

CONSTRUCTION VIEWS

Education | Recognition | Networking

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Summer Networking with MCA

Don't miss these opportunities to mix and mingle with fellow construction industry professionals!

July 21 – Hosted by Fabyanske, Westra, Hart & Thomson

The event will begin with a tour of the new Fabyanske, Westra, Hart & Thomson office space and information about the successes and challenges of the project. Following the tour, refreshments will be provided by Fabyanske, Westra, Hart & Thomson.

Where:

Fabyanske, Westra, Hart & Thomson Office
333 South Seventh Street, Suite 2600
Minneapolis, MN 55402

When:

Monday, July 21, 2014
3:30 pm

Please RSVP to info@mnconstruction.org by Monday, July 14.

August 19 – All Industry Networking

Enjoy appetizers and drinks at Two Stooges Sports Bar and Grill in Fridley. Everyone is welcome to attend – member or non-member!

Where:

Two Stooges Sports Bar and Grill
7178 University Ave NE, Fridley, MN 55432

When:

Tuesday, August 19, 2014
3:30 pm – 6:00 pm

Please RSVP to info@mnconstruction.org by Friday, August 15.

Calendar of Events

Monday, July 21, 2014
MCA Board Meeting

Monday, July 21, 2014
MCA Networking Event

Monday, August 18, 2014
MCA Board Meeting

Tuesday, August 19, 2014
All Industry Networking Event

Monday,
September 15, 2014
MCA Board Meeting

Friday, October 3, 2014
2014 Intercollegiate Career Fair and Quiz Bowl

Monday, October 20, 2014
MCA Board Meeting

Monday,
November 17, 2014
MCA Board Meeting

Monday,
December 15, 2014
MCA Board Meeting

Visit www.mnconstruction.org for more information and to register today!

MCA is a non-profit association dedicated to educating and promoting the construction industry. Statements of fact and opinion in this publication are the responsibility of the authors alone and do not necessarily reflect or imply the opinion of the members, directors or staff of MCA.



PRESIDENT'S COLUMN

Gregg Johnson

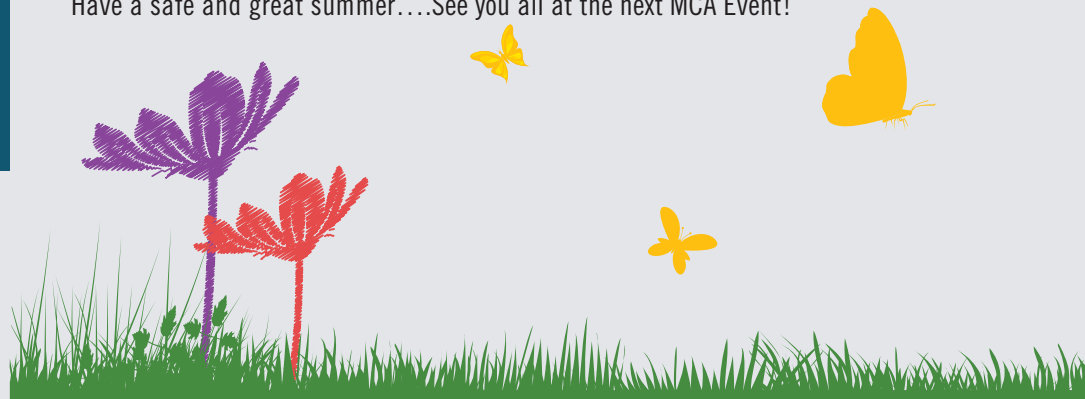
Welcome to summer! I look forward to great barbeques, days on the lake, taking in a ball game, summer family vacations and all the other activities that get me outside with family and friends. One activity that rises up to the top of my summer events every year is the MCA Scholarship Golf Tournament in early June. To me it is the kickoff of summer and a great time to re-connect with fantastic business friends, enjoy an afternoon outside - hopefully in great weather (It was all of that this year!) and to enjoy giving back in support of the future generations of construction professionals. This year's event far exceeded my expectations - a sold out event, twenty-four sponsors, a great venue, great day of weather and even greater support for our educational partner students. I want to thank everyone that was able to participate in the event either by helping to set up the event, being an event sponsor, participating in golf or donating a prize. I want to send out a special Thank You to Rory Synstelien for taking on and pulling this event together. Rory brings high energy, his commitment to step up and be a difference maker and his willingness to share his passion for the industry. I could not think of a better ambassador for MCA and what it means to support the industry...so "Be like Rory".

MCA has more events that will allow you to follow Rory's lead - networking events on July 21st at Fabyanske, Westra, Hart & Thomson and on August 19th at Two Stooges Sports Bar & Grill and on October 3rd the annual MCA Intercollegiate Career Fair and Quiz Bowl held at the University of Minnesota. All these and more MCA events and activities are posted on the website at www.mnconstruction.org. Take time on a regular basis to check on upcoming events and "Be like Rory".

It is energizing to see construction activity up and an outlook that is encouraging. Unemployment is at a seven year low. Many large projects have started or are approved to start shortly. The construction industry has a bright future. We continue to embrace new technologies like cloud data sharing, integrated modeling, online meetings, portable construction tool applications, real time test and quality controls and computerized equipment.

MCA is your connection to stay current and to be a future industry difference maker like Rory. If you have a topic or project that you would like MCA to cover or showcase, please send us an email at info@mnconstruction.org. MCA is committed to being your association, your source for educational opportunities, your source to network, and your source to showcase excellent performance and recognize the industry high performances.

Have a safe and great summer...See you all at the next MCA Event!



2014 Intercollegiate Career Fair & Quiz Bowl

FRIDAY, OCTOBER 3, 2014

The University of Minnesota Construction and Facility Management program is hosting the second intercollegiate event of its kind, a career fair and quiz bowl event organized to attract students from all nine upper Midwest region schools of Construction Management! Current students and alumni in the fields of Construction Management, Civil Engineering, Architecture, Housing Studies and Interior Design are encouraged to attend.

Partner schools include Minnesota State Mankato, Minnesota State Moorhead, Dunwoody Institute of Technology, University of Wisconsin Stout, Iowa State University, University of Northern Iowa, South Dakota State University, North Dakota State University and the University of Minnesota.

EMPLOYER INFORMATION:

This year, we have more space – 65 spaces for employer booths including several for nonprofit and government agencies. The traditional career fair portion is one hour longer from 9:00 a.m. to 2:00 p.m. and runs concurrently with the preliminary Quiz Bowl rounds and will be followed immediately by the championship Quiz Bowl round. Industry partners will be recruited to “judge” the quiz bowl event and we welcome your participation.

Visit the career fair website at www.careerhelp.umn.edu/cfmfair to find more information and to register online. Register early as space is limited! Employers have the opportunity to select their own table placement.

SCHEDULE FOR THE DAY:

| | |
|------------------|--|
| 8:00–9:00 am | Registration, Set-up, Light Breakfast |
| 9:00 am–2:00 pm | Career Fair (concurrent with preliminary Quiz Bowl rounds) |
| 11:30 am–1:30 pm | Lunch for Employers |
| 2:00–2:30 pm | Career Fair closes, take down displays |
| 2:15–3:00 pm | Quiz Bowl Championship Round and Trophy Award |

REGISTRATION FEES:

Space is limited.

No refunds after September 6, 2014.

Private Industry: \$400/table

Government: \$200/table

Nonprofit/Association: \$100/table

The registration fee includes a 6' table, two chairs, parking, light breakfast and lunch for two representatives. If you plan to send more than two representatives the cost is \$25/person. To avoid excessive congestion we recommend no more than four representatives per table. There is only one table allowed per company.

SPONSORSHIP LEVELS:

Gold Level \$1,000

Includes registration fee (8' table) and Gold Level Sponsorship. Booth located in sponsorship aisle of Career Fair, a full page ad in the Employer Profile book, logo on posters distributed across campuses, logo on table tents in student dining/study areas and logo on emails sent to students and faculty.

Silver Level: \$750

Includes registration fee (8' table) and Silver Level Sponsorship. Booth located in premium spot of Career Fair, half page ad in the Employer Profile book and logo on posters distributed across campuses.

Visit the career fair website at www.careerhelp.umn.edu/cfmfair to find more information and to register online.

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MEMBER HIGHLIGHTS

Member Highlights is a feature of the Construction Views newsletter profiling two members of MCA that are selected by the Membership Committee.



**MATT
BUGGI**
(Graham
Construction
Services)

[Tell the MCA about your family:](#)

I am married and have two sons, Joe (4) and Andrew (2). My wife, Leslie, is a veterinarian (but we have no pets) and my kids like to think of themselves as freelance artists on our walls at home.

[What lead you to your current career?](#)

Growing up, my dad was always building something so I was “volunteered” to help him throughout my childhood. I ended up in the Construction Management program at the University of Nebraska and worked construction throughout college when not in school. After college I worked for a small GC and an engineering firm before working with Graham for the past five years.

[What are your hobbies and interests?](#)

I enjoy hunting, fishing, playing sports, following the Nebraska athletic programs, and I have an ongoing love/hate relationship with running. Most of all I like playing Legos, hide & seek, and rough-housing with my kids.

[What do you find as a rewarding challenge about your current job?](#)

Every day brings new challenges, which is why I enjoy construction so much. It's such a dynamic field dealing with different personalities between owners, designers and fellow contractors that there are always new challenges, but also new perspectives to learn from.

[What is the benefit of MCA to you and your company?](#)

MCA gives us the opportunity to interact closely with different specialty trades and designers that we may not normally be in contact with and educate ourselves to what's coming up in the industry through sponsored seminars.

[What was a recent good book you read or movie you saw?](#)

The last two books I read were *The Heart and the Fist* by Eric Greitens and *Life*, the autobiography by Keith Richards.



**ANDREW
SCHMID**
(Terracon
Consultants, Inc.)

[Tell the MCA about your family:](#)

I have been married since 1998 and have 3 children (2 boys and a girl). I still have one pet, a 19 year old dachshund.

[What lead you to your current career?](#)

When I graduated, the real career that I wanted to go in was having a real problem and no jobs were available. I had a friend who knew some people and got me an interview with a firm like the one I work for now and they hired me. I have been in this business ever since, 18 years and counting. I have been with my current company, Terracon, for about 10 years now.

[What are your hobbies and interests?](#)

Since having kids, I don't really have any hobbies outside sports with them. So, we enjoy soccer, bowling, and archery. Before my kids, I was an avid coin, sport card, and coke memorabilia collector.

[What do you find as a rewarding challenge about your current job?](#)

I really enjoy helping those that want help with problems. It is really rewarding when together a problem can be fixed that makes everyone happy.

[What is the benefit of MCA to you and your company?](#)

The benefit that I feel that the MCA can give me and my company is with the wealth of company diversity that it possesses. I can turn to MCA members for most any service or help that I might need.

[What was a recent good book you read or movie you saw?](#)

It has been a long time since a good movie has come out, but I did just see a terrible one, *The Big Lebowski*. One of the worst movies I have ever seen.



2014 Scholarship Golf Event Sells Out!

On Wednesday, June 4th, the MCA hosted its 6th Annual Scholarship Golf Event at Deer Run in Victoria, MN. The organization filled the course with 36 teams of construction industry professionals. The popularity and success of this event continues to grow every year, with this year selling out! Contributing to the success were the golfers, raffle item donors, event, hole and GPS sponsors. With their high spirits and good attitudes, everyone involved enjoyed the gorgeous weather, impeccable greens and scrumptious dinner. Following dinner, prizes were awarded for skill on the course and pure luck in the raffle drawings. While not everyone who left the event at the end of the day may have had a prize in hand, they all went away winners. The true winners will be the scholarship recipients who benefit from the funds raised by this event. Thank you so much to everyone involved!

[VIEW THE EVENT PHOTOS!](#)

CONGRATULATIONS TO THE 2014 SCHOLARSHIP GOLF WINNING TEAMS



1ST PLACE:

Joe Haskins (Lockton), Matt Johnson (Lockton), Matt Klein (Lockton) and Ben Burke (Travelers)



6TH PLACE:

Rory Synstelien (Sathre-Bergquist, Inc.), Patrick Sarver (Civil Site Group), Bill Blotske (Adolfson & Peterson) and Andy Heading (Adolfson & Peterson)



12TH PLACE:

Jim Bystrzycki (JE Dunn), Brent Marlow (JE Dunn), Alex Delimont (JE Dunn) and Rik Myhre (JE Dunn)

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Legislative Alert—Responsible Contractor Law

By Patrick J.
Lee-O'Halloran



**HAMMARGREN
& MEYER, P.A.**

On May 16, 2014, Governor Mark Dayton signed the so-called “Responsible Contractor” bill into Minnesota Law. While purportedly defining a term—responsibility—that has been part of Minnesota Construction law for decades, this law actually imposes sweeping new obligations on every contractor and subcontractor bidding for public work in Minnesota. This article summarizes those requirements and discusses some of the consequences and practical implications for Minnesota contractors and subcontractors.

Responsibility in Public Contracting

Minnesota law long has required that contractors bidding for public work must be “responsible” to perform the work. So long as that requirement is met, the government must award a publicly bid contract to the lowest responsible bidder with a responsive bid. *Griswold v. County of Ramsey*, 65 N.W.2d 647 (1954). An award of a public contract that violates these rules is illegal and void. *Coller v. City of Saint Paul*, 26 N.W.2d 835, 843 (1947).

In this context, responsibility means the contractor has the capacity and qualifications to perform the work. *Kelling v. Edwards*, 134 N.W. 221, 223 (Minn. 1912). A contractor is thus responsible when it can or will perform as it has promised. *Cibinic, Jr. and Nash, Jr., Formation of Government Contracts* 545 (3d ed. 1998).¹ Responsibility includes financial responsibility, integrity, skill, ability, and the likelihood of the bidder’s doing faithful and satisfactory work.

Until this year, Minnesota’s public bidding laws did not provide much guidance about responsibility. Minn. Stat. § 16C.28, for example, simply required that awards to “the lowest responsible bidder,” take into consideration “the status and capability of the vendor or contractor,” thus incorporating responsibility in concept if not in name.

2014 Legislation

In 2014, the legislature passed and the Governor signed a new section of Minnesota law devoted to defining responsibility in the context of public construction, codified as Minnesota Statutes section 16C.285. Proponents of the law have described this legislation as an effort to “weed out” contractors that have been found guilty of unlawful employment practices. Proponents argued that the new law would prevent the state from awarding non-compliant contractors work on state projects. The new law attempts to address such situations by providing specific criteria for responsibility that will allow the state to either decline to award a contract, or void a contract after the fact, if the contractor or vendor is found to be non-compliant.

Application: Contracts greater than \$50,000

The new law applies to publicly owned or financed projects where the prime contract is estimated to exceed \$50,000.00, and is awarded by either a lowest responsible bidder or best value selection method. Minn. Stat. §16A.285, subd. 2. Subcontractors on public work must comply with the new law regardless of the value of their subcontract. Contracting authorities whose contracts are subject to the law include a state agency, MnSCU, the U of M, the Metropolitan Council, the MAC, and municipalities (which includes towns, cities, counties, etc.).

Interestingly, the law also applies not just to the contractor making a bid and its subcontractors, but also to a contractor’s “related entities,” defined as:

- An entity substantially under the contractor’s control;
- A predecessor entity with one or more of the same principals;
- A subsidiary;
- One or more of the contractor’s principals; or
- A person or entity that substantially controls the contractor.

¹ This concept is different from (although sometimes confused with) the concept of responsiveness. A contractor’s bid is called “responsive” when the contractor has promised to do exactly what the Government has requested in its advertisement for bids. This is normally determined at the time of bidding. Responsibility, by contrast, can be determined after bids are opened.

Each of these related entities must meet the law's minimum requirements for a contractor or subcontractor to be deemed responsible.

Minimum Requirements for Responsibility

In order to be awarded a contract, contractors, subcontractors and related parties must meet the following minimum criteria of responsibility:

(1) Insurance and tax. The contractor must:

- a. Comply with workers compensation and unemployment insurance requirements;
- b. Be currently registered with the Department of Revenue and Department of Employment and Economic Development (if the contractor has employees);
- c. Have a valid federal tax id number or social security number; and
- d. Have filed with the secretary of state a certificate of authority to transact business in Minnesota (foreign businesses). Minn. Stat. § 16C.285, subd. 3 (1).

(2) Wage and Hour compliance. It is also a minimum requirement that the contractor "or a related entity" be in compliance with the following wage and hour laws during the three-year period before the bid:

- a. Minn. Stat. § 177.24 (minimum wage);
- b. Minn. Stat. § 177.25 (overtime);
- c. Minn. Stat. §§ 177.41 to 177.44 (Prevailing Wage Act);
- d. Minn. Stat. §§ 181.13 and 181.14 (prompt payment of wages);
- e. Minn. Stat. § 181.722 (misrepresentation of employment);
- f. 29 U.S.C. §§ 201-219 (FLSA); and
- g. 40 U.S.C. §§ 3141-3148 (Davis-Bacon Act). Minn. Stat. § 16C.285, subd. 3 (2)

(3) Registration and Licensing Compliance. The contractor has not violated Minn. Stat. § 181.723 (pertaining to independent contractors and registration) or chapter 326B (construction codes and licensing). A violation occurs when a contractor or related entity has been issued a final administrative or licensing order. Minn. Stat. § 16C.285, subd. 3(3).

(4) Affirmative Action. The contractor has not had a certificate of compliance revoked or suspended under Minn. Stat. § 363A.36 (Affirmative Action) more than twice during the three-year period, where the revocation or suspension was upheld

by OAH or not appealed. Minn. Stat. § 16C.285, subd. 3(4).

(5) Good Faith Efforts. The contractor or related entity has not received a final determination from the Department of Administration or MnDOT for failing to meet targeted group business, disadvantaged business enterprise (DBE), or veteran-owned goals, due to a lack of good faith effort, more than once during the three-year period. Minn. Stat. § 16C.285, subd. 3(5).

(6) Debarment/Suspension. Perhaps unsurprisingly, it is a minimum requirement that the contractor or related entity is not debarred or suspended by the federal or any state government, or any department or agency thereof. Minn. Stat. § 16C.285, subd. 3(6).

(7) Subcontractors. All subcontractors that a contractor intends to use on the project must verify to contractor they also meet the minimum requirements, through a signed statement under oath, by an owner or officer, regardless of the value of the subcontract. Minn. Stat. § 16C.285, subd. 2 (b).

Self-Certifying Compliance

Contractors must submit a signed statement, under oath, certifying that they comply with the minimum requirements at the time they respond to the solicitation. Failure to verify any of the criteria or falsely verifying matters makes the contractor ineligible to receive an award of a construction contract. False certification is also grounds for termination of a contract already awarded, and could implicate other statutes and penalties such as the False Claims Act, Minnesota Statutes chapter 15C. The agency is not liable for declining to award a contract or terminating a contract if it reasonably determines that the contractor failed to certify or falsely certified as to any of the minimum requirements. Minn. Stat. § 16C.285, subd. 4.

Prime contractors must also obtain verifications of compliance from their subcontractors, and produce those to the contracting authority upon request. Prime contractors are entitled to rely on the certifications they receive, but can be liable for the false statements of their first-tier subcontractors if the contractor actually knows of the false statement. Minn. Stat. § 16C.285, subd. 5.

Enforcement

It is not entirely clear what enforcement efforts will be undertaken. Conversations with some agencies suggest that they do not anticipate policing the contractor's verifications, other than requiring the verification to be provided at bid time on their projects. If the certification contains information the agency believes to be false, it will presumably declare the contractor ineligible or consider terminating the contractor's contract (or contracts) if the violation becomes apparent after an award is made. But when the awarding agency is not aware of the compliance issues, it appears that enforcement will be left up to watchdog groups and disappointed bidders. For example, it may be that second-low bidders will now challenge the award of projects as a matter of course, hoping to discover evidence of disqualifying false certifications. Already existing Minnesota law would seem to apply to void any contract awarded to non-responsible contractors, e.g., *Coller v. City of St. Paul*, supra, and the specificity of the new "minimum requirements" may simplify the burdens that often make contract awards difficult to defeat or overturn.

Bid Bond Forfeiture

While the law does not address this consequence, a finding of non-responsibility could have an impact on the contractor's bid bond. Bid bonds are commonly required on public work to assure that the bids received are firm—they require the contractor, if awarded the work, to enter a contract in the amount of their bid, or forfeit a penal sum, often approximately 5% of the bid price. Because forms of bid bond vary, whether a bid bond is forfeited as a result of a finding of non-responsibility will depend on the language of the bond with regard to its conditions and the timing of the contract award. For example, if a bid bond is conditioned upon an award of the contract, the bond penalty may never come into question if the agency declines to award the project due to non-responsibility. On the other hand, if the agency awards a contract but, before the final contract is executed learns of the contractor's non-responsibility, there may be an argument that the bond penalty should be forfeited. These issues will have to play out on a case-by-case basis.



“The new law applies to publicly owned or financed projects where the prime contract is estimated to exceed \$50,000.00, and is awarded by either a lowest responsible bidder or best value selection method.”

Timing Issues

Responsibility under the new law, as is noted above, is based upon having a violation (or in some cases some number or value of violations) during the three-year period preceding the contractor’s certification. This creates a question of timing—when is a violation considered to be part of the 3-year time period? The statute answers this question by specifying when certain violations occur. For example, wage and hour violations occur under subdivision 3(2) “when a contractor or related entity” does one of the following:

- Repeatedly fails to pay statutorily required wages or penalties on one or more projects for a total underpayment of \$25,000 during the three-year period
- Has been issued an order by the commissioner of DOLI, which has become final
- Has been issued at least 2 determination letters by MnDOT within the three-year period, finding an underpayment by the contractor or related entity
- Has been found by the Commissioner of DOLI to have repeatedly or willfully violated one of the prior sections
- Has been issued a ruling or findings of underpayment by the US Department of Labor’s Wage and Hour Division, which have either become final or been upheld by an Administrative Law Judge or Administrative Review Board
- Has been found liable in court for: underpayment of wages, penalties, or for misrepresenting an employee as an independent contractor

Are You Already Disqualified?

The new law applies to new contracts solicited on or after January 1, 2015. In other words, on and after that date contractors will be required to verify their compliance with the minimum requirements or be ineligible for a project award. Violations occurring before July 1, 2014 are not included in responsibility determinations. Minn. Stat. §16C.284, subd. 3.

While the statute thus may appear to create a safe harbor for actions before July 1, that is not what the statute says or does. Instead, the statute says only that violations “occurring prior to July 1, 2014,” are not considered for compliance purposes, leading to the question: when does a violation occur? The statute answers that question explicitly, as is noted above, by describing when a violation occurs as variously, among other things:

- Underpayment of wages
- Issuance of an order to comply by DOLI, which has become final
- A ruling of underpayment is upheld on administrative review, or
- A finding of liability in a court with jurisdiction.

See Minn. Stat. §16C.285, subd. 3(2). Based on these guidelines, then, it appears that violations could “occur” on or after July 1, 2014, and be grounds for contractor disqualification, even though they are based upon underpayments or other acts or omissions that took place before that date. A few hypothetical examples may be instructive:

(1) Consider a violation that occurs due to a “repeated” failure to pay statutorily required wages or penalties on one or more separate projects for a total underpayment of \$25,000 or more within the three-year period. Minn. Stat. § 16C.285, subd. 3(2)(i). This could

“occur” after July 1 based on prior events, such as a prior finding of underpayment by the agency on an ongoing project. If that situation is not resolved, each payday after July 1, 2014, that such an alleged underpayment “repeats” arguably would be grounds for a violation and could make the contractor non-responsible under the law. As a result, the contractor would be unable to verify compliance with subdivision 3(2), and thus ineligible for contract awards. Any false verification submitted could moreover become grounds for termination of previously awarded contracts, perhaps including the pre-July 1 project that was the source of the problem. See Minn. Stat. § 16C.285, subd. 4 (“A false statement under oath verifying compliance with any of the minimum criteria may result in termination of a construction contract that has already been awarded . . .”).

(2) Now consider a violation that occurs due to a finding of liability for underpayment of wages in a court having jurisdiction. Minn. Stat. § 16C.285, subd. 3(2)(vi). As anyone who has been a party to a lawsuit can tell you, court cases typically take months to conclude, some take years. But a “finding of liability” does not happen in most cases until the very end, such as by a ruling on a summary judgment motion or in a judgment entered after trial where the judge or jury “finds” liability. One can easily imagine that such a violation—a finding of liability—could “occur” when, at some date on or after July 1, 2014, a court rules that a contractor is liable for an underpayment in some long-pending lawsuit. In that scenario, the finding would occur for purposes of the statute after July 1, 2014, and would be considered a violation, even though it was based on underlying conduct (such as the act of underpaying or misclassifying workers) that happened months or even years prior, perhaps even on a project that has been long completed and accepted by the owner.

The implications of this timing problem are potentially large, and raise critical issues that public contractors must address now, before they begin verifying compliance next January. These include:

- How should a contractor address past violations when verifying compliance?
- Should you settle pending administrative investigations now or even confess judgment to them, either to avoid problems or prevent violations from occurring beyond July 1, 2014?

If you are in a situation raising these issues, consult an experienced public contracts attorney for advice about your specific situation.

Women’s Economic Security Act

Although not part of the Responsible Contractor Law, the Women’s Economic Security Act (or “WESA”) is another important piece of legislation that raises issues of responsibility and responsiveness in the construction context. Among other things, WESA requires contractors with more than 40 employees seeking state contracts of over \$500,000 to certify that they are paying employees equal wages, regardless of gender, and to certify that there are no pay gaps between men and women by job class. Minnesota state agencies are forbidden to award a contract of more than \$500,000 to a company that does not have a qualifying equal pay certificate. Unlike the responsibility law, under WESA contractors do not technically self-certify their compliance, as they must apply for and receive a certificate from the Commissioner of Human Rights. Nevertheless, issuance of that certificate is mandatory if the

Commissioner receives the prescribed fee (\$150) and a statement, signed by the CEO of the company, certifying compliance with title VII of the Civil Rights Act, the Equal Pay Act of 1963, and the Minnesota Human Rights and Equal Pay acts.

The new WESA statutes are not mentioned in section 16C.285, but pay equity is nonetheless one of the minimum requirements. Under Minn. Stat. § 16C.285, subd. 3 (2), compliance with 29 U.S.C. sections 201 to 219 is one of the minimum requirements, and those provisions include the Federal Equal Pay Act of 1963, among other things. See 29 U.S.C. § 206. Thus any violation of federal equal pay law can also constitute a violation of the Responsibility law that counts toward a contractors’ “minimum requirements,” and could prevent a contractor from being found eligible for public work.

Moreover, WESA has its own provisions concerning responsibility and voiding of contracts, independent from the Responsibility Law. Under WESA, the Commissioner of Human Rights can suspend or revoke the equal pay certificate of any company that fails to make a “good-faith effort” to comply with the equal pay laws or to obtain the equal pay certificate, or has multiple violations of the equal pay laws. Any contract that is awarded to a company without an equal pay certificate when required “may” have its contract voided by the Commissioner of Human Rights “on behalf of the state.” Likewise, the contracting agency can “abridge or terminate” the contract upon notice that the business’s certificate has been revoked or suspended by the Commissioner of Human Rights.

In other words, WESA reinforces the importance of pay equity to a finding of responsibility, and provides additional ways for the state to enforce its equal pay requirement by revoking the required equal pay certificate or terminating contracts.

Conclusion

Minnesota law has long allowed only responsible bidders to receive the award of a public contract, under the doctrine of responsibility. Now, with the enactment of Minn. Stat. § 16C.285, the state has very specific and powerful criteria to use in its effort to “weed out” the so-called bad actors as irresponsible and thus unqualified for public work. This broadly applicable law requires all contractors and subcontractors working on public projects to look very carefully at all aspects of their compliance plans, to be sure that they comply with all of the minimum standards required by the law, and have a strategy in place to contend with investigations and enforcements before they document that compliance and result in a disqualifying violation.



Patrick J. Lee-O'Halloran is a shareholder with Hammargren & Meyer, P.A. Patrick focuses his practice on construction and surety litigation, contract review, and compliance issues facing the construction industry. He has more than 15 years of experience representing contractors, subcontractors, owners, sureties, design professionals, and other businesses



Misclassification of Workers Could Prove Costly

By Paul S. Almen

**HAMMARGREN
& MEYER, P.A.**

Recently, the Minnesota Department of Labor and Industry (“DOLI”) released a report titled “An Evaluation of the Contractor Registration Pilot Project and the Misclassification of Workers in the Construction Industry” (the “Report”). The Report is a result of the review of the Pilot Project by DOLI, the Department of Employment and Economic Development (“DEED”), and the Department of Revenue (“DOR”). This important report clarifies what is required for contractors who perform building construction or services and it makes numerous recommendations for the DOLI to follow going forward. The Pilot Project and the proposed recommendations directly impact all aspects of the construction industry. All businesses involved in the construction industry in Minnesota should be cognizant of current requirements and the possible changes and challenges.

Background

DOLI has long worried that the misclassification of employees as independent contractors has been a problem in the construction industry in the state. Whether or not you agree with DOLI, what is readily apparent is that misclassification adversely impacts businesses, workers and the economy by preventing workers from benefiting from the protections that are provided to them by law. More importantly, misclassification creates a competitive disadvantage for contractors who comply with the laws relating to workers’ compensation insurance, unemployment insurance and tax withholding.

In 2009, Minnesota took an initial step in addressing the problem of misclassification by creating the Independent Contractor Exemption Certification (“ICEC”) program. ICEC required independent contractors in the building and construction industry to register with DOLI and receive a certificate. ICEC was enacted with the desired intent to distinguish between legitimate small businesses and independent contractors and to provide additional revenue to the state in the form of a 2 percent withholding tax from companies that hired independent contractors. Unfortunately, the

ICEC only applied to individual proprietors. Many workers and subcontractors formed business entities to avoid having to prove that they were capable of acting as a true independent contractor.

Pilot Program

In 2012 the Legislature enacted the Construction Contractor Registration Pilot Program (the “Pilot Program”) to replace the ICEC. The enactment of the Pilot Program was the result of recommendations made by a task force convened by DOLI to bring contractors and regulators together to address the misclassification issue. The Pilot Program requires all building construction and improvement contractors who are not already licensed or registered with DOLI to register through DOLI’s website. Since the program’s inception in July 2012, more than 12,000 contractors have registered with DOLI. This is more than five times the number of ICECs that were issued by DOLI.

The law requires every construction contractor that performs building construction or improvement services on or after Sept. 15, 2012, to register with DOLI, unless the contractor meets one of the following exemptions:

1. Person is performing the construction services, holds a current license, certificate or registration under Minn. Stat. chapter 299M or 326B;
2. Fire protection system contractors and installers and potable waterpiping system contractors and installers licensed or certified under Minn. Stat. chapter 299M;
3. An employee of the person performing the construction services, if the person was in compliance with laws related to employment of the individual at the time the construction services were performed;
4. A person who is exempt from the residential building contractor license requirement because their gross receipts do not exceed \$15,000 under Minn. Stat. § 326B.805, subd. 6, clause (5) and holds a valid certificate of exemption issued by DOLI;

5. An architect or professional engineer engaging in professional practice as defined in Minn. Stat. § 326.02, subd. 2 and 3;
6. A school district or technical college governed under Minn. Stat. chapter 136F;
7. A person providing construction services on a volunteer basis, including but not limited to Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf;
8. A person who has given a bond to the state under Minn. Stat. § 326B.197 or 326B.46 for gas, heating, ventilation, cooling, air conditioning, fuel burning or refrigeration work (mechanical contractor bond); or plumbing, sewer or water service installation, or subsurface sewage treatment work.

The Pilot Project requires every construction contractor that performs building construction or improvement services on or after Sept. 15, 2012, to provide DOLI with a complete application that includes specific information aimed at the contractor's identity (name, address, and social security numbers) and qualifications as an independent contractor (business address, tax ID number, status with the Secretary of State's office).

To qualify as an independent contractor, a construction contractor must meet a nine-factor statutory test. This requires that a contractor meet all of the following requirements:

1. Maintain a separate business with the individual's own office, equipment, materials and other facilities;
2. Hold or have applied for a Federal Employer Identification Number or filed business or self-employment income tax returns in the previous year if the individual performed services in the previous year;
3. Operate under contracts whereby the contractor performs specific services for specific amounts of money and under which the individual controls the means of performing the services;
4. Incur the main expenses related to the services performed under the contract;
5. Be responsible for satisfactory completion of the services and liable for failure to complete the services;
6. Receive compensation on a per job or competitive bid basis and not on any other basis such as hourly;
7. Have the possibility to realize a profit or suffer a loss on the contract;
8. Have continuing or recurring business liabilities and obligations; and
9. Have his or her business depend on the relationship between business receipts and expenditures.

Minnesota construction contractors must also ensure that its subcontractors also meet the nine factor test referenced above. In addition, construction contractors must also ensure that their subcontractors' business filings are active with the Secretary of State and must have written contracts with their subcontractors in order to be able to treat them as independent contractors rather than employees. Independent contractors who fail to register may face enforcement penalties. Additionally, there are potentially significant penalties for general contractors who employ unregistered subcontractors, misclassify workers, or coerce others to form a business entity.

Enforcement of the Requirements

It is important to note that DOLI, DOR, and DEED have all taken enforcement actions based on the information gained from the registration program. Between September 15, 2012, and September 15, 2013, the Construction Codes and Licensing Division ("CCLD") has opened 205 formal "registration" investigations. Most of the investigations focused on either a specific construction project or a particular general contractor. Investigations are often initiated based on tips received from the public (usually other contractors), staff of other state agencies or other business units within DOLI (Labor Standards, Special Compensation Fund ("SCF"), or CCLD's Enforcement Services Unit), or random site visits by CCLD investigators. In the first year of the pilot program, 11 administrative orders were issued with civil penalties totaling \$47,500. Of these, three orders were issued to independent contractors who performed services without being registered.

Recently passed legislation defining responsible contractors requires that contractors not only be registered, but also requires that the contractors certify under oath that they are compliant with the terms of the Pilot Program. False certifications can result in the loss of contracts that have been awarded or a determination that the contractor is not a responsible bidder.

While nobody likes another layer of bureaucracy, failure to comply to the Pilot Program can be costly in terms of fines and time lost dealing with the CCLD. Additionally, in the future, it is likely that failure to comply and verify that subcontracts are also compliant, could result in the loss of future contracts even though you are the lowest bidder. As a business or individual involved in the construction industry in Minnesota, it is important that you understand the changes and quickly become compliant if you have not already done so.



Paul S. Almen is a construction litigation attorney with Hammargren & Meyer, P.A. His practice is devoted to construction and real estate issues. Paul is licensed to practice in the state and federal courts of Minnesota. He can be reached to answer questions at paulalmen@hammarlaw.com or (952) 844-9033



Ask

MS. AWARDS

If you have a question for Ms. Awards, please email it to Alana Sunness Griffith, Awards Chair, c/o Corinna Hastings at info@mnconstruction.org.

Complicated Form?

Dear Ms. Awards,

I've never filled out an MCA awards nomination form, but recently decided that I should nominate one of my projects for the New Construction – Under \$10 Million Project category. The form looks very complicated and time consuming. Have you considered simplifying it so that it's easier for people to fill out?

Thanks,

Ms. Very Busy

Dear Ms. Very Busy,

That's a great question and one that has come up in the past. The awards committee spends time each year reviewing the nomination form and tries their best to make improvements. The feedback the committee has received from the judges in the past is they want enough information on each project to better evaluate each project. The amount of detail that applicants provide on the nomination form really assists the judges to compare all of the projects that are nominated in each category. If less information is requested, then it would mean the judges have less information to base their scoring on.

The MCA awards are a prestigious honor, and we feel with the current form, we are providing companies an avenue to show how great their projects are. It's great to see the amount of effort some people put into their nomination and we want this type of effort to be rewarded. In the awards committee's opinion, the current form requests similar information that other awards nominations request. This should help companies that are nominating their project(s) for other association's awards.

One similar complaint that comes up each year is the cost of the nomination (\$200 for the early bird deadline and \$275 for the later deadline). Without the nomination fees, the individual cost of attending the gala would likely be too high for many people which would result in a lower turnout. There are many benefits to nominating awards and we feel the benefits severely outweigh the current cost.

We're always excited to have new companies nominate projects. We wish you the best of luck completing the form and winning an award at the January gala. As always, feel free to contact the Awards Committee if you have questions or issues completing the nomination form.

Thanks,

Ms. Awards

Member to Member



KRAUS-ANDERSON CONSTRUCTION COMPANY has completed phase one of the \$14 million, 40,000-square-foot Arlington Hills Community Center, located at 1200 Payne Ave. in St. Paul. Phase one features the new Arlington Hills Library and Arlington Recreation Center, which includes an athletic facility and playgrounds.

Arlington Hills Community Center, known earlier as the Payne Maryland Project, is designed to transform the surrounding neighborhood into a vital hub of activity. Envisioned as a community magnet, the development is a multi-block project at the intersection of Payne and Maryland Avenues on St. Paul's ethnically diverse East Side.

"The comprehensive development is hoped to provide a catalyst for investment in the neighborhood and support services for the region," said Brian Tourtelotte, project manager for the City of St. Paul's Department of Parks and Recreation. "We are also grateful to Kraus-Anderson for the level of organization and coordination they provided to help form a vibrant center for the community."

Designed by Minneapolis-based HGA Architects and Engineers, the multi-phased project is a public/private partnership. Construction began in April 2013 and is being built using B3 Minnesota Sustainable Building Guidelines (MSBG) to meet sustainability goals.

Phase two, which will house the

project's private partners, is actively pursuing the funding necessary to begin construction. When both phases are completed, the facility will address the programming needs of the Arlington Recreation Center, the Arlington Hills Library, Arlington Hills Lutheran Church, Bradshaw Celebration of Life Centers, Eastside YMCA and other community service organizations in a new community center. ♦

With more than 35 miles of urban mountain biking and hiking trails, the city of Duluth is an outdoor enthusiasts' dream. **KRAUS-ANDERSON** is inviting the entire region to celebrate just that with the Kraus-Anderson Bike Duluth Festival on August 16-17, 2014.

Honoring the expansive and expanding Duluth trail system, the two-day festival takes place across the city and includes activities and events for the athlete, outdoorsy family and spectator alike, including:

- Enduro races at Spirit Mountain
- Downhill races at Spirit Mountain
- Guided ride and hike at Mission Creek Trail, Piedmont Trail, Spirit Mountain & Lester Park
- Family friendly "party in the bowl" at Chester Bowl, with food, a beer tent, music and bike-related activities
- Voyageur's Revenge XC races at Mission Creek Trail in conjunction with the Minnesota Mountain Bike Series

"We all know and appreciate our trails. But right now there's no organized event to celebrate and support those unique urban amenities. We want to change that," said Kraus-Anderson Vice President Jeff Iisakka.

Half the festival proceeds will be put back into the Duluth trail systems through a donation to the Cyclists of Gitchee Gumees Shores (COGGS).

COGGS, an integral partner in planning the event, works to improve cycling opportunities in the Twin Ports. The other half will be donated to a nonprofit that will be chosen through a Facebook contest to be held early summer.

Area leaders have already expressed excitement and support for the festival.

"This festival is fun and unique in that it's the first to showcase our expanding trail systems," said Duluth Mayor Don Ness.

See area leaders' messages of support and techniques for training on Facebook, Twitter and Instagram by searching for #BikeDuluthFestival. Additional event details can be found at <http://bikeduluthfestival.com/>. ♦



DORAN COMPANIES has announced the hiring of **SEAZON PATTERSON** as corporate controller.

Patterson, who formerly held

positions at the pharmaceutical company Upsher-Smith and Minnesota Limited, Inc., a Big Lake based pipeline construction company, will work across the Doran family of businesses to oversee and administer the accounting functions of their development, construction and residential property entities.

Kelly Doran, principal and founder of Doran Companies, said Patterson is a "key addition needed to accommodate the accelerated growth of our construction company and other businesses under the umbrella of Doran Companies. We are especially pleased that Seazon has specific construction industry experience in addition to the benefit of working in a large scale corporate environment."

Patterson is a graduate of the University of St. Thomas in St. Paul. ♦

AUDREY TALKINGTON brings more than 10 years of experience to **RAUENHORST COMPANIES**. Audrey and the RRC team effectively understand how to create strategic hiring decisions that create continuity between teams, groups, disciplines and generations. Using time-tested RRC strategic processes, we take the time to learn about your company's culture, strengths, challenges, and benchmarks. Audrey is a General Construction specialist with an emphasis on project managers (JR and SR), estimators and controllers/CFOs. ♦



KRAUS-ANDERSON CONSTRUCTION COMPANY has been selected as general contractor to build a 211,322-square-foot warehouse and distribution center project for Investors Real Estate Trust (IRET) in Roseville, Minn. Groundbreaking ceremonies are scheduled for 9:30 a.m., Thursday, April 24 at the site, located at 3075 Long Lake Road.

The project includes the demolition of approximately 200,000 square feet of the existing structure, leaving 17,553 square feet of contiguous space remaining in operation by Hood Packaging, a tenant of IRET. The demolished warehouse will be replaced with a new 203,004-square-foot precast shell warehouse with 31 dock doors and a 32-foot clearance roof. Construction will also include elevating the existing roof for Hood Packaging to a 32-foot clearance without disruption to its existing operations within the facility.

KA is also retrofitting the Hood Packaging facility to accommodate new equipment.

Construction begins at the end of April and is expected to be completed in November 2014.

The architect is Wayzata, Minn.-based Mohagen Hansen Architectural Group. KA's project manager is Paul Carlsted and IRET's project manager is Doug Johnson of Oliver Real Estate Services. ♦



Beck Academic Hall at Gustavus Adolphus College in St. Peter, Minn. has earned LEED (Leadership in Energy and Environmental Design) Platinum certification, the highest rating from the U.S. Green Building Council's (USGBC) Green Building Rating System™.

The three-story, 125,000-square-foot academic building was constructed in 2010 by **KRAUS-ANDERSON CONSTRUCTION COMPANY (KA)**. KA has been ranked consistently among the top Green Contractors in the U.S. by Engineering News Record and has been leading the charge in sustainable design and construction for the last 20 years.

The building exceeds State of Minnesota Sustainable Building 2030 targets, and is modeled to save 44 percent more energy and 30 percent more water than typical code requires.

Designed by BWBR Architects, highlights include locally quarried Kasota limestone that clad much of the exterior and a public atrium that serves as a primary gathering place. The building's atrium helps maximize daylighting strategies, which are augmented by other energy-saving supplements, including a comprehensive solar panel system with both photovoltaic and solar thermal energy.

A rigorous indoor air quality program was supported throughout construction, including wrapping and enclosing ductwork to prevent dust infiltration. In addition, 75 percent of the construction waste was recycled.

Beck Hall houses classrooms, offices and academic departments, including Communication Studies, Economics and Management, History, Psychology and Sociology and Anthropology. ♦

FABYANSKE, WESTRA, HART & THOMSON, P.A. welcomes its newest shareholder, **TOM VOLLBRECHT**. Tom, a graduate of St. John's University and Harvard Law School, has over 27 years experience as an attorney, primarily in construction, surety and fidelity law. He is a Vice Chair of the ABA Fidelity & Surety Law Committee, the Editor in Chief of its Newsletter and a frequent author and speaker on construction, surety and fidelity law topics. He has been recognized multiple times as Minnesota "Super Lawyer" and previously was a partner at Faegre & Benson, LLP and Hammargren & Meyer, P.A. ♦

DUNWOODY COLLEGE OF TECHNOLOGY, one of the country's leaders in innovative, technical educational programs, today announced a new initiative aimed at bolstering the number of women in career fields not traditionally associated with their gender. Non-traditional fields include any career defined by federal law as employing only 25 percent women or less.

The launch of this new initiative is made possible by a \$75,000 grant from the W.K. Kellogg Foundation and provides support and assistance to women in gaining associate's degrees in rigorous technical degree programs including Robotics & Manufacturing, Construction Sciences & Building Technology, Computer Technology & Automotive Technology. Additional support services and infrastructure include a program coordinator, internship and mentorship opportunities for women students, dependent care support, academic support services, career counseling and job placement services as well as pre-college marketing and recruitment activities to potential candidates. Additional fundraising is currently

underway to help provide scholarship funds to women students and the program will focus specifically on recruiting and helping women of lower income levels.

“As technology continues to reshape most occupations, technical education now more than ever is the best entry point into a good career path,” says Dunwoody College of Technology President Rich Wagner. “We want our programs to be viable options for women of lower income levels so that they can gain jobs and embark on careers that potentially come with starting salary levels of \$40-60,000; in other words, salary levels that can support them and their families for the future. We’re focused on increasing access to these jobs and career paths through high quality, applied education.”

According to the United States Bureau of Labor Statistics, there is a projected 17 percent growth through 2018 in jobs that require a technical knowledge, yet most technical fields attract few women. In the Twin Cities, Dunwoody’s hometown market, women are underrepresented in fields that require technical knowledge. In 2010, only 7.6 percent of construction managers, 3.4 percent of electricians, 2.4 percent of machinists and 1.1 percent of automotive technicians were women.

“We celebrate the College’s Centennial this year,” adds President Wagner. “Our founders William and Kate Dunwoody intended for this to be a place that provides life-changing opportunities to those who most need them. Grants like this one from the W.K. Kellogg Foundation will help us better fulfill our mission as we enter our second century of service to the people of the Twin Cities and the State of Minnesota.” For more information visit www.dunwoody.edu. ♦



KRAUS-ANDERSON® (KA®) has announced plans to consolidate its Twin Cities operations under one roof in a new, build-to-suit LEED facility in downtown Minneapolis. The company has been headquartered in downtown Minneapolis since 1897. Its current headquarters building at 525 S. Eighth Street was constructed in the mid-1970s.

“We’re working to create a modern, sustainable environment that complements the renewed vitality of east downtown, and reflects our collaborative approach and values,” said KA Chairman and CEO Bruce Engelsma.

The proposed new KA headquarters, to be located at the southeast corner of Eighth Street S. and Fifth Ave. S., will house approximately 250 KA employees, double the current number downtown, with room for future expansion on the site. Consolidation will include employees from the Kraus-Anderson Construction office in Circle Pines and the Kraus-Anderson Realty Company office in Bloomington. The new building will also house Kraus-Anderson Mortgage and Kraus-Anderson Capital, as well as the parent corporation, Kraus-Anderson Companies.

“It’s the old story of the contractor who’s so busy working on everybody else’s projects, they don’t have time to build their own,” said Al Gerhardt, Kraus-Anderson Construction Company COO. “Now is the time.”

Kraus-Anderson is in growth mode. The construction company has hired more than 100 new employees over the past 12 months and is currently active in 10 states, with sales exceeding \$790 million in 2013. Recent significant projects include the

420,000-square-foot Gundersen Health System Legacy Building in La Crosse, Wis.; 114,000-square-foot Duluth International Airport Terminal, and The Marshall, a 584,000-square-foot, 317-unit student housing/mixed-use project near the University of Minnesota in Minneapolis.

Kraus-Anderson Realty leases and manages more than four million square feet of commercial property and has developed more than 500,000 square feet of commercial properties over the past five years, including medical office, retail, apartments and senior housing properties. Significant development activities currently under way include senior housing communities Deephaven Woods in Deephaven, Minn. and Engel Haus in Albertville, Minn. The company is also collaborating on the redevelopment of a 100-acre corporate campus in Woodbury, Minn. for mixed-use corporate, retail, medical office building and restaurant tenants.

Kraus-Anderson Capital serves clients primarily in the five-state region and recently expanded its activities into the surging Williston, N.D. market.

“Plans for the new KA headquarters facility are still in early development but our goal is to create a highly collaborative environment with leading edge technology,” said Mike Korsh, vice president and director of development for Kraus-Anderson Realty. Planned amenities include a training center, cafeteria, fitness center, formal and informal meeting areas, and an appealing, well-landscaped exterior. “We’re getting input from our employees and also working closely with the City and the neighborhood to make the new facility an asset to all stakeholders.”

The new building is being designed by Pope Architects. Construction of the new headquarters is expected to begin in the fall of 2014, with a 12-month schedule for completion. In addition to Minneapolis, the company will retain its regional construction offices in Madison, Wis., Minot, N.D.,

Duluth, Bemidji, Rochester and its yard operations in Circle Pines.

Kraus-Anderson Insurance, one of the region's largest privately held independent insurance and risk management firms, will continue to operate from its offices in Burnsville.

"We're reinvesting in downtown Minneapolis, and reinvesting in our employees," added Engelsma. ♦

KRAUS-ANDERSON CONSTRUCTION COMPANY (KA) has been awarded a Governor's Safety Award for superior performance in workplace safety and health. Kraus-Anderson has one of the best safety records in the construction industry, a performance that for 23 consecutive years has earned the company the Governor's Safety Award.

"Employers like Kraus-Anderson want to protect their employees because it's the right thing to do," said Carol Bufton, president of the Minnesota Safety Council. "It's also good business – an effective safety program helps organizations reduce costs, increase productivity and stay competitive."

The award was presented today, May 8th, at the Governor's Safety Awards luncheon, part of the 80th Minnesota Safety & Health Conference and administered by the Minnesota Safety Council. The conference is the oldest and largest gathering of workplace safety and health professionals in the region.

"KA's commitment to our people's safety is reflected in the company's exceptional record of receiving this award," said Al Gerhardt, COO of Kraus-Anderson. "No other recognition gives us more gratification."

Since 1934, the annual Governor's Safety Awards have honored Minnesota employers with exceptional safety performance. Applicants are judged on several years of injury data as it compares with state and national statistics, and on their progress in implementing a comprehensive safety program. ♦



KRAUS-ANDERSON CONSTRUCTION COMPANY (KA) has named **JAY VANDER LEEST** director of safety. Vander Leest will oversee the

company's safety program.

Kraus-Anderson has one of the best safety records in the construction industry, a performance that for 23 consecutive years has earned the company the Governor's Safety Award.

Vander Leest will manage the company's corporate construction safety management, including investigations, evaluations and federal, state and local regulations. He joined Kraus-Anderson in 1993 as safety coordinator. Vander Leest will replace Tom Nelson, who has retired.

"Jay has been an integral part of our proactive safety efforts, and we are grateful for his dedication and leadership in helping us develop and maintain one of the most successful safety records in the industry," said Al Gerhardt, Kraus-Anderson COO. "There is no achievement we hold higher than bringing our employees safely home at the end of each work day."

Vander Leest received his B.S. degree in Industrial Technology from the University of Wisconsin-Stout. He is a member of the American Society of Safety Engineers, AGC of America, MN Safety Council and National Safety Council. He is also a safety trainer and holds several OSHA certifications. ♦

KRAUS-ANDERSON COMPANIES has been named Corporation of the Year by the Metropolitan Economic Development Association (Meda). Meda provides assistance to businesses owned and managed by entrepreneurs of color.

When Meda helped start the Construction Partnering Program (CPP) in 1996, Kraus-Anderson

Companies, Inc. was one of the first general contractors to commit to a teaming/partnership agreement with a Minority Business Enterprise (MBE).

"We believe that the work of Meda plays a critical role in fostering economic self-sufficiency for its MBE clients," said Kraus-Anderson Chairman & CEO, Bruce Engelsma, whose commitment to equity, inclusion and market participation led him to join the Meda board of directors in 2007. "We are honored to be recognized by Meda and proud to support its important work."

In 2013, Kraus-Anderson won the prestigious CPP General Contractor of the Year Award, presented to a general contractor that has shown a commitment to partnerships with minority- and women-owned contractors. This year, the company celebrates an eight-year partnership with Reiling Construction, a minority- and woman-owned company. The two companies have worked together on such notable projects as Regions Hospital, University of Minnesota Amplatz Children's Hospital, Arlington Hills Community Center (Payne Maryland), University of Minnesota Amundson Hall and numerous projects at the Minneapolis/St. Paul International Airport. As a result of their unique partnership, Reiling Construction expanded its market opportunities by partnering on projects in Fort Worth, Texas and Boston, Mass. ♦



KRAUS-ANDERSON CONSTRUCTION COMPANY (KA) has hired **KYLE WOODY** as project manager in the company's Minneapolis office.

Woody brings to KA an extensive background of lean construction processes and systems, and their use in healthcare, commercial and industrial markets. He served as a senior project manager for Hourigan Construction in Virginia Beach, Va., where he managed

numerous healthcare and life sciences construction projects, including those at Riverside Hospital, LifeNet Institute of Regenerative Medicine, Sentara Hospital, Sentara Princess Anne Health Campus and Tidewater Animal Emergency Center. He was also a project manager at California-based Pacific Building Group, where he managed medical office building projects in Santa Clarita and Burbank, Calif.

Woody graduated from the University of Houston with a B.S. in Construction Management. He serves as an instructor for the Association of General Contractors' (AGC) Lean Construction Education Program. Woody holds certifications from the American Hospital Association (AHA) as a certified healthcare constructor (CHC) and from the Construction Management Association of America (CMAA) as a construction manager (CCM). He is a member of the Construction Management Association of America, American Society of Healthcare Engineers and Twin City Healthcare Engineers, and is active on the core group of the Lean Construction Institute's Upper Midwest community of practice. ♦



WATFORD CITY EVENT CENTER - SCHEMATIC DESIGN REVIEW

KRAUS-ANDERSON CONSTRUCTION COMPANY (KA) will build a new district high school and adjoining, municipal event and recreation center in Watford City, N.D., in the fastest-growing county in the nation. The approximate, combined construction cost of the two projects is in excess of \$100 million.

Watford City's population is soaring with the energy boom from the Bakken oil fields in western North Dakota. From March 2013 to February 2014, the

McKenzie County School District has grown from 200 to 1,060 K-12 students -- doubling the size of the district since 2010. A 2013 census lists the county's population at 9,314, a 46.5 percent increase since 2010, not including temporary workers.

Both the high school and event center are designed by JLG Architects. Located on Highway 23 east of Watford City, site work is scheduled to begin in July 2014 and construction is expected to be completed in early 2016.

Watford City High School

Following a successful bond referendum, the new high school for the McKenzie County Public School District will be built to serve 800 students in grades 7-12. The high school building project is a joint venture with KA and Grand Forks-based Construction Engineers, Inc.

The three-story, 160,000-square-foot school will include classrooms, cafeteria, commons, kitchen, multimedia center and learning resource center. The school will also feature a gymnasium, two athletic fields, cardio weight room, wrestling ring, theater, shop and band and choral rooms.

The existing 30-year old high school will be repurposed as a middle school.

Watford City Event Center

The \$60 million municipal event and recreation center -- to be built adjacent to the new high school -- is considered critical to retaining families in the community.

The 240,700-square-foot facility will feature a swimming pool, three basketball courts, two-sheet ice arena for hockey and skating, baseball and softball stadiums, convention space and a 3,000-seat venue for concerts and sporting events. It will also include parking lots, conference rooms and administrative offices. ♦

GRAHAM CONSTRUCTION won the 2013 Jeffrey W. Jensen Memorial Construction Safety Excellence Award. The award is given out on an annual basis for safety performance and is sponsored by the Associated General Contractors of Minnesota.

Graham Construction Services Inc. was presented this award based on their 2013 safety performance, which was a standout performance consisting of zero recordable injuries. Graham was able to achieve these results through skilled employees with a dedication to safety. Graham's vision is to "Set the Standard" in their industry and they understand that it starts with safety. ♦

KRAUS-ANDERSON

CONSTRUCTION COMPANY (KA) has hired several new employees in the company's Minneapolis office.



ROBERT GEMELKE - Project Manager

Gemelke was a project manager for Shakopee, Minn.-based Greystone Construction and for Minneapolis-

based Bossardt Corporation. He received his B.S. degree in Construction Management from Arizona State University, Tempe. Gemelke received his LEED AP BD+C (Building Design + Construction) designation from the U.S. Green Building Council (USGBC).



DONALD NAST - Site Safety Coordinator

Nast will manage the implementation of Kraus-Anderson's safety program.

Most recently, he served as the Central Corridor light rail systems safety manager for Egan Company of Brooklyn Park, Minn. He earned his B.A. in Occupational Safety and Health at the Metropolitan State University, St. Paul. Nast is a member

and former chapter president of the American Society of Safety Engineers and was honored with its Safety Professional of the Year award. He is also active in the Associated General Contractors' Safety Day and the Safety Council Safe Kids Coalition.

Kraus-Anderson has also hired the following new employees in its Minneapolis office:

Samantha Crow, Project Engineer
Andrew Thompson, Project Engineer
Logan Carter, Accounting Manager
Nathan Theisen, Project Accountant
Sara Klein, Project Accountant ♦



DORAN CONSTRUCTION, the Bloomington, Minnesota-based general contracting company, has announced the hiring of **BRUCE CARLSON** as Vice

President of Business Development.

Carlson, a veteran construction manager and business development executive, has previous experience with United Properties and Mid-America Real Estate in Minnesota. As Vice President of Development he will work with senior Doran Construction managers to develop general

contracting relationships with third party clients.

Kelly Doran, principal and founder of Doran Construction, said, "Bruce's experience as a construction manager is a dimension that will add great strength to our sales team. We are very fortunate to land a respected and experienced executive who understands the industry from the development and planning stages all the way through construction."

Carlson is a former president of the Minnesota Shopping Center Association and has served as a real estate faculty instructor and student mentor at the University of St. Thomas in Minneapolis. ♦

Would you like to see your name or your company's name in the *Member To Member* section of *Construction Views*?

If so, please send all company press releases, announcements and updates to Corinna Hastings, Executive Director and Editor, at info@mnconstruction.org or 4248 Park Glen Road, Minneapolis, MN 55416.



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