



OHIO

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AGC NEWS

THE OFFICIAL PUBLICATION OF THE ASSOCIATED GENERAL CONTRACTORS OF OHIO

OFCC - CMr Document Warning

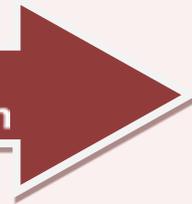
Earlier this year, the Ohio Facilities Construction Commission did what they thought was a “soft” revision to the Construction Management at Risk (CMr) front-end documents. The changes were anything but soft! The Indemnification sections were drastically changed which brought immediate reaction from many larger CM’s and their respective bonding/insurance companies. Bonding/Insurance companies indicated that their clients should not sign the document with the new indemnification language included. This section has been revised – going back to the older language.

Additionally, there are many other changes, some subtle others not so subtle. Please be advised that you should review the CMr documents before signing them – your situation and opinion may be different than others. Forewarned is forearmed!

Rest assured, with the current administration ending this year and a new one starting in January there will be many changes forthcoming. We will be actively involved.



Governor's Office of
Workforce Transformation



The Governor’s Office of Workforce Transformation is gearing up to send out Ohio’s biennial In-Demand Jobs Survey during the last week of August and we are looking for some assistance spreading the word to the Associated General Contractors of Ohio members. Below you will find language that we developed that you can add to your monthly newsletter or additional types of periodical communications that you have with your members. Our goal is to have you remind your members of the purpose of the survey, how we use their responses and why it is essential for them to participate and help us continue our efforts to better align Ohio’s workforce programs with the current and future needs of business.

- *“One of Governor Kasich’s top priorities is to grow Ohio’s economy by developing a skilled and productive workforce and connecting Ohio employers with qualified workers. Technology and automation continue to evolve at an unprecedented pace, making it important for state government to stay up-to-date with Ohio’s workforce needs.*
- *To help align Ohio’s workforce to the needs of business, Governor Kasich will soon be distributing Ohio’s biennial In-Demand Jobs Survey. The survey requests Ohio employers to forecast their top hiring needs for the next one, three and five years. The results of the survey help create [Ohio’s In-Demand Jobs List](#), which guides Ohio’s workforce training priorities and helps better align education and training to the current and future needs of business. Employer responses are critical to maintain an accurate In-Demand Jobs List and if you receive the survey, we request your participation in this important effort.*

Thank you for your participation and your help in creating Ohio’s In-Demand Jobs List.”

If you have any questions, please don’t hesitate to reach out. We appreciate your help!



2018 BUILD OHIO AWARDS



SHOWCASE YOUR
PROJECT IN
BUILD OHIO
2018!

ENTRY FORM

ENTRY DEADLINE:

Friday August 31, 2018
(submission 100% electronic)

PROJECT CATEGORIES:

New Construction; Renovation; Specialty;
Transportation; Industrial/Heavy

PROJECT CRITERIA:

Eligible projects must have been completed between September 1, 2017 and August 31, 2018

Which Category
Should I Enter?

Workers' Comp 'True-Up' Deadline Approaching

Ohio private employers have until Aug. 15 to complete an important action that is necessary for the Ohio Bureau of Workers' Compensation (BWC) to accurately calculate premiums. The true-up report must be completed online and can be accessed through the BWC webpage through this link: [Payroll true-up report](#)

Prior to each policy year (July 1- June 30), employers estimate their projected payroll, allowing BWC to set their premium. At the end of that policy year, employers are required to "true-up," meaning they report actual payroll for the policy year that ended June 30 and reconcile any difference in premium paid. "At the end of each policy year, BWC must confirm the premium we set is correct so we ask employers to complete a true-up report," said BWC Chief Financial Officer Barbara Ingram. "It's a simple online process but extremely important to accurately calculate premium and for employers to maintain participation in current money-saving rating plan and discount programs."

Ingram reminded employers the true-up report must be completed even if an employer had zero payroll, or their payroll for the year matches the estimate BWC provided. BWC will remove employers from their current rating and discount programs if it does not receive a payroll true-up and any additional premium owed by the deadline. The quickest and easiest way to true-up is online with a BWC e-account. Online true-up and payment also qualifies eligible employers for a 1% premium rebate, up to a \$2,000 maximum.



BWC's YouTube channel features videos that walk employers through [creating an e-account](#) and [completing payroll true-up](#). Instructions are also available at bwc.ohio.gov.

Help AGC To Measure Scope of Construction Labor Shortages by Taking a Quick Survey Today!

As demand for construction in most parts of the country continues to expand and the number of unemployed construction workers hits record low levels, AGC of America and Autodesk are working to better quantify where these shortages are taking place, how severe they are, and what steps firms are taking to both cope with tight labor markets and improve the supply of new, qualified workers. [Survey Closes Early August](#). Take the survey [here](#).

[Sign Up](#) To Participate In A State Survey To Identify Workforce Needs

The Governor's Office of Workforce Transformation has asked AGC of Ohio to identify members willing to participate in a survey to help align Ohio's workforce to the needs of business.

The survey requests Ohio employers to forecast their top hiring needs for the next one, three and five years. The results of the survey help create [Ohio's In-Demand Jobs List](#), which guides Ohio's workforce training priorities and helps better align education and training to the current and future needs of business.

Please consider taking part in this important survey to ensure the construction industry's workforce needs are heard! Fill out the information for your company, including the appropriate contact person, on the following web form: <https://www.tfaforms.com/4690169>. We will send the information to the Governor's Office of Workforce Transformation, which will incorporate it into the distribution database for the survey. The survey will be sent to participating companies later this month.

When (and how) Should a Mediator Evaluate the Case?

Scott Gurney is a construction attorney, mediator and arbitrator with Frost Brown Todd LLC.

Construction is a great and rewarding business, but also a challenging and risky one. Most larger projects involve dozens of companies, complex design and construction issues, compressed schedules, and tight budgets. So, despite efforts to avoid them, it's not surprising that construction has its share of claims and disputes. Yet protracted claims and disputes can distract management and staff, destroy business relationships, and damage the bottom line. Mediation can help resolve construction and other business disputes quickly and cost-effectively while minimizing damage to relationships. Selecting the right mediator can significantly increase the likelihood of a successful mediation.

As a young litigator in the late 1980s, I was taught to screen potential mediators by asking whether they were "facilitative" or "evaluative" in their approach. Facilitative mediators focus on the mediation process and the parties' underlying interests (think "win/win" and "expanding the pie"). Typically, facilitative mediators guide the communications, ask questions, and shuttle the parties' offers and counter-offers back and forth but do not evaluate the strengths and weaknesses, or dollar value, of the claims. By contrast, evaluative mediators, sometimes called directive mediators, focus more on the substance of the case and the parties' competing legal rights. Evaluative mediators will provide substantive feedback on the issues and may even offer predictions regarding likely outcomes at trial. While the "facilitative versus evaluative" question is still a valid one, a deeper dive may be helpful when considering potential mediators. Many mediators will employ both facilitative and evaluative techniques. Since some evaluating by the mediator is probably expected and necessary in most mediations of business disputes – especially typical disputes involving money claims – it may be useful to ask proposed mediators when, how and under what circumstances they typically offer their opinions during the mediation process. **Benefits and Risks of Evaluation** In my experience, most parties and attorneys want and expect the mediator to provide some evaluative feedback on the merits of the dispute. That is the main reason parties and attorneys often seek mediators with substantive experience in the industry or subject matter involved such as construction, employment, medical malpractice or divorce. Also, many parties, especially those new to litigation, feel a need to tell their story and have their "day in court." This psychological need can often be satisfied through a more evaluative mediation process, particularly one that includes an opportunity for the parties to present a brief summary of their "case" to the mediator and the other side in the opening joint session. When there is an overly-optimistic case assessment by the parties and their attorneys, a mediator's objective evaluation can also be a "reality check," influencing them to adjust their settlement positions.

An evaluative mediator can also help "take the heat off" an attorney by helping convey difficult assessments to a stubborn client without fear that the attorney will look "weak" or less committed to the client's cause. Finally, the mediator's evaluation can help the party's representative at the mediation "sell" or justify the settlement to management and other constituents who did not attend the mediation.

When to Evaluate:

While evaluations are often expected and helpful, they are not always necessary. In some cases, the parties may assess the case similarly but simply need the structure and "motivation" of a mediation to negotiate a settlement. This is especially true with experienced parties like insurance adjusters and attorneys who regularly handle similar types of claims; they know what the claim is "worth" and may not need a mediator's evaluation. More broadly, if the parties are making good progress, there is no reason for the mediator to give an evaluation. My experience is that while parties and their attorneys appreciate receiving a thoughtful mediator's informed evaluation after negotiations have bogged down, they can be turned off by mediators who jump to an early or premature conclusion, then spend most of the mediation trying to drive the parties to their number. I have found the best mediators give the parties reasonable time to argue their cases, exchange information, and do some haggling before offering explicit opinions on pivotal issues in the case. Of course, a mediator also needs to keep an eye on the clock -- if it's getting late and the parties are still far apart, the mediator is probably going to have to put on the evaluator's hat or propose extending the mediation.

How to Evaluate:

The most effective mediators treat evaluation as a progression. Early in the mediation, they reserve judgment as they guide the process, listen to the parties, learn about the case, and build rapport. After the initial phases or when the negotiations lose momentum, they begin to pivot subtly toward evaluation, often first by questioning the parties and their counsel about the strength and weakness of both sides' cases. They may begin to challenge those assessments by calling attention to key omitted points or by questioning overly-optimistic assumptions. At an appropriate time, they may lead the parties and counsel through an analysis of the likely outcomes and costs of each stage of litigation if the case is not settled. These steps are typically done one-on-one in private caucus sessions to avoid embarrassing a party or its counsel in front of the other party and to prevent appearing biased. If the subtler evaluation techniques do not result in a settlement, the mediator may consider suggesting a narrower "bracketed range" for further negotiations, a more direct evaluation of key issues or, perhaps, a prediction of the likely results at trial. Most mediators will check with both parties before offering an opinion on the overall case since it likely will have a big impact on the mediation. I have been in mediations where the parties asked the mediator to delay providing an evaluation while the parties jump-started their bargaining. There are many formats for evaluations. A mediator may provide a simple settlement figure, a range of potential outcomes at trial, a decision-tree analysis, or a more comprehensive written analysis of the case. Another common technique is to provide a "mediator's proposal" after an impasse is reached. There, the mediator proposes settlement terms to both parties that they must either accept or reject in-full. Each party responds to the mediator confidentially without knowing the other side's response. The mediator then determines if there is a settlement or, if not, whether the matter could either benefit from further mediation or is at an impasse and should therefore be terminated. If done effectively, thoughtful evaluation by a skilled mediator at the right time can help break an impasse during mediation and increase the likelihood of a settlement.

RECENT CHANGES TO OHIO'S NON-RESIDENTIAL BUILDING CODE TOOK EFFECT AUGUST 1

During its July 13 meeting, the Ohio Board of Building Standards adopted several [changes](#) to Ohio's [Non-Residential Building Code](#), which went into effect on August 1. Amendments were made to the following sections: Administration (4101:1-1-01), Definitions (4101:1-2-01), Use and occupancy classification (4101:1-3-01), Fire and smoke protection features (4101:1-7-01), Fire protection systems (4101:1-9-01), Means of egress (4101:1-10-01), Structural design (4101:1-16-01), Steel (4101:1-22-01), Wood (4101:1-23-01), Gypsum board, gypsum panel products and plaster (4101:1-25-01), Plastic (4101:1-26-01), Existing buildings and structures (4101:1-34-01), Referenced standards (4101:1-35-01). View descriptions of the changes online [here](#).

DAS EQUAL OPPORTUNITY DIVISION TO GRADUATE OHIO EDGE PARTICIPANTS

The Ohio Dept of Administrative (DAS) Services [Equal Opportunity Division](#) (EOD) will be graduating approximately 89 companies next year from the Encouraging Diversity, Growth and Equity (EDGE) program due to time limitations. The maximum amount of time a certified business or business owner may participate in the EDGE program is a cumulative total of 10 years. Over 100 companies are expected to graduate the following year.

Pam Osborne, EOD's Acting Deputy Director and State EEO Coordinator, met with the AGC of Ohio Board, and explained the graduation process. She indicated that contractors hiring a graduating firm prior to their "graduation date" will receive the appropriate credit toward their EDGE goals even if the project lasts beyond the graduation date. She also said EOD is personally reaching out to the graduating companies and will make available a list those firms once they have been contacted.

To help educate EDGE certified businesses and those that hire them, DAS has released the [EDGE Graduation and Participation Time Limits](#) document highlighting EDGE's graduation and time-limit policy, as well as post-graduation information and resources.

AGC will share the list of graduating companies and any other pertinent information with members as it becomes available.

Upcoming Events

AGC of Ohio Safety Meeting

September 28

AGC Office: 9:00 a.m. - 12:00

2018 Build Ohio

November 9

Hilton at Easton

Learn More: Parker@agcoho.com

AGC of Ohio Safety Meeting

November 16

AGC Office: 9:00 a.m. - 12:00

ConstrucTalk

Do you have new employees or has someone received a promotion?

Has your company received an award or recently done anything newsworthy that you would like to share?

Send your information to Taylor Hobbs at editor@agcoho.com.

SAVE MONEY!

[Businesses and Employees](#)

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AGC of Ohio
Education Foundation



I Build America - Ohio is a movement to generate pride and respect for the construction industry, and to recruit young people into the industry as a rewarding and valuable career.

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BuildingOHIO

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