

WHAT'S NEWS

DVBE Good Faith Efforts Update

AGC has had another meeting with the Administration, DGS and Caltrans to discuss AB 21 and proposed changes to public works contracts that would ensure a fair competitive bidding process. Unfortunately, since AB 21 went into effect, there are several construction projects that have not been awarded due to the 3% DVBE requirement. The new law requires the awarding agency to award the contract to the lowest responsible bidder meeting specific participation goals, unless there is no bidder meeting such requirements, in which case the awarding department shall award the contract to the next lowest bidder meeting the good faith effort participation goals. Stay tuned for updates as we continue to discussions on the 3% DVBE.

IOU's are Almost a Thing of the Past

State Controller John Chiang announced that California's new budget would allow the state to cease issuing I.O.U.'s in early September. The budget will also allow California to pay off the 327,000 I.O.U.'s it issued to taxpayers, vendors and contractors during the previous two months a full month earlier than previously predicted. The state still needs to borrow approximately \$10.5 billion in order to get through the June 30, 2010 fiscal year end. The sharp decline in tax revenues has been blamed as the largest contributing factor to the state's financial woes; however, experts caution that the decline is still under way.

Fall Conference: AGC OKTOBERFEST



Don't travel all the way to Germany when you can go to the world-class luxurious Hyatt Grand Champions in Indian Wells. Featured at this year's Fall Conference (October 28-30) are the State Boards of Directors meeting and the Association's annual meeting. The ever popular optional sporting events, training, entertainment, and most importantly, excellent networking opportunities will be offered. AGC has lined up a surprise speaker that promises to be a runaway hit. Don't miss this opportunity. Click [here](#) to register today!

AGC Boards of Directors/Annual Meeting

The Association's annual State Board of Directors meeting is scheduled for October 29. The Building Division and the Joint Engineering Division Boards will meet the day prior, October 28. These informative meetings are open to all members and are held in conjunction with the AGC Fall Conference at the Hyatt Grand Champions, Indian Wells.

Upcoming Events

Visit AGC's Website for a complete list of [Training Programs](#).

August 21 - [Leadership Under Fire Seminar](#). Contact Sophie You (916) 371-2422.

August 26 -29 - [CLC Working Weekend](#). Contact Ellyn Van Camp (805) 388-7330.

September 2 - [Proving, Pricing & Defending Delay and Disruption Claims](#). Contact Ahn Tran (626) 608-5800.

September 14 - [Orange County Golf Classic](#). Contact Doris McMillan (909) 885-7519.

September 16 - [Bay Region Public Works Night](#). Contact Rachel Morris (925) 827-2422.

September 18 - [San Francisco Bay Area District A's Game](#). Contact Kristen Fracisco (925) 827-2422.

September 18 - [Tri-Counties 34th Annual Golf Classic](#). Contact Ellyn Van Camp (805) 388-7330.

September 23-24 - [Construction Quality Management](#). Contact Jason Mann (916) 371-2422.

Office of the Court – Construction Opportunities

The Office of the Court has in place a \$6.5 billion construction program through 2012. The program includes construction of approximately 57 court houses, with estimates for the smallest court house construction estimated at \$20 million and the largest one in San Diego at around \$800 million. The Facilities Department will be sending AGC their implementation schedule and they are trying to fast track as much of this work as possible. AGC has established a quarterly conference call with the Courts facility group. For more information, please visit the following links:

All RFQs and RFPs for the entire AOC are posted here: <http://www.courtinfo.ca.gov/reference/rfp/> (this includes both the capital program and other AOC programs/services)

Best way to monitor upcoming courthouse design and construction solicitations is the main page of the Office of Court Construction and Management: <http://www.courtinfo.ca.gov/programs/occm/>

Or, if you are interested in being alerted by email about upcoming and recently posted opportunities from OCCM, you can join their email list by sending your name, title, firm name, Discipline (architecture, engineering, construction management, general contractor, etc.), email address, postal address, and phone number to occmrfq@jud.ca.gov

President Signs Highway Trust Fund Fix

President Obama signed the Highway Trust Fund bill into law on August 7, 2009 after the House and Senate passed the legislation authorizing the transfer of \$7 billion of general fund revenue. The transfer allows state transportation departments to receive full reimbursements for federal-aid highway projects through the end of fiscal year 2009 (September 30). Congressman Jim Oberstar (D-Minn.), the Chairman of the House Committee on Transportation and Infrastructure, is committed to bringing a six-year surface transportation reauthorization bill to the House floor for a vote prior to the expiration of SAFETEA-LU, while the Senate Environment and Public Works Committee leaders support an 18-month extension of the current authorization.

Heat Stress Regulation

Cal/OSHA is expected to send a rulemaking notice on Heat Illness Prevention regulation 3395, which will bypass the Advisory Committee procedure. The

proposal is close to the original proposal (Alternative 1) discussed several months ago during a Standards Board meeting with an alternative that only involved shade. The regulated community and the Standards Board members soundly rejected the proposal over a split vote. Many felt that if the “infeasibility” clause had been left in to Alternative 1, it would have passed. Among AGC’s concerns are the feasibility issue and High Heat. During the Standards Board last meeting, it was noted that deaths have occurred due to high heat even while the employer was in compliance with the current law. AGC is closely following this issue and will provide additional information as it becomes available.

AGC is Looking for a Few Good Projects

Are you working on a unique project? AGC is looking to highlight new and unique projects in the Member Spotlight section on the AGC homepage. Projects are featured with a brief description and several pictures on their own webpage and are rotated on a regular basis. Email Pam Gray at grayp@agc-ca.org your project information and a few pictures and you may be special featured.

CARB Amendments, Modifications & Clarifications

California Air Resources Board (CARB) approved changes to the in-use off road diesel regulation during its meeting last month. CARB approved the usage of credits by fleets to delay the retrofitting of their existing equipment for 2011 and 2012 until 2013. Additionally the CARB Board approved changes exempting vehicles that are retrofitted ahead of schedule from being replaced in the future, allowing small-and medium sized fleets to buy one filter today instead of having to buy two in a future year, and they requested that the July 2010 report regarding the analysis of emission reductions due to the current recession be provided in January 2010. The Board also removed the “impossible” language in the safety determination that sets a possible impossibility that a contractor will receive a fair evaluation of legitimate safety conflicts associated with retrofit devices. [More Information](#)

Recent Case Law Softens Award of Prompt Payment Penalties

The California Court of Appeals has taken to reversing trial court penalty awards in prompt payment cases. The Court has taken the stance of reversing penalties where there is some evidence that the withholder had a bona fide dispute, even if wrong, or if the claimant proceeded under the wrong penalty statute even if penalties might have been warranted. Therefore, depending on which side of the payment you find yourself, it is critical to establish a contemporaneous record to support your clear entitlement to payment or, alternatively, your good faith belief in the dispute entitling you to withhold payment. It is critical to ensure that the penalty request is made under the proper penalty statute or the penalties will be denied.

Data DIGest

Construction employment fell by 76,000, only slightly less than the 12-month average loss of 88,000 per month. Construction accounted for 30% of the losses in June and 18% of the losses in the 12-month span, although the industry's 6,148,000 jobs in June 2009 accounted for less than 5% of the nonfarm total. The rate of job loss in residential construction (residential building and specialty trade contractors) slowed slightly (to 1.1% in July, vs. 16.4% over 12 months) but nonresidential (building, specialty trades and heavy and civil engineering) construction losses accelerated (1.3% in July, 13.5% over 12 months). In a bad sign for future demand for construction, employment in architectural and engineering services slumped 1.0% for the month and 8.7% over 12 months. [Read More](#)

AGC of America Releases RFP for Lean Construction Curriculum

AGC released a [request for proposal](#) for Lean Construction curriculum for the commercial construction industry. Lean construction, originally a manufacturing strategy implemented by Toyota and more recently publicized by Starbucks, is a culture and a production methodology aimed at creating the greatest amount of value for a construction project through a reduction in waste of materials, time and effort. For this project research of literature, interviews of industry stakeholders, a plan for a compressive curriculum, assessment of learning outcomes, and development of a credentialing plan and strategy for instructor training is requested of those submitting proposals. Proposals are due September 15, 2009 by 5:00 PM EST. The AGC Lean Construction Advisory Group, consisting of members and chapter staff, will evaluate all submissions and select a proposal to be

awarded on October 5, 2009. Please contact Amy Fields, Senior Director, Curriculum & Program Development at fieldsa@agc.org with any questions.

Tom Holsman Appointed to PIAC

California's Business, Transportation and Housing Agency (BT&H) Secretary Dale Bonner appointed Tom Holsman, AGC'S CEO, to the Public Infrastructure Advisory Commission (PIAC). The PIAC is a new auxiliary unit within the BT&H agency and is the Nation's first statewide body formed to help state and regional transportation agencies develop performance-based partnerships (P3). The P3 agreements may include private sector finance, design, construction, maintenance and operation of transportation facilities. Overall, the Commission will assist Caltrans and regional transportation agencies in developing public-private financing agreements for high-priority infrastructure projects through the state. The newly formed Commission, chaired by Secretary Bonner, includes 22 individuals from academia, industry and government.

It's Good Business to Do Business with an AGC NEW MEMBER!

Aggreko, LLC, *Santa Fe Springs*
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A-Z Emissions Solutions, *Sacramento*
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Constar Supply, *Clovis*
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Euro Style Management Inc., *North Highlands*
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