

ADVANCING UNION CONSTRUCTION AND MAINTENANCE

# THE CONSTRUCTION USER

A Publication of The Association of Union Constructors | [www.tauc.org](http://www.tauc.org) | Fall 2016



## *THE* BUSINESS *ISSUE*

Crafting a Strong Corporate Governance Policy p. 13

Strategies for Protecting Multiemployer Health Plans p. 17

Chemical Safety Reform: What's Next from EPA? p. 19

PR 101: Low-Cost Marketing for Small Contractors p. 21

Presorted Standard  
U.S. Postage  
PAID  
Washington, D.C.  
Permit No. 13



# TAUC 2016 State of the Union Construction Industry Forum

The Mayflower Hotel  
1127 Connecticut Avenue, NW  
Washington, D.C. 20036

Thursday, December 8, 2016

Registration is free – sign up now!

[www.tauc.org/STUC](http://www.tauc.org/STUC)



## Songer Salutes The Trades.

Sometimes what you believe in is pretty obvious. At Songer Services, we believe in safety first. Doing the job right. Being on time. Staying on budget. And using **100% Union crafts** from bottom to top on every heavy industrial contracting job. It's a simple, proven formula that's helped us make history together for nearly **50 years**.

Learn more at [songerservices.com/news/](http://songerservices.com/news/).



2755A PARK AVE, WASHINGTON, PA 15301 - PHONE: 724-884-0184 - FAX: 724-884-0185

# THE CONSTRUCTION USER

A Publication of The Association of Union Constructors | [www.tauc.org](http://www.tauc.org) | Fall 2016



The Construction User  
is published quarterly by:



The Association of Union Constructors  
1501 Lee Highway, Suite 202  
Arlington, VA 22209  
703.524.3336  
703.524.3364 - fax  
[www.tauc.org](http://www.tauc.org)

**EXECUTIVE EDITOR**  
**David Acord**  
703.628.5545  
[dacord@tauc.org](mailto:dacord@tauc.org)

**ADVERTISING REPRESENTATIVES**  
(Contact for rates and details)

**Janice Jenkins**  
Brun Media  
724-929-3550  
[jjenkins@brunmedia.com](mailto:jjenkins@brunmedia.com)

**Amy Rogers**  
Brun Media  
678-714-6775  
[arogers@brunmedia.com](mailto:arogers@brunmedia.com)

**Thomas Brun**  
Brun Media  
724-539-2404  
[tbrun@brunmedia.com](mailto:tbrun@brunmedia.com)

**ART DIRECTION & DESIGN**  
**Scott McLallen**  
Pixels & Ink, Incorporated  
[www.pixelsandink.com](http://www.pixelsandink.com)

**SUBSCRIPTIONS**  
For information about subscriptions,  
reprints, or purchasing bulk copies,  
contact Executive Editor David Acord at  
703-628-5545 or [dacord@tauc.org](mailto:dacord@tauc.org).

©2016 THE ASSOCIATION OF UNION CONSTRUCTORS.  
ALL RIGHTS RESERVED. THE CONTENTS OF  
THIS PUBLICATION MAY NOT BE REPRODUCED,  
IN WHOLE OR IN PART, WITHOUT THE PRIOR  
WRITTEN CONSENT OF THE PUBLISHER.

**COVER:**  
SHUTTERSTOCK/ORLA

## From the Desk of the President

- 6 Commitment**  
by Jake Locklear

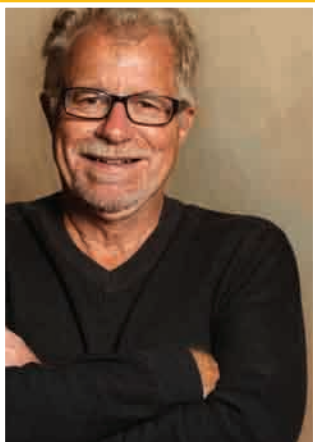
## Features

- 8 Chase the Elephant**  
by Steve Lindauer
- 10 It's Not All About Safety**  
by Mark Breslin
- 15 MassMutual, Building Trades Develop "Responsible Contractor Policy"**  
by Dan Krause, Taft-Hartley Business Development Consultant, MassMutual Workplace Solutions
- 17 The Benefits of Uniting to Form a Medical Stop Loss Captive**  
by Josh Rupli, Risk Matters, LLC (A Division of Hylant)
- 19 Are You Ready? How TSCA Reform Will Affect Many Chemicals Used In Construction**  
by Melissa McCaffrey, VelocityEHS
- 21 The 10-Minute Press Release**  
by David Acord, TAUC Director of Communications
- 29 Membership**  
*TAUC Welcomes New Governing, Affiliate Members*

## Columns

- 13 Legal Corner**  
*A Strong Corporate Governance Policy is Essential* by Steven John Fellman, TAUC General Counsel
- 24 LEO Corner**  
*Relationships Matter* by Scott Fisher
- 25 EHS Corner**  
*Best Frenemies* by Joe Lasky, Jr., CSP, CHMM
- 26 Government Affairs**  
*Composite Plans: The Time Has Come* by Todd Mustard
- 27 Industrial Relations Corner**  
*Adapting to the Speed of Change* by Jacob Snyder

# AMERICA'S #1 CONSTRUCTION ACCOUNTING SOFTWARE.



**FRED ODE**  
CEO / CHAIRMAN / FOUNDER

TRUSTED BY UNION CONTRACTORS SINCE 1990



# Commitment



by **JAKE LOCKLEAR**  
TAUC PRESIDENT  
PRESIDENT AND CEO, APM

---

***We cannot improve our industry unless we take ownership through engagement.***

---

**“Individual commitment to a group effort – that is what makes a team work, a company work, a society work and civilization work.”**

**— Vince Lombardi**

**I**N MY LAST article, I exhorted our members to get engaged. TAUC offers us multiple opportunities to engage with and influence our industry: through various committees (EHS, Industrial Relations, Government Affairs, LEO); outreach efforts to key groups like Congress; celebration of significant achievements such as the Thomas J. Reynolds Awards program (not to mention the upcoming Zero Injury Safety Awards Gala, held by our sister organization NMAPC); and venues to address customer needs at both the Leadership and State of the Union conferences. We cannot improve our industry unless we take ownership through engagement.

In addition to engagement, there is another word I ask you to consider: **commitment**. The words are actually synonyms. In fact, dictionary.com defines commitment as “the act of ... engaging oneself” or “engagement; involvement.”

Over the last six months I have pondered the word commitment a lot. I have learned there is a difference between belief/intent and action/commitment. In fact, I have come to believe there is not only a difference but a big gap between the two ideas. We all have good intentions – to get up early, to drive safely, to be productive at work. But do we make the necessary commitments to move from intent to action – to set the alarm and not push snooze, to follow the speed limit and not text while driving, to prioritize the top three things for the day and not get

distracted by office politics or social media? The intention may give us that “warm and fuzzy” that we are doing well, but the commitment to specific action is what produces the results.

Allow me to provide three examples to illustrate how commitment can make a difference in our industry:

**Belief:** Everyone will be safe on my job.

**Commitment:** I will STOP any unsafe work that I observe.

**Belief:** We will develop the next generation of craftsmen.

**Commitment:** I will speak to at least one apprentice every week to encourage him /her to improve their craft.

**Belief:** Union construction provides better value to owners.

**Commitment:** I will talk with one customer per day to discuss how we can improve our safety, quality, productivity, cost, and overall performance.

This past fall I was fortunate to visit one of our jobsites and meet a veteran craftsman for APM. (This man has a humble way, so I will refer to him as John Craftsman.) John is advanced in years, and on this day he mainly cleaned equipment and parts. But John’s value is not simply measured by the parts he cleaned. Rather, John sets an example for us on commitment. Allow me to

share with you three things I learned about commitment from John in just the few minutes I spoke with him.

- *Commitment to his craft.* John has worked almost 50 years in the industry. He may not move as quickly as he used to, but he still has that same attention to detail and pride in his work. He knows that his work is a daily sample of the quality craftsmanship offered by himself, his craft, and his employer. Thus John commits to giving his best effort and craftsmanship every day.
- *Commitment to the next generation.* John takes time each day to help the young journeymen and apprentices hone their craft. It may be offering some guidance on how to perform a task, sharing a lesson learned from a mistake he made early in his career, or a simple word of encouragement to “keep at it.” John wants to see his fellow craftsmen go home


each day safe and proud of their work. Thus John commits to do something each day to develop the next generation of craftsmen.

- *Commitment to his family.* John could retire by now and he has earned that opportunity. However, John’s wife is ill. He continues to work so that they can have health benefits and she can get the care she needs. He works close to home so that he can be with her every evening. Thus John commits each day to keeping the promise he made to her, to be there for better or worse, in sickness and in health.

We are part of an industry that is much bigger than ourselves. It is an industry built on the blood, sweat, and tears of hardworking men and women among our tripartite community – the crafts, the contractors, and the owners. Our industry is not perfect, and it never will be. But we

can come together to improve it, to fix some things that are broken (literally and figuratively), and to leave it to future generations better than when we took stewardship of it. That will take commitment.

So I ask you to choose one thing today that you will do – one specific commitment – to improve yourself and our industry. Share that commitment with a fellow member of our crafts, our contractors, or our owners. Tomorrow, work on that same commitment. Over time you may add a second or a third. Then you will have one commitment complete and add another. When you look back over a few weeks and months, you will see a difference. And when you look back over a career, you will be proud of the difference you made in your life and the lives of many others.

**I’m committed. Are you?** 



For the year 2015, Solid Platforms, Inc. employees worked 1,382,817 hours without a recordable incident.



EHS Today magazine recognizes Solid Platforms, Inc. as one of America’s Safest Companies for 2015.

**EHS Today**  
The Magazine for Environment, Health and Safety Leaders

219-762-8054 • Portage, IN • [www.solidplatforms.com](http://www.solidplatforms.com)

# Chase the Elephant

by STEVE LINDAUER  
TAUC CEO

**L**IKE MOST OF you, I spend a lot of time in meetings. Regardless of what we talk about, I've noticed certain patterns almost always emerge. For instance, the first hour or so of a meeting is usually the most productive; the longer it goes, the less energy people have and, as a result, patience wears thin and tempers shorten.

At labor-management meetings in particular, I can almost guarantee that at some point – usually after a long discussion of a contentious issue between a contractor and a local union – someone will take a deep breath and say, “Look, I know it's hard, but we really have to acknowledge the elephant in the room.” Then the person will explain what's really going on – the “elephant” that no one else wants to mention: “Contractor X is mad because Local Union Y didn't do Z on the last project.” Or, “Local Union Y is mad because the client went non-union on their last big job, so now they're playing hardball.”

The room will fall silent for a moment, then someone will say, “Well, you got that right.” Another attendee might pipe up with a half-hearted objection, but eventually everyone moves on to the next topic of conversation. After the meeting, however, people will come up to the guy who made the initial remark and privately congratulate him. “I'm glad somebody had the guts to speak up” is a common refrain. This person has now become the meeting's Official Elephant Acknowledger (OEA for short). The OEA leaves the

conference room with his head held high, knowing someone will buy him a drink later that evening to thank him for his selfless service to the industry.

I've been the OEA more than once in my career, and I've bestowed the honor on various colleagues too. It's great. It's like receiving an honorary degree – you get a diploma without actually having to do any studying or take a final exam. But OEA fame is fleeting. By the time the next meeting rolls around, most people have forgotten what you said. Life moves on. The problem doesn't get fixed. And the elephant stays right where it's always been.

When I was just starting out, I thought being an OEA was brave. Now I realize it's one of the safest things you can do in this business. Why? Because merely acknowledging a tricky problem that no one else wants to mention doesn't actually solve that problem. Identifying a messed-up situation is easy; *fixing* it is damn hard.

So I'd like to propose a new position: the Official Elephant Chaser (OEC). The OEC is someone who will not only acknowledge a problem dragging down our industry, but can summon up the courage to take action and chase it away once and for all – even if it means upsetting a few people along the way. And believe me, it will take courage. It



“I suppose I'll be the one  
to mention the elephant in the room.”

will take contractors and union representatives who aren't afraid of ticking off longtime friends and colleagues. It will take professionals who understand the difference between short-term pain and long-term gain, and are willing to risk losing a job or missing out on a big opportunity now in order to nip a serious problem in the bud so that it doesn't get worse later on.

Chasing the elephant is serious business. It doesn't mind if you "acknowledge" it – that's fine. You wave, it waves back, everyone's happy. But when you actually try and get rid of it for good, watch out. You've got a fight on your hands. Elephants aren't warm and cuddly. They're dangerous. There is no room for negotiation; either send the pachyderm packing or get used to seeing it every time you meet for the rest of your career.

All of us – including me, including TAUC – need to step up and chase away a few more elephants, and encourage other people to do the same. In my early years, when I was still learning the ropes, I considered a meeting to be productive and successful if everyone left feeling good. Now I'm not so sure that's always the right metric. Maybe the real measure of a successful meeting – a serious meeting – is when people leave feeling a little unsettled, worried that they "pushed it too far" and spoke too honestly, too bluntly. In his book *The Five Temptations of a Leader*, Patrick Lencioni identifies one of those temptations as "choosing harmony over conflict." His

strategy for overcoming this temptation is to establish productive conflict through engaging in and allowing discussion about key issues by drawing out differing opinions and perspectives.

Like most of you, I'm equally optimistic and frustrated by the state of union construction and maintenance: optimistic because of the strides we're making in safety and training, but frustrated by our inability to break through and see real progress in not only maintaining but growing our market share. Sooner or later something has to change. We're comfortable, but that comfort won't last; it never does.

Bestselling business author Rory Vaden once said, "Discipline is a choice. It's simply consistently choosing the hard right over the easy wrong." As an industry, we're caught between both extremes, but when push comes to shove, we have a tendency to lean toward the easy wrongs because, well, they're easy. We go along to get along. Meanwhile, our non-union competitors continue to cherry-pick our clients.

And the elephant? It sits behind us...and smiles.



*Steve Lindauer is the CEO of The Association of Union Constructors and also serves as Impartial Secretary and CEO of the National Maintenance Agreements Policy Committee, Inc. (NMAPC).*



**People. Integrity. Excellence. Stewardship.**

It's not just what we do — it's how we do it.

Kiewit Power Constructors Co. | 9401 Renner Boulevard, Lenexa, KS 66219 | (913) 928-7000



**KIEWIT.COM**

# It's Not All About Safety

by MARK BRESLIN

**O**KAY, SO I'M a heretic. Totally out of line. How can anyone in our industry possibly say "It's not all about safety"? After all, safety is a foundational business principle. It's a condition of pre-qualification. It's the code that everyone must live by.

Yeah. Well, hear me out, because I have other ideas.

Simply put, success for our industry is not just about proactively shaping safety behaviors. It only *starts* with safety. It's really about implementing a "macro-jobsite" version of behavior change to all critical facets of the job – not just safety. And the sooner we start, the better.

Improved safety on the jobsite is a byproduct of successful behavior change. With a degree of engineer-brain mono-focus, our industry has decided to put a singular focus on changing behavior in the area of safety. As a result, we have built an amazing safety infrastructure consisting of training, policies, incentives, consequences, equipment,

metrics and more. One highly visible element is the weekly (or daily) safety meeting. Across the country, millions of our workers meet to reinforce behaviors over and over again, and they do it hundreds (if not thousands) of times during their careers.

Thanks to this unprecedented investment of time, money, and effort there has been a commensurate reduction in safety incidents, reflected in lower incident rates and reduced injury severity. This great and noble effort has created great results.

But here is my problem – and our opportunity: why are we wearing blinders and therefore seeing only the very narrow and singular path before us? Why focus *only* on safety? Safety is just one slice of the pie. What about personal accountability, decision making, care for self and others? Why not look at the broader spectrum of attitudes and behaviors that, if changed, could provide our industry with the same or perhaps even greater benefits? To

limit ourselves to this one area of focus when so many other problems need to be fixed is really a failure of imagination and execution on a massive scale.

---

***Success for our industry is not just about proactively shaping safety behaviors. It only starts with safety.***

---

When working with my contractor clients, I always ask them to list the driving behaviors that make a job super successful. Here are some of the descriptors I hear, aside from safety:

- Productivity
- Innovation and problem solving
- Goal setting and accomplishment
- Cooperation, coordination & collaboration
- Ownership & accountability of supervision and field

So the question I follow up with is, "What are you doing to create and reinforce these behaviors on your jobsites daily or weekly?" And I get back blank stares. What's going on here?

Our industry has created the most amazing and effective information delivery system available, one that is proven to change behaviors...but only in the area of safety! Why aren't we using that very same delivery system to influence other critical behaviors at the field level?




SHUTTERSTOCK/RAWPIXELS.COM

Let's say your company holds weekly safety meetings. That means you have 52 opportunities each year to deliver behavior change. With the "infrastructure" already in place, doesn't it seem obvious to consider adding things like:

- Weekly goal-setting meeting
- Weekly input & productivity meeting onsite (How do we do this better, faster, smarter, safer?)
- Weekly collaboration meeting for multi-craft /sub planning
- Monthly personnel feedback session mandated for foremen to communicate performance issues to craft workers

My end-user / owner clients — including refineries, energy companies, manufacturers and others — uniformly report that poor productivity leads to schedule disruption, overmanning of projects and general difficulties with coordination and accountability of field supervision. Is this some big secret? No. Everyone sees it, and we just all truck along figuring, well, that's just how it is — not much we can do about that! This sounds very familiar to me — *because it's exactly what people used to say about safety performance before we all decided to change the industry for the better.*

Think of our industry's outstanding safety infrastructure as a high performance sedan — say, a Cadillac CTS-V with 556 horsepower. It's incredibly powerful and gets the job done. Well, how about instead of driving it solo with just safety inside, we add several more passengers? Using the exact same delivery model, let's add productivity, innovation, planning, goal setting and more to the back seats. It's a low-cost, highly innovative approach that leverages an existing investment and empowers workers to not only change behavior but take greater ownership.

Again, don't get me wrong — safety is important and we should be proud of what has been accomplished. But let's not stop there. The foundation has been set for even greater returns across a wide range of behaviors: accountability, ownership, buy-in, collaboration, care and more. Success is waiting for those with the vision to act. 



*Mark Breslin is a strategist and author of several books, including most recently, The Five Minute Foreman: Mastering the People Side of Construction. Visit his website at [www.breslin.biz](http://www.breslin.biz) or contact him at (925) 705-7662.*



## Facing the industry's toughest challenges head-on.

Tracing our roots back more than 95 years, Graycor Industrial Constructors takes on the toughest industrial construction projects across North America in the power, process and metals markets. We have earned a reputation in the industry for developing long-term, collaborative partnerships that result in projects being completed efficiently, effectively and, most importantly, safely.

Start building something more with Graycor.

**GRAYCOR** | Building something more.<sup>™</sup>  
Industrial Constructors Inc.

Power | Process | Metals [graycorindustrial.com](http://graycorindustrial.com)

Oakbrook Terrace, IL ♦ Portage, IN ♦ Detroit, MI ♦ Pittsburgh, PA

# The United Association Safe, Productive and Cost Effective Construction

Project owners have choices, that's why the UA's training and certification programs produce craftsmen that are the most highly skilled and hardest working building tradespeople in our industry today. They're committed to our Standard for Excellence program, a labor-management agreement to uphold the highest industry standards for quality in the workplace.

Owners today also want safe jobsites, and they are demanding that their contractors place a priority on safety. The UA Standard for Safety creates a workplace culture that puts safety first and is intended to help meet the contractor's responsibilities to provide a safe work environment.

At the UA we know a safe workplace is also a productive workplace. That's what keeps our contractors profitable and their owner's projects on time and within budget.

Learn more at: [ua.org](http://ua.org)



**UNION PLUMBERS,  
FITTERS, WELDERS AND  
SERVICE TECHNICIANS**

## They fought for our country.

**Now they deserve our thanks—and their shot at the American dream.**

Over the last decade, more than 2 million men and women have served and sacrificed for our nation. Now, they're coming home and will be fighting for jobs.

This is why the United Association (UA) created the *Veterans in Piping (VIP)* Program, an award-winning training program that equips transitioning military service members with today's sought after skills, including welding, and heating, ventilation, air-conditioning and refrigeration (HVACR). Once training is completed, VIP graduates are immediately placed into solid private-sector jobs with good pay and benefits.

Because it offers real help to veterans in real time, UA VIP is recognized as one of the best veteran assistance programs in the country, winning praise from Congress, the U.S. Department of Labor, the military and media. In 2011, the Military Officers Association of America honored the UA VIP Program by giving UA General President Bill Hite its Distinguished Service Award.

UA VIP is provided to transitioning active-duty military and veterans either on military bases or at local UA facilities around the country. A nationwide training initiative with all military branches, this program provides services at no cost to veterans or the military—the UA and UA contractors pay all costs.



**UNION PLUMBERS,  
FITTERS, WELDERS AND  
SERVICE TECHNICIANS**



Learn more about how we're  
helping veterans build a strong  
future at [www.UAVIP.org](http://www.UAVIP.org).

# A Strong Corporate Governance Policy is Essential

by STEVEN JOHN FELLMAN, TAUC GENERAL COUNSEL



SHUTTERSTOCK/GAUDILAB

**A** RECENT DECISION BY Covette Rooney, Chief Judge of the OSHA Review Commission, demonstrates how important it is for contractors to adopt a strong corporate governance policy, one that requires all employees — from the Chairman of the Board down to the lowest-paid hourly employee — to comply with federal and state regulations and company policies relating to workplace health and safety.

Judge Rooney reviewed an appeal of an OSHA regional office's decision that a contractor had willfully violated the provisions of the OSHA fall protection regulations. The regional office recommended a fine

of \$249,920, even though there were no reported injuries. The contractor in question was a general contractor working at multiple job sites in the New York City area. The contractor assigned a construction superintendent at each job site and had a regional supervisor who was responsible for multiple projects. At the site in question, the contractor had assigned safety responsibilities to a jobsite superintendent. In addition, the contractor had hired a firm of safety experts to provide a qualified safety inspector to visit the job site on a daily basis and evaluate actual or potential safety violations. The inspector was responsible for

overseeing the work of subcontractors working on the site, too.

OSHA received a complaint that the scaffolding on the job did not meet OSHA fall protection requirements, and sent a Compliance Officer (CO) to investigate. The CO found that the scaffolding did not, in fact, meet OSHA requirements. The officer interviewed the outside safety consultant and reviewed a daily log of his findings. The log showed that the consultant had reported the scaffolding problems to the job site superintendent and to the contractor's area supervisor, but no attempt had been made to correct the problems. The consultant testified that when he had reported the problem,

he was told that the job was behind schedule and there was a big push to get things completed quickly.

Although some of the scaffolding issues related to subcontractor activities, the OSHA CO found that the general contractor had overall responsibility for safety on the job site and had willfully violated the regulations. How did he come to this conclusion? Because even though the contractor's employees

---

***A strong corporate governance policy which mandates a culture of compliance is no longer an option. It is a requirement.***

---

had various explanations as to why the safety requirements weren't met, the outside safety consultant had told the general contractor's job site superintendent on a daily basis that there was a problem. Further, the safety consultant's reports were summarized and sent to the contractor's home office weekly.

Even worse, the CO found that the contractor had a safety plan detailing scaffolding requirements and had not followed the plan. Other problems included:

- The onsite superintendent had attended the four-hour scaffolding training course but had not complied with the course training requirements.
- The contractor had a past record of OSHA scaffold related violations.
- The contractor's home office risk manager claimed that she did not carefully review the weekly summaries from the safety consultant.

Based on the facts reported above, Judge Rooney found the contractor guilty of a willful violation.


We highlight this case as an example of a contractor's failure to follow its own corporate compliance program. Too often, top management establishes a well-designed corporate compliance program but does not create the culture needed to implement the program. Establishing the program without a corresponding implementation process is a step towards self-destruction. Look at the facts in this case as reported in the decision.

The general contractor was concerned about safety and adopted a safety program. Under the safety program, top management went through safety training, as did area construction supervisors and construction site superintendents. A site safety plan was adopted. The general contractor then hired a firm of outside safety experts to send a safety consultant to the job site on a daily basis, report safety issues to the general contractor's job site superintendent and send weekly reports to the corporate offices. The outside safety consultant did just that, but no action was taken by the contractor. It doesn't take a rocket scientist to predict what the OSHA enforcers would decide.

As the construction industry becomes more concentrated and contractors grow larger, management must continually work to implement a culture of corporate compliance. Setting up a safety program, a discrimination-free work place program or a weapon-free program is only a beginning. These programs must be part of a culture of compliance and every employee must know that violations of these policies will not be permitted. In the case above, the Judge noted that months after the OSHA inspector found the violations, the contractor's employees who ignored the

safety warnings were still working for the company.

In addition to civil penalties, OSHA can bring criminal actions against an employer engaged in commerce who willfully violates an OSHA safety regulation if the violation results in the death of an employee. The case law holds that under the OSHA criminal enforcement statute, a corporate officer may be considered as an "employer" and be subject to criminal liability including both a fine and a jail sentence for a willful violation resulting in the death of an employee.

A strong corporate governance policy which mandates a culture of compliance is no longer an option. It is a requirement. 



*Steve Fellman is a shareholder with GKG Law in Washington, D.C. He is also general counsel to The Association of Union Constructors.*

## Questions?

## Comments?

**We want to hear from you!**

E-mail Executive Editor  
David Acord at  
[dacord@tauc.org](mailto:dacord@tauc.org).

Let him know what you thought about this issue, or suggest an idea for a future article!

# MassMutual, Building Trades Develop “Responsible Contractor Policy”

by DAN KRAUSE, TAFT-HARTLEY BUSINESS DEVELOPMENT CONSULTANT,  
MASSMUTUAL WORKPLACE SOLUTIONS

**M**ASSACHUSETTS MUTUAL LIFE Insurance Co. (MassMutual) is a leading mutual life insurance company run for the benefit of its members and participating policy owners, ranking 76 in the Fortune 500 as of June 6, 2016.

Given that the 165-year-old insurer is mutually owned by its participating policyholders, it is not subject to the typical quarterly earnings calls and demands of Wall Street analysts that publicly held companies experience. Rather, the mutual structure enables MassMutual to take a longer-term approach to its life insurance, workplace benefits, investment products, and retirement plans businesses for the benefit of its customers, including Taft-Hartley retirement plan sponsors and participants. In fact, MassMutual is a major player in the Taft-Hartley market, with more than \$12 billion in assets under management, serving nearly 150 plans with approximately 210,000 union participants as of June 30, 2016.

Recently, we strengthened our commitment to the Taft-Hartley market by collaborating with North America's Building Trades Unions (NABTU) on a “best practices” construction policy. The process started in 2006 when MassMutual adopted its first construction policy, which put into writing the insurer's desire to maintain its union-friendly past practices and express appreciation for the quality work performed by union tradesmen.

Under that policy, MassMutual sought to employ union labor on construction projects involving its

100-percent corporate-owned and occupied properties and its 100-percent-owned real estate investment properties. The policy considered the contractor's reputation for quality work, track record with respect to compliance with wage and hour laws, and workplace safety regulations. MassMutual has made it a priority to work with contractors that paid competitive wages and provided appropriate training for employees.

---

***MassMutual has made it a priority to work with contractors that paid competitive wages and provided appropriate training for employees.***

---

The implementation of the policy guided a significant union construction spend, highlighted by the \$2.1 billion Fan Pier development project in Boston. The Fan Pier project is about two-thirds complete and has already generated approximately 2.7 million hours for Boston trades.

In addition, MassMutual employed the construction policy in undertaking \$92 million in infrastructure upgrades at its Springfield, Mass. and Enfield, Conn. campuses, also done entirely with union labor. Other recent projects of note include an office tower and hotel project in Charlotte, North Carolina, which will generate a union construction spend

of about \$90 million, and a \$10 million hotel renovation project in New York City.

In the spring of 2015, MassMutual began a dialogue with the NABTU about how to improve the company's construction policy. Senior leadership from MassMutual met with NABTU President Sean McGarvey, his team and several general presidents of their affiliated unions. The consultation resulted in MassMutual's new Responsible Contractor Policy (RCP), which was adopted in September 2015. The new policy clarified several issues, including a due diligence process with respect to MassMutual's lending business and, more importantly, it created a process whereby NABTU was notified of any MassMutual projects where the subcontract amount was expected to exceed \$250,000. The process allows NABTU to identify and provide MassMutual with the names of qualified union contractors to bid on the company's construction projects.

Since the new RCP was implemented, MassMutual has provided NABTU with several notices a week and anticipates providing more than 200 during the course of 2016. These notices describe the project and the anticipated bid date, identify where the subcontracted amounts are expected to exceed \$250,000, and provide the project manager's contact information.

This process is going exceedingly well, so much so that Sean McGarvey is now promoting MassMutual's policy as the new standard for the industry. In the press release announcing the new policy, Sean was quoted as

saying, “MassMutual’s new responsible contractor policy represents a best practice on the part of construction, real estate, loan, and retirement service providers. The new policy reflects the close and cooperative relationship between MassMutual and North America’s Building Trades Unions that will provide value and lead to successful partnerships for all involved. The goal is to provide financial security to our members, both while they are in their working years and when they retire.”

Clearly, the new policy represents a paradigm shift in the partnership between MassMutual and NABTU and establishes a new high-water mark for what can be done when labor and capital work together to achieve common goals. Currently there are few, if any, project owners who provide the level of transparency with the building trades that is called for under MassMutual’s RCP. Wider adoption of construction policies similar to MassMutual’s, requiring a similar level of transparency, will undoubtedly cause a dramatic increase in the work opportunities for union construction firms and the union members they employ.

According to Doug Denigris, Taft-Hartley National Practice Leader for MassMutual Workplace Solutions, “MassMutual’s industry-leading construction policy is the result of our strong partnership and respect for labor, and represents our company’s commitment to the financial security of working men and women. It’s an extension of MassMutual’s mission to help people secure their future and protect the ones they love.”

MassMutual is confident that its new Responsible Contractor Policy will achieve the goal of enhancing the quality of its construction partners, help ensure the success of its construction projects, and ultimately increase work opportunities for the building trades.

*Dan Krause joined MassMutual Workplace Solutions in the fall of 2014 where his duties include: acting as labor liaison with respect to MassMutual’s Responsible Contractor Policy, strengthening relationships with various building trades groups and supporting the Taft-Hartley team in event coordination and marketing efforts. Prior to joining MassMutual Dan was the Fund Administrator and Financial Secretary for IUOE Local 478 for 25 years.*

## INTRODUCING

# NMA I.Q. eLearning Resource Center

**For 45 years, the National Maintenance Agreements (NMA) has been the PLA of choice for the union construction and maintenance industry. Now we’ve made it even easier to understand how the NMA works with NMA I.Q., a comprehensive eLearning system for contractors, clients and crafts. Whether you’re new to the NMA or a veteran, try it today – it’s free!**

**[www.NMAIQ.org](http://www.NMAIQ.org)**

# The Benefits of Uniting to Form a Medical Stop Loss Captive

by JOSH RUPLI, RISK MATTERS, LLC (A DIVISION OF HYLANT)

**I**MAGINE FOR A moment that there are 10 trustees sitting around a table. Each of these trustees is responsible for managing the finances of the self-funded health plans of various local union health and welfare funds. The group is discussing their medical stop loss premiums and their medical stop loss claims. If you were to go around the table and ask the outlay of annual premiums by the fund versus the amount of medical stop loss claims paid by their respective stop loss insurance carriers, you would likely hear that eight out of the 10 plans paid much more in premiums than their carrier paid out in claims. Chances are one or two of these 10 plans would have experienced a level of high dollar claims that resulted in a loss ratio (claims vs. premiums) that was unfavorable or closer to a break-even for the insurance carrier.

Group health plans have historically been structured in such a way that the insurance company profits when a plan runs well, and the group faces a punitive renewal when the plan incurs high medical claims over the course of a contract period. This fact holds true for both self-funded and fully insured health insurance programs. Each year the health and welfare fund's benefits manager has to play along in the annual renewal game, anxiously awaiting the plan's rate increase. We now face the sad reality that any cost increase coming in at less than 15% is viewed as good news.

Renewal increases are significant due to a number of factors. Medical trend (inflation) continues to rise

every year. Groups with fewer than 1,000 employees enrolled in a health plan are also considered to be somewhat unpredictable as pertains to claims volatility. A program can run smoothly with low claims for a number of years, then suddenly high dollar claims emerge, causing a financial loss that is simply more than the average health and welfare fund is able to bear without stop loss insurance. The carriers' underwriting formulas are designed to hedge against this volatility. This landscape leaves our



SHUTTERSTOCK/EMILIE ZHANG

benefits managers asking some tough questions:

*Instead of the insurance carrier pocketing the majority of our premiums when we have a low claims year, is there a way that the H&W fund can benefit when our claims experience is favorable?*

*If we do have high dollar claims in a contract period, is there a risk finance structure that can reduce stop loss claims volatility and thereby lead to more favorable renewals?*

The answer is yes and yes. A group medical stop loss captive (MSLC) is a risk finance structure that significantly reduces high dollar claims volatility and provides the opportunity

to receive underwriting surplus dividends when medical stop loss claims are less than medical stop loss premiums over the contract period of a given year. Captive insurance companies have existed since the 1950s. Indeed, most Fortune 1000 firms have some form of a captive insurance arrangement in place. While they were once viewed as complex offshore risk finance arrangements, a number of states are now very captive friendly. This has facilitated significant growth in the captive space over the past few years. It is also important to note that a medical stop loss captive is different from a multiple employer welfare arrangement (MEWA), in that a captive arrangement does not constitute a single plan that covers the employees of two or more unrelated employers.

Complete transparency of pricing and reporting are key features of a group captive stop loss arrangement.

A medical stop loss captive looks and feels like a standard self-funded arrangement in most respects. The group pays their premium to the stop loss carrier, and they are protected against medical claims which exceed their designated specific stop loss deductible. Aggregate coverage is available as well. The captive reduces volatility by providing additional funding that covers a corridor of high cost claims that have exceeded the specific stop loss. Let's look at an example:

The 10 trustees we met earlier have identified that collectively their premium spend was \$3 million. They

have discussed the fact that some of their plans had zero stop loss claims, some were less than \$100,000 in claims, and one had a claim for a quarter of a million dollars. When they added up all of their claims they found that the sum total of stop loss claims came to \$1.2 million. Immediately obvious to the group is that \$1.8 million in premiums went directly into the pockets of their respective insurance carriers. How would a medical stop loss captive have changed this scenario?

The MSLC enables like-minded groups to pool a portion of their premiums to reduce claims volatility. Groups can maintain their current TPA, network, and benefit plan design. The only vendor commonality required in many MSLC programs is the stop loss carrier. A portion of each group's stop loss premiums are used to fund the captive. In most cases, this portion is around 50--60% of stop loss premiums. This captive layer funding is used to pay for the additional layer of claims that exceed the specific stop loss. In this example, the captive pays an additional \$250,000 per claimant exceeding the specific stop loss. This additional claims funding layer acts as a shock absorber for the carrier in that a claim does not truly become a stop loss claim until a much higher amount has been incurred. The resulting lower claims activity/volatility for the insurance carrier can lead to significantly improved renewal stability over time.

Unlike insurance carriers, the captive is not a profit-taking entity. Any remaining premiums that went to fund

the captive but were not used to pay claims belong to the participating groups. Captive premiums that were not used to pay claims are considered to be an underwriting surplus. The underwriting surplus is given back to the groups on a pro rata basis based on the amount of premiums ceded into the captive. This settlement occurs on an annual basis based upon the claims activity of a given experience period.

Let's assume 60% of the 10 trustees' \$3 million in premiums went to fund the captive. This would have been \$1.8 million to cover \$1.2 million in claims within the captive layer. The groups would have realized an underwriting surplus dividend of \$600,000 that would have been distributed on a pro rata basis. Since the highest claim among any of the groups was \$250,000, the stop loss carrier would have incurred zero claims. Due to the MSLC, the H&W funds would benefit from an underwriting surplus dividend and the expectation of a favorable renewal.

Captives do not always run this well. However, this certainly serves as an example of how well they can run. When like-minded employers unite in a MSLC funding arrangement, they stand to benefit from reduced claims volatility and the potential for underwriting surplus dividends.

*Josh Rupli has more than a decade of experience working with self-funded group health plans. His background includes roles in Customer Experience, Underwriting, Sales and Program Management. His current role is Medical Stop Loss Captive Program Manager for Risk Matters, LLC (a division of Hylant). Hylant is a TAUC Affiliate Member.*

## Join TAUC and NMAPC On Social Media!

Follow us on Twitter, Facebook and LinkedIn to stay connected to TAUC and NMAPC, get the latest union construction news and updates, learn about upcoming events and more!



[www.tauc.org/social](http://www.tauc.org/social)



[www.nmapc.org/social](http://www.nmapc.org/social)



**NMAPC**

NATIONAL MAINTENANCE AGREEMENTS POLICY COMMITTEE, INC.

# Are You Ready? How TSCA Reform Will Affect Many Chemicals Used In Construction

by MELISSA McCAFFREY, VELOCITYEHS

**E**ARLIER THIS SUMMER, President Obama signed into law the *Frank R. Lautenberg Chemical Safety for the 21st Century Act*. It amends the Toxic Substances Control Act (TSCA) of 1976 – the nation’s primary management law of chemicals in commerce – by revising the process and requirements for evaluating and determining whether regulatory control of a chemical is warranted. While the law is a step in the right direction towards helping the EPA better regulate hazardous chemicals more effectively, it’s expected to more heavily regulate or eliminate many chemicals used in common products and industries.

Those in the construction sector are expected to feel this blow the hardest, since many of the chemicals expected to appear on the initial EPA review list are found in insulations, paints, coatings and other building materials commonly used in construction.

So, how can construction leaders prepare for the TSCA reform changes? Below we examine how the Lautenberg Act changes how the EPA will evaluate chemicals, and the steps to take now to prepare for any new regulations or bans to come.

## A Step in the Right Direction

Up until now, TSCA had been widely considered one of the least effective established environmental laws, permitting the use of more than 80,000 chemicals without any safety review, and allowing hundreds of new untested chemicals into the market each year. The Lautenberg Act now requires the EPA to start evaluating the safety of new chemicals before being introduced into the market and assess the safety of all chemicals currently in use.

Under the TSCA reform, the EPA must develop a priority list that includes chemicals that present the highest risk for water contamination and those that are known carcinogens. The EPA also has to establish a risk-based process that identifies existing chemicals as either “high” or “low” priority substances. Chemicals with a high priority designation are then evaluated against a new risk-based safety standard to determine whether its use poses an “unreasonable risk.” If an unreasonable risk



SHUTTERSTOCK/ULRICH MUELLER

is identified, the EPA must then take final risk management action within two to four years. During this part of the process, the EPA will take into account the costs and availability of alternatives in its determination of the appropriate action to take to address the risks. Under the new law, any action – including bans and phase-outs – must commence as quickly as possible, but occur no later than five years after the final risk management process commenced.

While it might seem like it could take years – or even decades – for the EPA to complete even a small portion of the overdue assessments, it’s important for hazardous chemical users to begin preparing for any fallout from banned materials now. The EPA has already begun taking initial steps in the process, holding meetings to obtain input from the public on the processes it develops for its proposed procedural regulations for risk evaluation and chemical prioritization.

## The Chemicals Likely To Be Initially Reviewed

While thousands of chemicals that have long been known to be highly hazardous will now be up for review by the EPA under the TSCA reform, some of the biggest

targets believed by those in the environmental, health and safety (EHS) industry to appear on the Agency's initial 10 TSCA Work Plan chemical list are common in the construction industry, including the following.

- **Asbestos:** Found in thousands of building products such as joint compound, floor tile, cement board, pipes and shingles. Exposure can cause mesothelioma, a serious form of cancer, and other pulmonary diseases.
- **Formaldehyde:** Important in the manufacturing of paper products and polyurethane foam insulations. Long-term exposure causes asthma-like respiratory problems and skin irritation such as dermatitis and itching.
- **Diisocyanates:** Used in the production of polyurethane products, such as rigid and flexible foams, coatings, adhesives, sealants and elastomers.
- **Flame Retardants:** Found in thermal insulation boards and many textiles. Halogenated flame retardants are related to PCBs, which have been linked to developmental difficulties in children, endocrine disruption, birth defects, and cancer.
- **Silica:** Often found in concrete, bricks and glass. Respirable dust particles can penetrate deep into the lungs when inhaled and cause disabling and sometimes fatal lung diseases, including silicosis and lung cancer, as well as kidney disease.

## Ushering Changes for Construction

The Lautenberg Act requires the EPA to do the following. First, identify its list of 10 TSCA Work Plan chemicals, formally initiate risk evaluations by mid-December 2016, and release the scope of each assessment by mid-June 2017. While major changes are likely to proceed slowly in the current political climate, those in construction should be prepared for the EPA to ban or limit the manufacture, distribution, use, or disposal of chemicals commonly used in building products and materials.

A good first step in preparing for EPA-banned substances is to look at the products and chemical composition of products currently in use, and be ready to either find replacement products for any of the highly hazardous materials or be prepared to train employees on using these chemicals with greater care. A good chemical management software solution can help simplify this process by helping companies more easily identify exactly which chemicals in an inventory are affected and where they're



SHUTTERSTOCK/MARCIN BALCERZAK

used, and to minimize any potential threats they present to worker safety or the environment.

The safety data sheets (SDSs) of EPA at-risk chemicals will also need to be updated with any new hazard information, so now is a good time to make sure the most up-to-date documents are being used for each chemical on the worksite. Identifying the most recent documents will help with swapping out older SDSs for updated documents as they become available. Keep in mind that updated SDSs are only required to arrive with the first shipment or the shipment after a change has been made; after that, it's up to you to locate the new document. Chemical management software with mobile inventory management capabilities can help streamline this audit process, allowing site managers to locate and update at-risk chemicals more quickly and efficiently.

If the EPA reviews even a fraction of its most-questioned chemicals, the resulting changes will affect whether materials can or can't be used in construction, how those items and chemicals must be handled, what regulatory requirements will be in place for each, and how much it will cost to comply. Are you ready for the TSCA reform changes? If not, the time is now to begin taking steps to ensure you're prepared.

*Melissa McCaffrey is a director at VelocityEHS, a leading cloud EHS software company dedicated to helping its customers reach their EHS and sustainability goals faster through a simple and intuitive software platform that is more affordable and faster to implement. The company's MSDSonline line of chemical management products help companies better understand their chemical risks, simplify compliance requirements and safeguard employees. For more information visit [www.EHS.com](http://www.EHS.com) or call 1.888.362.2007.*

# The 10-Minute Press Release

Rediscover the simple, low-cost tool small contractors can use to grow their business

by DAVID ACORD, TAUC DIRECTOR OF COMMUNICATIONS

**P**RESS RELEASES ARE the building blocks of any solid marketing or publicity plan. Often overlooked in the age of social media and the Internet, they are still an incredibly cost-effective way to get your message out and reach potential customers – especially if you’re a small contractor looking to expand your local and regional market share.

And here’s the dirty little secret: press releases are also very easy to write. You don’t need any special training or literary skills, and you don’t need to hire an expensive public relations firm. In fact, you (or someone else at your company) can write a basic press release in 10 minutes or less.

## STEP #1: CHOOSE A TOPIC.

A press release lets newspapers, magazines, websites, radio and TV stations know about new developments in your business. It’s also a great way to enhance your social media activities. Writing a release helps you focus your thoughts and craft a tight, coherent statement. Once that’s completed, you can quickly and easily repurpose it by posting to Facebook, Twitter, LinkedIn or other social media outlets. Use the press release as your starting point.

Many folks mistakenly think press releases are reserved for major announcements. But it doesn’t have to be “big” news, just interesting. Maybe you just completed a project that will have a significant impact on the local community. Or perhaps you hired a new executive, signed a fat new contract with a client, won a prestigious award, opened a branch office, expanded into a larger building, bought some crucial equipment that will allow you to offer new services, or one of your employees saved a kitten from being run over...the possibilities are endless.

The point is, it’s important to share good news about your business with as many people as possible as often as possible. That may sound like an obvious statement, but far too often, small contractors hide their light under a bushel and fail to promote their accomplishments. They fall into a rut and only communicate with their core customers. As long as that small group (which provides them with regular work) is happy, there’s no need to let anyone else know, right? Wrong! If you do a great job for a client,

don’t let it end there. Make sure every other potential client in a hundred-mile radius hears about it, too.

Sometimes contractors simply don’t realize the potential publicity value attached to their projects. They’ve been doing it for so long that it’s become old hat to them. What the general public would find fascinating, they see as just another day on the job. An ironworker who spends his days two hundred feet in the air thinks it’s normal; everyone else thinks he’s a modern-day superhero. Ask yourself: what is unique about what you do? Is there an unusual or interesting aspect to a project you’re currently working on? Why is this project important? How does it fit into the bigger picture?

## STEP #2: CREATE A TEMPLATE.

A press release template is very simple to create. In many cases, you can simply use existing letterhead stationery. But if that won’t work, open a blank word processing document on your computer. Insert your logo and center it at the top of the page. Either above or below it



The company’s marketing strategy became increasingly sophisticated.

(whichever looks best, depending on the size and shape of your logo), type in your company's basic contact information (address, general phone number, etc.). Include the date as well.

Plus, it's always a good idea to list the name and phone number/email for a specific person at the company whom the press can call with questions about the release. This person should be prepared to answer questions and potentially have their quotes appear in print and/or online, so choose someone responsible.

You can check out a sample press release template at [tauc.org/prsample](http://tauc.org/prsample).

### STEP #3: WRITE.

"But I'm not a writer!" Don't worry. You don't have to be a professional novelist to write a press release. No one is expecting Shakespeare-level prose. Be clear, be simple, be brief (most effective releases are two pages or less in length). As long as you know how to put together a few basic sentences, you'll be fine.

The easiest way to get the words down on paper is to envision talking about the subject in real life. Imagine that you're having a casual conversation with a friend or co-worker over breakfast. They ask you what's new at work. You might reply by saying something like, "We just hired a new vice-president. Great guy, he has tons of experience. He used to work at XYZ Contracting. He's really going to help us grow our business."

Now all you need to do is frame your words in a more professional context. "We just hired a new vice-president" becomes "Ace Contracting is pleased to announce that Joe Johnson has joined our team as vice president. Joe comes to Ace from Competitor Contracting, where he served as director of development."

Back to our imaginary conversation. Your friend replies to the news

of the hiring: "That's great! What's he going to be doing, exactly?" You say, "We really want him to focus on the southeast region. Our business is really down there." Bingo — there's your next line. You might write something like, "Joe will oversee Ace's sales and operations in the southeast region. He will also be responsible for [any additional duties]."

"Sounds like a great hire," your friend says. You reply, "Oh yeah, I'm really excited. He's got a great track record, and we really think he's going to help us grow. It's not often you see someone with that much experience." This becomes your next paragraph: a quote from you (assuming you're the owner or CEO) praising your new hire. "We are extremely pleased to have Joe join the Ace

text of the release before you send it out. Finally, it's always a good idea to run any press release — however mundane — past your legal counsel first. They see things you don't. Err on the side of caution.

### STEP #4: DISTRIBUTE.

Now that you've written the press release, who will you send it to? It depends on the subject. If it's about something that people in your community will find of interest, you'll want — at the very minimum — to send it to local and regional media outlets (newspapers, websites, radio and TV stations). Trade industry magazines and association or union publications are also good targets. You'll need to do a little research and

---

## *Far too often, small contractors fail to effectively promote their accomplishments.*

---

Contracting family. His experience and track record is second to none — just ask anyone in the industry."

You could end the press release by including an equally positive, optimistic quote from the new hire himself. Then, insert a brief closing paragraph about your company — a "boilerplate" statement that includes general information about who you are, what you do, how long you've been in business (see [tauc.org/prsample](http://tauc.org/prsample) for an example).

Congratulations! You just wrote your first press release. One more thing, though: be sure to proofread it carefully to catch any embarrassing spelling or grammatical errors. Use your word processing program's tools for this, or have someone else look it over (just make sure they know what to look for).

Also, if you write a press release about a particular project, be sure to get permission from the client first. They may also wish to sign off on the

compile a list of outlets, emails and phone numbers (a great job for an intern or administrative assistant).

Most journalists welcome unsolicited press releases — it's part of their job — but it's always a good idea to call ahead and ask permission first, or inquire about who specifically would like to receive the release. That way, you avoid any potential "spam email" complaints. Speaking of email — it's the easiest way to send a press release these days. Simply convert your document to PDF format and attach it in an email. However, it's not a bad idea to send a hard copy in the mail as a backup, if your list is small enough and the extra postage cost wouldn't be too high.

As I mentioned at the beginning of the article, be sure to repurpose the press release, too. Post the text on your website (if you don't have a "News" or "Media" section,

*Continued on Page 30*

# Don't Miss Another Issue!



## Not a subscriber?

Reading someone else's copy  
and like what you see?

## Get your own!

Don't miss another info-packed issue of TAUC's official magazine, *The Construction User*. Subscriptions are FREE for members of the union construction and maintenance industry: contractors, building trades members, owner-clients, suppliers and vendors.

Just email Editor David Acord at [dacord@tauc.org](mailto:dacord@tauc.org) with your name and address – it's that simple. Do it today!

# Relationships Matter

by SCOTT FISHER

**T**AUC'S LOCAL EMPLOYER Organization (LEO) Committee recently met at Milwaukee Tool's Headquarters in Brookfield, Wisc. We had great attendance, including some new faces from The Builders' Association of Kansas City, the Southern Illinois Builders Association, and the AGC of Milwaukee. Former Federal Mediation and Conciliation Service Director C. Richard Barnes presented on the importance of labor-management strategic thinking and leadership training. He relayed to our Committee the strides being taken in different parts of the country where both labor and management have come together to identify ways in which we can collectively be more competitive. As a result, union contractors are slowly winning back market share.

Competitive, cooperative, and collaborative – the relationship we have with our counterparts in this industry are the basis for how we work together. The better our relationships are, the more trust we build. The more trust we have in each other, the more we can accomplish together. This may seem like common knowledge, but unfortunately too often we as an industry are not spending enough time and energy nurturing our relationships between all three parts of the tripartite (labor, contractors and the owner-client communities). Meeting regularly, having open and honest conversations about our differences of opinion, and being willing to compromise when it makes sense should all be standard operating procedures. Without the foundation of solid relationships based on mutual respect we will not be able to address the difficult issues impacting our industry.

The roundtable discussion at our meeting in Milwaukee was once again very informative, with updates on how construction and maintenance opportunities are popping up across the country. Right-to-work laws in Kansas, Michigan and Indiana were discussed, as was the repeal of prevailing wage in West Virginia.

I participate in a number of pension and health and welfare funds in my role with the AGC of Michigan, and recently one of the smaller health and welfare funds was shocked to the core when a participant's incredibly rare medical issue resulted in a claim that has the possibility of taking down the entire plan. In doing some due diligence based on this experience we have found that 1%

of participants are driving 40% of the cost as it relates to pharmaceuticals; and much of this is related to pain medication. There are discussions occurring within the state now to attempt to consolidate plans not only within a specific trade but across trade lines, in order to gain economies of scale to reduce overall costs to the plan and participants, but also help make union contractors more competitive.

Our committee also discussed the impacts Environmental Protection Agency (EPA) regulations are having on the coal fire power plants throughout the country, and the loss of significant maintenance hours associated with that work. One interesting initiative

that was brought up: the Insulators International Union will be doing outreach using SIRIUS Radio on College Game Day during the fall football season to encourage more youth to consider getting into the construction business – specifically the union sector.

Labor supply and availability of skilled craft remain an issue in pockets throughout the country, and I for one find it valuable to hear how other associations are attempting to attract new individuals into our union trades. These LEO Committee

Meetings cover a lot of topics, and the more people who participate the broader the base of knowledge and experience can be relayed. None of us can tackle these tough issues on our own, but by coming together and sharing our experiences we can stop others from repeating some of our old mistakes and get the job done right the first time. After all, that's what this is all about: coming together to collectively move the needle in the right direction. The relationships I've established in TAUC's LEO Committee have definitely helped me in doing just that, and I encourage those of you who are members to attend our next meeting on December 7, 2016 in Washington, D.C.!

*The better our  
relationships are,  
the more trust we build.  
The more trust we  
have in each other,  
the more we can  
accomplish together.*



*Scott Fisher is the TAUC LEO Committee Chair and Vice President of Labor Relations, Safety & Health and Workforce Development for the Associated General Contractors (AGC) of Michigan.*

# Best Frenemies

by JOE LASKY, JR., CSP, CHMM

**“Success is not measured by what you accomplish, but by the opposition you have encountered, and the courage with which you have maintained the struggle against overwhelming odds.”**

**— Orison Swett Marden**

**A**T A RECENT church service, I listened to our pastor give an interesting sermon on the topic of “frenemies.” The term frenemy blends the words “friend” and “enemy,” and means someone who pretends to be a friend but actually is an enemy – a wolf in sheep’s clothing, so to speak. Most of us have had a frenemy at one time or another, and this prompted me to think about frenemies in the workplace.

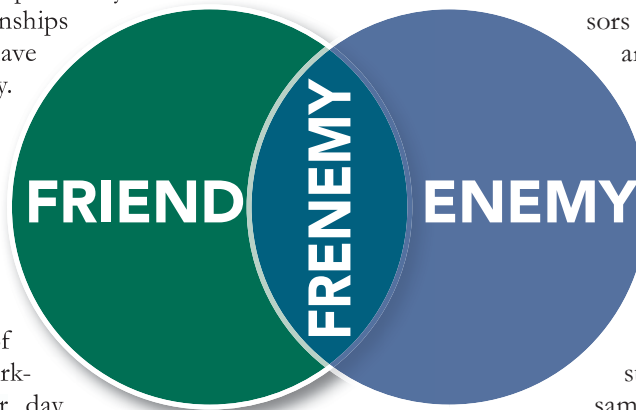
As safety professionals, the path to achieving our personal and professional goals is treacherous enough without a frenemy. There are company trade secrets to protect, a level of professionalism to maintain, and a commitment to the well-being of our workforce. Although the problem of the frenemy in the workplace may not be readily apparent, relationships with co-workers or clients do have an impact on worksite safety. Hopefully most of these relationships are positive, but they are still not without risk or potential obstacles.

On one of our projects, while conducting audits in the field, I developed a good relationship with one of the craft workers. The worker’s duties on one particular day included serving as the fire watch during a welding operation. At the end of the welding job, the fire watch is supposed to stay at the site for 30 minutes after the task is done to insure that no fire hazards exist. I found out later that this worker left the job without staying the full 30 minutes and went home. The next morning his supervisor and I approached him and asked him why he left the jobsite when he was supposed to stay for 30 minutes after the hot work task. He apologized and said he had a family commitment at home. I asked him if he knew what could have happened as a result of him leaving. He was aware of the potential for fire and violation of a company safety procedure. Consequently, he was given a written warning and he promised it would not happen again.

Another scenario that comes to mind happened at one of our powerhouse jobs where our onsite safety manager frequently noticed that the client’s personnel were not wearing required hard hats and safety glasses in the field. As a result, a few of our employees thought they could do the same. After correcting the situation with our craft employees, my safety manager brought it to the attention of our superintendent. Consequently, the superintendent and I immediately called a meeting with the client’s upper management. The client corrected the problem immediately and thanked us for letting them know.

These are both examples of people taking advantage of professional relationships, with employees cutting corners and assuming that co-workers or supervisors would not take them to task. Yet another example that may be more difficult to avoid is the personal friendships you develop with co-workers, especially those at your same professional level. Working with people you genuinely like can be great, but there is also a potential downside. Your friend/co-worker may not share the same strong work ethic or show the same level of tenacity to finish a task on schedule. Because of your friendship, you may feel uncomfortable talking about the problem, even though it threatens the entire project. You might even shoulder more of the workload in order to cover for your friend. Such feelings and actions are understandable, but you have to remember that you are constantly being monitored and assessed by various groups and levels of management. The decisions you make to “help out” your friend may not be as well received by your superiors – and that could jeopardize your own career opportunities.

One final situation is more intentional, where the frenemy presents him or herself as a friend to get close enough to gain privileges afforded by friendship, only



*Continued on Page 28*

# Composite Plans: The Time Has Come

by TODD MUSTARD, TAUC SENIOR DIRECTOR OF MEMBERSHIP SERVICES AND GOVERNMENT AFFAIRS

**O**N FRIDAY, SEPTEMBER 9<sup>th</sup>, House of Representatives Education and Workforce Committee Chair John Kline (R-MN) released a discussion draft of the “Multiemployer Pension Modernization Act of 2016” that would amend the Employee Retirement Income Security Act of 1974 (ERISA) to allow for the utilization of composite plans. These are “a new retirement option that mirrors the qualities of both defined benefit and defined contribution pension plans,” according to a supplement to the draft. They would “provide retirees an annuitized benefit much like defined benefit pension plans. Composite plans will also provide employers the flexibility and certainty typically associated with defined contribution plans. The trustees of a composite plan will have the ability to act in a manner that provides workers and retirees a stable, secure retirement benefit.”

The Association of Union Constructors (TAUC) has been pushing for this aspect of multiemployer pension reform for the last four years. Composite plans were originally included

in the Retirement Security Review Commission’s *Solutions Not Bailouts* proposal, but did not get included in the final Multiemployer Pension Reform Act passed in December 2014. Composite plan design is critical to all union contractors participating in multiemployer pension plans. Kline’s bill would give trustees the flexibility to allow contractors to significantly reduce their long-term unfunded liability. While the legacy plan and all of the benefits accrued in those plans would be required to be maintained, the new composite plans would not generate additional unfunded liabilities since those plans would have to be at least 120% funded. Transitioning to these plans would also reduce the amount of money union contractors pay in premiums to the Pension Benefit Guarantee Corporation (PBGC). Last but definitely not least, the careful use of composite plans could significantly improve the chance of having new union contractors join the marketplace who had previously declined to do so because of the unfunded liability they would automatically assume by joining existing multiemployer plans that are not fully funded.

So why are organizations such as the American Association for Retired Persons (AARP) so adamantly against this new plan design? They see it as a “Pandora’s box” that, once opened, would eventually eliminate the use of defined benefit (DB) pension plans altogether. AARP and others view DB plans as the best and only way to provide true retirement security. However, the harsh reality is that even the healthiest of DB plans can be brought down by unforeseen economic and regulatory changes – and once a DB plan is in trouble, it’s very difficult to save it by relying on the tools now available to local trustees: increasing employer contributions and betting on high returns in the stock market. There are no magic bullets to instantly save troubled plans, but there are ways to dramatically increase the odds of success by freeing up trustees to use more flexible and innovative funding methods.

Failure to authorize the use of composite plans can undermine the very DB plans advocates claim to want to protect. In the current environment, the increasing cost and unfunded liabilities and uncertainty are forcing contributing employers to increasingly move away from DB plans towards defined contribution plans. Composite plans will allow for participants to receive lifetime benefits while providing contributing employers the cost certainty they need to remain in the plan.

TAUC member contractors want to provide retirement security for the union craftworkers who work on



## RIGHT TEAM. RIGHT SOLUTION.

McCarl’s – 70 years of superior construction, fabrication, and on-site management solutions across a wide range of industries throughout the region, including: shale gas, petrochemical, water treatment, chemical, steel, power generation, and cryogenics.

**Call us today. We do it right.**

[www.McCarl.com](http://www.McCarl.com)

*Continued on Page 28*

# Adapting to the Speed of Change

by JACOB SNYDER

**A**S CONTRACTORS AND unions, we're engaged in constant competition with the non-union sector of our business — and frankly, we're losing. As I think about why we struggle in the marketplace, one of the answers I keep coming back to is that we are simply not agile or nimble enough to react to market demands. This is true in many facets of our business, but for this article, I want to focus on how increased flexibility when it comes to labor specifically can impact our industry in a positive way.

John F. Kennedy once said, "Change is the law of life. And those who look only to the past or present are certain to miss the future." We know that change is constant in life, and that is certainly true in the markets we serve. Not only do we know change is inevitable, we know that change is occurring more rapidly today than ever before.

The problem is that as we try to adapt to this constantly shifting marketplace, we are at a disadvantage due to our collective bargaining agreement structure, which provides a more rigid framework for employment than our competition. It's very easy for our rivals to quickly change wages, terminate employees, adapt work rules, use innovative schedules, etc. Now, I'm not saying we should abandon the labor-management frameworks we have in place. However, I am suggesting that if we are going to adapt to market and customer needs, we must be more *innovative* in our agreements and interactions to allow for quicker, more strategic reactions to changing conditions.

Famed author Graham Winter wrote a book entitled *First Be Nimble*. It outlines how organizations and groups can change their culture to more easily evolve and adapt to change. There are several items that Mr. Winter points out that stuck with me regarding our business.

**1. A culture of complacency is killer and must be addressed.** Some of the signs of complacency are fixing the same problem over and over; blaming others; lacking commitment and urgency; thinking "me," not "we;" and rejecting new ideas or suggestions. In my experience, this certainly sounds like our industry when we try to address the need for change. These signs are indicative of an entitlement culture.


**2. There is a major difference between technical and adaptive change, and we need to be able to make adaptive changes.** According to Ron Heifetz, "Adaptive challenges are problems or opportunities that don't have clear-cut answers and will demand changes in beliefs, habits, assumptions, loyalties, and identity." But implementing these types of fundamental changes is dangerous, because people feel threatened by what they might lose (power, stability, control, etc.). So more often than not, we take the easy route and instead make small, technical adjustments to problems — we patch the wound rather than try to heal the patient.

For example, when facing non-union competition, we often address cost issues by using modified wages or suggesting more use of apprentices. While these are worthwhile changes, they fail to address the underlying issues. Addressing existing benefit structures or changing jurisdiction to allow more flexibility, on the other hand, might be more difficult and painful in the short term, but making these hard decisions could free us up to be more competitive in the long term.

**3. Trust is required to get people to let go of protective and defensive behavior.** Graham said, "When teams develop the confidence and trust to let go of protective and defensive behaviors, it's like releasing the block from under the accelerator." While the relationship between labor and management in our industry has certainly improved, I'm not sure we truly trust each other. That causes us to take protective and defensive postures when our ideas or actions are challenged.

**4. We have to be willing to challenge sacred cows.** "A sacred cow is something that can't be challenged without an outbreak of protective or defensive behaviors," Graham noted. "When those behaviors come from leaders the cow will remain sacred no matter how compelling the case for change." We have a lot of sacred cows: jurisdiction, overtime rules, defined benefit pensions, and others. If we are going to survive, these sacred cows need to be looked at collaboratively to allow us to adapt.

Think back over the course of your career and count the number of major changes that have improved labor delivery and performance. If you're like me, you can count them on one hand — and most of them were *technical* changes rather than *adaptive* changes. I hope that we can find a way to work together to embrace a culture that understands change is happening quickly...and that our failure to be adaptable and nimble may very well lead to the downfall of our industry.

Charles Darwin wrote, "It is not those species that are the most intelligent or strong that survive, but rather those who adapt to change." Maybe we are the best trained and most productive workforce in the construction industry, but are we able to adapt to the marketplace at the pace necessary to survive and thrive as our competition has been doing for decades? 



*Jacob Snyder is the TAUC Industrial Relations Committee Chairman and Director of Safety and Labor Relations for Enerfab Power & Industrial, Inc.*

## Best Frenemies

*Continued from Page 25*

to cause harm to you or gain advantage over you in the eyes of your managers. I offer, as an example, Shakespeare's hero Julius Caesar who failed to recognize Brutus as a frenemy. Caesar sought Brutus' assistance as Caesar considered Brutus a close and trusted advisor, only to have Brutus stab Caesar, killing him. The lesson: remain alert to those that have approached you with warm and appealing demeanors until you understand their intent.

On a positive note, frenemies may actually inspire you to better perform your job duties. When such frenemies' intentions are recognized early, you can fuel your ambitions for success through the competitiveness of the relationship, as two peers talented in their trades challenge themselves

to be the best they can be. Finding a friend that shares some of the same goals as you may result in a positive outcome. I offer this quote from the second sequel of the *Godfather* movie where Michael Corleone says, "My father taught me many things....Keep your friends close but your enemies closer."

Thus, having "frenemies" yields two consequences in safety – negative and positive feelings that are equally strong. Negative consequences are the irritation and stress that come with knowing that all people are not looking out for our best interests. Positive consequences from the discomfort can challenge a useful trigger to reorient our thinking. This ultimately prevents complacency from setting in

and makes us better and stronger at our jobs.

Stay Safe Out There! 




*Joe Laskey is Chair of the TAUC Environmental Health and Safety Committee and Director of Corporate Safety, Health and Environment for Scheck Industries.*

## Composite Plans: The Time Has Come

*Continued from Page 26*

their jobsites, but they also want – need – to be competitive in the marketplace; otherwise, there won't be any jobs for those workers, period. Additionally, TAUC members believe that providing good benefits – not just pensions, but also health and welfare – is critical if we want to convince high-quality men and women to join the unionized building trades. The union construction "elevator pitch" to our customers is that we provide the highest skilled, most productive and safest option for their construction and maintenance needs. The only way we can live up to that bargain is by recruiting the best and brightest to our team. Composite plans will give contractors the edge they need to provide this secure future for craft workers while at the same time eliminate unfunded liability, which will ultimately make the entire industry more competitive.

Change is never easy. Sometimes we are forced to make difficult decisions to ensure our long-term survival. This is one of those times. The alternative -- do nothing, keep the status quo -- would be nothing short of a disaster for contractors, the hardworking union trades they employ, and the millions of Americans who rely on us to literally keep the lights on. 

THE **#1**

**PAYROLL SERVICE**  
for **UNION CONTRACTORS**

**payroll4construction.com**



**Ask about FREE Union Reporting!**  
(800)949-9620

# TAUC Welcomes New Governing, Affiliate Members

## TAUC is pleased to welcome our newest Governing Members:

**AZCO, Inc.** is an employee-owned, full service industrial constructor and fabricator, capable of self-performing a wide range of general construction and mechanical services. Headquartered in Appleton, Wisconsin, with offices in Minnesota and Colorado, AZCO performs its work throughout the United States serving the power generation, refinery and petrochemical, food and beverage, general manufacturing, and pulp and paper industries.

**Chellino Crane** prides itself on providing its customers with the newest and most technologically advanced equipment. The operators that run Chellino's cranes are certified and have an unparalleled commitment to operating their equipment in the most efficient and safe manner in the industry. Chellino Crane is committed to providing a safe, accident-free and healthy work environment for all its professionals. The Chellino family knows that excellent safety and health conditions do not occur by chance. They are a result of hard work and mindful attention to detail by everyone at Chellino Crane.

**Commercial Contracting Corporation.** For over 65 years, CCC has been offering a range of services that encompass every step of the construction lifecycle, from general contracting and equipment installation to steel erection and construction management. As one of ENR's Top 400 Contractors, CCC understands how to deliver projects that are safe, on time and on budget – every time.

**Kalkreuth Roofing and Sheet Metal** is one of the top 10 roofing contractors in the country and strives to maintain a progressive vision for the future. Kalkreuth specializes in complex commercial exterior envelope

applications in various markets throughout the country. The company boasts an extensive project portfolio including clients in the automotive, chemical, government, education and healthcare industries. With a wealth of resources and an extensive construction industry network, Kalkreuth has the capabilities to complete any project according to specifications.

**McAbee Construction Inc.** was founded in 1962 by Leroy McAbee Sr. and has set the standards for mechanical and industrial construction and fabrication of piping, vessels, modules, sheet metal and autoclaves. This provides their clients in the United States and around the world with the highest quality, timely execution and fair

pricing. With a strong, focused management team, committed people, resources and facilities, McAbee can assure that each project is completed to the customer's satisfaction.

**About Governing Membership:** Governing Members go the extra mile by taking a more involved role in the association. They have the opportunity to chair TAUC's

committees, subcommittees and task forces, and have full voting privileges at association meetings. Learn more at [www.tauc.org/membership](http://www.tauc.org/membership).

## TAUC is also pleased to welcome as our latest Affiliate Members:

**Alan Biller and Associates**, an SEC registered firm founded in 1982, provides a full range of fiduciary investment consulting and discretionary services to employee benefit plans, non-profits and public entities covering a wide array of plan types, including defined benefit, defined contribution and health & welfare. Its unique team of experienced consultants, researchers and analysts are located in Menlo Park, California and in Boston, Seattle and Washington, DC.



**Amerisafe Consulting & Safety Services (ACSS)** is a full service safety consulting, staffing and safety training company. ACSS Safety Consultants are a staff of highly trained and seasoned Certified Safety Professionals with proven experience in developing safety programs for all types of industries nationwide.

**Applied Software.** Established in 1982, Applied Software is a full-service solutions integrator for the commercial and government marketplace. The company specializes in providing solutions for architects, engineers, owners, construction firms, manufacturing and other design-focused commercial and government entities. The company's focus is to enable our clients to work smarter, faster and more efficiently to accelerate their success. Applied Software also specializes in providing project management, training, consulting, support, systems integration and custom services that help organizations optimize their use of design and project delivery technologies. Applied Software is a pioneer in Building Information Modeling and has been a leader in 3D-based tools for design and facilities management for over 30 years.

**E2E Summit** hosts industry-specific, invitation-only, Executive-to Executive networking events that connect industry Visionaries, Innovators and Pioneers (VIPs). E2E's custom approach evolves around the individual attendee's experience. E2E's mission is to create new strategic partnerships, enhance existing ones, and challenge attendees to look at incremental ways to deliver more value to external and internal customers.

**Hylant** has provided some of the most competitive and strategic insurance solutions to businesses and individuals since 1935. As one of the largest privately held insurance brokerage firms in the United States, Hylant is committed to delivering exceptional long-term results through customized insurance and risk management programs.

**ORR Safety** is a family owned safety distributor representing over 600 industry-leading manufacturers. It provides equipment and services for all aspects of Industrial Safety, Occupational Health, Industrial Hygiene, and Fire Protection. ORR Safety has proven programs for Prescription Safety Eyewear, Safety Shoes, Technical Products, On-site Stores, Vending, Rental, Turnarounds, and more, and is registered to ISO-9001.

**Sportex Safety** offers a wide variety of services, including custom safety workwear; safety recognition program materials; signs, banners and decals; printed materials and signage; and much more.

**About Affiliate Membership:** TAUC Affiliate members optimize the visibility of their organization through networking, sponsorship and advertising opportunities many of which are not available to groups outside the association. These companies provide services, products, equipment and information to construction contractors and operate in a manner consistent with our commitment to the union construction industry. Learn more at [www.tauc.org/membership](http://www.tauc.org/membership).

## The 10-Minute Press Release

*Continued from Page 22*

create one!), and link to it on Twitter, Facebook, LinkedIn, etc.

### STEP #5: REPEAT.

Start looking for excuses to write more press releases. Aim for a goal of writing at least one press release a month. Ask your employees for suggestions about topics. Consistency is the key. Your first release may not get any response, but don't get discouraged — keep plugging away. Oftentimes reporters may not respond to a release, but they'll file

it away; they are always looking for new sources for future articles. Who knows? You may get a call six months down the road from a reporter seeking comment on a local business issue, because they saw your name on the release.

### CONCLUSION

Press releases are an easy, low-cost way to raise your company's profile. They're not a get-rich-quick scheme, but they are a way for small contractors to spread the word about their

company, and the union construction and maintenance industry as a whole.

By the way — be sure to put me on your press release list! I'm always looking for great content for our magazine, e-news and website. Email me at [dacord@tauc.org](mailto:dacord@tauc.org).

Now get writing!

*David Acord is Director of Communications for TAUC and its sister organization, NMAPC. He is also editor of TAUC's quarterly magazine The Construction User and monthly e-newsletter, TAUC Tripartite News.*



# ARE YOU TAUC GM MATERIAL?

The weather is getting cooler, and the World Series is just around the corner! General managers are busy putting together what they hope will be championship-level teams.

Here at The Association of Union Constructors (TAUC), we have our own GMs – Governing Members, those who choose to step up and take a larger leadership role within the organization. TAUC is very proud of our Governing Members – and we want you to consider joining this special team-within-a-team.

**Join Now & Participate in Upcoming TAUC Committee Meetings!**  
**Wednesday, December 7, 2016, Washington, D.C.**  
**Go to [www.tauc.org/stuc](http://www.tauc.org/stuc) for more info**

## **Governing Members give their time and energy – and in return receive the following benefits:**

- Eligible to serve on TAUC Board of Directors
- Eligible to chair TAUC Committees & Task Forces
- Have full voting privileges at TAUC meetings
- Receive special discounted rate for TAUC Leadership Conference
- Participate in all TAUC educational webinars free of charge
- Obtain labor relations assistance from TAUC staff
- Have opportunity to be considered to serve as NMAPC management representative
- Signatories to 10 or more NMAPC agreements receive a discount of up to \$3,200 per year on administrative fees

---

**Don't delay – become a TAUC Governing Member Today!**

**Contact: Todd Mustard**

Senior Director of Government Affairs and Member Services  
(703) 524-3336 x112  
[tmustard@tauc.org](mailto:tmustard@tauc.org)



## **eLearning Resource Center**

The National Maintenance Agreements Policy Committee, Inc. (NMAPC) has been serving the union construction and maintenance industry for more than 40 years. We negotiate and administer the National Maintenance Agreements (NMA), a series of collective bargaining agreements utilized by more than 2,000 industrial construction and maintenance contractors employing members of fourteen international building trades unions.

Now, the NMAPC has created a comprehensive web-based resource center to help contractors, clients and crafts more effectively utilize the NMAPC Program.

**The NMA I.Q. eLearning Resource Center** is the web-based resource for “all things NMA.” It is designed for newcomers and industry veterans alike, and equally useful to all members of the tripartite community – contractors, building trades unions and owner-clients. It offers easy-to-follow online tutorials and short videos on virtually every aspect of the NMA, from a “How does it work?” general overview to detailed instructions and explanations on more technical aspects of the Agreements.

**Try it today – it’s free!**  
**[www.NMAIQ.org](http://www.NMAIQ.org)**