SMACNA Mid-Atlantic Chapter

Connections

Inside this issue:

<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>DC’s First Source</td>
<td>1</td>
</tr>
<tr>
<td>Government Affairs</td>
<td>2</td>
</tr>
<tr>
<td>Virginia SB 208</td>
<td>3</td>
</tr>
<tr>
<td>NE States Meeting</td>
<td>4</td>
</tr>
</tbody>
</table>

D.C. City Council Considers Changes to “First Source”

Washington D.C. City Council Committees on minority business and First Source held a joint public hearing on a proposal entitled “Independent Compliance Office Establishment Act of 2019.” The purpose of this act is to establish a separate agency to handle First Source issues. “First Source” is currently managed by the Department of Employment Services (DOES) who opposes this change.

DOES First Source Program has been in effect since 1984 to ensure that projects developed with District of Columbia funds, or with other funds which the District administers, give priority to District residents. The First Source law requires all beneficiaries of contractual agreements totaling $300,000 or more enter into a First Source Agreement with DOES.

If the change is approved, a new independent agency would be formed to monitor compliance with small business participation and First Source requirements. Chairing the joint public hearing were Council Members Robert White and Elissa Silverman.

Five non-governmental individuals testified including Cindey Athey, president of Precision Wall Tech, Inc., representing the American Subcontractors Association of Washington, D.C., and Bernie Brill executive director of SMACNA Mid-Atlantic Chapter and an ACE representative.

Ms. Athey and Mr. Brill were both neutral in taking a position on the proposed legislation. Mr. Brill suggested that the city reward contractors who comply with First Source requirements by having a “preferred contractors” list, tax incentives, or even provide limited transportation to new workers where Metro is not available or too impractical.

Mr. Brill again stressed that frequently the requirements of First Source are onerous and vague. He noted that although laborers may be available, it is unlikely that a journeyman sheet metal worker would be supplied through the agency. Secondly, contractors must make a “good faith” effort to recruit D.C. residents but often this is left up to different interpretations.

Council Member Silverman was interested in knowing if DOES has made improvements over the years in handling complaints from contractors about First Source and if the agency was responsive to the contractors.

SMACNA Mid-Atlantic Staff

Bernie Brill
Executive Director  Ext: 101

Kurt Snyder
Marketing & Communications Manager Ext: 104

Kelly Maltagzi
Office Manager Ext: 100

Maureen White
Bookkeeper Ext: 102

(301) 446-0002
Info@smacnaatl.org
www.smacnaatl.org
**ACE Hosts Legislators in Richmond**

On Tuesday, January 14 the Alliance for Construction Excellence (ACE) hosted key Virginia State Legislators in Richmond. This annual dinner event gives ACE subcontractors time to speak directly with lawmakers about critical issues affecting their businesses.

One of the VIP’s stopping by was Lt. Governor Justin Fairfax who had high praise for contractors working in Virginia. He also reported on the state’s low unemployment, growing reserve fund, and the overall robust economy.

The 12 ACE members were joined by 8 key VIPs. Delegate Jeion Ward, Chair of Labor and Commerce, her chief of staff, Delegate Stephen Heretick, Delegate Joe Lindsey, Delegate Kaye Kory, Senator David Marsden, and Senator Barbara Favola. Delegate Marcus Simon from Northern Virginia also attended the dinner.

Representing the SMACNA Mid-Chapter were Rob Delawder of Southland Industries, Mike Pantele of R.S. Harritan, and Executive Director Bernie Brill.

This was an important gathering as there are several bills that might have a direct impact on construction. Delegate Kory is sponsoring House Bill 114 on Prevailing Wage; public work contracts. Delegate Carroll Foy is sponsoring HB 122 that deals with project labor agreements and public procurement. She also is a sponsor on HB 123 which will focus on worker misclassification; liability for payment of wages due under construction projects.

Corresponding to these are Senate Bill 180 sponsored by Senator Favola and Senate Bill 8 sponsored by Senator Richard Saslaw dealing with prevailing wage and public work contracts.

On February 12 ACE will sponsor a dinner for key Maryland legislators in Annapolis. These events are important as they give subcontractor associations a platform to speak with key lawmakers about issues of major concern to their members.

---

**Capitol Round-Up**

**Richmond**—HB 1202 Project labor agreements; public procurement by local governments

authorizes any local government, when engaged in procuring products or services or letting contracts for construction, manufacture, maintenance, or operation of public works, to require bidders to enter into or adhere to project labor agreements on the public works projects.

**SB 208** — Mechanics’ liens; right to withhold payment

specifies that the use of funds paid to a general contractor or subcontractor and used by such contractor or subcontractor before paying all amounts due for labor performed or material furnished gives rise to a civil cause of action for a party who is owed such funds. The bill further specifies that such cause of action does not affect a contractor’s or subcontractor’s right to withhold payment for failure to properly perform labor or furnish materials and that any contractual provision that allows a party to withhold funds due on one contract for alleged claims or damages due on another contract is void as against public policy.

**Annapolis** — SB 260 Leave with Pay— (Bereavement Leave (Family Bereavement Act)

The bill proposes that all employees be granted bereavement leave in the event of death of a member of the employee’s immediate family or the employee’s pet. If passed, this bill would apply to all Maryland businesses who employ 15 or more employees for each working day in each of the 20 or more calendar weeks in the current or preceding calendar year.

For more information or details about these proposed regulations please contact SMACNA Mid-Atlantic Chapter.
Virginia Senate Bill 208 — Impact on Subcontractors

While today’s general contractors sub out most of the work to specialty subcontractors, it is these subcontractors who are experiencing the most risk financially when it comes to hiring labor and purchasing materials and products.

ACE is asking for support on Senate Bill 208 that if passed would protect an owner and a subcontractor from the use of funds on one job to remedy a dispute on another job.

In other words, a contractor cannot withhold payment to a subcontractor because of a perceived lack of performance on another project. The owner’s funds for work completed on its project will not be used to remedy the contractor’s problem on another project.

Why is this legislation needed?

In today’s competitive construction industry subcontractors work only for their Owner of Choice. In cases in which the Commonwealth of Virginia is to be an Owner of Choice, it is imperative that all payments made by state agencies to prime contractors flow into the hands of the subcontractors -- subcontractors and suppliers who have properly completed their work. On all other work, the owner is paying for the work completed by the subcontractor and expects the prime contractor to pay the subcontractor for the work.

A few general contractors include in their subcontract document terms that allow for the general contractor to utilize funds paid by the owner on one construction project to offset disputed debt incurred by a subcontractor on another project.

If such payments for a project are diverted away from the subcontractor then that project is at risk for delay and disruption. The owner suffers because of a dispute between the general contractor and subcontractor on an unrelated project!

Construction subcontracting is risky, and these businesses need to be protected from unfair subcontract provisions that will harm them. Subcontractors are financing the job by paying for materials, meeting payroll, overhead, etc. Failure to be paid on-time places these companies and their employees at risk.

ACE is asking for support on Senate Bill 208 that if passed would protect an owner and a subcontractor from the use of funds on one job to remedy a dispute on another job.

In other words, a contractor cannot withhold payment to a subcontractor because of a perceived lack of performance on another project. The owner’s funds for work completed on its project will not be used to remedy the contractor’s problem on another project.

Why is this legislation needed?

In today’s competitive construction industry subcontractors work only for their Owner of Choice. In cases in which the Commonwealth of Virginia is to be an Owner of Choice, it is imperative that all payments made by state agencies to prime contractors flow into the hands of the subcontractors -- subcontractors and suppliers who have properly completed their work. On all other work, the owner is paying for the work completed by the subcontractor and expects the prime contractor to pay the subcontractor for the work.

A few general contractors include in their subcontract document terms that allow for the general contractor to utilize funds paid by the owner on one construction project to offset disputed debt incurred by a subcontractor on another project.

If such payments for a project are diverted away from the subcontractor then that project is at risk for delay and disruption. The owner suffers because of a dispute between the general contractor and subcontractor on an unrelated project!

Construction subcontracting is risky, and these businesses need to be protected from unfair subcontract provisions that will harm them. Subcontractors are financing the job by paying for materials, meeting payroll, overhead, etc. Failure to be paid on-time places these companies and their employees at risk.

A review of “Construction Trust Fund Statutes” published by Clark Hill reveals that, unlike Virginia, several other states (Maryland, Texas, South Carolina and Oklahoma, among others) have laws to protect against this practice.

The bill is being sponsored by Senator Chap Petersen. ACE supports this effort to protect subcontractors in the construction process by recognizing the role that subcontractors play in the building process.

For more information please review the bill at: http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SB208+hil

---

Recruiting Efforts Underway with New Markets in 2020

While the annual recruitment schedule is still being finalized for 2020, a new strategy for Choose Bigger is developing that builds on the previous years’ efforts.

This updated strategy will continue to develop high-school talent but will also make a concerted effort to recruit from the experienced workforce and higher education centers.

SMACNA Mid-Atlantic has been invited to return to the University of Maryland (UMD) Athletic Department career and internship fair in February 2020. A similar event was attended last fall at UMD. Two members companies have expressed interest in UMD engineering students as recruits.

Additionally, Montgomery College has a robust Applied Technologies Department and this organization is excited to have SMACNA Mid-Atlantic present at their events. Last fall the Dean of the Applied Technologies Department attended a SMACNA Mid-Atlantic sponsored tour of a member facility. The Dean is a supporting pillar for the apprenticeship program and his department is a great partnering organization.

Montgomery College reports that while many adults attend classes, only a small percentage of enrolled students earn a degree. These students have experience in the workforce and are open to exploring job opportunities.

Additionally, Choose Bigger is coordinating an internal event with Maryland State resources on April 22, 2020.
Over-the-Month Area Civilian Labor Force, Employment and Unemployment Data

The total civilian labor force in the Washington Metropolitan Division for November 2019 was 2,789,100, of which 2,711,000 were employed and 78,100 were unemployed. The unemployment rate was 2.8 percent. The total civilian labor force in the Suburban Ring of the Communities surrounding the District of Columbia was 3,077,000, of which 3,000,800 were employed and 76,200 were unemployed. The unemployment rate for this area was 2.5 percent.

In the Washington Metropolitan Statistical Area, which includes the Washington Metropolitan Division and the Bethesda-Gaithersburg-Frederick, Maryland Metropolitan Division, the civilian labor force was 3,492,100, of which 3,395,300 were employed and 96,800 were unemployed. The unemployment rate for this area was 2.8 percent. For the month, the unemployment rates for the Washington Metropolitan Division, the Washington Metropolitan Statistical Area and the Suburban Ring was unchanged.

Recently, Virginia Governor Northam announced that the unemployment rate in the Commonwealth is at 2.6 percent. This was a record high for the number of employed people and second-lowest rate among states in the southeast. The labor force grew for the 18th consecutive month by more than 14,000 jobs to a record high of more than 4,454,000 positions.

Register Today!
2020 Northeast States
Sheet Metal Coalition Meeting
Naples, Florida
April 2-4
Naples Grande Beach Resort

- Meet fellow contractors.
- Share information and ideas.
- Rest and Rejuvenate!

Reservations must be made by March 2

Chapter Board Meets to Approve Budget and Programs

SMACNA Mid-Atlantic Chapter Board of Directors met on January 22nd to deal with a variety of issues and make important decisions about programs for 2020.

Also participating in the meeting were SMACNA’s Immediate Past President Nathan Dills and CEO Vince Sandusky. Sandusky addressed SMACNA’s Board decision to increase dues by $0.03 as it was needed to maintain and broaden services. The last increase was in 2008.

The Chapter Board also appointed Mike Pantele (R.S. Harritan) to the Board of Directors to fill a vacancy and Vince McGowan (W.E. Bowers) to serve on the Washington Labor Committee.

Both Sandusky and Dills talked about the value SMACNA brings to contractors and the critical void it fills when it comes to technical services, legislative representation, labor relations, and much more.

Dills said he was highly appreciative of what SMACNA has done for him personally and professionally. He gave several examples of how his relationships within SMACNA helped create new business opportunities.

Chapter Board Meets to Approve Budget and Programs

SMACNA Mid-Atlantic Chapter Board of Directors met on January 22nd to deal with a variety of issues and make important decisions about programs for 2020.

Also participating in the meeting were SMACNA’s Immediate Past President Nathan Dills and CEO Vince Sandusky. Sandusky addressed SMACNA’s Board decision to increase dues by $0.03 as it was needed to maintain and broaden services. The last increase was in 2008.

The Chapter Board also appointed Mike Pantele (R.S. Harritan) to the Board of Directors to fill a vacancy and Vince McGowan (W.E. Bowers) to serve on the Washington Labor Committee.

Both Sandusky and Dills talked about the value SMACNA brings to contractors and the critical void it fills when it comes to technical services, legislative representation, labor relations, and much more.

Dills said he was highly appreciative of what SMACNA has done for him personally and professionally. He gave several examples of how his relationships within SMACNA helped create new business opportunities.