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SMAC NEWS

Lisa Davis: A Trailblazer & Teacher



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Fall Brings Positive Energy & Continued Focus

Welcome to fall! I hope you are still busy and have ample backlog as we look at 2024. Nationally, hours are up from 2022, and we see continued demand from megaprojects (especially auto manufacturing), indoor air quality projects, and, more recently, commercial office conversations. A tremendous amount of work is on the horizon that has Davis Bacon requirements and PLAs. Both should give our members a good starting point for bidding. If you have a megaproject, please let us know your workforce needs as soon as possible.

We are working every day with SMART to fill these roles. If you are bidding on one, please get in touch with us with any workforce concerns. The more information we have, the more likely we will be able to meet your needs.

As you know, SMACNA's Government Affairs and Labor Relations teams have been commenting heavily on regulations — from Davis Bacon to PLAs and rules for CHIPs funding. We have also been lobbying heavily to make sure the tax credits that allow our industry to flourish remain in

place. Their work has been outstanding this year and will only intensify as we move into the next few months.

As we have come to expect, Washington is a political mess. Even though a continuing resolution was passed a few weeks ago to fund the government, the drama surrounding the Speaker of the House continues to create political uncertainty. The worst of politics is on display and both sides share the blame





FROM THE PRESIDENT

Tony Kocurek

for our inability to govern. Unfortunately, the threat of a government shutdown in November continues to loom heavily. Unless Democrats and Republicans can reach a bipartisan compromise on a funding package, government operations will halt. There will

new ones whenever possible. Our Government Relations team has recently released a treasure trove of new resources for you to draw upon, ranging from the video tutorial on the Prior Approval Process to our monthly mailing on state and local legislative affairs. Please



AS YOU KNOW, SMACNA'S GOVERNMENT AFFAIRS AND LABOR RELATIONS TEAMS HAVE BEEN COMMENTING HEAVILY ON REGULATIONS — FROM DAVIS BACON TO PLAS AND RULES FOR CHIPS FUNDING. WE HAVE ALSO BEEN LOBBYING HEAVILY TO MAKE SURE THE TAX CREDITS THAT ALLOW OUR INDUSTRY TO FLOURISH REMAIN IN PLACE.

be a significant impact on many SMACNA contractors who rely on government work if this occurs. It could also create a recession that impacts our projects for years.

These events should serve as a reminder that SMACNA contractors must become more involved in the political process. We are in an enviable position where we have friends on both sides of the aisle who recognize the value of a highly skilled sheet metal and HVAC industry. It is essential to remember that we must always work to strengthen our existing political relationships and build

take advantage of these tools whenever possible, and please stay tuned to updates from our Government Relations team as we continue to navigate this dynamic period. ▼

Best regards,
Aaron Hilger
CEO

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.

Look at the Entire HVAC System to Maximize IAQ & Gain a Competitive Advantage

I believe now more than ever, it is imperative that we, as signatory contractors, understand that HVAC works as a “system” and not just a bunch of pieces ... and I'll tell you why.

An HVAC system includes all the equipment, technology and processes that go into heating, cooling and ventilating a commercial or residential property.

HVAC can be easily confused with the term AC. Still, AC refers to an air-conditioning system on its own. In contrast, HVAC refers to the broader system, which may or may not include an air-conditioning component.

We need to understand that nuance and leverage our skills and resources to deliver maximum value to our clients and ensure that we are meeting their needs. But how do we do that in the current environment?

First, advancements in technology have taken away much of our edge in constructing and installing ductwork. There are computer-aided machines that make the ductwork perfect, enabling faster and easier connections, as well as sophisticated mapping systems that aid in locating hangers and ductwork pathways. These tools are available to non-union contractors, as well as signatory ones, stripping away much of the advantages we had by going through the apprenticeship programs.

One way to combat this muddying of the competitive waters is to embrace the understanding of the entire “HVAC system.” Knowing how an entire “HVAC system” works by design can help us be proactive in troubleshooting potential installation and comfort problems. Using our overall knowledge, we can be more beneficial to our clients. This will also give us the chance to ensure all HVAC system elements are properly installed and working to maximize the indoor air quality elements — things our clients, and most of the non-signatory competition, know little about. This higher quality and efficiency of our service will ultimately add additional benefits for the building owner in both lower overall operating costs and longer life expectancy of the “HVAC System” components. This is a huge advantage we can provide to our clients, helping us stand out from non-signatory contractors.

We are facing a historic time in our industry with the complexity of HVAC systems, the efficiency of these systems, and the actual functioning of entire systems that we have never faced before. To remain relevant and help our businesses thrive, we must stay ahead of this curve in our industry.



Installing Sculpted Sheet Metal

Indianapolis-based Gainbridge Fieldhouse entrusts the installation of two new sculptures to SMACNA member.

The Gainbridge Fieldhouse renovations in Indianapolis have been big news. After all, the arena is home to the NBA's Indiana Pacers and the WNBA's Indiana Fever — and hosts many other concerts and events.

Outside of the arena, the new Bicentennial Unity Plaza, including two sculptures designed by Herman Mejia, was a highly anticipated final touch that wrapped up the \$400-million, inside-and-outside renovation.

The installation of those sculptures was contracted to SMACNA member Poynter Sheet Metal, headquartered in Greenwood, Indiana.

According to Luke Bland, director of specialty metals for Poynter, the project involved the installation of two sculptures — a sphere and an arch, which were fabricated by Eventscape out of Toronto, Canada. The materials for these structures were galvanized steel and the panels were #8 mill finish stainless steel.

The silver arch was installed over the basketball court and named “Together,” while the sphere was installed at the entrance to the plaza and named “Sphere.” The inside of “Sphere” is open for guests to walk through and features interior video screens. The sculptures represent the city's desire to be a civil, unified and informed place.

Bland says that their team worked closely with the design and fabrication team in Toronto to ensure that the final product would fit correctly.

“We were able to work closely with Rafael Avila, the onsite supervisor for Eventscape, and he was able to communicate with the engineers in Canada to help



Physical assembly of the structures was challenging. The arch had 450 pieces, and the sphere had more than 350 panels.



THE PROJECT INVOLVED THE INSTALLATION OF TWO SCULPTURES — A SPHERE AND AN ARCH — WHICH WERE FABRICATED BY EVENTSCAPE OUT OF TORONTO, CANADA. THE MATERIALS FOR THESE STRUCTURES WERE GALVANIZED STEEL AND THE PANELS WERE #8 MILL FINISH STAINLESS STEEL.

answer questions, verify dimensions and work through any challenges.

LIKE A PUZZLE

The physical assembly of the sculptures was no simple feat. On the arch, there were approximately 450 pieces for the cladding, and the sphere had over 350 panels. The arch spans over 120 feet, and the sphere is 30 feet in diameter and 25 feet tall.

“The challenges were the sculpture complexity and how all of the pieces fit together,” he recalls. “They were unique shapes and similar to a puzzle. All of the panels were very heavy and had to be set in place with a crane. Some of the panels arrived damaged, and our specialty shop team was able to quickly fix them and repolish the panels so that our install crew could stay on schedule.”

The assembly took place onsite. The structures came in as modules; all the panels were separate pieces.

Bland says that the company had roughly 4,500 man-hours total in this installation project. It began in April and wrapped up on August 11, 2023.

The new plaza is positioned to be the location of many future community events, and the team at Poynter says that they were honored to be involved in a project that helped to complete that space.

“This was a very high-profile project with a lot of attention from the news media, public, and even the NBA,” Bland adds. “It was exciting to be involved with the installation of these two sculptures that will be enjoyed for many years to come; we are very proud and honored to be part of a prestigious project that will be admired for many years to come.” ▼



Duct & Cover

Hohler's Furnace and Sheet Metal tackles the HVAC for a shooting range.

The Mertz family founded Hohler's Furnace and Sheet Metal of Sandusky, Ohio, in 1860. "My grandfather, Franklin Hohler, came to work for them in 1916, then bought and renamed the business in 1929," says Rich Hohler. Over 100 years after 16-year-old Franklin Hohler first came to work in sheet metal, Rich Hohler is the company's sole owner and operator. His son, Richard, recently joined the family business, becoming a fourth-generation sheet metal contractor.

With 123 years of experience in the industry, Hohler's recently took on a project that's a bit different from anything they've done before: the Lake Erie Arms Shooting Range in Milan, Ohio. "The owners had a little shop with an outside shooting range, and they had the idea to expand the business," says Rich Hohler. "They

had done a lot of market research and found a need."

The new 94,000-square-foot campus has indoor shooting ranges but also offers club-like amenities such as lounges, a public café, event rooms, a retail space, a sauna and steam rooms. Club members will have exclusive facilities, including a dedicated entrance and a VIP restaurant. "They like to call it a Guntry Club," Richard Hohler says. "We started the project in December 2022 and finished near the end of August 2023 with an estimated 1,100 work hours."

The project is divided between the shooting ranges, with very precise ventilation and filtration requirements, and the club space. Hohler's is responsible for the HVAC systems in the club facilities. "The owners provided the layout, so we took the structure, met with a local engineer and went through the whole front half of the



At the Lake Erie Arms Shooting Range, Hohler's installed about 1,500 feet of ductwork, fabricating one-third of it in their shop.

building," Rich Hohler says. "There's office space, there's retail space and there's restaurant space, so there's quite a bit going on." Hohler's installed five rooftop HVAC units that total 60 tons of cooling, eight split systems that provide 25 tons of cooling and three ductless mini splits for another 4 tons of cooling.

Hohler's installed around 1,500 feet of ductwork for Lake Erie Arms, fabricating about one-third of it in their shop. "All our square duct designs are 100 percent fabricated in-house," says Richard Hohler. "We have a full sheet metal shop that can do that entire portion of the job." They fabricated the square duct out of 20-gauge to 24-gauge galvanized sheet metal.

The rest of the ductwork was purchased through a supplier and then hung by Hohler's team. "A great portion of this project uses exposed spiral ductwork due to the architectural requirements of the job," says Richard Hohler. "The building is all open construction with no real ceilings, so everything was going to be exposed to their customers. This spiral ductwork provides the proper aesthetics." Some of the duct is installed upwards of 50 feet in the air. "Hanging all the spiral ductwork at such high elevations

has been a unique experience for us."

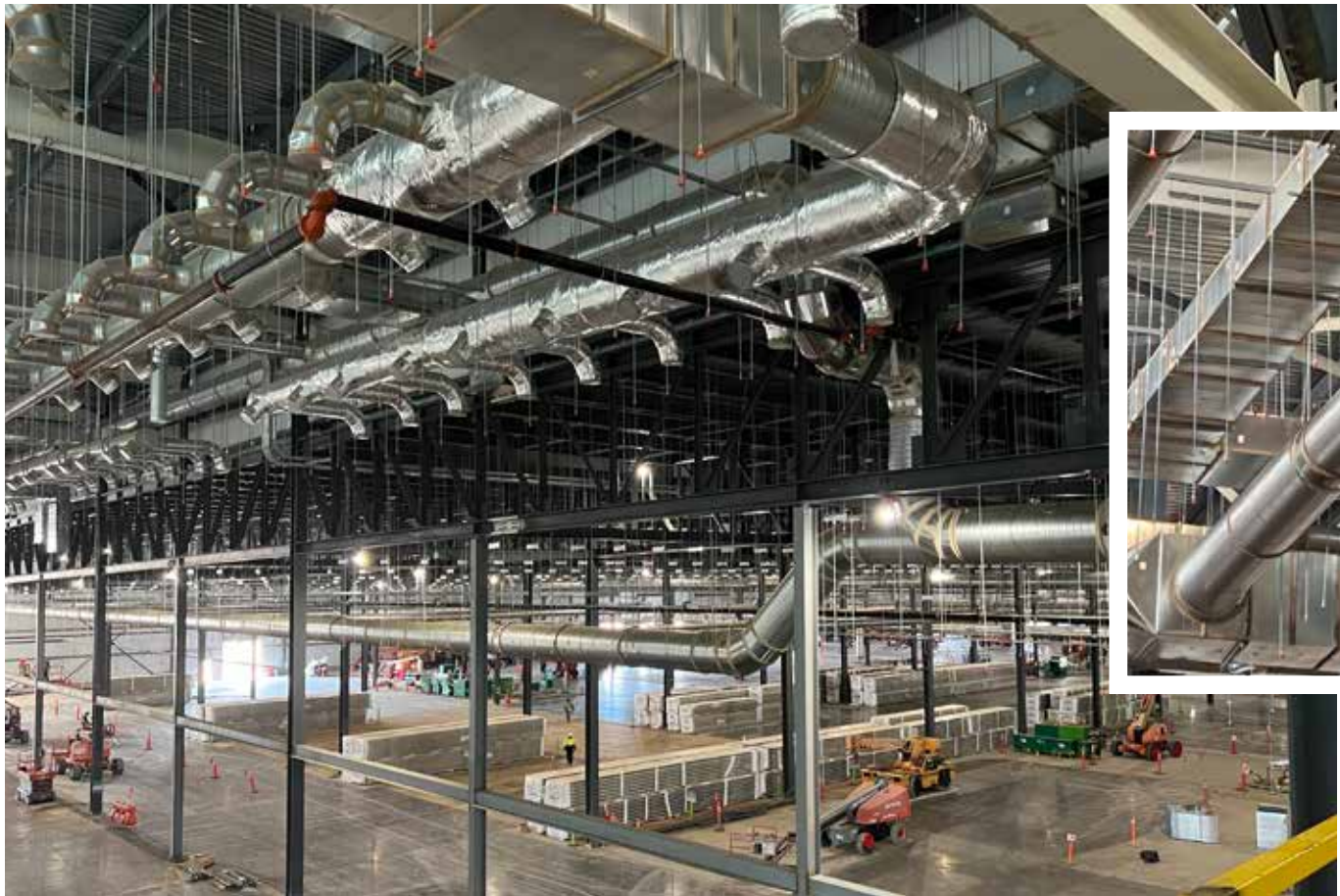
Hohler's employs about 30 people in total. "We have about 10 people in the office and 20 out in the field," Rich Hohler says. His journeymen move between the shop and the field. "If they need ductwork, they come into the shop, fabricate it and take it out to the job site themselves." Most projects are within 35 miles of the shop, so travel time is not a problem. "We don't have a lot of traffic in our small community, so it's very practical to drive around."

The biggest challenge when working on a project of this scale is working alongside so many other contractors. Success depends on making sure communication is being properly voiced and that all

HOHLER'S INSTALLED FIVE ROOFTOP HVAC UNITS THAT TOTAL 60 TONS OF COOLING, EIGHT SPLIT SYSTEMS THAT PROVIDE 25 TONS OF COOLING AND THREE DUCTLESS MINI SPLITS FOR ANOTHER 4 TONS OF COOLING.

contractors are up to speed with where the project is at. "Waiting for others to finish up their portion of the project can lead to some tough situations for all," Richard Hohler says. Hohler's coordinates work with other trades at weekly job meetings, and the owner of the general contractor was on site every day to assist all trades.

Hohler's was awarded the contract due to their long-standing relationship with the general contractor, A. V. Lake. "They have been a partner of ours for many years," Richard Hohler says. "This type of work is right in our wheelhouse and what we would call our bread and butter." ▼



Tackling One of the Largest Construction Projects in U.S. History

Pharmaceutical facility experience comes in handy during a job at an electrical vehicle battery manufacturing plant.

Ford's BlueOval SK Battery Park, one of the largest construction projects in U.S. history, is transforming a small town in Kentucky. "Glendale is about 4 miles south of Elizabethtown, Kentucky," points out Joseph Lansdell, president of Poynter Sheet Metal in Greenwood, Indiana. "It had a gas station and some people living in what they thought was a remote area. But now it's going to be an absolutely huge electrical vehicle battery manufacturing facility." Each of the two main buildings at Glendale will be about 4.5 million square feet. "Overall, there are 13 outbuildings, which

brings the facility to about 10 million square feet." Matt Cramer, president of Dee Cramer Inc. in Holly, Michigan, learned about the massive project in late 2021 through his long-standing relationship with Barton Malow, a Michigan general contractor. Cramer asked Poynter to consider handling the project as a joint venture. After an interview process, Ford invited Poynter to join the team. Poynter has over 20 years of experience with automotive facilities, but their pharma resume was more important to Ford. "We've done projects for Tesla down in Austin and worked with GM in Tennessee, but this is a battery-producing factory," Lansdell says. "A battery requires a super

On this project, Poynter used roughly 250 tradespeople onsite, and the project will total several hundred thousand shop work hours.



field, we have a full office staff with their own comptroller, payroll clerks, accounts payable, accounts receivable, project managers, project engineers and safety staff,” Lansdell says. “We’ve treated it like its own company. We have college-age students working in our project engineering and project management staff, and we took key people out of our office in Louisville, Kentucky, which is about 50 miles north of Glendale.” Brian Neal, Poynter’s executive vice president, oversees the facility.

Each of the twin production plants is almost a mile long, so the sheer scale is the biggest challenge. “There’s over four million pounds of ductwork per building,” Lansdell says. “We are fabricating 100 percent of that in our 160,000-square-foot shop.” The shop’s day shift

“A BATTERY REQUIRES A SUPER CLEAN, SUPER DRY ENVIRONMENT. IT LOOKS LIKE A CLEANROOM WE WOULD DO FOR A PHARMACEUTICAL FACILITY.” —JOSEPH LANSDELL

clean, super dry environment. It looks like a cleanroom we would do for a pharmaceutical facility.”

As they worked through the planning process, Cramer encouraged Poynter to take the lead in Kentucky. “I told him we will provide whatever pre-con and upfront support in design and estimating they need, so that’s how we did it,” Cramer says. “Poynter’s doing an incredible job.”

Poynter and Cramer worked with the owner and designers throughout 2022. “We put in several estimates to build the price and budget with the owner,” Lansdell says. “If you weren’t in Michigan, you were in Zoom meetings that went four and five hours long. Probably the biggest input we had was in the schedule detail.” Poynter recommended changes in the way the job flowed to match sequences. “We also went through estimates in front of Ford’s people and an audit team. With that level of trust from the owner, we had to expose everything line by line to explain and support what we meant by our estimate.”

Poynter uses products like Autodesk’s Revit and CADmep to draw and plan the work. “CADmep is tied to our estimate, to our detailing, and to our productivity in the shop,” Lansdell says. “We use Bluebeam, we track 100 percent of our installations using virtual tracking and we have tablet technology in the field.”

Poynter mobilized to the site in the fourth quarter of 2022 and started installation that December. “In the

has grown to 120 people, with a smaller night shift of 30 to 40 people. “We have three lasers dedicated just to ventilation cutting.” They are purchasing some items, like 16,000 round elbows.

Poynter is responsible for setting all air-handling equipment, a huge commitment with 32 coater oven air-handling units, 128 building air-handling units, 90 direct-heating units, and 384 fans. The project will bring Poynter several hundred thousand shop work hours, several hundred thousand field work hours and 50,000 to 60,000 hours of detailing time.

Poynter has about 250 tradespeople onsite. “We’ve had good success recruiting as far away as Bowling Green,” Lansdell says. “Because we’ve onboarded new workers, we set up classes onsite to teach simple skills like how to seal the network properly. It’s really helped our quality.”

Attendance has been a surprise challenge. “We are working six days a week and 10 hours a day on BlueOval, and we have other jobs going at the same time,” Lansdell says. “We have several workers who travel 50 miles to work each day and then go home. Working six 10s for an extended period really wears on people, so that’s been a nuance we didn’t think about when we started. We’ve had to plan for a certain level of absenteeism, especially for the workers who are traveling.” ▼



Choose Your Social Media Platforms Wisely

Ready to add social media to your marketing strategy?
Target the platforms that fit your business needs for best results.

Social media management benefits can go far beyond raising brand awareness and staying current on the latest HVAC industry trends.

Social channels can be the keys to building more personal connections with target audiences, building brand trust and loyalty, according to Lauren Wattie, vice president, Vault Communications.

In the July/August issue of *SMACNews*, Wattie shared the benefits of using social media and suggested questions to ask yourself to get started with these platforms.

Sure, you may want to try using social media more in your marketing efforts, but figuring out which channels to use and where to focus your limited time can be challenging. Here, we're breaking down each of the top social media platforms to help you decide where to target your dollars and maximize your marketing efforts.

FACEBOOK

Facebook is a great platform for building overall awareness for your business and cultivating new audiences. It also acts as an extension of your website because you can include

company and contact information, as well as share business updates, promotions and recent projects and communicate with customers via messages and comments.

To maximize your presence on Facebook:

- Include photos, videos, links and general information.
- Keep post copy short.
- Always include a visual.
- Watch Messenger comments; use it as a customer service platform. Response time is public.
- Consider budgeting dollars to boost posts to reach a wider audience, increase business visibility, improve visibility on best posts, tap into detailed targeting options and drive more people to your website. While you can boost a post for as little as \$1 per day, Wattie's daily budget recommendation is \$10 to \$50, and monthly is \$250 to \$1,500.

INSTAGRAM

Instagram has a younger, millennial audience that seeks highly visual and authentic content. "This platform is great for brand awareness and gives you a chance to be creative

when interacting with current and potential customers,” Wattie says. Lifestyle content thrives in this space.

To maximize your presence on Instagram:

- Don’t be afraid to use longer captions but include the important details in the first three to four lines.
- Use a strong visual approach.
- Balance photography with custom graphics to increase posting frequency.
- Stay top-of-mind with current and potential customers with real-time stories.
- Use relevant hashtags and tag like-minded businesses.
- Proactively engage by following relevant hashtags, commenting on related posts and following new users.

LINKEDIN

LinkedIn is a hub for professional networking and B2B communication with superior targeting capabilities. This workforce development and networking tool enables you to share job/career opportunities, post about recent projects and behind-the-scenes content ,and share longer form content on current trends or business announcements.

The platform continues to see record engagement driven by thought leadership. Users are actively looking to educate themselves and stay up-to-date on industry news.

Opportunity exists for executives to lean into their own content strategy as a supplement to a strong company page strategy.

To maximize your presence on LinkedIn:

- Offer something unique.
- Write and engage consistently.
- Build relationships beyond likes.
- Remember that LinkedIn is more than just a recruitment platform; balance corporate content with posts that share professional development tips and tune into trending topics for content inspiration.
- Use hashtags and tag relevant accounts for visibility.
- Turn employees into brand advocates by defining a social media policy, training employees on how to use the platform and encouraging employees to create content.

When & How Often to Post

Platform	Best Days & Times to Post	How Often to Post
Facebook	Tuesday – Friday, 3 p.m. or 8 a.m. to 12 p.m.	1 – 2 posts/day
LinkedIn	Tuesday – Thursday, 8 a.m. to 1 p.m.	1 – 2 posts/day
Instagram	Tuesday – Friday, 10 a.m. to 1 p.m.	2 – 3 posts/week
X	Monday – Wednesday, Friday – Saturday, 9 a.m.	1 – 2 posts/day
TikTok	Tuesday – Thursday, 1 to 3 p.m.	3 – 5 posts/week

Source: Hootsuite

TIKTOK

TikTok is the fastest growing social network today. Users share niche video content that is served up through a strong platform. “Any video can organically ‘go viral’ no matter how many followers you have,” Wattie says.

The audience demographics skews young but is growing among older millennials. In 2021, nearly 70 percent of users were between 10 and 39 years old.

This platform is ideal for organic brand awareness growth, giving you a chance to be creative and reach a younger audience.

To maximize your presence on TikTok:

- Only use vertical videos.
- Use sounds and hashtags.
- Regularly engage with other users and content in the comments section to increase discoverability.

CONSISTENCY IS THE NAME OF THE GAME

Once you decide which platforms to target your attention, layout a posting plan.

When posting content on social media, aim for consistency over frequency, Wattie suggests.

Also focus on quality over quantity. To do this correctly, ask yourself the following questions before you post:

- What’s the point of this content?
- How does this relate to our brand and message?
- What are users learning from this?
- Is this interesting and will people enjoy this content?

In the next issue, we’ll talk about the power of using videos on social media, as well as tips on branding, engaging with customers and driving business reviews. ▼

How to Build Your Social Media Presence

What’s Your Goal?	What’s Your Platform?	What Are You Posting?
Connect with customers	Facebook + Instagram + TikTok	Info on services you provide, recent projects, positive reviews, comment engagement
Build your workforce	LinkedIn	Job openings, company culture and events, behind-the-scenes content
Grow your business	Facebook + LinkedIn	Business updates and announcements, recent projects and case studies
Boost your reputation	Facebook + Instagram + TikTok	Positive reviews, details on projects, humanizing content





COVER STORY

A Trailblazer & Teacher

Lisa Davis is the first woman administrator of the National Energy Management Institute and a voice for mentorship, opportunity and inclusion.

"How does it work?"

Lisa Davis never stops asking this question. "I'm a systems sort of person, interested in how one thing affects another," relates Davis, who was named administrator of the National Energy Management Institute (NEMI) in April. She is the first woman to hold this position.

Back in 2008, when she Googled, "What can women do in the trades?" she initially thought: "Am I even allowed in the trades as a woman?" she says.

But a construction career pre-apprenticeship popped up with the Oregon Tradeswomen. The group was offering a program packed with experiences that included learning construction math, working on job sites building homes for Habitat for Humanity, touring contracting businesses and visiting union halls.

Immediately, Davis was hooked — specifically, with the idea of working with metal and machining. "To be perfectly honest, at the time, I had been a mechanic for motorcycles and wanted to start fabricating my own gas tanks," she says, quickly adding, "That is not at all what the sheet metal industry is. So, I've made zero gas tanks. But I've done a whole lot more."

She helped build an oil rig that floated up the western coast to Alaska. She completed projects in the hospitality industry, high-tech sector, hospitals and healthcare facilities with her first job at General Sheet Metal in Portland under mentor/owner Carol Duncan.

“SOME OF MY BEST MOMENTS HAVE BEEN THE COACHING ASPECT OF TEACHING. IN FACT, HANDS-ON MECHANICAL SERVICE AND TEACHING ARE MY TOP TWO GREATEST LOVES.” — LISA DAVIS



Aside from a curious nature to find out how things work throughout her career, another question Davis never stopped asking is, “Why not?”

Why can’t we open doors for all people to pursue trades careers and “give everyone the opportunity to bring their authentic selves to work?”

How can we be more intentional with cultivating mentorship programs that incorporate trades skills and life skills? “Some of my best moments have been the coaching aspect of teaching,” says Davis, whose most recent position before NEMI was serving as a testing, adjusting and balancing (TAB) service specialist and director of retention and recruiting for the Industrial Training Institute (ITI).

Now at NEMI, following a thorough strategic planning process for the fund, Davis says, “We are one of the best-kept secrets.”

“Definitely, our No. 1 goal is to give more clarification and messaging about who we are, what we provide and the value we can offer.”

CONNECTING THE DOTS

Davis dials back to when she discovered the trades, calling her journey from medical school to labor union a “meandering story.” However, the path is entirely intentional and interconnected, with stops along the way that integrate hands-on skills, a knack for sharing knowledge, a love of learning and a passion for mentorship. In fact, hands-on mechanical service and teaching

“are my top two greatest loves of all time,” Davis says, explaining how she “woke up one day” while studying medicine to become a physician and thought, “I don’t think I want to do this today.” The next day, she had the same feeling: “I don’t want to do this today either.”

Then a bigger wakeup call: “I better get a job.”

She ended up working as a mechanic in a bowling alley. That was after two years as a perfusion assistant at Oregon Health and Science University in Portland, monitoring medical equipment that keeps patients’ hearts and lungs functioning during surgeries. Naturally diving into the mechanics, Davis explains, “There are a series of four pumps that puts a person on bypass during open-heart surgery.”

“As a how-things-work person, I’m looking at the human body as a series of levers and pulleys,” she continues. “We have a pump and filters and an electrical system. We have all of these inherent systems, so teaching anatomy from that standpoint — as a mechanical system — was fascinating to me.”

It’s no surprise that prior to a grueling job essentially sustaining patients on life support, Davis taught gross anatomy in a morgue for pre-med students at the University of California at Davis. She completed a bachelor’s degree in microbiology there.

Davis taught rock climbing as well.

Arguably, she has been climbing a big rock called gender equality in the trades for 15 years.

“From a rock-climbing perspective, how do we implement our anatomy to our advantage?” she relates. “How do we exploit that to get to the top of the rock wall or mountain?”

Her climb began when she realized the bowling alley was a dead-end job, yet she wanted to pursue a satisfying, hands-on career. She landed on the Oregon Tradeswomen pre-ap-

apprenticeship program, and the group later provided Davis with a grant to take a machining class. In 2010, she was accepted into a sheet metal workers apprenticeship program at SMART Local 16 of Oregon and Southwest Washington. Growing experience at General Sheet Metal, she was exposed to architectural work — and service, a division she helped grow.

“It was my jam,” she says of fire damper work, light commercial service and rebuilding fans.

Davis’s inquisitive nature and tireless work ethic fast-tracked her industry career. She helped create General Sheet Metal’s service apprenticeship and was recruited by SMART Local 16 full-time to do the same.

“Seeing the deep impact I could make at a local level, I then had an opportunity to have a broader impact over all of the locals and to touch different instructors, who in turn, had deep impacts at their locals,” Davis says of moving to the International Training Institute (ITI) as an apprenticeship program instructor. She eventually became its director.

Essentially, Davis was teaching the teachers.

Davis reflects on her mentors. “None of this work is done in a vacuum,” she relates.

One of the many is Connie Ashbrook, who helped found Oregon Tradeswomen. “She has followed my career every step of the way and is an incredible advocate,” she says.

And another influence and support, Connie Duncan, serves with Davis on the Belonging and Excellence for All (BE4ALL) sub-committee, Pedal to the Metal, which focuses on recruiting and apprenticeship standards.

Launched in 2021, BE4ALL is a joint effort of SMACNA, SMART (International Association of Sheet Metal, Air, Rail and Transportation Workers) and ITI designed to elevate the work culture to attract and retain skilled talent regardless of race, gender, religion, sexual orientation, ethnicity or nationality.

Basically, it’s a movement to

“come one, come all” — an open invitation to the industry table.

The message speaks to Davis, who says throughout her career, “I have been able to incorporate my full self. We all have our own life experiences, we are all sheet metal workers and we are all in this industry striving for the same goals.”

Still, Davis is in a unique position as a woman leader in the trades. “There is this internalized conditioning that, at least for myself, we have this feeling that we have to prove ourselves on every job, in every position,” she relates. “We have to prove we know what we are doing.”

Davis adds, “An unsaid rhetoric of, ‘You’re really good for a woman,’” is fading somewhat with efforts like the SMART International Women’s Committee, where she is a policy sub-committee chair focused on recruiting, retention, community relationships and inclusion. Throughout her career, Davis says she has been surrounded by encouraging, inspiring leaders and colleagues.

“Lisa has had the words ‘first woman’ attached to her name a lot over the past several years,” says Dan McCallum, executive director of the Funds, in a report about her rise to NEMI administrator. In a statement to *Air Conditioning, Heating, Refrigeration (ACHR) News*, he adds, “She was the most qualified candidate for the job.”

ADVANCING THE INDUSTRY

Davis is on a lifelong quest to learn and teach. When the administrator position opened at NEMI, she again asked, “Why not?”

As a fund that offers education and training, including developing industry-recognized certifications and reviewing legislative efforts, Davis’s experience paved an inroad to the role. “There are a lot of education and resources we have to offer,” she says, planning to grow the menu.

For instance, NEMI partners with Mesa, Arizona-based Evergreen Telemetry, a TAB

instrument manufacturer. Evergreen is creating get-started TAB kits for contractors who want to explore this work and the indoor air quality sector.

“Evergreen has been generous with our Local Joint Apprenticeship Training Committees (JATC) and training centers, donating about \$15,000 in instruments each month,” she says, adding that the company also trains centers to properly use the instruments.

The idea is a SMACNA contractor can connect with Evergreen, request a TAB kit coordinated by NEMI, and access the tools they need for a discounted cost. There are also rental



“DEFINITELY, OUR NO. 1 GOAL [AT NEMI] IS TO GIVE MORE CLARIFICATION AND MESSAGING ABOUT WHO WE ARE, WHAT WE PROVIDE AND THE VALUE WE CAN OFFER.” — LISA DAVIS



and rent-to-own options, Davis says. “That is just one initiative we launched this month.”

She adds, “I’m looking forward to furthering the scope of TAB, particularly when it comes to being certified by the International Certification Board (ICB). We already got TAB into the U.S. General Services Administration (GSA) specs, which is a huge step.”

Davis says NEMI is pursuing efforts to get TAB into U.S. Department of Defense (DoD) specs and others “so TAB is more widely recognized and celebrated.”

A strategic effort to refine NEMI’s messaging to the market will build awareness. “We have an alphabet soup of acronyms in our corner of the

world,” Davis acknowledges of outreach efforts. “We can assist with seeking legislation opportunities to pursue new work. We can perform awareness.”

Also on the horizon is the 2024 ICB conference in St. Louis, Missouri, which will include a range of training and certification opportunities, including a business track. “Speakers will give



seminars on all different aspects of the industry,” Davis says, a consistent advocate for education and skills acquisition.

Ultimately, her goal — in simplified terms — is to inspire more people from all walks of life to explore “how things work” in the construction and sheet metal trades, much like she did. “And I never looked back,” Davis says. ▼

Everyone Is Invited — BE4ALL

Forget the quotas. No more arbitrary demands. The purpose of Belonging and Excellence for All (BE4ALL) is to meet real-world demands for the best, most qualified workforce available for the industry. That requires recruiting outside the box and building public awareness for the rewarding career opportunities individuals can achieve in the sheet metal industry and related trades.

Access an array of learning journeys, podcasts and workplace tools at smacna.org/about/about-smacna/be-4-all, including a BE4ALL calendar with important holidays and observances for different cultures and faiths. The industry is ever-evolving — plug into what matters to your people to build a stronger workforce culture.

“The calendar includes QR codes you can scan to learn more about the holidays, and really inclusive dates,” says Lisa Davis, administrator, NEMI.

Exciting projects launch from the learning journeys, she adds.

For example, BE4ALL introduced bathroom kits that included items such as feminine hygiene products that were mailed to Joint Apprenticeship Training Committees (JATC). This followed a guide, *The Importance of Providing Access to Menstrual Products for your Employees*.

“The kits went to training centers,”

Davis says, adding that information on how and why to incorporate the material in contractors’ businesses is included.

Bi-monthly Toolbox Talks focus on topics including increasing worker productivity, reducing bullying and harassment on job sites and promoting solidarity among members. Learning Journeys cover topics including mental health awareness, addiction and recovery, Pride month and other diversity topics.

BE4ALL emphasizes that belonging is different than diversity and inclusion. It goes deeper. Everyone can bring their full, authentic self to a table we set together with a mind of transforming the industry, so it stays relevant and competitive. Davis says, “It’s an incredible, multi-organizational initiative to get everyone on the same page about creating workplaces where everyone is welcome.”





SMACNA's Stan Kolbe talking Davis-Bacon and apprenticeship with Tim Ryan, a prevailing wage champion and former congressman (D-OH), at the Cleveland area Joint Apprenticeship Training Center (JATC).



FEATURE STORY

A Milestone Coup for Contractors

The Davis-Bacon Act final rule is a win for SMACNA members and quality-driven contractors bidding on federal and public works projects.

He's been a Capitol Hill construction industry representative for over three decades. But SMACNA's Stan Kolbe never thought he'd see this day, let alone the masterfully written "beyond a home run" outcome of a long legislative battle.

On Aug. 23, the Department of Labor (DOL) issued a final rule to restore the New Deal Davis-Bacon Act prevailing wage law. In the 1980s, it was stripped of its original intent to set minimum labor standards for workers on federal construction job sites.

Now, with the updated, SMACNA-supported rule — a level-setting move that closes wage gaps between private and union contractors — members can more effectively compete for a pipeline of billions of federal dollars flooding into infrastructural and clean energy projects.

“Thousands of letters, thousands of meetings, visiting not only every state capital but city halls and, obviously, Congress,” Kolbe recounts a career-long effort as SMACNA’s executive director of government and political affairs. His involvement in Davis-Bacon reform began even before joining SMACNA in the mid-1980s while serving at the American Institute of Architects.

“It became a huge issue because of the changes, especially with prevailing wage, that made SMACNA members and other

over the years, it was amended and essentially hacked, depending on which side of the party line you ask.

“The history of the act and its regulations was to have a fair impact when the federal government built in an area as opposed to the idea that, ‘We are the biggest project you’ll ever have and we want to pay you half,’” Kolbe says, breaking down the longtime prevailing wage dispute.

The long-needed reforms updating and modernizing the

undercutting skilled labor contractors, a practice the act had not adequately enforced that was causing SMACNA members and other quality-driven contractors from competing for public works projects.

The final rule will also boost registered apprenticeship and skilled industry recruitment in an environment of labor shortages. “The prevailing wage is critical for the growth of the industry,” says Jason Watson, SMACNA’s executive director of labor relations.

If the final rule and Davis-Bacon’s history of edits seem convoluted, you’re not alone. The act is complex. The final rule is more than 700 pages long. Let’s break it down. Here’s what you really need to know.

THE LONG-NEEDED REFORMS UPDATING AND MODERNIZING THE DAVIS-BACON ACT BENEFIT EVERY CONTRACTOR AND WORKER.

union contractors victims,” Kolbe says of the federal bid table.

When Davis-Bacon was put into play in 1931 under the Hoover Administration, its purpose was to prevent falling wages and unfair labor conditions on federally funded contracts in excess of \$2,000. But

Davis-Bacon Act benefit every contractor and worker. “It’s a contractor law,” Kolbe emphasizes. “It deals with a wide range of upgrades that are long overdue and that we have supported.”

Ultimately, the prevailing wage laws within Davis-Bacon will prevent low bidders from

DAVIS-BACON, BEFORE & AFTER

There are a few predominant components of the Davis-Bacon final rule, which went into effect officially on Oct. 23 — 60 days after the DOL’s August adoption.

- A modern, fair update to the formula used to determine prevailing wages.
- Enforcement options to penalize employers for retaliation.
- Area boundaries for surveying to figure out the prevailing wage.

There is a heavy stack of additional upgrades, but let’s explain the primary changes before — or as the existing Davis-Bacon Act works — and after Oct. 23, when the final rule became effective.

PREVAILING WAGE DETERMINATION — THE PRICE THEY PAY

Before: A two-step process involves identifying if there is a single wage rate paid to more than 50 percent of workers in a classification. If not, the wage is based on a weighted average of all wage rates paid in the classification. The problem with this system for SMACNA members and quality-driven contractors is wage surveys were performed, and if more than half



Jessica Looman, principal deputy administrator, Wage and Hour Division, U.S. Department of Labor (above, page 20)

of contractors in the area paid a lower amount than, say, union contractors, those signatory trades professionals would have to accept a lesser rate.

“Say we go into an area and surveys are done, and the union rate is \$60 per hour, but the non-union rate is \$30 per hour — but more non-union contractors turn out for the survey,” Watson explains. “Then, that lower rate becomes the prevailing wage.”

Basically, apprentice-registered and signatory contractors are at a disadvantage, having to either accept a much lower wage for workers if they want to pursue a high-dollar public works project—or lose the opportunity to an area competitor whose operating costs might be much less because of below-standard wages, benefits and training.

After: Now, there’s a three-step process for prevailing wage determination, and SMACNA members will benefit. The final rule reverts to the pre-1982 method, honoring the original pro-labor protection of fair wages and opportunity. If more than 50 percent of wage rates in a classification are the same, that is the prevailing wage. If not, the wage rate earned by the most workers — as long as at least 30 percent earn the rate — is the prevailing wage. If no wage rate is earned by at least 30 percent of workers, a weighted average will determine the rate.

What does this really mean?

“The restoration of the 30 percent rule for determining prevailing wage if there is no majority wage rate helps contractors be more competitive,” Watson says. “SMACNA believes that by returning to the 30 percent rule, more union contractors will be able to bid on federal contracts, and it will help correct the wage rates on federal work.”

WAGE TRANSPARENCY — SHOW US THE NUMBERS

Before: If a skilled worker discovered an employer was working the system, claiming to pay a

given prevailing wage rate while undercutting the worker, there were no Davis-Bacon retaliation provisions to back the laborer.

“We have had cases where a worker finds out later that he was supposed to get \$27 per hour; the employer billed the government for \$27 per hour but paid the worker \$15,” Kolbe says. “When some cases across the country had wire taps in major cities, they picked up, ‘The easiest way to make money is to cheat on Davis-Bacon.’”

After: The final rule adds anti-retaliation provisions, including whole relief and remedial actions. If workers claim they have been cheated out of an ap-



propriate wage, then he or she can now retaliate effectively for fairness. “Now, we want those wage rates posted,” Kolbe says. No more cheating.

COVERING MORE AREA — GEOGRAPHIC FAIRNESS

Before: Unions aren’t necessarily strong in rural areas, so in the existing act, data from metropolitan and rural data could not be combined to determine the prevailing wage rate. “It would be harder to prevail with the union wage,” Watson says.

After: The final rule adds alternatives for defining “area.” Specifically, if a project will span

multiple counties, all of those counties’ data is combined into a single wage rate per classification. “With the new rule, there is broader authority provided to adopt state or local wage determinations when certain criteria are not met,” Watson says.

A CONSTRUCTION LAW

At its heart, the Davis-Bacon Act is not union legislation, despite what critics of the labor law believe. It supports employers with registered apprenticeship tradespeople, upholds higher standards for workmanship by ensuring fair pay, and attracts quality-driven

TOP: SMACNA’s Stan Kolbe with former U.S. Secretary of Labor Marty Walsh discussing prevailing wages and apprenticeships. BOTTOM: Long Island SMACNA members talk Davis-Bacon with Rep. Andrew Garbarino (R-NY).



BELOW: SMACNA legislative committee member Dominic Bonitatis of Philadelphia with Davis-Bacon Act reform champions Reps Don Norcross (D-NJ) and Brian Fitzpatrick (R-PA).



AS KOLBE SAYS, IT'S COMMONSENSE CONTRACTOR LAW THAT BENEFITS ETHICAL EMPLOYERS OF SKILLED LABOR.

contractors to essential federal infrastructure projects.

"The issue we brought up to the government is if you want skilled workers to build federal projects and not do more lucrative, higher-paying private projects, you have to at least meet them with the average skilled labor wage, or they will not bid the work," Kolbe says. "And if not, what kind of skillset are you getting on those federal projects? Or the projects will be delayed."

As Kolbe says, it's commonsense contractor law that benefits ethical employers of skilled labor.

Now, prevailing wage is "simpler and enforceable," Kolbe says. "Those are two things we really like."

SMACNA contractors and executives have been strong, outspoken advocates for Davis-Bacon reform. It will support contractors who pay prevailing

wages and boost registered apprenticeship investments. It will support quality-driven contractors, union or not, who value trades craftsmanship and should not have to sacrifice the health of their businesses to compete for federal contracts. And it will elevate the outcomes of public works projects by attracting reputable contractors like SMACNA members to the bidding table.

"The DOL took most of our recommendations and common-sense suggestions," Kolbe says. "We commented on the draft rule — and it is beyond a home run. It regulates contractors. They have to verify the apprenticeship training program credentials of the workforce. They have to prove they are

meeting the restrictions and guidelines of the prevailing wage law. And contractors are selected on how Davis-Bacon is implemented. There are regulations that protect contractors related to surveying and change orders."

Overall, the final rule is more responsive and relevant, promoting the growth of an in-demand skilled workforce to fulfill the upcoming years' federal investments amounting in billions (and counting).

"This is a monumental shift and potentially a game-changer for SMACNA members, for those already doing federal work," Watson says. "And for those who are not, it's an opportunity to jump into the market." ▼



SMACNA Endorses the IRS Tax Credit Direct Pay Rules & a SMACNA Issue Scorecard

The Inflation Reduction Act of 2022 (IRA), Public Law 117-169, not only introduced a range of new and enhanced clean energy-related tax credits, but also created two new ways for taxpayers and tax-exempt entities to monetize these credits.

- Under Section 6417, tax-exempt and government entities (and for certain credits, taxable entities) can elect to receive tax credits as refundable direct payments.
- Under Section 6418, non-tax-exempt taxpayers can elect to transfer all or a portion of tax credits to unrelated parties for cash.

SMACNA supports the IRA, including the Direct Pay Provision (Section 6417) and Transferability Provision (Section 6418).

Before the IRA, it was not possible to monetize federal tax credits generated by renewable energy projects outside of tax equity financing structures. The intent behind the transferability and direct pay provisions is that they will allow for new investors to enter the market. This will allow for more stakeholders to use the credits to finance a greater variety of facilities more quickly and affordably.

SMACNA supports an expansive definition of “applicable entity,” including both private non-profit entities and public entities, including: school districts, public utility districts, and special purpose entities established by governments (such as joint action agencies, economic development corporations, and joint powers authorities).

SMACNA supports clear and transparent standards to ensure a robust market for clean energy tax credits.

SMACNA endorses that the applicable tax credit and any eligible bonus credit amounts (e.g., for prevailing wage and apprenticeship, domestic content, and energy and low-income communities) are eligible for direct payment.

SMACNA argues that the final rule should make clear that there will be no waiver for labor standards, including prevailing wage and apprenticeship standards.

SMACNA ISSUE SCORECARD

As of mid-October, SMACNA advocates for the following member priorities:

- **Independent Contractor Regulatory Reform** – Draft Regulatory Comment Filed/support construction reforms in current draft process at DOL. Awaiting release of reformed IC rules.
- **Endorse Extension of R&D Tax Credit AND Section 179** Bonus Equipment Depreciation provisions (S. 866/H.R. 2673)
- **Promote Change Order Reform/Small Business Payment for Performance Act** – Leading to endorse change order reform (H.R. 2726) bill to provide payment on approval for half of change order amount, expedited resolution of the remainder once certified.
- **Substance Abuse Program Funding and Research** - (S. 1359/S. 644) would increase access to care for people experiencing opioid use disorder by reforming outdated rules for the prescription and dispensing effective medications.
- **Defend PLAs / Davis-Bacon Act** – Oppose (H.R. 1390/H.R. 720/S. 537) repealing both laws.
- **Defend the IRA and CHIPS and Science Act 1.0 (Support 2.0)** tax incentives for private construction/public projects.
- **Defend Continued Funding of School Construction / IAQ** - Programs included in the American Rescue Plan intended for 4 years of retrofits as well as new programs in the infrastructure and reconciliation package. **179d use is optional.
- **Boost Registered Apprenticeship** – Support (H.R. 2851/S. 249/H.R. 2900)

Breaking News on Davis-Bacon

After anti-labor forces howled to Congress over the newly reformed and modernized Davis-Bacon rules, some of the more extreme GOP members mobilized a draft amendment to overturn the rules. The SMACNA-endorsed reforms are now final and went into effect Oct. 23.

SMACNA friends Reps. Brian Fitzpatrick (R-PA-1) and Don Bacon (R-NE-2), as well as other SMACNA prevailing wage issue champions on the House side, drafted a letter to Acting Sec. of Labor Julie Su in strong and unequivocal support of the recent regulatory updates to the Davis-Bacon and Related Act (DBRA).

Initially, the letter intentionally included only leading House Republican names to show repeal leaders they were outflanked and the effort could not succeed. SMACNA and its allies worked to expand the number of House GOP prevailing wage advocates on the letter to show support to the House and Senate that these rules are final.

The signers commended the Department of Labor on the updates to the final rule to the Davis-Bacon and Related Acts (DBRA). With this being the first comprehensive review in four decades, these updates will protect worker wages and ensure workers on federally supported construction projects are not left behind.

funds for construction industry workforce development programs in DOL Appropriations, Infrastructure Act, Rescue Plan and reconciliation package/ Apprenticeship Act and Hubs Act.

- **Advocate for The SAFE Banking Act** – Bills H.R. 2891/S. 1323) would provide access to the federal banking system for cannabis-related industry payments.
- **Support Nuclear Energy Financing, Licensing and Advanced Technology Act** – S. 1111, Accelerating Deployment of Versatile, Advanced Nuclear for Clean Energy (ADVANCE) Act of 2023. It also directs the Nuclear Regulatory Commission to create a pathway for conventional energy source sites to be repurposed and used to boost the deployment of the next generation of nuclear reactors. ▼



BELONGING

Dushaw Hockett

5 Reasons Why Belonging Matters

BE4ALL (Belonging and Excellence for All) launched in December 2021. The initiative envisions a diverse, inclusive and unionized sheet metal industry that is welcoming and fosters belonging for all. This work includes a human side — where individuals take pride in the work they do and value the contributions. It also includes a business side, where workers and contractors work together to achieve the highest standards of performance and excellence in their technical skills and crafts.

When SMACNA, SMART and ITI (International Training Institute) launched BE4ALL, they wanted the effort to be more than just words on a piece of paper. It was important that the initiative be backed by research and best practices. Here are five reasons why this work is important.

1. SENSE OF BELONGING

Employees who feel a strong sense of belonging in the workplace work harder, are more productive, stay longer at their job and come into work more often. An article called “The Value of Belonging at Work” from the *Harvard Business Review* cites research that showed that when employees felt a strong sense of belonging there was:

- 56% increase in job performance
- 50% drop in turnover risk
- 75% reduction in sick days

2. FINANCIAL INCENTIVES

That same article says for a 10,000-person company, this would result in an annual savings of \$52 million. Employees with a strong sense of belonging also saw a 167 percent increase in their willingness to recommend their company to others and received more raises and promotions.

3. ATTRACT AND RETAIN TALENT

An article in the *Wall Street Journal* titled “The Business Case for More Diversity” reported on research conducted with companies in the S&P 500 index, looking at the age and ethnicity of each company’s workforce, the percentage of women in leadership roles, whether the company has diversity and inclusion programs in place for employees and the makeup of the board. The research showed that the 20 most diverse firms were able to attract and retain talent and were more financially successful.

The article quotes David Taylor, CEO, president and chairman of Procter & Gamble Co. who said: “A diverse team supported by an inclusive environment that values each individual will outperform a homogenous team every time.”



EMPLOYEES WHO FEEL A STRONG SENSE OF BELONGING IN THE WORKPLACE WORK HARDER, ARE MORE PRODUCTIVE, STAY LONGER AT THEIR JOB AND COME INTO WORK MORE OFTEN.

4. DIVERSE LEADERSHIP LEADS TO INNOVATION & IMPROVED FINANCIAL PERFORMANCE

A 2018 study by Boston Consulting Group (BCG) suggests that increasing the diversity of leadership teams leads to greater innovation and improved financial performance. People who come from different backgrounds and life experiences bring different solutions to the same problem, increasing the odds that one will be successful.

The BCG study reports that companies with above-average diversity on their management teams also reported innovation revenue that was 19 percentage points higher than that of companies with below-average leadership diversity (45 percent of total revenue versus 25 percent).

5. WORKPLACE PERFORMANCE AND CULTURE

The business case for diversity in the workplace is strong:

- Ability to attract a talented workforce
- Reach a wider, more diverse audience
- Increase creativity and innovation
- Better decision making and problem solving
- Greater cultural and language competencies
- Save money on recruitment and training
- Lower turnover rate
- Lower rate of absent workers
- Lower rate of discrimination lawsuits ▼

For more information about BE4ALL, please contact Jen Squirewell at jsquirewell@smacna.org.



FINANCIAL STEWARDSHIP

Ronald J. Eagar

Budget & Forecast Your Way to a Profitable 2024

Because private companies don't face the same scrutiny and reporting requirements as their public counterparts, the budgeting and forecasting process is often overlooked or underutilized by many construction companies.

But, in reality, a strong financial budget and cash flow forecast should be the backbone of every decision your company makes.

For fewer budgetary surprises in 2024, follow these steps to a well-executed cash flow budgeting and forecasting process.

PLANNING YOUR BUDGET

Budgeting starts with planning.

The most commonly used situational analysis is SWOT, which helps business leaders evaluate **s**trengths, **w**eaknesses, **o**pportunities and **t**hreats in relation to the company's overall objectives. This can help you determine how to allocate resources, what budget items to prioritize, where to look for risks, and budgeting best practices.

It is important that your budget planning also includes a competitive market analysis. Construction advisory firms like Grassi can provide benchmarking reports that compare your company's key performance indicators (KPIs) to that of its peers and identify improvements. Look at what competitors are doing in terms of layoffs, consolidations and other headline-making developments — there may be lessons to learn and opportunities to seize.

FORECASTING CASH FLOW

A contractor's budget should cover 18 to 24 months and be paired with a fluid, cash flow model that projects 6 to 12 months of cash flow and is continually monitored throughout the year. When periods of cash constraint are identified, the contractor can take the necessary steps to identify other sources of cash or expense reduction. Times of surplus can be an opportunity to explore upgrades in technology, safety or other priority areas.

Various factors affect cash flow and should be evaluated as part of an effective plan. These include timely billing and collection procedures, disbursement procedures

and project scheduling. The forecast should take into account the inevitability of change orders and consider how disputes can be identified early and resolved quickly.

BUDGET METHODS

Once you have established the strategy and cash flow driving your budget, you will need to decide on the method to execute it. In top-down budgeting, senior management prepares a high-level budget based on overall company objectives, which is then passed down to managers for implementation. In bottom-up budgeting, the departments prepare budgets (based on the same company objectives), and the financial team or budget committee approves or disapproves line items.

Some companies also employ a zero-based budgeting method in their bottom-up process, whereby the departments start with a "clean slate" each year in order to ensure current priorities and goals are being addressed and necessary adjustments are being made. ▼

In particularly uncertain times, flexible budgets can be useful to plan for different scenarios. These budgets allow for adjustments as the company experiences different levels of revenue, expenses or jobs than originally expected.

COMMUNICATING THE BUDGET

Regardless of the type of budget method you choose, one crucial factor in its effectiveness is how well you communicate it to the entire company. Having buy-in from management and all levels of employees will help to ensure the budget is understood and upheld throughout the year.

Remember to reach out to your vendors, customers, lenders and other parties if you need to communicate requests for price concessions, quality improvements, delays or any other inevitable effects of the new budget. And don't forget that all-important call to your CPA to help you identify the critical KPIs and other data required to build the most reliable budget and forecast. ▼

For more information, please contact Ronald Eagar, partner at Grassi Advisors and Accountants, at reagar@grassicpas.com or 516.336.2460.



LEGAL

Grant Collins

Labor Board Issues Several Significant Decisions

Over the past month, the National Labor Relations Board (NLRB or Board) has issued several significant decisions, including expanded scrutiny of employer policies and handbooks, an expansion of what constitutes “protected concerted activity” and two new paths to unionization. The NLRB also issued a final rule that shortens the timeline for union elections. These decisions are significant departures from the Board’s existing case law, and SMACNA contractors should take note.

ASSESSING LAWFULNESS OF WORK RULES

In *Stericycle, Inc.*, 372 NLRB No. 113 (2023), the Board adopted a stricter standard for assessing whether employer work rules infringe on employees’ rights under Section 7 of the National Labor Relations Act (NLRA or Act).

Under the new standard, if a reasonable employee could conceivably interpret a rule to infringe upon Section 7 rights, then the rule is presumptively unlawful.

Under the new rule, the Board will read the rule from the perspective of an “economically dependent employee who is contemplating engaging in Section 7 activity,” rather than merely a “reasonable employee.” An employer’s intent in drafting the rule is immaterial. The Board also will review each rule on a case-by-case basis.

MORE PROTECTIONS FOR CONCERTED ACTIVITY

In *Miller Plastic Products Inc.*, 372 NLRB No. 134 (2023), the Board returned to the “totality of the circumstances” test for determining whether an employee who intends to induce group action by fellow employees engages in protected concerted activity under Section 7 of the NLRA.

In *American Federation for Children Inc.*, 372 NLRB No. 137 (2023), the Board held that concerted advocacy by employees on behalf of non-employees (e.g., former employees) is protected by Section 7 of the NLRA when the concerted action can benefit the statutory employees.

UNILATERAL CHANGES, PAST-PRACTICE DEFENSE

In *Tecnocap*, 372 NLRB No. 136 (2023), the Board held that an employer’s past practice of unilateral changes that

was developed under a management-rights clause in a collective bargaining agreement cannot authorize unilateral changes made after the agreement expires and while bargaining for a new agreement is under way.

TWO NEW PATHWAYS TO UNIONIZATION

In *Cemex Construction Materials Pacific, LLC*, 372 NLRB No. 130 (2023), the Board created a new framework for unions to seek representational status under the NLRA. The decision creates two new mechanisms for unions to represent workers via “card check” — and without conducting a secret-ballot election.

The first method is for the union to obtain “union authorization cards” from a majority of workers and demand recognition from the employer. If the employer fails to act within 14 days of the union’s demand, then the NLRB will consider the employer to have waived its right to a secret-ballot election and, if the union truly represents a majority, then the employer will have violated the NLRA by failing to bargain with the union.

The second method is if the employer commits “**any**” unfair labor practice (“ULP”) that “requires setting aside the election.” Under *Cemex*, the Board will order the employer to bargain with a union — even if the union **lost** the secret-ballot election. If the Board determines the employer committed “**any**” ULP, that invalidates the election.

“QUICKY ELECTION” RULES RETURN ON DEC. 26

On Aug. 25, the Board published a Final Rule incorporating several changes to its procedures governing union representation elections that are designed to shrink the timeline for conducting union representation elections.

The amendments include scheduling pre-election hearings 10 days sooner, limiting the types of issues that can be litigated at a pre-election hearing and eliminating the requirement that parties be permitted to file briefs following a pre-election hearing.

The NLRB’s new election rules are effective Dec. 26. ▼

Grant Collins is a specialist in labor and employment law at Felhaber Larson. Reach him at gcollins@felhaber.com.

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SMACNA CALENDAR

NOVEMBER

November 1-2

Women in Construction Summit
San Diego, CA

November 5-7

Planning Your Exit and
Business Valuation
San Diego, CA

November 6-7

Trustee Training Seminar
Rosemont, IL

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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