

MARCH 2017

MARCH

March 8

**Monthly Meeting
DINNER MEETING**
Syberg's on Dorsett

March 15-18

ASA SUBEXCEL
Denver, CO

APRIL

April 1

**The Glitter & Gold
Awards Gala**
The Four Seasons

April 19

**Monthly Meeting
LUNCH MEETING**
Syberg's on Dorsett

MAY

May 11

BPI in a Box Lunch
Syberg's on Dorsett

May 24

**Construction Showcase
& BBQ**
Queeny Park

JUNE

June 21

Monthly Meeting

visit
www.asamidwest.com for
a calendar of events.

I can't believe it is March already! The entire St. Louis construction industry is busy, and the year is already flying by in a flash. We have a number of events coming up this spring and summer at ASA Midwest Council, so mark your calendars so you do not miss anything.

On March 8th, ASA Midwest Council will host a joint membership meeting with SITE. Tom Ackerman, KMOX Sports Director will be our speaker for the evening. Tom will provide insight into the latest happenings in the STL sports world, including what's new with our St Louis Blues and Cardinals, and other interesting sports news in St. Louis.

Saturday, April 1st is the Glitter & Gold Awards Gala at the Four Seasons Hotel. Reservations and sponsorships are due by March 22nd. This is an event you do not want to miss. Last year over 350 members of our industry were in attendance to celebrate the STL Construction Industry and our best contributors. Then on April 19th, we will welcome our GC of the year award winners to our Monthly Membership LUNCH Meeting, at Syberg's on Dorsett. Visit www.asamidwest.com to register for the gala and the April monthly meeting.

Make a note, this year we have moved the annual ASA Showcase & BBQ to May. The date is Wednesday, May 24th from 2-7 p.m. at Queeny Park. We moved the event to try and avoid the extreme heat we always seem to face in late June. Again, this year, the event will be free for all attendees. Exhibitors will include GC's, subcontractors, vendors, suppliers, and will showcase the latest and greatest construction technology, tools, equipment, and ideas. Plan to attend, and spend a beautiful May afternoon visiting with, and learning from a wide variety of companies and people, while enjoying FREE BBQ and refreshments!!

It is very difficult for me to believe I only have a few short months left in my time as president of the ASA Midwest Council. We will continue to design great programs and benefits for our members, but we need your help. If you have any suggestions as to how we can make your life easier, please contact me, or Susan Winkelmann, ASA executive director, and give us your ideas for the future.

I look forward to seeing everyone at the Awards Gala on April 1st, and sharing a cocktail with you during the President's Reception at the Four Seasons.

Sincerely,

Amy Heeger
AME Constructors
amyh@ameconstructors.com
President, ASA Midwest Council



Syberg's on Dorsett
2430 Old Dorsett Road
Maryland Heights, MO

Directions: Exit HWY 270 at the Dorsett Exit. Go east on
Dorsett, and a left onto Old Dorsett Road to Syberg's.



SAVE THE DATE!!

**ASA MIDWEST
COUNCIL'S**

**Construction
Showcase
& BBQ**

**Wednesday,
May 24th 2017
QUEENY PARK**

Join a committee today.

Membership

(Chris O'Hagan)

Programs

(Chris O'Hagan)

Golf *(Jennifer Church)*

Advocacy *(Tim Thomas)*

Awards Gala

(Molly Spowal /Rick Swanson)

Construction Showcase & BBQ

(Amy Heeger/Jim Riportella)

GC Expo

(Walter Bazan, Jr. /Tim Thomas)

Safety

(Mike Sicking)

Brand Development

(Stephanie Woodcock)

Contract Review *(Dick Stockenberg)*

Contact a committee chair today, to join a committee!

**MARCH 2017
MONTHLY MEETING
MEMBER DINNER MEETING**
*Syberg's on Dorsett
Wednesday, March 8, 2017*

Please join the ASA Midwest Council & SITE, for a joint membership DINNER meeting on Wednesday, **March 8th 2017**. ***Note meeting is one week early due to ASA's SubExcel convention in Denver.**

Syberg's on Dorsett: 5:30 to 8:00 p.m.

Our speaker will be Tom Ackerman, KMOX Sports Director @ackerman1120 Tom will provide an overview of the St. Louis sports landscape, including the Blues and Cardinals, and other exciting STL sports stories.

If you are a member of ASA & SITE, please only register with one organization for the meeting!

MEETING AGENDA:

5:30-6:30 p.m.-Networking/Cocktail Hour.

5:45-6:30 p.m. BPI (Business Practice Interchange-subcontractor/supplier members only.)

6:40-Dinner & Announcements

7:00 p.m. Program: Tom Ackerman

BPI Companies: Musick Construction, Orf Construction, R.G. Ross Construction, Sitalines, Volk Construction.

Invite a non member guest to this meeting as it is one of the best ways to introduce non members to all the benefits of ASA!

First time non member guests are FREE, but must be registered in advance with the ASA office. susan@asamidwest.com

\$42 includes hosted bar, dinner & program.

Register online-www.asamidwest.com by Friday, March 3, 2017

Attendees not cancelled by 3.3.17 will be charged per ASA cancellation policy.



MIDWEST COUNCIL

Building. Community. For 50 Years.

The American Subcontractors Association-Midwest Council (ASA) is celebrating its 50th Anniversary in 2017!

**ASA MIDWEST COUNCIL'S
24th ANNUAL AWARDS GALA**
VISIT ASAMIDWEST.COM FOR RESERVATIONS

*ASA Midwest Council's
Glitter & Gold Awards Gala*
Saturday, April 1, 2017

**FOUR SEASONS HOTEL
999 NORTH SECOND STREET • ST. LOUIS, MISSOURI**

5 Must-do Marketing Efforts for your Construction Company

**AJ Ford
Marketeer**



If you own a construction company, you probably have little to no extra time in your day. There are a lot of things on your plate, and marketing your business might be the last thing you want to think about. However, it is very, very important. Having a solid marketing plan in place for your construction company can be the difference between growth and stagnation. Below is a list of my top 5 must-do marketing efforts for your construction company.

1. Social Media Marketing

You may have heard it hundreds of times, “your construction company needs to be using social media”. You shouldn’t just be using social media, you should be using social media to effectively reach and engage your clients and prospects in order to build trust and get them to converted to brand followers. That may sound tedious and hard to do but the truth is it isn’t. The key is consistency. This allows your followers to see all of the great things going on at your company including jobs won announcements, new hires, promotions and other employee announcements, fun company events, job-site progress photos and so much more. The key to a successful social media campaign is to keep people engaged. Don’t stretch yourself too thin and try to be on every social platform – that’s a recipe for disaster. Choose the amount of social platforms that you feel comfortable engaging and building a community with on a regular basis.

2. Search Engine Optimization

Search engine optimization may be one of the best ways for your construction company to generate new leads. Why? You don’t need to pay for the leads generated by SEO. With pay-per-click campaigns, direct mail, and sometimes even email marketing, you have to pay for each person that receives your marketing campaign. With SEO, you don’t pay for the traffic generated because it’s free and organic. But there’s a catch. To generate this traffic your website has to have the best content in order to be ranked first in the search engines. This all starts with a process called “keyword research”. Keyword research is the first phase in any successful SEO campaign. It entails going out and finding specific phrases your target audience is searching for to find the services your construction company provides. Once those keywords are found, they are used to optimize your website by creating content around them. The more optimized content you have on your website, the greater the chances are of a highly targeted lead landing on your website. But let’s back up for a second. How do you go about conducting keyword research for your construction company? It all starts with the Google Keyword Planner. With this nifty tool you will be able to search for phrases that your target demographic is searching for, get recommendations on other keywords to possibly use, and see the search volume for each of the keywords. You will want to compile a list of keywords around the services you offer and your location.

Here are a few examples to get you started:

“office furniture installers in [your state/town]”

“electrical contractors in [your state/town]”

“painting contractors in [your state/town]”

You’ll notice that I included the state or town. This is to narrow down the searchers to only those who are looking for your service where you are located.

3. Reviews

When it comes to SEO for local businesses, one of the most important elements of any campaign are reviews. Positive reviews show the search engines that you are providing a great service to your current customers. And this positive service will be rewarded by the search engines by placing your website higher in the search results. What’s great is that this is probably the simplest marketing strategy around for construction companies. All you need to do is make sure that you reach out to past customers and ask them to leave reviews on your Yelp and Google Business pages. If you’re unsure of whether they’re going to give you a positive rating, ask them beforehand if there is anything you can do to ensure a positive review.

Positive reviews aren’t just great for search engines, they also are great in showing potential customers that your construction company knows what its doing. These reviews build social proof, which builds trust in the eyes of potential customers.

4. Look for Unique Advertising Opportunities

Thinking outside of the box when it comes to marketing and advertising your construction company is a great way to tap into a new market of customers (one your competitors might not be). Here are a few simple ideas to get you started...

Take out advertisements in local blogs. Local bloggers are a lot more influential than people give them credit for. Even if bloggers in your area don’t seem to have advertising options, send them a message anyway and ask.

Sponsor a local youth sports organization. It’s not only a great way to market your business but you’re also able to show that you care about your local community.

Create simple instructional videos that inform people how to do small construction tasks. While they may decide to “DIY” instead of hiring you for this one task, they will most certainly trust you and look to you for future projects.

Run a contest. People love free things (even the chance to win something for free). By running a contest for something like a free bathroom or kitchen painting makeover, you could potentially collect the information of hundreds or even thousands of leads.

5. Offer to Help in Community Projects

Volunteering may seem a little scary to most construction companies that are looking to market their business because it means giving away their services for free. However, what you gain in return is far more valuable. Think about the exposure you’ll get if/when your local news organization picks up that you’ve helped repair a home after a storm or fixed-up a rundown community center. Not only is this exposure priceless, it will show the people in your community you care more about helping them than a paycheck.

The Tom Owens Memorial Scholarship is a 501(c)(3) non-profit organization that provides financial assistance to qualified candidates who are part-time or full-time students who attend or will be attending accredited junior college, college, university or post-graduate institutions.

Please consider making a tax deductible donation to the Tom Owens Memorial Scholarship Fund to further our cause today. For additional information about the Scholarship Fund contact Chris O'Hagan, J D Kutter Insurance -chris@jdkutter.com



THANK YOU

to the MEMBER COMPANIES that attended the FEBRUARY monthly meeting:

Automatic Controls Equip.	Dynamic Controls	Hunt Vac Services	Rental Supply
Bangert Computer Systems	Enterprise Bank & Trust	Integrated Facility Services	RG Rents
Bazan Painting Co.	Fabick Rents	Irwin Products	Rock Hill Mechanical
Bell Electrical	Freeman Contracting	J.D. Kutter Insurance	Sachs Electric
Bi-State Utilities	Foreman Fabricators	J.W. Terrill	Sandberg Phoenix
Blueline Rental	Foundation Supportworks	Liberty Mutual Surety	von Gontard
Briner Electric Co.	Frost Supply	Lizmark	Schmersahl Treloar & Co.
CE Jarrell Contracting	George McDonnell & Sons	Midwest Elevator	Speed Pro Imaging
CK Power	Golterman & Sabo	Montgomery Bank	T.J. Wies Contracting
CMIT Solutions	Grant Masonry	Parkway Construction Svcs	UHY LLP
CNA Surety	Guarantee Electrical	PayneCrest Electric	United Rentals
Commercial Fabrication	Haberberger, Inc.	Professional Metal Works	Vinson Mortgage
Corrigan Company	Hanenkamp Electric	Ravensberg Inc.	
Cummins Sales & Service	Hayden Wrecking Corp.	Rebar Specialists	



2017 ASA Midwest Council Meetings & Events



March 8

Monthly Membership DINNER Meeting
Syberg's on Dorsett

March 15-18

ASA SubExcel Convention
Denver, CO

April 1

The Glitter & Gold Awards Gala
The Four Seasons Hotel St. Louis

April 19

Monthly Membership LUNCH Meeting
Syberg's on Dorsett

May 11

BPI in a Box Lunch
Syberg's on Dorsett

May 24

ASA Construction Showcase & BBQ
Queeny Park

June 21

Monthly Membership Meeting
Illinois GC Happy Hour

August 16

Monthly Membership Meeting

Please join us for the

ST. LOUIS CONSTRUCTION SHOWCASE & BBQ

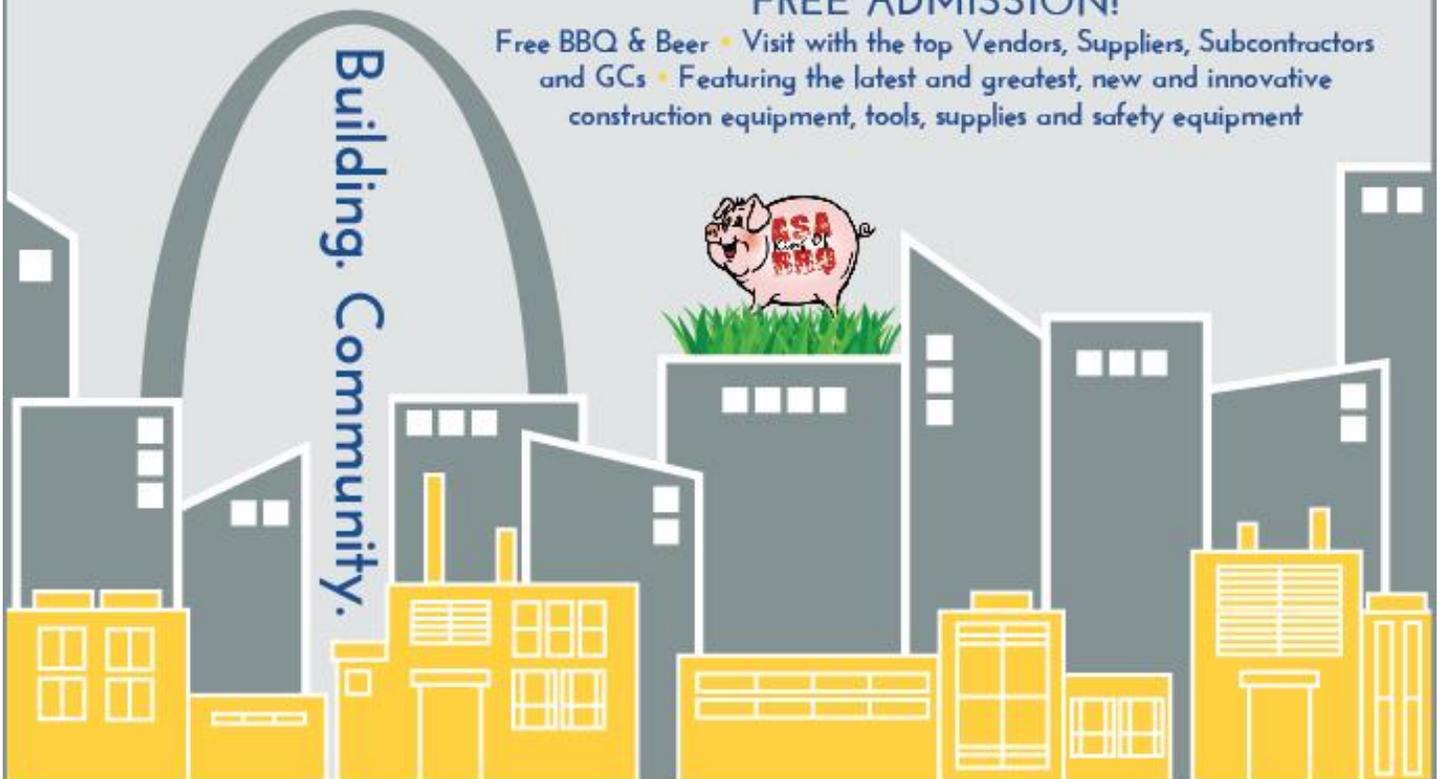
Sponsored by the American Subcontractors Association - Midwest Council



Wednesday, May 24, 2017 • 2:00 - 7:00 p.m. • Queeny Park

FREE ADMISSION!

Free BBQ & Beer • Visit with the top Vendors, Suppliers, Subcontractors and GCs • Featuring the latest and greatest, new and innovative construction equipment, tools, supplies and safety equipment



Visit asamidwest.com for additional details.

Exhibitor Information Coming Soon

Watch your email and visit asamidwest.com for details!

ASA Midwest Council's
Glitter & Gold Awards Gala
 Saturday, April 1, 2017

Evening Schedule

6:00 - 7:30 p.m. *President's Cocktail Reception*
 7:45 - 9:00 p.m. *Dinner Served*
 9:00 - 10:00 p.m. *Awards Presentation*
 10:00 - 11:00 p.m. *Celebration!*

To register, please visit asamidwest.com by March 22, 2017.
 Cost is \$160 per person. Valet parking included.
 Black-Tie Optional, but Admired!

ASA Room rate at Four Seasons is \$200
 Please call 314.881.5757 to book by March 10, 2017

FOUR SEASONS HOTEL
 999 NORTH SECOND STREET • ST. LOUIS, MISSOURI
 ASAMIDWEST.COM • 314.845.0855

ASA Midwest Council's
Glitter & Gold Awards Gala
2017 Nominees

General Contractor of the Year 2017

CATEGORY A

Alberici Constructors
 BSI Constructors, Inc.
 L. Keeley Construction
 McCarthy Building Co.
 Tarlton Corporation

CATEGORY B

Interface Construction Corp.
 Kozeny-Wagner
 Kadean Construction
 McGrath & Associates
 Musick Construction Co.
 Rhodey Construction, Inc.

CATEGORY C

BEX Construction Services
 G.S. & S. General Contractors
 LANDCO Construction
 SITELINES, Inc.

MEP Subcontractor 2017

CATEGORY A

C.E. Jarrell Contracting Company
 Guarantee Electrical
 Haberberger, Inc.
 Integrated Facility Services
 Murphy Company
 PayneCrest Electric
 RockHill Mechanical Corp
 Sachs Electric Company

CATEGORY B

Aschinger Electric Company
 Bell Electrical Contractors, Inc.
 Duct Systems
 Kaemmerlen Electric
 KayBee Electric
 O.J. Laughlin Plumbing Co.
 R.F. Meeh Co.

Specialty Subcontractor 2017

CATEGORY A

Afton Fabricating & Welding
 Collins & Hermann, Inc.
 Fenix Construction Co.
 Flooring Systems, Inc.
 Heitkamp Masonry
 John J. Smith Masonry Co.
 T. J. Wies Contracting, Inc.
 Vee Jay Cement Contracting

CATEGORY B

AME Constructors
 American Steel Fabrication
 BAZAN Painting Co.
 Golterman & Sabo
 Meyer Painting Co.
 Swanson Masonry, Inc.
 Taylor Excavating

Service Provider/Supplier 2017

Enterprise Bank and Trust
 Fabick Rents
 J.D. Kutter Insurance Associates
 K & K Supply

Negwer Door Systems
 RG Rents
 Seal the Deal Too
 United Rentals

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 St. Louis, MO 63151
 314.845.0855
info@asamidwest.com
www.asamidwest.com



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**SPONSORSHIPS DUE
 MARCH 22, 2017**

The month of February has seen the Missouri General Assembly tackle some tough and very controversial issues as the legislative session finishes its second month.

First on the agenda was Right to Work which sailed through both the House and Senate during the first few weeks of the session. Governor Greitens then signed the legislation into law on February 6, with three signing ceremonies held in Springfield, Poplar Bluff and Jefferson City. "Passing right to work sends a very clear message that the people of Missouri are ready to work and Missouri is open for business", Governor Greitens said before signing the bill.

Immediately after the Governor signed right-to-work into law, the AFL-CIO filed the necessary paperwork with the Secretary of State's office to seek a voter referendum on the measure. A seldom used provision of Missouri law provides that if a measure is approved by the General Assembly and not vetoed by the Governor, citizens can call for a referendum and put the issue to a vote of the people. The process for initiating a referendum is similar to that of the initiative petition. Proponents have until August 28th, 2017, (the date the law goes into effect) to gather the required number of signatures. If successful, Right-to-Work would not go into effect until it is voted on in by the general public 2018.

Modifications to Missouri's prevailing wage laws have also seen attention in both the House and Senate, but the pace seems to have slowed, as legislative leaders try to sift through the myriad of challenges in bills of this magnitude. Some elected officials say would prefer to completely abolish all prevailing wage laws, while others think some type of modification is needed, but they aren't sure exactly what the details of such a proposal would be.

We have been involved in discussions on eleven different bills dealing with prevailing wage, meeting on a regular basis with legislative leaders and representatives from the construction industry to relay the concerns of ASA, and the impact of these bills on our members. The majority of the proposals haven't seen any movement through the process for three or more weeks, but we feel certain that some type of modification to the law will eventually reach the governor's desk.

Also on the radar screen for legislators has been Project Labor Agreements. House Bill 126, sponsored by Representative Rob Vescovo (R-Arnold), and Senate Bill 182, sponsored by Senator Bob Onder (R-Lake St. Louis), prohibit PLA's in the state of Missouri. Both of these bills have seen movement through the House and Senate in recent weeks. It appears that one of the measures will land on the governor's desk before the end of the legislative session.

Workers' Compensation legislation has popped up again as well in the Capitol, as two different measures are on the Senate calendar awaiting debate. Senate Bill 66, sponsored by Senator Dave Schatz (R-Sullivan), changes the laws regarding maximum medical improvement guidelines, and temporary total and temporary partial disability benefits. Schatz has also filed Senate Bill 113, which modifies the law relating to an employer's ability to discharge an injured worker. We expect to see intense opposition to these measures in the coming weeks.

As always, we continue to monitor these, and all issues which could impact ASA and the construction industry as the legislative session progresses. Nikki Strong, Strong Consulting Group.

ASA Midwest Council Members

Acoustical Ceilings, Inc.
Affton Fabricating & Welding
AME Constructors
American Burglary & Fire, Inc.
American Steel Fabrication, Inc.
Architectural Sheet Metal Systems
Aschinger Electric
Autco Appliances
Automatic Controls Equipment Systems
Bangert Computer Systems
Bazan Painting Company
BDO USA
Bell Electrical Contractors
Benson Electric Company
Bick Group
Big Boy's Steel Erection
Bi-State Fire Protection Corp.
Bi-State Utilities Company
Bloomsdale Excavating Co.
Blue Line Rental
Boyer Fire Protection
Briner Electric
Building Point Mid-America
Bumpy's Steel Erection LLC
C. E. Jarrell Contracting
CK Power
CMIT Solutions
CNA Surety
CSA Advisors LLC
Car-Doc Automotive
Cardinal Environmental Operations
Cee Kay Supply
CliftonLarsonAllen, LLP
Collins & Hermann
Commercial Fabrication
Convergint Technologies
Corrigan Company
Cummins Sales and Service
Doll Services and Engineering
Drilling Service Company
Duct Systems
Dynamic Controls, Inc.
ELCO Chevrolet Cadillac
Enterprise Bank & Trust
Envirotech, Inc.
Event Productions, Inc.
Fabick CAT
Fenix Construction Co. of STL
Flooring Systems, Inc.
Foreman Fabricators
Foundation Supportworks by Woods
Freeman Contracting
Frost Supply
Gateway Land Services
Galloway, Johnson, Tompkins, Burr & Smith
GBI, Inc.
George McDonnell & Sons
Golterman & Sabo
Grant Contracting
Greensfelder, Hemker & Gale, P.C.
Guarantee Electrical
H & G Sales, Inc.
HM Risk
Haberberger, Inc.
Hanenkamp Electric
Hayden Wrecking
Heitkamp Masonry
Helitech Civil Construction Division
Hoette Concrete
Hunt Vac Services
Ideas4Promos
Integrated Facility Services
IronPlanet
Irwin Products
J.D. Kutter Insurance
J.F. Electric
JJ Construction Services, LLC
J.W. Bommarito Construction Co.
J.W. Terrill
John J. Smith Masonry
Johnny on the Spot at Republic Services
Johnson Controls
K & K Supply, Inc.
Kaemmerlen Electric
Kaiser Electric
Kay Bee Electric
Kirberg Company
Kirby-Smith Machinery, Inc.
Knapheide Truck Equipment
Landesign LLC
Lawrence Fabric & Metal Structures, Inc.
Leach Painting Company
Liberty Mutual Surety
Lindberg Waterproofing
Lizmark
Luby Equipment Services
Marketeer, Inc.
Martin Fence, LLC
Mays-Maune-McWard, Inc.
Merric
Meyer Painting Co.
Midwest Elevator
Midwest Construction Services & Products
Mobile Mini
Montgomery Bank
Murphy Company
Negwer Door Systems
NES Rentals
Niehaus Building Services
Nu Way
O.J. Laughlin Plumbing Co.
On Site
P & A Drywall Supply
P.M. Leach Painting Co.
Parkway Construction Services
PayneCrest Electric
Pearl Street Electric, LLC
Pirtek Fenton
Precision Analysis, Inc.
Professional Installers
Professional Metal Works, LLC
Priority Xpress Couriers LLC
QualSafe Solutions
RAI Insurance Group
R.F. Meeh Co.
RGR Equipment LLC
RJP Electric
RM Supply
Raineri Building Materials
Ravensberg, Inc.
Rebar Specialists Installation
Rental Supply, Inc.
Riechmann Transport, Inc.
Ritchie Bros Auctioneers
Rock Hill Mechanical Corp.
RubinBrown LLP
Sachs Electric Company
Safety International, LLC
Sandberg, Phoenix, von Gontard
Schaeffer Electric Co., Inc.
Schmersahl Treloar & Co.
Seal the Deal
Seiler Instruments
SFW Partners, LLC
Signature Craft
Speed Pro Imaging
Stylemaster Apparel, Inc.
Sunbelt Rentals
Swanson Masonry, Inc.
T.J. Wies Contracting
Taylor Excavating
Trojan Iron Works, Inc.
TROCO Custom Fabrication
Tyson Onsite
UHY LLP
United Rentals
Vee-Jay Cement Contracting
Vinson Mortgage
Westport Pools
Wies Drywall and Construction
Zurich Surety

Each month you will receive an update on the committees within ASA, to keep you informed on current happenings at the committee level. Below are this month's committee reports.

MEMBERSHIP

Welcome to our new members!
Autco Appliances, CSA Advisors LLC,
Midwest Construction Services & Products,
Speed Pro Imaging, Tyson Onsite.

Do you know a company that would benefit from joining the ASA? Contact membership chairman Chris O'Hagan-chris@jdkutter.com or Susan Winkelmann, ASA executive director-susan@asamidwest.com with any prospective new members. The membership committee will follow up with your contacts, and invite them to the next ASA membership meeting as our guest.

The ASA Midwest Council helps St. Louis subcontractors become more profitable and provides members with numerous benefits. ASA's goal is to make our members more efficient and effective at doing business. We are an organization that helps its members increase their business and make them better at what they do on a daily basis.

ASA Midwest Council provides extensive opportunities to *Learn About and Network with Customers and Peers*: ASA provides a safe place for construction business leaders to discuss their business challenges and opportunities.

Being active in ASA-MWC is a great way to meet with and interact with all of the members of the construction team, including customers and prospective customers.

ASA Midwest Council events are "must attend" for everyone in the St. Louis Construction Community. Our Meet the GC's Expo, Awards Gala, Golf Tournament, and STL Construction Showcase and BBQ, set the standards for all industry events.

ASA Midwest Council events attract those from all aspects of the construction industry including General Contractors, Subcontractors, Suppliers, and the Service Providers to the construction industry.

PROGRAMS

We are always looking for new members for the Programs Committee. If you are interested in participating in the ASA Programs Committee, or have a suggestion regarding programming, please contact Chris O'Hagan, J.D. Kutter Insurance, ASA Program Committee Chairman.

CONTRACT REVIEW

The committee has recently completed its review of the subcontract used by Paric. Next up is a review of CLAYCO's contract. For a copy of the this or any other review, contact Susan Winkelmann, susan@asamidwest.com

If you have other questions regarding the contract review service, contact committee chair, Dick Stockenberg, Sandberg Phoenix, von Gontard at rstockenberg@sandbergphoenix.com.

SAFETY

The safety committee meets the first Thursday of the month at 4:00pm. The location is Fallons Bar & Grill 9200 Olive Blvd. Olivette, Mo. 63132. We are looking for more members. Please consider sending someone from your staff to join our committee. Remember Safety Pays! Due to everybody's busy schedule please call to confirm we are meeting that month. Call Mike Sicking at 314-486-3141 for info.



**ASA Midwest Council is on
Facebook, Twitter & LinkedIn**

Risks of Starting Work Before Contract Is Signed

Subcontractors often receive a Notice to Proceed without having a signed subcontract. This usually occurs at a time when a subcontractor is excited about the business opportunity created by the new job and is anxious to demonstrate it will be a good member of the construction team. As a result, a subcontractor commences performance with the expectation that a subcontract with acceptable terms will be signed in the near future.

When a subcontractor begins performance without a signed contract, the relationship with the prime contractor is, at best, undefined. Yet the subcontractor, by commencing performance, commits capital to the project and often creates liabilities to third parties. If the prime contractor arbitrarily decides to use another subcontractor, does the subcontractor have any right to make a claim for lost profits? If the subcontractor decides that it doesn't want the job, can the subcontractor abandon it without liability to the prime contractor? If the project gets suspended indefinitely, does the subcontractor have a valid claim against the prime contractor for suspension-related expenses? If the prime contractor and subcontractor cannot agree upon important subcontract terms, does the subcontractor have the right to discontinue work without potential liability?

In some of these scenarios, it is better for the subcontractor that there is no binding contract. In others, it is better for the subcontractor that a binding subcontract exists. There are many potential outcomes. For example, it could be argued that a subcontractor performing work without a signed written contract means that there is an enforceable contract with only two terms: (1) the scope of work as defined by the bid documents (i.e., plans and specifications); and (2) the price. The more work performed before a subcontract is signed, the more committed a subcontractor becomes to the project. This commitment is both financial and psychological. The premature commitment to the project makes a subcontractor more likely to agree to objectionable subcontract terms than if negotiations were being conducted without any sense of commitment. Each case will be governed by its own facts. The controlling law may differ from state to state. The bottom line, however, is that the outcome is unpredictable. That is a situation to avoid when possible. One way to improve the subcontractor's position is to use a bid proposal, such as the ASA Subcontractor Bid Proposal, which is part of the ASA Subcontract Documents Suite. While this practice will not always cure the problem, it provides the subcontractor with arguments that it should not be legally bound to perform work when the subcontractor has been unsuccessful in negotiating important contract terms. The pressure to begin work without a contract is prevalent in the construction industry. When a subcontractor decides to so proceed, it should do so realizing that uncertainty exists and that it is running risks. Whenever possible, a subcontractor should obtain a signed contract before commencing work.

ASA Introduces White Paper on Performance and Scope Requirements

Inconclusive scope requirements are a subcontractor's worst nightmare. Bidding a project with vague requirements and ambiguous instructions can only lead to conflicts—or, even worse, costly contract disputes. That is why many project failures can be traced back to the subcontract and its scope of work clause(s).

Why agree to uncertain conditions when your company will be providing services on credit and undoubtedly will be held responsible should a conflict arise? Scope requirements are defined as the sum of all product-related requirements that apply to a subcontractor on a construction project. Scope is not and should never be defined by such terms like "most," "what is required," or "what is necessary." Open-ended contract terms only jeopardize a subcontractor's role in a project—and the likelihood of complete and final payment.

One way for a subcontractor to ensure the certainty of its role in a project is to spell out in its bid the exact scope and terms upon which its price applies. In addition, a subcontractor should make sure that any resulting subcontract is subject to the terms and conditions of a subcontractor-friendly contract. Last, but not least, always remember: documents clearly identified as being incorporated in a subcontract by reference are legally binding on a subcontractor, regardless of whether they're attached to the subcontract or otherwise supplied to the subcontractor.

Discover more about securing explicit scope requirements by downloading ASA's new Mastering Subcontract Performance and Scope Requirements. The white paper is a no-cost member benefit available under the "Contracts and Project Management Documents" section of the members-only area of the ASA National Web site.

Workplace Violence and OSHA

*Michael Sicking
Safety International*

I was recently cruising OSHA's website and came across a topic that most contractors never consider along with the other million things they must accomplish on a daily basis. Employees are also protected by OSHA for workplace violence.

What is workplace violence?

Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the work site. It ranges from threats and verbal abuse to physical assaults and even homicide. It can affect and involve employees, clients, customers and visitors. Homicide is currently the fourth-leading cause of fatal occupational injuries in the United States.

Who is at risk of workplace violence?

Nearly 2 million American workers report having been victims of workplace violence each year. Unfortunately, many more cases go unreported. Working alone or in isolated areas may also contribute to the potential for violence. Providing services and care, and working where alcohol is served may also impact the likelihood of violence. Additionally, time of day and location of work, such as working late at night or in areas with high crime rates, are also risk factors that should be considered when addressing issues of workplace violence.

How can workplace violence hazards be reduced?

In most workplaces where risk factors can be identified, the risk of assault can be prevented or minimized if employers take appropriate precautions. One of the best protections employers can offer their workers is to establish a zero-tolerance policy toward workplace violence. This policy should cover all workers, clients, visitors, contractors, and anyone else who may come in contact with company personnel.

By assessing their worksites, employers can identify methods for reducing the likelihood of incidents occurring. OSHA believes that a well-written and implemented workplace violence prevention program, combined with engineering controls, administrative controls and training can reduce the incidence of workplace violence in both the private sector and federal workplaces.

This can be a separate workplace violence prevention program or can be incorporated into a safety and health program, employee handbook, or manual of standard operating procedures. It is critical to ensure that all workers know the policy and understand that all claims of workplace violence will be investigated and remedied promptly. In addition, OSHA encourages employers to develop additional methods as necessary to protect employees in high risk industries.

As always if you have additional questions, please feel free to call.

Michael Sicking

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