



The Weekly National News Bulletin for ASA Members Only
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ASA Report Shows Subcontractors Won Major Payment Reforms in 2010

The 2010 edition of [The ASA Report: The Policy Environment in the States](#) shows that construction subcontractors across the country secured major payment reforms, which will help “shore up” the critical lifeline of their businesses — cash flow. Three states — Arizona, Oklahoma and Nebraska — substantively reformed both prompt payment and retainage laws. Two other states, Kansas and Massachusetts, also enacted payment reforms, raising their state scores by a full letter grade. “The ASA chapters supporting these reforms were organized, passionate and worked to build consensus,” said 2010-11 ASA President Timmy McLaughlin, Austin Construction Company, Summerville, S.C. “They presented legislators with sensible solutions aimed at helping subcontracting firms that are really feeling the tough times.”

Arizona’s S.B. 1375, supported by ASA of Arizona, establishes a payment cycle according to which private-construction owners, prime contractors, and subcontractors normally will have to pay retainage and final payments for properly completed construction services and materials, or else pay a penalty of 1.5-percent interest per month.

MAJOR
RENOVATIONS
MUST MEET
LEED® GOLD
CERTIFICATION

- GET TIPS FOR REDUCING EMPLOYEE THEFT AND FRAUD DURING ASA'S DEC. 14 WEBINAR
- ASADVANTAGE PARTICIPATING PROVIDER: *THE BLUE BOOK OF BUILDING AND CONSTRUCTION*

Oklahoma passed two bills that were top legislative priorities of ASA of Oklahoma. S.B. 1012 strengthens the state's private prompt payment law, and S.B. 573 limits retainage on public projects.

Nebraska enacted its first prompt pay law for private and local government construction projects when the governor signed L.B. 552. The law also requires that retainage be released upon substantial completion for each construction team member.

In Kansas, ASA-Greater Kansas City worked to win reforms to the state's private and public retainage laws. The state's new law caps retainage at 5 percent, and allows contractors and subcontractors to provide a retainage bond, an irrevocable bank letter of credit, certificate of deposit, cash bond or other type of asset or security in lieu of retainage.

Massachusetts made pay-if-paid clauses in private construction contracts "void" and "unenforceable" with the passage of H. 4721.

New Mexico remains the state with the highest overall score in the *ASA Report*, with a "90." The *ASA Report* scores each state in seven individual public policy areas important to subcontractors, and uses the scores to assign an overall score and grade to each state. ASA's campaign warns subcontractors of weaknesses in their state laws, provides advocacy information to help change laws, and educates subcontractors about the need to remain vigilant when negotiating contracts in a harsh public policy environment. *Read the report online under "Advocacy and Contracts" at www.asaonline.com.*

Prospects for Repeal of Expanded Form 1099 Reporting Requirements Brighten

On Nov. 15, U.S. Senate Committee on Finance Chairman Max Baucus, D-Mont., along with a bipartisan group of senators introduced legislation ([S. 3946](#)), which would

repeal expanded Form 1099 reporting requirements. Under current law, businesses will have to prepare and file 1099 forms for each vendor to which they pay more than \$600 during a calendar year, beginning with payments made in 2012. In a statement Baucus said, "Small businesses are the backbone of our economy... businesses need to focus their efforts on growing and creating good-paying jobs — not filing paperwork." If the repeal effort is unsuccessful before the lame-duck session adjourns, repeal will likely be one of the first orders of business when the new Congress convenes in January. *For more information, contact ASA at (703) 684-3450, Ext. 1333, or GovernmentRelations@asa-hq.com.*

Learn About the World's 'Largest Ecosystem Restoration Effort' at ASA's Convention in March

In December 2000, Congress authorized a comprehensive plan to restore the Everglades. On March 4 at the ASA Business Forum and Convention 2011 in Naples, Fla., learn about the progress of the \$10.5 billion, 30-year Comprehensive Everglades Restoration Plan, and insights on what's yet to come in the massive construction programs that will ultimately deliver 1,000 miles of canals, 720 miles of levees, and several hundred water control structures to south Florida. Stuart Appelbaum, chief of the Everglades Division of the Jacksonville Division of the U.S. Army Corps of Engineers, who is responsible for overseeing the South Florida ecosystem restoration program, will present the general session "Everglades Restoration: Construction Achievements and Challenges," from 1:00 to 2:30 p.m. at the Naples Beach Hotel and Golf Club. *Register online at www.asaonline.com and reserve your room in the ASA room block by Feb. 1 for discounted registration and hotel room rates.*

GSA: All New Federal Buildings and Major Renovations Must Meet LEED® Gold Certification

The U.S. General Services Administration is requiring that all new federal building construction and substantial renovation projects funded in FY 2010 meet LEED® Gold certification as part of President's Obama's initiative to increase sustainability and energy efficiency. For projects funded prior to FY 2010 that are in the design phase, GSA is requiring that LEED® Gold "be incorporated into ongoing designs when possible, after considering budget and schedule constraints on the current design and construction contracts." GSA's move is in response to [Executive Order 13514](#), signed on Oct. 5, 2009, which mandates new sustainability goals for federal agencies that focus on "making improvements in their environmental, energy and economic performance." *For more information, visit www.gsa.gov.*

Get Tips for Reducing Employee Theft and Fraud During ASA's Dec. 14 Webinar

Theft and fraud can happen to any company, costing thousands of dollars and imperiling the business itself. Get tips on protecting your company and reducing your chance of becoming a victim of theft and fraud. In ASA's December webinar, "Reducing Employee Theft and Fraud," presenter Lamar Harner, [HarnerEvans PLC](#), Phoenix, Ariz., will discuss anti-fraud strategies, how to assess your risk, and explain prevention and detection techniques. You'll also

learn how to develop a plan for a well-coordinated and timely investigation in case fraud is detected. Project the webinar on a screen or wall and listen to it on a speakerphone for a group training event at your office. The registration fee for the webinar is \$99 for ASA members and \$179 for nonmembers, and allows access with one Internet connection and one telephone line. After the program, participants will receive a multimedia CD-ROM with an audio-visual recording of the presentation, and a link to a printable ASA Certificate of Completion. The 90-minute webinar is scheduled for Dec. 14 at 12:00 p.m. EST. To register, visit "Register for a Meeting" at www.asaonline.com, or call (703) 684-3450, Ext. 1304.

ASAdvantage Participating Provider: *The Blue Book of Building and Construction*

The Blue Book of Building and Construction is a participating provider in the ASAdvantage program. As an ASAdvantage provider, *The Blue Book* offers construction subcontractors an enhanced version of its free online bid management system, BB-Bid. ASA members who desire immediate delivery of project documents have the opportunity to purchase plans easily online. For more information, visit www.thebluebook.com.