave of traditional and new technology projects and spiking manufacturing facility work nationwide for signatory contractors. While these victories are essential to the long-term health of our industry, the only way to sustain this positive momentum is ongoing dialogue with policymakers in Washington. This progress can only be accomplished through face-to-face engagements.

It was a spirited sign of the



**"CONTRACTORS AND LABORERS ARE VITAL TO HELPING US MEET OUR NATIONWIDE DECARBONIZATION GOALS. THIS WORK REQUIRES HIGHLY SKILLED INDIVIDUALS KNOWLEDGEABLE ABOUT EMERGING TECHNOLOGIES AND BEST PRACTICES. THESE ARE THE KINDS OF JOBS THAT ARE ONLY GOING TO GROW IN IMPORTANCE MOVING FORWARD."**

—JESSIE STOLARK,

ongoing return to normalcy when SMACNA, MCAA and TAUC members assembled in Washington, D.C., for the 2023 CEA Issues Conference. Under the backdrop of the newly developed and quickly emerging area of the Wharf, attendees gathered for the first time in years to continue building on the positive momentum generated over the recent sessions of Congress.

The conference came at a critical juncture for the skilled

trades. There has been growing legislative momentum on several issues of importance for signatory contractors, including work on expanding registered apprenticeships and the Davis-Bacon Act. The Davis-Bacon governs prevailing wages on public works projects, making it a critical tool in ensuring that the best possible workforce is available for public-sector infrastructure initiatives. In addition to these focus points, decarbonization and in-

frastructure projects served as points of emphasis for this round of advocacy efforts. New topics entered the policy conversation, including prevailing wage laws, registered apprenticeship preferences and requirements for private sector projects using federal tax incentives.

Former Congressman from North Dakota Earl Pomeroy, currently senior counsel at Alston & Bird, served as moderator for this event. Pomeroy's unique combination of existing congressional relationships, industry insight and an unparalleled understanding of the legislative process enabled him to shepherd attendees through each session, providing necessary insight for each speaker.

The top-flight list of national policy experts and Hill speakers illustrated the need for ongoing Congressional action on critical issues. They highlighted some of



*Far left: Earl Pomeroy, CEA National Issues Conference moderator, and Laura O'Neill, director of public engagement for the U.S. Department of Commerce. Center: SMACNA, MCAA and TAUC members in attendance. Below: CEA attendees meet with Senator John Fetterman (D-PA).*



the successes achieved on these fronts over the past few years.

Jessica Looman, principal deputy administrator from the Department of Labor (DOL)'s Wage & Hour Division, and Lafe Solomon, senior counsel from DOL's Office of the Solicitor, addressed in detail several of the core issues under their jurisdiction that are of importance to signatory contractors, including Davis-Bacon, PLAs, Independent Contractor misclassification and Registered Apprenticeships. Looman has long been a champion of issues significant to the skilled trades and SMACNA. SMACNA has endorsed her nomination by President Joe Biden to lead the Wage and Hour Division due to her exceptional legal and policy knowledge of the construction industry and the vital role skilled labor and labor standards play on every project — public and private.

Laura O'Neill, director of public engagement for the U.S. Department of Commerce, shared recent CHIPS 1.0 and Science Act developments. The CHIPS 1.0 Act is critical for contractors as it will fuel dozens and dozens

of megaprojects. These include microprocessor chip production facilities and the factories responsible for producing electric vehicles and their associated batteries. These emerging projects represent real (and lucrative) business opportunities for signatory contractors.

Jessie Stolark, executive director of the Carbon Capture Coalition, discussed the state of energy efficiency initiatives and how tax credits and the current legislation are helping to create more efficient buildings. She reiterated the value of SMACNA members, saying, "Contractors are vital to helping us meet our nationwide decarbonization goals. This work requires highly skilled individuals knowledgeable about emerging technologies and best practices. These are the kinds of jobs that will only grow in importance moving forward."

A highlight of the conference was the panel of speakers from the General Services Administration, which serves as the "landlord" of the U.S. Federal Government. Administrator Robin Carnahan led GSA's contingent and examined some ongoing issues facing high-efficiency decarbonization efforts in the Federal Contracting and Procurement program. She praised the work done by signatory contractors, highlighting their ability to "deliver consistently on time and on budget."

Two industry champions Congressman Gerry Connolly (D-VA) and Senator Peter Welch (D-VT), joined the conference as keynote speakers representing the House and Senate from Capitol Hill and the Legislative Branch.

Congressman Connolly's remarks focused on the role

Left: Lafe Soloman, senior counsel from the DOL's Office of the Solicitor, addressing core issues for signatory contractors. Below: An attendee responds to CEA speaker insights.



contractors needed to play in modernizing the nation's infrastructure. Connolly warned everyone in attendance that updating our nation's infrastructure was more important than ever as competitors such as China pour trillions into their upgrading bridges, roads, railways and transportation nodes to move goods and services as quickly as possible. Connolly discussed how

merce right next to Washington, D.C. The Congressman discussed some of the recent infrastruc-

efforts forward, stating, "Your advocacy over these coming days is more critical than ever; you can drive home the fact that this work is necessary. We are not just talking about investing dollars; we must invest in people."

Connolly also cited the economic benefit of infrastructure efforts, citing the Eisenhower-era Interstate Highway Act, "When we began building our highway network, who could envision the return on investment we are still getting to this very day? We must follow this example and take the steps needed to make us competitive."

Senator Welch concentrated on how the industry can help the country meet our building system efficiency, low carbon

## **"WHEN WE BEGAN BUILDING OUR HIGHWAY NETWORK, WHO COULD ENVISION THE RETURN ON INVESTMENT WE ARE STILL GETTING TO THIS VERY DAY? WE MUST FOLLOW THIS EXAMPLE AND TAKE THE STEPS NEEDED TO MAKE US COMPETITIVE."**

— CONGRESSMAN GERRY CONNOLLY

signatory contractors represent the best potential taxpayer value regarding public works projects.

Connolly's district spans a significant part of Northern Virginia. More contractors live in Connolly's district than any other in the nation. It is also a critical hub for government and com-

merce right next to Washington, D.C. The Congressman discussed some of the recent infrastruc-

ture projects in his district. He provided an overview of some of the successes and failures associated with these efforts as Congress changed hands. During his remarks, Connolly wanted the audience to understand how valuable their work is toward driving infrastructure



retrofit and new construction goals. The Senator affirmed his belief that this should be a priority for all Americans to demand a lower carbon environmental impact built environment through building and retrofitting structures to strict carbon and efficiency standards. His many energy efficiency legislative achievements have assured that middle-class families will no longer suffer from rising energy prices by cutting energy waste. Welch detailed how this should be a non-partisan issue.

Welch championed the role skilled labor and high-quality union contractors must play in these efforts, stating, “The contractors in this room have the skills needed to deliver this work at maximum value and quality to the consumer. Without you, there is no progress on this front.”

Mariah Becker from the National Coordinating Committee for Multiemployers Plans (NCCMP), a top pension reform policy expert, discussed the regulatory outlook for adjusting and reforming benefit programs and how potential legislative action could impact their sustainability into the future decades. While she was generally optimistic about the state of multiemployer plans and their current stability, Becker offered the union contractor audience a plainspoken narrative concerning the current pension stability and reform climate. She clarified that the current pension climate could easily be reversed should opponents to multiemployer plans be swept into power in the Legislative and Executive Branches.

To close the 2023 CEA Conference, Sean McGarvey, president of the North American Building Trades Union (NABTU), detailed a long list of jointly supported policy and legislative issues. He enthusiastically emphasized the importance of shaping the nation’s labor standards and regulations and translating the new laws passed in the last Congress into projects that benefit skilled labor and SMACNA contractors.

President McGarvey also

shared with the union contractor audience the state of the labor movement and how signatory contractors can work with the Building Trades to address challenges to the workforce, expanding a more diverse population in recruitment, as well as boosting the image of the industry as an essential career leading to the middle class. McGarvey joined previous speakers in detailing some of the legislative achievements from the last two years,

legislation. SMACNA members worked on improving relationships to generate support for future initiatives. One message contractors left behind was how vital legislation, such as the Inflation Reduction Act and the CHIPS and Science Act, have had across their states, regions and districts.

Regarding the impact of the CEA National Issues Conference, Stan Kolbe, SMACNA’s executive director and

*Below: Tracy Marcinowski, assistant commissioner for acquisitions at the General Services Administration, and Bill Clark, chair of the Civilian Agency Acquisition Council. Bottom: Jessica Looman, principal deputy administrator of the DOL’s Wage and Hour Division.*



many of which were driven by the solid and enduring relationship that Labor has with the Biden Administration and the relationship NABTU enjoys with the union contractor community.

In addition to the roster of influential speakers, at the heart of the CEA National Issues Conference were the visits to the House of Representatives and the Senate by SMACNA contractors and their allies in CEA. Members departed the annual event venue and headed toward the House and Senate buildings that house the offices of our nation’s lawmakers and their top staff. This is where the highest value of the in-person CEA meeting came into focus. The importance of walking into an office and meeting face-to-face with legislators and their top staff cannot be understated. Representatives and Senators often rely on this insight to evaluate how to vote on upcoming



political affairs, says, “While we often consider reaching out to our members of Congress and agency leaders when we see an emergency or an urgent policy request to advance, conferences like this allow our SMACNA CEOs to showcase their construction industry leadership, expertise and the vital role they play in construction. ▼



FEATURE STORY

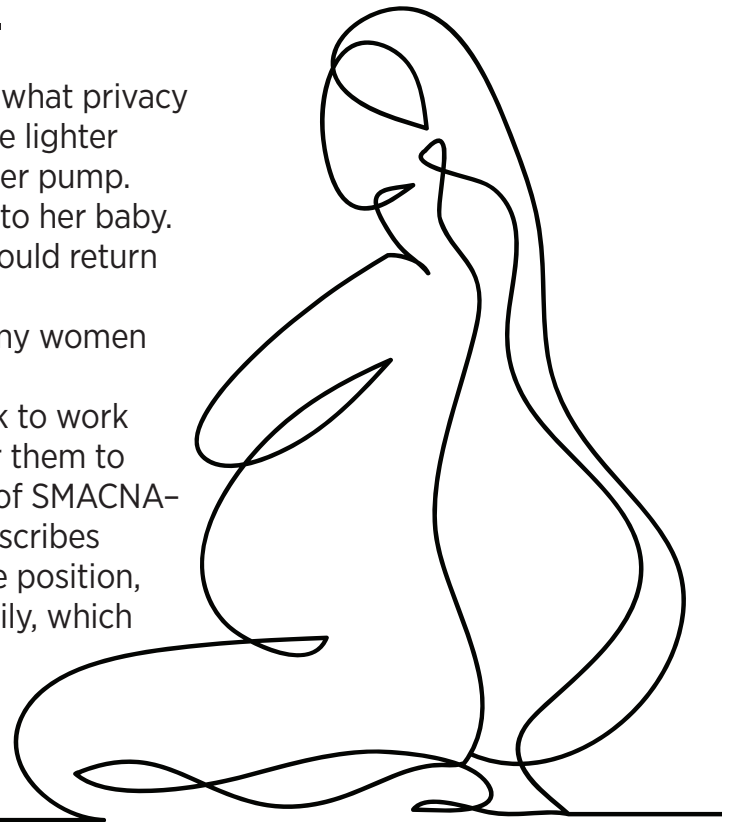
# FAMILY + FIELD — Mom Pods Ease the Transition Back to Work

**Weather-ready lactation pods equipped with comfort conveniences will remove barriers to motherhood in the field.**

She put up makeshift curtains in her car to secure what privacy she could on the construction jobsite. The cigarette lighter served as an electric outlet to plug in and power her pump. A cooler held breast milk until she returned home to her baby. This was the only way the young journeywoman could return to work and continue breastfeeding.

Choosing family or the field is a struggle too many women in the construction industry face.

“What a barrier there is for women to come back to work after having a baby if there is no sanitary place for them to pump,” says Julie Muller, executive vice president of SMACNA-Western Washington, who met the woman she describes here at an industry event. Muller had just taken the position, transferring from Southern California with her family, which included one-year-old twins.





### Made for Moms

The aha moment happened in an airport.

During a layover, Muller spotted a lactation pod. The Mamava self-contained, unobtrusive tiny room was equipped with everything a mother needs to breastfeed or pump. Inside were outlets, a place to sit, a refrigerator and soft lighting. Basically, it's a private and simple alternative to using a restroom or other spaces.

Muller imagined how this type of unit would benefit women in construction. The pod is roughly the size of two port-a-potties at 26 square feet, and the accommodations are designed for comfort.

After looking into the concept, Muller learned the only models available were not suitable for outdoor use. The next step was to identify a manufacturer that could produce a pod that would weather the elements, while providing a sanitary indoor experience. Portability was also key, because Muller envisioned a trailer-ready pod that could be delivered to jobsites upon request.

She identified a manufacturer in Southern California and outlined the vision. Women can access the unit by remote entry and eventually an app. Inside, there are plug-ins for equipment, a refrigerator to store milk, air conditioning and Wi-Fi. There's a place to sit, a sink with running

"We exchanged stories about motherhood, and she told me this was the only way she could continue to breastfeed," Muller relates. "At that point, I instantly realized that it was much easier for me to return to work with an office job as opposed to working on a construction site. It shed light on a significant inequality."

Muller grew up in a construction family. She knows firsthand how far women can go, and the trades careers they can build that support a household. With construction industries across the country dealing with labor pains and a shortage of skilled trades workers, women are an untapped resource for recruitment — if the industry can provide benefits that acknowledge the balance of field work and family. Currently, less than 10 percent of sheet metal workers are women, Muller points out.

She's proud of the high retention rate among women and minority members of SMACNA and Sheet Metal Workers Local 66 in the Puget Sound region.

"We're focused on finding more ways to make working in the field work for women," Muller says.



*Construction workers will now have access to sanitary spaces to meet their health needs through Mom Pods.*



# How Other SMACNA Member Companies Can Benefit From This Initiative

New mothers in the construction industry are now being afforded an opportunity to get back to work sooner and with more conveniences thanks to lactation pods on jobsites. Until now, they were forced to make do using provisional spaces (port-a-potties, vehicles, etc.), and it just wasn't conducive to being a new, working mom. To alleviate this problem, a joint initiative between SMACNA-Western Washington and Smart Local 66 will be the first in the industry to make lactation pods available to mothers in need. The initiative started in April 2023.

Thanks to an exclusive partnership with a custom fabricator, the clean, sanitary pods will be digitally secure via an app, which translates to peace of mind. They'll have a seat, sink, HVAC, electricity for the breast pump and phone chargers, in addition to a refrigerator to keep the breast milk cold during the remaining hours of the workday. The lactation pods are designed for comfort and accessibility and will keep women from the embarrassment of getting walked in on. They will also make it easier to keep breast milk fresh, reduce the difficulty of locating and getting to a private space and provide storage for their pumping gear.

"Working in an office, it can be quite easy to overlook the challenges of being a new mom in the field," says Julie Muller, executive vice president of SMACNA-Western Washington. "After talking to Tammy Meyen, a journeywoman who'd had a baby around the same time as I had my twins, I was astonished at how different my experience was compared to hers. She and any of the tradeswomen mothers are all after the same goal — being good at their jobs while also being good mothers. Our goal is to make working in the field work for them."

Another tradeswoman, a fifth-year apprentice, pumped in her car while at work as she was not provided with a space. Yet another made curtains to hang in her car for privacy purposes. "It isn't always easy or time efficient for women to get to and from a remote, undesignated pumping location in the middle of the workday," Meyen says. "Breastfeeding mothers need supplies, such as a breast pump, coolers, bottles and towels — not to mention access to a private, physical space and power."

Four organizations partnered together to raise funds, bringing this groundbreaking initiative to the Pacific Northwest: Sheet Metal Workers Local Union 66 (The Leadership and Women's Committee), SMACNA-Western Washington (DE&I/WIC Committee), the Northwest Labor Management Organizational Trust and the Western Washington Sheet Metal JATC.

*If you or someone you know is interested in learning more, contact Julie Muller, Esq. at 714-889-9472 or [jmuller@smacnaww.org](mailto:jmuller@smacnaww.org).*

water and cleaning supplies. The pods can be loaded onto a trailer easily and are the same shape as port-a-potties, but larger and more comfortable, with privacy mothers will appreciate.

This summer, the first two Mom Pods for the sheet metal industry will be completed and dispatched to field locations.

An integral partnership with Sheet Metal Workers Local 66 includes support from management and labor. Local 66 will store and maintain the Mom Pods — and make sure they are delivered to sites where mothers need them. The two Local 66 training facilities in Everett and Dupont will receive the Mom Pods, which will be batched out from there. Requests for the Mom Pods can be submitted online, with the website forthcoming.

## Including Industry

Mom Pods will alleviate that awkward conversation — and last-resort pumping locations in unsanitary conditions (the car, a restroom, you name it). It's a true benefit employers can share to attract and retain women to the sheet metal in-

dustry and construction trades. Not to mention, the concept helps promote diversity, equity, including and belonging (DEIB) initiatives that are increasingly important to general contractors who are also challenged with finding skilled labor.

Above all, it sends a message of support.

"This should be the new standard just like safety is a standard," Muller says. "It can satisfy the need for a sanitary place for women to go. And if you think about it, there are workers with other medical needs who could utilize a health pod."

Muller points to diabetes injections as an example. "This could really open the doors for people who might not have been able to work outdoors in the field if they can access a sanitary space to have their health needs met."

She adds, "For me, it's so important to be able to spread this concept, and it's my hope that we can show how successful it can be, so other industries can embrace it." ▼





# Debt Ceiling Deal Details & More

Negotiators inked a deal to increase the federal debt ceiling and identify areas where they can curb spending.

H.R. 3746, The Fiscal Responsibility Act will:

- Cut over \$2 trillion in government spending, while fully funding defense and veteran’s programs, Social Security and Medicare.
- Cut total spending in FY24 to below FY22 levels with certain significant exemptions.
- Claw back roughly \$28 billion dollars of unobligated, unspent COVID funds.
- Adjust the age of existing SNAP work requirements from 18-49, to 18-54 while maintaining current law exemptions for \$1 billion per year in savings.
- Implement Administrative Pay-Go with generous waiver language added.
- Streamline the permitting process for transmission and some energy systems.
- Restart student loan repayments but does not repeal loan waiver authority.
- NOT repeal IRA energy tax incentives, CHIPS and Science tax incentives, or Labor and Apprenticeship Standards as the House GOP bill demanded.
- NOT shift regulatory authority to the Congress or allow the House more power than Senate.

Was H.R. 3746 a big deal after all? Yes, but did the House GOP get much? Not really. The debt ceiling is now kicked another two years down the road.

But JPMorgan analysts put out a research note saying that the probability of reaching the X-date had reached 25 percent. If that’s the new normal, then they project there’s an objectively unacceptable 70 percent chance of some kind of debt default over the course of the next four showdowns.

The big picture: The budget deal announced with great fanfare could and should have been achieved at much lower political temperatures or economic discomfort.

The other side: If the U.S. successfully

manages to continue borrowing money and paying its debts even with total debt higher than the mandated ceiling, that could restore its AAA credit rating from Standard & Poor’s and entrench its status as the world’s preeminent risk-free borrower.

Between the lines: When a politician puts their political career and the economic well-being of the country at risk, the natural assumption is that a bedrock and inviolable principle must be at stake. In reality, however, the eventual stakes here turn out to have been downright miniscule. None of this is to say that the discretionary spending cuts aren’t a plus for the GOP; it’s just to point out that these are wins they could have achieved through other means ... like using the statutory budget and appropriations process established by the founders in the late 1700s.

## WHITE HOUSE ANNOUNCES UPDATES EV BATTERY MANUFACTURING

How far the country has come since the Inflation Reduction Act (IRA) became law. Companies have announced at least 31 new battery manufacturing projects in the U.S. That is more than in the prior four years combined. The pipeline of battery plants amounts to 1,000 gigawatt-hours per year by 2030 — 18 times the energy storage capacity in 2021, enough to support the manufacture of 10 million to 13 million electric vehicles per year. In energy production, companies have announced 96 gigawatts of new clean power over the past eight months, which is more than the total investment in clean power plants from 2017 to 2021 and enough to power nearly 20 million homes.

The investment appetite is defying geographic and political boundaries. From Oklahoma and Ohio to North Carolina and Nevada, new investment is breathing economic life into communities that have seen their economies decline. This is in part

because the I.R.A. provides an explicit incentive to invest in places with contaminated industrial sites, communities with a significant economic reliance on traditional fossil fuel production or those with shuttered coal mines or coal-fired power plants.

The investment surge has prompted forecasters to significantly update their views on the long-term potential of the law.

## SMACNA AND SMART ISSUE REGISTERED APPRENTICESHIP REFORM COMMENTS

Recommended modifications to Federal Standards for Oversight of Registered Apprenticeship Programs (RAPS) key points:

- Demonstration of Financial Sustainability
- Upgraded Safety and Health Standards in Hazardous Industries
- Prevent Downgrading of Area Training Standards
- Ensure that RAPS Provide Broad-Based Training in a Marketable Occupation
- Corrective Action Plans to Address Deficiencies in Past Performance
- Prevent Evasion of Responsibility for Poor Past Performance
- Coordination with the Wage and Hour Division of the U.S. DOL to Prevent Exploitation of Apprentices
- Debarred or Suspended Sponsors and Interested Parties
- Affirmative Action and Diversity

## SMACNA SUPPORTS H.R. 1631, “THE PROTECTING AND ENHANCING PUBLIC ACCESS TO CODES ACT”

Also known as the Pro Codes Act, this bipartisan legislation is sponsored by Representative Rep. Darrell Issa (R-CA) and co-sponsored by Reps. Ross (D-NC) and Raskin (D-MD). In the Senate, Senator Chris Coons (D-DE) has introduced S. 685 with cosponsors Senators Tillis (R-NC), Cornyn (R-TX), Whitehouse (D-RI), and Hirono (D-HI). H.R. 1631 would make sure that as more codes get incorporated by reference into legal standards by courts, the Pro Codes Act will protect a code or standard’s incorporation by ensuring the copyright doesn’t extinguish. The bill ensures that the public retains free access to the information. Just as some

online services have a free version of their product with limited functionality and a paid premium version with greater functionality, under this bill, those that invest in code development will still be able to sell the materials in certain formats so long as they are simultaneously providing free access to the information. The Pro Codes Act process enables SMACNA Standards to be adopted and recognized in the Model Building Codes (ICC, IAPMO) and other organizations such as NPFA, ASHRAE, etc. that reference our consensus-based standards.

**SMACNA FILES SENATE HEARING STATEMENT IN SUPPORT FOR THE INFLATION REDUCTION ACT (IRA):**

SMACNA endorsed the IRA business and personal tax incentives before the Senate Finance Committee and heralded the laws enhanced labor standards and important

preference for registered apprenticeship. SMACNA spoke out to oppose their repeal as part of the IRA. These highly valued tax incentives were enacted and have been quickly and successfully utilized, where regulatory guidance exists, with immediate market results following months of availability.

SMACNA emphasized that the majority of the long-advocated and largely bipartisan incentives to stimulate energy retrofits, efficient construction with higher labor standards and registered apprenticeship preferences are working now. IRA incentives have already generated many times more than the tax deductions and credits in leveraged private investment, creating jobs and economic growth at the state, city and even neighborhood levels, often in neglected areas outside urban centers. Some estimates range as high as \$500 billion to as much as \$1 trillion dollars in additional private-public

investment with leveraged public building work is already under negotiation or with signed agreements.

The suggested IRA repeal efforts would:

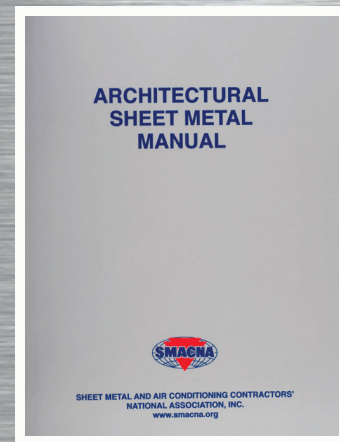
- cut the bipartisan zero-emission nuclear production credits,
- gut highly valued IRS Section 179d's commercial, public and industrial deductions,
- deeply cut the residential efficiency credits,
- repeal the advanced manufacturing production credits, and
- cut into retrofit and construction grants,
- repeal special tax-exempt bonds and other financing for construction projects.

SMACNA's statement highlighted that repealing the IRA would retroactively kill hundreds of incentives now being utilized to stimulate private sector investments of importance in every state and in every Congressional District across the nation. ▼

# ARCHITECTURAL SHEET METAL MANUAL



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## CYBERSECURITY

Nick Espinosa

# Cybersecurity Fatigue Gets Us All Hacked

Cybersecurity teams have a tendency to bombard their users with security notifications to the point where everyone starts to ignore them. Add to this the continuous news of major data breaches by large corporations, and what the world ends up with is cybersecurity fatigue. The criminal hackers know this and start leveraging our complacency against us. As an example, one of the most common types of attacks that prey on fatigue is multi-factor authentication (MFA). Many users get a lot of push notifications to keep logins alive, and users tend to start blindly accepting all the push authentication notifications, thinking they're all legitimate.

On top of this, a common mindset cybersecurity professionals see from users is the “well, my data is already out in the darknet, and that major hotel/retail store/etc. I do business with just got hit, and if they can't defend themselves, what chance do I (or my business) have?” It's a completely understandable position to take regarding the current state of the world. But, if we're thinking through the issues with that mindset, we start to realize why this is problematic. Also, personal data ages over time. We move and change addresses, for example. We also change phone numbers, email addresses, jobs, titles, positions, credit card numbers and more. The data that makes a person who they are online may not be the same that was stolen years or even days ago.

For businesses that gain fatigue it's a loss of revenue due to reputation damage. How many customers will still want to do business with a company that got them breached? Will prospective customers, once they hear about this, want to do business together as well? What about proprietary information regarding how the business conducts their operations? If a business understood the “secret sauce” of a competitor, is that advantage still there?

In order to spot fatigue in your users and business, consider some of these visible signs:

- **Ignoring updates to software and hardware.** We primarily update everything in order to fix known vulnerabilities that can be exploited.
- **Poor login practices.** Employees who use weak passwords or the same passwords for everything and don't enable MFA for logins, are also red flags.
- **Using insecure remote access methods.** Connecting to

the corporate infrastructure without using at least a virtual private network or VPN connection is a serious risk.

- **Failure to adhere to cybersecurity training.** Untrained users open phishing emails and click on links. They also don't realize pirated software is often infected.



**CYBERSECURITY TEAMS HAVE A TENDENCY TO BOMBARD THEIR USERS WITH SECURITY NOTIFICATIONS TO THE POINT WHERE EVERYONE STARTS TO IGNORE THEM.**

The good news is that cybersecurity fatigue can actually be addressed and even reversed. Savvy cybersecurity teams will take the following steps to ensure their users are more engaged in the cybersecurity process:

- **Run drills and tests that involve everyone.** This helps to assess weakness in the defensive posture but also can be rather interesting for everyone involved if performed in an energetic way.
- **Gamify the training without making it a competition.** There are a lot of training platforms that have humorous videos and even mini video games designed to challenge users to keep fresh on cybersecurity hygiene.
- **Remove needless security choices from your users.** They don't need access to the control panel, for example. Updating systems can be automated without a need for their intervention. Finally, password managers that are both secure and helpful in generating good and unique passwords is also a must.
- **Make cyber-hygiene a top-down involvement in the organization.** If the CEO isn't enthusiastic and the biggest cheerleader for cybersecurity, then no one will take it seriously.

It takes effort, but with a streamlined approach and some perseverance, we can turn the tide of fatigue into something that interests everyone. Don't let your company become the next victim to this correctable situation. ▼

*Nick Espinosa is a cybersecurity expert, working with companies to design custom cyberdefense strategies. Learn more at [www.securityfanatics.com](http://www.securityfanatics.com).*





## FINANCIAL STEWARDSHIP

Ronald J. Eagar

# Cost Segregation Studies: The Forgotten Win-Win for Contractors

A cost segregation study is any real estate owner's best friend. If you own buildings or are thinking about constructing a building to rent or use in your business, what could be better than a non-cash deduction to offset current-year taxable income? A cost segregation study helps accomplish this by accelerating the depreciation on the property and therefore increasing the deductions that can be taken in the earlier years.

Essentially, a cost segregation study shifts building costs from 39-year (commercial) or 27.5-year (residential) real property to 5, 7 or 15-year personal property (Section 1245) and Qualified Improvement Property (QIP). The depreciation deduction for properties with shorter asset life is front-loaded at the beginning of the depreciation period instead of being spread out through the longer life of the building.

For example, a taxpayer purchases a commercial building for \$3 million (excluding the land). The building contains a kitchen with appliances, cabinets and other components that amount to \$200,000. Such items can be "segregated" from the building, which means the personal property of \$200,000 can be depreciated over a much shorter period than the remainder of the building costs that will be depreciated over 39 years. This same philosophy can be followed with the entire structure of the building: electric, HVAC, roof, etc.

In this example, once the building is broken down into its component parts, the 39-year depreciation life before segregation will usually average down to approximately 18 years depreciation life. Converted into dollars, a 39-year life on \$3 million is approximately \$77,000 (\$3 million divided by 39) per year in depreciation, whereas an estimated 18-year life after cost segregation would convert to approximately \$167,000 (\$3 million divided by 18) per year in depreciation. Assuming a combined, effective tax rate for federal and state purposes of 40 percent, this would equate to approximately \$36,000 in annual tax savings.

This basically equates to an interest-free loan on future tax liability. Provisions such as bonus depreciation (Section 168(k)) and Section 179 depreciation make this an

even more attractive proposition, as taxpayers can write off up to 100 percent of the cost of personal property and QIP in the initial year the building is placed in service. (The 100 percent bonus depreciation provision is scheduled to start phasing out in 2023, so now is the time to consider the study to keep more tax dollars in your pocket instead of Uncle Sam's.

Ideally, a taxpayer would perform the study in the year the building is placed in service, allowing them to maximize the "time value of money" effect. But a taxpayer can also choose to take advantage of the benefit years later by taking the cumulative effect of the accumulated depreciation to date in the year the study is done. Typically, a study done within the first five years of the building being placed in service would yield the most benefits.

Like any business strategy, there are pros and cons to consider. In addition to its many benefits, there are costs associated with hiring certified architects and engineers to perform the study and prepare the report, which provides the breakdown between real property vs. personal property and QIP costs.

A taxpayer would likely need to perform a cost-benefit analysis to determine if the study would make sense for them. The cost is typically very insignificant to the potential savings, and in many cases these experts will perform this cost-benefit analysis free of charge. The cost of the study would also be deductible, which could soften the blow.

And if the property is sold, the tax gain on the sale would be higher because the additional depreciation would have reduced the adjusted basis in the building, thereby increasing the gain to be recognized.

Even with these considerations, we can probably all agree a deduction today is more valuable than potentially paying tax in the future. Paying less taxes now allows any business owner to make greater investment into their business today to better finance their operations and improve their bottom line. ▼

*For more information, contact Ronald Eagar at Grassi Advisors & Accountants at [reagar@grassicpas.com](mailto:reagar@grassicpas.com).*



## LEGAL

Grant Collins

# Court Rejects First Amendment Challenge to Public-Sector PLAs

**O**n June 14, a federal district court in Minnesota dismissed a constitutional challenge to four public-sector project labor agreements (or “PLAs”). Specifically, in *Christian Labor Association vs. City of Duluth*, 2023 WL 3996240 (D. Minn. June 14, 2023), the court concluded that including a hiring-hall requirement and a union-security clause in a public-sector PLA did not violate the First Amendment.

The decision is important because public-sector PLAs will become more prevalent following Executive Order 14063, which generally requires the use of PLAs on all federal construction projects, where the total estimated cost to the government is \$35 million or more.

### BACKGROUND

Several cities in northern Minnesota entered into PLAs with the local Building and Construction Trades Council. Each PLA required contractors and subcontractors to:

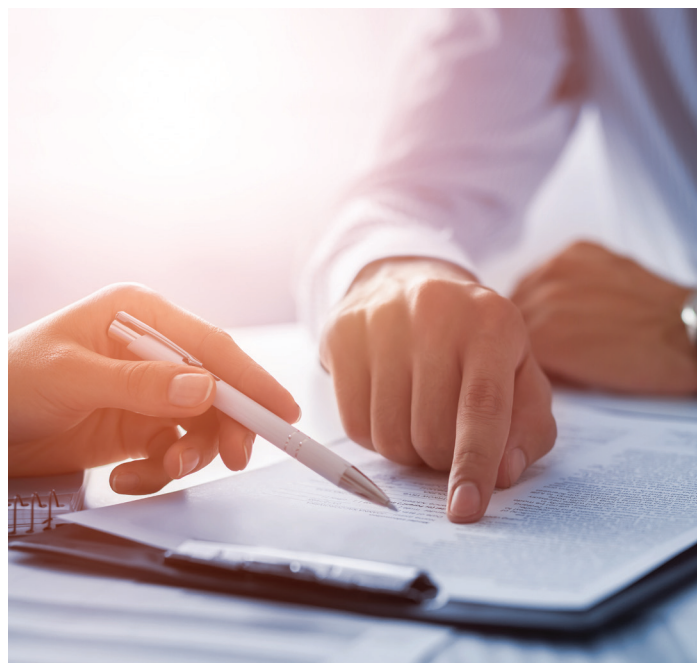
- Recognize a union that belongs to the Building and Construction Trades Council as the sole and exclusive bargaining representative of their employees working on PLA projects.
- Hire their employees through the unions’ job-referral system (i.e., hiring halls).
- Abide by the wage rates, rules of employment and fringe benefit contributions negotiated by a council-affiliated union.

The PLAs also contained a “union security clause” that required employees hired to work on PLA projects to “become” and “remain members” of a Building and Construction Trades Council affiliated union while working on the PLA project.

A group of non-union contractors challenged the PLAs’ hiring-hall requirement and union-security clause as violative of the First Amendment.

### COURT UPHOLDS THE PLAS’ HIRING-HALL REQUIREMENT

In assessing the hiring-hall provision, the court first noted that the Supreme Court has recognized that “referral



provisions” in the building and construction industry “serve well both labor and management” because “the contractor who frequently is a stranger to the area where the work is done requires a ‘central source’ for [its] employment needs; and a [construction worker] looking for a job finds in the hiring hall ‘at least a minimum guarantee of continued employment.’”

The court also noted that in its 1993 *Boston Harbor* decision, the Supreme Court rejected a challenge to a PLA used on a publicly-funded project where the PLA included recognition of a local building and construction trades council and the primary use of union referral systems to supply the labor force.

Ultimately, the court concluded that “no reasonable juror could conclude that the PLAs’ referral provisions amount to forced expression or expressive association in violation of the First Amendment.” Thus, the court dismissed the plaintiffs’ challenge to the hiring-hall provision of the PLAs.

## SMACNA Associate Members

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### COURT UPHOLDS THE PLAS' UNION-SECURITY REQUIREMENT

Plaintiffs argued that the union-security provision cannot be sustained in the wake of the Supreme Court's decision in *Janus v. AFSCME*, Council 31, 138 S. Ct. 2448 (2018). In *Janus*, the Supreme Court held that public-sector workers cannot be compelled to pay mandatory union dues under the First Amendment.

In rejecting the plaintiffs' argument, the court first noted that the Supreme Court's decision in *Janus* applies only to **public**-sector employees. PLAs, on the other hand, apply to **private**-sector workers. As the court explained, "the PLAs incorporate privately-negotiated collective bargaining agreements to set the terms of employment for the employees of private sector contractors — the PLAs do not cover employees of the Public Entities." Because PLAs cover private-sector workers, the court concluded that *Janus* was inapplicable and, as a result, the court dismissed the plaintiffs' First Amendment challenge to the union-security clause contained in the PLAs.

### BOTTOM LINE

PLAs promote economy and efficiency in the administration and completion of government construction projects. While the Supreme Court first recognized the lawfulness of public-sector PLAs in its 1993 Boston Harbor decision, the recent decision in *Christian Labor Association* confirms that public-sector PLAs do not violate the First Amendment. Accordingly, state and federal entities can continue to use PLAs for government construction projects that include hiring hall requirements and union-security clauses. ▼

*Grant Collins is an MSBA-certified specialist in traditional labor law and employment law at Felhaber Larson. His labor practice involves advising employers on their rights and obligations under collective bargaining agreements and the NLRA and representing employers in grievance arbitrations and unfair labor practice charges. Reach him at [gcollins@felhaber.com](mailto:gcollins@felhaber.com).*

SMACNA's Associate Member program provides an opportunity for industry service providers and suppliers to build lasting partnerships with our industry-leading contractors. To learn more about becoming an Associate Member, visit [smacna.org/associatemembership](http://smacna.org/associatemembership).



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SMACNA CALENDAR

**SEPTEMBER**

**September 17-20**

Project Managers Institute  
*Aurora, CO*

**OCTOBER**

**October 1-4**

Financial Boot Camp  
*Rosemont, IL*

**October 15-18**

2023 SMACNA Annual Convention  
*Phoenix, AZ*

**NOVEMBER**

**November 5-7**

Planning Your Exit  
and Business Valuation  
*San Diego, CA*

**November 12-15**

Project Managers Institute  
*Seattle, WA*

**November 13-14**

FAB Forum  
*Indianapolis, IN*

**DECEMBER**

**December 10-12**

Council of Chapter  
Representatives Meeting  
*Scottsdale, AZ*

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