SMACNA Mid-Atlantic Awarded Apprenticeship Innovation Fund (AIF) Grant

SMACNA Mid-Atlantic has been awarded a $25,000 grant from the Maryland Department of Labor, Licensing, and Regulation (DLLR). The grant is part of the Apprenticeship Innovation Fund, established by the state with federal apprenticeship funds. SMACNA is only the ninth successful applicant to receive AIF funds from the State of Maryland, which has over 3,500 different apprentice programs. The funds will be used to establish a “pre-apprenticeship program” for Montgomery, Prince George’s, Charles, and St. Mary’s counties. Additionally, the grant encourages the participation of underrepresented demographics within the construction trade, such as females.

This special “Pre-Apprenticeship Program” will be an 8-12 week program for 20 upcoming high school graduates preparing to enter the Sheet Metal and Railroad Transportation (SMART) Local 100 Apprenticeship Program. Participants will learn life skills, testing skills, industry math skills, professional conduct skills, and more. The SMACNA Pre-Apprenticeship program is first in Maryland to focus on graduating high school seniors. The program benefits SMACNA contractors by establishing a new pipeline of talent and ready to work employees for the sheet metal trade. Mike Doerk, Chairman Local 100 JATC said “This grant represents a major step forward in securing quality sheet metal apprentices for SMACNA contractors and will encourage local high schools to participate in our growing Choose Bigger program.” The Bureau of Labor Statistics projected sheet metal trade positions to grow 9% by 2026, higher than most jobs requiring a college degree. Establishing a pipeline of highly qualified individuals helps students, but also saves contractors time and money. The program will launch early spring and conclude by late spring or early summer 2019.

ACE’s Second Annual Virginia Legislative Dinner

On January 15 ACE (Alliance for Construction Excellence) sponsored a dinner meeting with members of the Virginia Senate Finance and House Budget Committee Members. Labor Commissioner Ray Davenport and Virginia Lt. Governor Justin Fairfax.

Topics of conversation included mechanic lien rights, prompt pay, enforcement of worker misclassification (fraud) laws, and apprenticeship training programs.

Ray Davenport talking with Rob Delawder

Rob Delawder (Southland Industries) and Bernie Brill represented SMACNA Mid-Atlantic.

ACE, a coalition of premier construction specialty contractor associations works to monitor and influence issues that impact subcontractors and specialty trade contractors in the construction industry before all three branches of government within Maryland, Virginia, and Washington, DC.
Senator John Chapman “Chap” Petersen held his annual “Leaders Breakfast” on January 4th before a roomful business executives, local politicians, educational leaders, and many others. His presentation focused on his key goals and objectives for the coming legislative session in Richmond.

He discussed the American economy, the local economy, the impact of the government shut down, the newly imposed tariffs, and the outlook for 2019. Although the economy has been running strong for the past 8 to 10 years, he cautioned that the country may experience a correction or economic decline in 2019. Sen. Petersen told the audience that, “Signs point to a coming recession and household and corporate debt is high while the Federal deficit is in unchartered territory.”

Recently, the Alliance for Construction Excellence (ACE) approached Sen. Petersen with a request for him to sponsor legislation that would help sub-contractors be paid in a more expedient fashion. (SB 9).

Specifically, ACE is trying to amend and reenact Paragraph 43-13 of the Code of Virginia, relating to mechanics’ liens; right to withhold. This is the proposed added language:

“Any breach or violation of this section may give rise to a civil cause of action for a party in contract with the general contractor or subcontractor, as appropriate; however, this right does not affect a contractor’s or subcontractor’s right to withhold payment for failure to properly perform labor or furnish materials on the project. Any contract or subcontract provision that allows a contracting party to withhold funds due under one contract or subcontract for alleged claims or damages due on another contract or subcontract is void as against public policy.

If this bill is allowed to pass, it will help sub-contractors be paid in a more timely fashion and prevent the general contractor, sub-contractor, or owner from withholding funds from any sub-contractor.

Sen. Petersen is also a strong supporter of education and getting high school juniors and seniors out of the classrooms and giving them experiences in the real world. To do this, he would like to see more students have the opportunity to participate in internships and (pre) apprenticeship programs.

Sen. Petersen represents central and western Fairfax in the Virginia State Senate. He grew up and lives in Fairfax City. His family has a long history in Fairfax.

Sen. Petersen is a graduate of Fairfax High School (1986), Williams College (1990) and the University of Virginia Law School (1994). He has been an attorney in private practice since 1994, successfully representing thousands of local people and businesses. Sen. Petersen began his career in politics by serving on the Fairfax City Council (1998-2002) and as a member in the Virginia House of Delegates (2002-2006).
Chapter Board Appoints JATC Contractors

At the recent SMACNA Mid-Atlantic Chapter Meeting, the Board of Directors appointed the following contractors to serve on the Joint Apprenticeship Training Committee:

Mike Doerk, Chairman; ADJ Sheet Metal
Rob Delawder; Southland Industries
Vince McGowan; Stromberg Metal Works, Inc.
Tim Aley; W.E. Bowers

The Joint Apprenticeship Training Committee is composed of both SMACNA Mid-Atlantic Chapter Contractors and SMART Local Union 100 leaders. The committee is responsible for the training program at SMART Local Union 100, which covers the Washington, DC metropolitan area.

The Sheet Metal Workers’ Apprenticeship program combines classroom work and on-the-job training. The apprenticeship teaches skills that are technically and professionally oriented. Every apprentice is given the opportunity for a rewarding, good paying career.

New apprenticeship classes start every three months. Applications are taken Monday through Friday from 8:30 a.m. to 4:30 p.m.. Applicants are then notified of scheduled test dates.

The Sheet Metal Workers’ Apprenticeship is a five-year training program which includes the following:
a. 40 hours per week on-the-job instruction
b. One day every two weeks classroom instruction.

To attract high quality candidates to meet the needs of contractors, SMACNA Mid-Atlantic’s “Choose Bigger” program is having an important impact through its new website, www.Choosebigger.com; participation at career fairs, providing to schools guest speakers, plant tours, internships, and much more.

Join Fellow Chapter and SMACNA Members at the 2019 National Issues Conference

- Policy Updates
- Advocate Development
- Visit your Legislators

May 7-9
Hyatt Regency Capitol Hill

For more information and to register for this event please go to www.smacna.org!

Dumler Selected as New Training Director

The SMART/SMACNA Mid-Atlantic Joint Apprenticeship Training Committee has appointed John Dumler as its new Apprenticeship Training Director.

Prior to accepting his new position, Dumler worked at ADJ Sheet Metal and was an instructor at the training center. His focus was providing technical instruction in the areas of drafting, CAD, field measuring and estimation. He also successfully completed the four-year apprenticeship program and graduated in 2011.

Dumler said, “My top goal for the year is working on modernizing the curriculum and Training Center to make sure we meet the training needs of the members and contractors.”

Mike Doerk, JATC Contractor Chairman, said “John is an industry veteran who has years of both real work experience and teaching in the classroom. He will be a wonderful asset to our program.”

Dumler and his wife Amber have three children ages 7, 4, and 2.
Know Your Payment Rights – Federal and Local Prompt Payment Statutes
By Lane F. Kelman and Jackson S. Nichols

Prompt payment statutes require timely payments to contractors on construction projects. Understanding prompt payment laws and their application is highly beneficial to contractors. Washington, DC, Maryland, and Virginia all have prompt pay statutes that provide protections to contractors.

Washington, DC
Washington, DC’s Prompt Pay Act applies to first and second tier subcontractors on private construction projects. It does not apply to work done for DC agencies. The Act requires contractors and first-tier subcontractors to pay their subcontractors for undisputed amounts within seven days after receiving payment for that work. Penalties include interest of 1.5% per month on any undisputed amount not timely paid, and a subcontractor can sue for its attorney’s fees for recovering unpaid amounts.

Maryland
Maryland has separate statutes for private and non-federal public jobs that apply to all tiers of subcontractors and suppliers. The private statute applies to many types of construction but does not apply to single-family residences or home improvement contracts. Maryland’s private statute provides that any amount owed on a contract for which there is no good faith dispute, including any retainage withheld, must be timely paid. For subcontractor payments, if no provision in the subcontract addresses the time of payment, the contractor must pay all undisputed amounts within seven days after receipt of payment. This applies to all tiers of subcontractors and suppliers. Remedies include, among other things, attorneys’ fees and interests.

Maryland’s other prompt pay statute applies to non-federal public contracts. Per the statute, the subcontractor must be paid any undisputed amounts within ten days of receipt of progress payments or final. If not paid, the subcontractor can trigger a process by which the government will withhold further payments to the offending contractor/subcontractor or assess penalties.

Virginia
Virginia affords the least protection to subcontractors. It has no statute that applies to private jobs. For public jobs, Virginia requires contractors to include a payment clause in subcontracts providing that within seven days after receiving payment the contractor must pay the subcontractor or notify the agency owner and subcontractor in writing of the contractor’s intention to withhold payment. The subcontract also must provide interest of 1% per month for unpaid amounts that have not been withheld in accordance with the statute. This clause also must be included in subcontractors’ subcontracts as well (i.e., Sub-subcontracts). The statute does not allow for recovery of attorney fees for non-payment, only the interest.

Federal
The federal Prompt Pay Act requires the government to pay within a certain time after receipt of a payment application. Unpaid amounts are subject to interest and, under certain conditions, statutory penalties. The federal statute also contains flow-down protection for subcontractors and suppliers at all tiers. Prime contractors must make payment to their subcontractors and vendors within seven days of receipt of payment from the government. Subcontractors and suppliers also must incorporate the prompt payment provisions into their contracts with lower-tier subcontractors and suppliers.

An additional feature is that, when applying for payment, the contractor must certify that it has paid all the subcontractors and suppliers the amounts previously paid to the contractor. Failure by the contractor to pay subcontractors the full amounts invoiced for the work can subject the contractor to fraud claims by the government.

Conclusion
Subcontractors should be aware of all of their rights when it comes to prompt pay statutes. These rights vary depending on the state where the project takes place and whether the job is private, state, or federal. Additionally, prompt payment rights are seldom fully described in contract documents. Experienced counsel should be engaged early in the process to ensure that the subcontractor does not waive important rights it may have to prompt payment.

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