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## GOVERNMENT AFFAIRS UPDATE

Associated General Contractors (AGC) of Ohio's *Government Affairs Update* provides information about government related matters of interest to the commercial building industry and AGC's advocacy efforts. It is e-mailed to AGC of Ohio members and available online at [www.agcoho.com/advocacy.html](http://www.agcoho.com/advocacy.html). Direct questions and comments to Andrea Ashley, VP of Government Relations: [andrea@agcoho.com](mailto:andrea@agcoho.com) or (614) 486-6446.

February 22, 2018

### MUNI TAX DECISION A WIN FOR OHIO BUSINESSES; OPT-IN BY MARCH 1 FOR CENTRALIZED COLLECTION

A court decision announced this week and supported by AGC of Ohio ensures that business owners across Ohio can continue to take advantage of centralized filing and payment of municipal net profits taxes. This new benefit is especially important for employers, like contractors, who file municipal returns in multiple cities and villages across Ohio. The ruling was issued in response to a lawsuit filed last fall by over 100 cities challenging that centralized filing and other municipal tax reforms were a violation of home rule authority.

Franklin County Common Pleas Court Judge David Cain [on Feb. 21 ruled](#) the Ohio Constitution "makes it clear that the general assembly has the power to pass laws that limit the power of municipalities to levy taxes." Further, the cities "can argue the definition of the word 'levy' until they're (sic) blue in the face, but using common sense, the Court can only find that the Collections deal with the levying of taxes."

Cain also ruled there was no need to continue hearings and terminated the case. That means businesses may continue to register for centralized collection of municipal net profits taxes, a benefit [the Ohio Department of Taxation has said](#) could save up to \$1.6 billion per year.

Ohio Tax Commission Joe Testa [applauded](#) the decision. "It's an important ruling for business taxpayers in Ohio who for too long have had to deal with this costly, complex process for local tax on business income. This law gives business taxpayers the opportunity to save millions of dollars in the cost of complying with the fragmented municipal tax system."

Employers may opt in for 2018 to file one single return and make one payment quarterly through the Ohio Business Gateway (OBG) for all cities where they owe municipal net profit taxes. The Ohio Department of Taxation will remit payments due to cities and villages monthly.

Businesses with a calendar year end must both opt in by March 1 and notify the cities they operate in no later than that date to centrally file for the 2018 tax year (make quarterly payments in 2018 and file the tax return in 2019). [Opt-in now](#).

For more information, visit [www.tax.ohio.gov](http://www.tax.ohio.gov); or view [step by step instructions](#).

#### **HELP AGC ADVOCATE FOR YOU - Contribute to AGC of Ohio Action today!**

Fundraising is part of the political process, and a healthy PAC is vital to AGC's success at the Statehouse! Make checks payable to AGC of Ohio Action (non-corporate contributions only). Sole proprietors, partnerships and unincorporated associations, which include limited liability companies under Ohio campaign finance law, may use company funds to contribute; such contributions should include the name of the entity and individual making the contribution.

## **FEEDBACK NEEDED ON OHIO EPA DRAFT NPDES CONSTRUCTION STORM WATER GENERAL PERMIT AGC Needs Contractor Input by February 28**

The Ohio EPA is asking for feedback on its [draft](#) General National Pollutant Discharge Elimination System (NPDES) Permit for Storm Water associated with construction activity. View the public notice, [fact sheet](#), and [draft](#) general permit on the [Ohio EPA website](#).

AGC of Ohio plans to submit comments in conjunction with other industry associations and would appreciate feedback about the [changes to the permit](#) from members. AGC would need the input by February 28. Forward your comments and questions to Andrea Ashley: (614) 486-6446 or [andrea@agcoho.com](mailto:andrea@agcoho.com).

If interested in submitting comments directly to the Ohio EPA, the deadline is April 4. Find information about the proposal from the EPA [here](#).

### **OFCC NEWS:**

#### **Dates Announced for OFCC Conference**

The annual OFCC Conference brings together public owners (state agencies/universities, school districts), architects, engineers, landscape architects and planners, construction managers, design-builders, contractors, subcontractors and suppliers, consultants and specialty service providers, and construction attorneys. The format for the 2018 conference will be the same as last year: TED-style.

The conference dates are: August 7 (Gahanna), August 16 (Independence), August 22, 2018 (West Chester), and August 28 (Gahanna).

#### **Updates to CM at Risk Contract Document**

Several documents have been revised on the OFCC website at <http://ofcc.ohio.gov> (click on Documents/Standard Requirements). The dates for recently revised documents will be shown as red on the website for approximately 2-3 months. Version Control Documents with changes tracked from the previous version and Combined Files have also been posted.

The various revisions include:

- "Self-Performed Work" is now a defined term and must be performed by the CM's or CM Affiliated Entity's direct employees.
- The CM's obligation related to Defective Work and schedule deficiencies increased from "begin to correct ... and recover" to "promptly commence and diligently pursue correction ... and recovery."
- The obligation to notify insurers providing property insurance for the Project from "A/E with the assistance of the Owner" to "Owner with the assistance of the CM and A/E."
- The method for paying the CM's Fee revised from "percent-complete progress basis" to "earned Cost of the Work on the basis of the CM's Fee percentage identified in the Agreement."
- Introduced a requirement that the CM develop Alternates during Preconstruction Stages and permits the Owner to use 'buy-out savings' to incorporate them into the Project.
- The CM is required to deliver to the Contracting Authority a new 'Acknowledgement of Surety' form to evidence that affected Surety or Sureties received notice of the increased penal sums.
- The Contracting Authority's receipt of an insurance company certified copy of complete insurance policy is now a condition precedent to payment of any portion of Contract Sum.

A complete synopsis of the changes to the CM at Risk Contract Documents is available on OFCC's [website](#).



## ON THE NATIONAL FRONT... *Information courtesy of AGC of America*

### TRUMP INFRASTRUCTURE PLAN UNVEILED; PRESIDENT BACKS 25 CENT GAS TAX INCREASE

#### [Tell Congress to Invest in Infrastructure NOW](#)

AGC [applauded](#) President Trump for releasing his \$1.5 trillion infrastructure plan on February 12 and backs his [reported endorsement](#) of a 25 cent federal gas tax increase to help make the Highway Trust Fund solvent. Click on the links to view the one-page summaries of the administration's [infrastructure funding](#), [environmental streamlining](#) and [workforce development](#) proposals. With action on an infrastructure bill moving to Congress, the construction industry needs to tell Congress that the time for infrastructure investment is now! [Contact your U.S. representative and U.S. senators](#) so that they understand that investing in and improving our nation's infrastructure helps America prosper.

Congressional committees in the House and Senate will commence hearings on the president's plan in early March. Given election year realities and Congress's knack for only passing major legislation when it must, AGC is eyeing March 23—when government funding runs out, again—and the ensuing government funding bill as a prime vehicle for moving the construction industry's infrastructure priorities.

### BUDGET DEAL FINAL AFTER BRIEF FEDERAL GOVERNMENT SHUTDOWN

#### *\$20 Billion for Infrastructure Included*

After a brief overnight government shutdown earlier this month, the House and Senate passed an [AGC-supported](#) bipartisan budget bill for fiscal years 2019 and 2020 that:

- (1) averts arbitrary, across the board cuts to construction programs by lifting the budget caps established under sequestration;
- (2) provides nearly \$90 billion ([see chart for construction funding](#)) in emergency funding for reconstruction and recovery efforts from the 2017 natural disasters;
- (3) creates an avenue for the appropriation of \$20 billion in additional infrastructure funding over two years; and
- (4) renews certain tax incentives—specifically Section 179D—for energy efficient commercial construction projects.

However, the bill does not address issues within the current immigration debate nor does it complete the FY 2018 funding process, setting the stage for another potential shutdown beginning March 23.

### OBAMA ADMINISTRATION 2015 WOTUS RULE DELAYED; STATUS QUO REMAINS IN EFFECT

Implementation of the Obama administration's 2015 "Waters of the United States" (WOTUS) rule—which expands federal environmental permitting jurisdiction involving wetlands—has been delayed.

On Jan. 31, the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) took AGC-supported [regulatory action](#) that delays the 2015 WOTUS rule from taking effect until February 2020. This action virtually maintains the status quo nationwide and provides continuity and regulatory certainty for contractors in the field while the agencies continue to work to [repeal and replace](#) the 2015 WOTUS rule. The need for this action became necessary after a Jan. 22 U.S. Supreme Court [ruling](#) that would result in lifting the current nationwide stay of the 2015 WOTUS rule in most states.