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THE CONTRACTOR'S



Compass

MAY 2020

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◆ **Powerful Partners: Integrate HR & Marketing to Improve Performance & Retention**
by Leah Gradl, Vice President - Support Operations, Kent Companies Inc.

◆ **Responding to Employee Concerns During the Pandemic**
by Patrick Hogan, CEO, Handle.com

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by Deanna Quintana, NCCER Contributing Author

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by Philip Siegel, Hendrick, Phillips, Salzman & Siegel, P.C.

◆ **Opportunity Marketplaces: Aligning Workforce Investment and Value Creation**
by Michael Schrage, Jeff Schwartz, David Kiron, Robin Jones, and Natasha Buckley



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FEATURES

EDITORIAL PURPOSE

The Contractor's Compass is the monthly educational journal of the Foundation of the American Subcontractors Association, Inc. (FASA) and part of FASA's Contractors' Knowledge Network. The journal is designed to equip construction subcontractors with the ideas, tools and tactics they need to thrive.

The views expressed by contributors to The Contractor's Compass do not necessarily represent the opinions of FASA or the American Subcontractors Association, Inc. (ASA).

MISSION

FASA was established in 1987 as a 501(c)(3) tax-exempt entity to support research, education and public awareness. Through its Contractors' Knowledge Network, FASA is committed to forging and exploring the critical issues shaping subcontractors and specialty trade contractors in the construction industry. FASA provides subcontractors and specialty trade contractors with the tools, techniques, practices, attitude and confidence they need to thrive and excel in the construction industry.

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The Contractor's Compass is a free monthly publication for ASA members and nonmembers. For questions about subscribing, please contact communications@asa-hq.com.

ADVERTISING

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EDITORIAL SUBMISSIONS

Contributing authors are encouraged to submit a brief abstract of their article idea before providing a full-length feature article. Feature articles should be no longer than 1,500 words and comply with The Associated Press style guidelines. Article submissions become the property of ASA and FASA. The editor reserves the right to edit all accepted editorial submissions for length, style, clarity, spelling and punctuation. Send abstracts and submissions for The Contractor's Compass to communications@asa-hq.com.

ABOUT ASA

ASA is a nonprofit trade association of union and non-union subcontractors and suppliers. Through a nationwide network of local and state ASA associations, members receive information and education on relevant business issues and work together to protect their rights as an integral part of the construction team. For more information about becoming an ASA member, contact ASA at 1004 Duke St., Alexandria, VA 22314-3588, (703) 684-3450, membership@asa-hq.com, or visit the ASA Web site, www.asaonline.com.

LAYOUT

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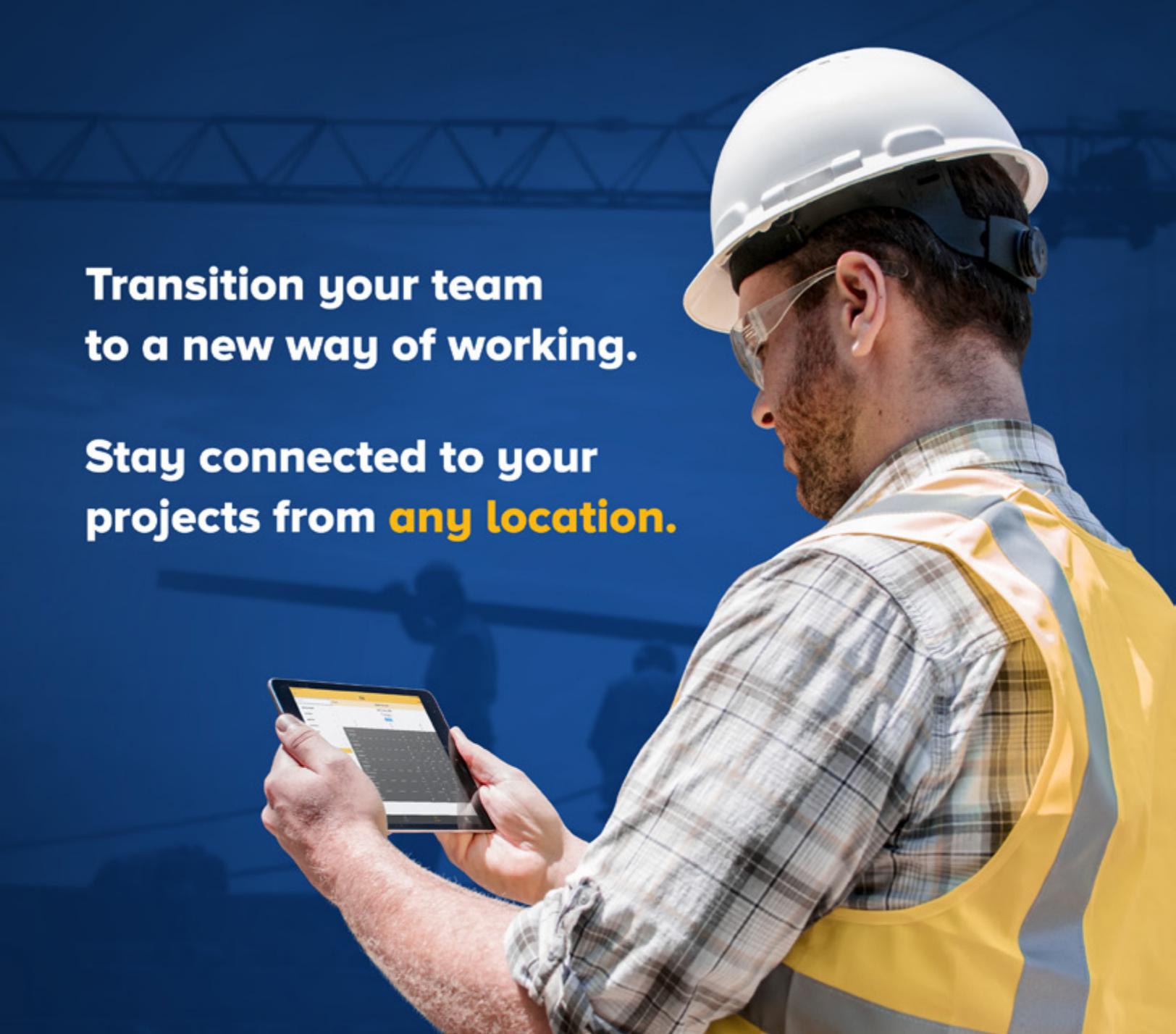
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PRESIDENT'S LETTER



Dear ASA Members,

I want to start by saying that I hope you are safe and healthy as you read this. As our nation continues through these unprecedented days, I have never been prouder to stand with you all, even if that means we have to stand 6 feet apart. All of us as ASA members are stronger when we stand together as an organization, and I want you to know that we are all in this together.

I know that some states are beginning to open slowly, which is wonderful news for so many small business owners across this country. I want to encourage all ASA members to still keep your employees' safety at the forefront of your business. Maintaining strong safety business practices during the country's reopening ensures that all of us are able to go back to work while staying safe. Following your local leadership's guidelines will help all of us slowly transition within our communities. Many of our ASA members are community leaders, and I am confident that you will continue to set an example for how to best operate your businesses moving forward.

We have all had to constantly adapt during these changing times, and we will still need to adapt as recommendations and mandates are being updated. Stay nimble, stay strong, and stay healthy. The core values important to ASA will see us through the difficult times and bring us into a bright future. I look forward to the day when we will all be together again.

Protect your businesses, protect your employees, and please wash your hands.

Sincerely,

Anthony Brooks,

ASA President 2019-2020



CONTRACTOR COMMUNITY

“Re-open, Renew and Revitalize” Campaign Tells Lawmakers—Economic Recovery Begins with Multi-year Transportation Investment Package

ASA, along with the Transportation Construction Coalition (TCC), launched an advertising and grassroots campaign designed to encourage Congress to make new infrastructure investments as the major catalyst for economic recovery in the wake of COVID-19. The primary message of the campaign by the TCC is that reopening, renewing and revitalizing the economy starts with passage of a robust, multi-year transportation bill that creates jobs and keeps goods and services like medical supplies quickly moving to their destinations - now and for decades to come.

The campaign's message is directed at two audiences: legislators and their staffs on Capitol Hill and the four primary leaders who are critical to final passage of infrastructure investment legislation: House Speaker Pelosi, House Minority Leader McCarthy, Senate Majority Leader McConnell, and Senate Minority Leader Schumer. The campaign features four components: cable TV, digital TV, Facebook ads and digital ads. Please see ASA's Social Media for the ad.

ASA Coronavirus Resource Guide

The Center for Disease Control (CDC) is responding to an outbreak of respiratory disease caused by a novel coronavirus (COVID-19) that was first detected in China and has now emerged in almost 90 locations internationally, including 500 confirmed cases within the United States as of March 9, 2020. With the complete clinical picture of COVID-19 not fully known along with the CDC's expectation that the number of confirmed cases will continue to rise, members of the American Subcontractors Association (ASA) may have concerns regarding the disease and how to handle employment matters during this outbreak. As the situation is emerging and continually evolving, ASA will monitor all federal agency developments and guidance to supply our members with the most up to date information available. The

ASA has collected numerous materials from a wide variety of sources and developed this Coronavirus Resource Guide to provide our members with a comprehensive resource to best prepare for employment disruptions as COVID-19 cases continue to be discovered. [Click Here to Download the Full ASA Coronavirus Resource Guide.](#)

ASA has also put together the *ASA Coronavirus Employer Guide*. To access the MEMBERS ONLY ASA Info Hub:

1. Go to the Member Login Page.
2. If you need a Username and Password, create an account.
3. Once logged into the Info Hub, choose "Resources" from the left-hand menu.
4. Choose "COVID-19" from the drop-down menu at the top of your screen.

MCAA Change Order Publication Receives ASA's Full Support

The 2020 edition of the Mechanical Contractors Association of America's (MCAA) highly regarded construction management publication, *Change Orders, Productivity, Overtime—A Primer for the Construction Industry*, has the full support of the American Subcontractors Association (ASA).

ASA supports the contents of the publication as being applicable to subcontractors, which sustain impacts to the same level and the same types, as the mechanical piping and plumbing trades. MCAA will make the publication available to ASA members at the MCAA member rate.

This publication has become a standard in the construction industry and is widely relied upon by mechanical and other specialty contractors, attorneys in construction practices, and consultants.

In a new chapter, lead author Paul L. Stynchcomb, CCM, PSP, CFCC of Vero Construction Consultants Corp. discusses the essential concept of sharing the CPM schedule in its native form between all of the major trades on a construction project. It is the MCAA's goal to make the construction management and scheduling process more transparent and effective on today's complex and challenging construction projects, to the benefit of all of the parties to a construction contract.

Lawrence M. Prosen, Esquire of Kilpatrick Townsend & Stockton, LLP provided the case citations and some general commentary contained in some sections of the chapter.

This latest chapter, like the others in the publication, was peer reviewed by a panel of industry professionals. Peer review was performed by Robert Beck, President/CEO of John W. Danforth Company in Tonawanda, NY; Rick Freeman, Executive Vice President, Southern Insulation, Inc. in Hyattsville, MD; Brian Helm, President of The Helm Group in Freeport, IL; and Denis St. Pierre, Executive Vice President & COO of Alterman in Austin, TX.

[Click here to download the full press release.](#)

[Click Here for the ASA Member Order Form](#)

ASA Subcontractor Legal Defense Fund SLDF Crosno Construction Case in the News!

The *Engineering News-Record* reported on SLDF's *Crosno Construction, Inc. et al v. Travelers Casualty and Surety of America* case, quoting our Attorneys' Council Chair Dan McLennon and SLDF Chair Scott Holbrook.

A California appellate court ruling on an industry standard “pay-when-paid” contract will have a significant impact on how and when subcontractors are paid for project work. The judgment held that the pay-when-paid clause violated state public policy and did not provide for payment within a reasonable time. The Court specifically referenced ASA's argument in its opinion, using it to rebut a countervailing argument from the defendant's amicus.

ASA congratulates the Legal Defense Fund and Scott Holbrook on behalf of the entire Subcontractor community for its tremendous work on this case. Please remember to **SUPPORT** the critical efforts of the SLDF in future cases that may arise in YOUR state!

ASA Attorneys Council COVID-19 Webinar May 28th!

Join us on Thursday, May 28th at 2:00 p.m. EST for an important webinar panel as we address questions regarding the challenges and pitfalls ahead as each

state approaches reopening during the COVID-19 pandemic. From written notice and supply chain issues to worker safety and PPE on site, our dedicated group of attorneys is here to guide our subcontractor community through the process.

Presented By:

- Dan McLennon, Smith, Currie & Hancock, LLP, Attorneys Council Chair
- Bethany Beck, Sanderford & Carroll, PC, Attorneys Council Chair-Elect
- Courtney Little, ACE Glass, ASA Executive Committee
- Charles Keller, Snell & Wilmer, LLP

[Click here to register for the event!](#)

Reopening a Business Without Opening Employer Liability #2

This article is from our friends at SESCO Management Consultants, ASA's Human Resource Partner and one of the stellar member benefits available to ASA Members. **[To learn more about the benefits of your ASA membership, click here.](#)**

Employers face a myriad of issues in thinking through whether and how to reopen for business, or how to thoughtfully phase out furloughs or teleworking models currently in place for ongoing enterprises. While federal, state, and local authorities haggle over who will decide which businesses can reopen and under what circumstances, employers should start preparing now.

Requiring an Employee to Stay Home

An employer can require an employee to stay home and not work on site in three situations. First, if an employee has returned from traveling internationally. Second, if an employee is exhibiting symptoms of COVID-19 such as a fever (100.4 F or higher) and shortness of breath/difficulty breathing. Third, if an employee has had close contact with someone who has a confirmed diagnosis of COVID-19 (including any person that resides in the employee's household). In these situations, an employer is not required to pay an employee for the time out and we recommend requiring the employee to provide medical certification of fitness for duty before they return to work on site.

Recommended Phases of Returning to Normal Operations

We recommend employers reopening mirror the phased recovery periods following the three federal government guidelines.

1. Continuing to follow safety recommendations regarding social distancing; use of personal protective equipment (PPE); disinfection of all common, high-traffic areas; and limiting business travel. Temperature testing may also be considered.
2. Monitoring your workforce for indicative symptoms.
3. Continuing to enforce policies and procedures for workforce contact tracing following an employee testing positive for COVID-19. This would include continuing to ask infected associates to identify all individuals who they worked in close proximity to.

Phase One

Under the guidelines, at Phase One, all employers should:

- Continue to encourage telework, whenever possible and feasible with business operations;
- Close common areas where employees are likely to congregate, and enforce strict social distancing protocols;
- Minimize nonessential business travel; and
- Strongly consider special accommodations for employees who are members of a vulnerable population.
- Vulnerable individuals include the elderly, pregnant women, people with serious underlying health conditions, and people whose immune system is compromised. If an option, maintain remote work operations for at risk associates.

Phase Two

Under the guidelines, at Phase Two, all employers should:

- Continue to encourage telework, whenever possible and feasible with business operations;
- Close common areas where employees are likely to congregate, and enforce moderate social distancing protocols;

- Strongly consider special accommodations for employees who are members of a vulnerable population, including providing PPE or an alternative work assignment.

In Phase Two, nonessential business travel can resume.

Phase Three

Under the guidelines, at Phase Three, employers can resume unrestricted staffing at worksites.

*SESCO Management Consultants will continue to monitor and report on developments with respect to the COVID-19 pandemic and will post updates in the firm's **COVID-19 Resource Center** as additional information becomes available. SESCO retainer clients and members of select associations can call or email SESCO to discuss specific industry, state and/or company questions and concerns.*

Help Defend Our Future by Supporting the Subcontractors Legal Defense Fund

ASA underwrites the legal costs of filing "friend-of-the-court" briefs to inform the Court regarding the broader impact of relevant cases throughout the country. We have won dozens of these cases since 1997, vindicating subcontractor rights today and into the future!

Each year, courts across the country hand down hundreds of decisions on federal and state laws, as well as court-made or "case"law, that apply to subcontractors' businesses. Many of the decisions impacting subcontractors interpret the contract provisions of subcontract agreements—provisions like pay-if-paid, hold harmless, duty-to-defend, and no-damages-for-delay. Some of these decisions are precedent-setting and carry significance for subcontractors across state lines.

ASA's Subcontractors Legal Defense Fund supports ASA's critical legal activities in precedent-setting cases to protect the interests of all subcontractors. ASA taps the SLDF to fund amicus curiae, or "friend-of-the-court," briefs in appellate-level cases that would have a significant impact on subcontractor rights.

[Support the SLDF Today!](#)



Powerful Partners: Integrate HR & Marketing to Improve Performance & Retention

by Leah Gradl, Vice President – Support Operations, Kent Companies Inc.

If your HR and Marketing teams sit in separate offices, you're missing the boat.

Today's competitive advantage hinges on a high-performing team, both in the field and the office. High performing teams are comprised of loyal, long-standing and engaged employees who consistently deliver high quality work. They understand how their individual contributions impact the bottom line. They know their work matters, and they care.

The rules for building and retaining a high performing team are changing. If Human Resources and Marketing work in silos, you're missing a critical engagement opportunity.

Signs of a Stale Strategy:

- Performance reviews – 1x per year
- Unexpected loss of A-Players
- Personnel files lack documentation
- Employee surveys are lengthy, difficult to complete
- Low participation in committees (safety, civic/volunteerism, social)
- Newsletter is available in only 1 format (print or email)
- Newsletter features are static
- Newsletter focuses on projects only
- Communications have lengthy content and low readership rates

An Integrated Approach

An integrated communications plan needs input from both Human Resources and Marketing. Human Resources is just that – a resource for employees to access benefits, professional development, coaching and career development opportunities. They're also a resource for managers to monitor and manage engagement, retention and workforce development. Marketing is a key partner. Strategic internal communications integrates brand standards, culture, voice and the best channels to deliver each

message. Together, these teams create a framework for two-way employer/employee conversations.

Charting the Course

Do your HR and Marketing teams have an all-in approach? It starts with a shared annual calendar that charts key activities by each quarter and each month. Define consistent categories such as safety, benefits/compliance, engagement/recognition initiatives, training and development programs, recruitment and public relations. Both teams should work together to populate an editorial calendar for the month, quarter and entire year. Opportunities to consolidate and align messages will quickly emerge.

Next, enhance your performance review process by scheduling a mid-year check in. This process is driven by Human Resources, and it delivers benefits to both managers and employees. A performance review isn't a one-way, once a year message. It's a shared document that holds the manager and the employee accountable for progress throughout the year.

On an organization level, do away with lengthy surveys that attempt to deep dive into multiple issues. Instead, consider two questions. First, a Net Promoter Score asks employees to rate how likely they are to recommend your business to family or friends as a great place to work. A 1 to 10 ratings scale gives you an annual benchmark to chart long-term progress. Second, offer an open-ended question that simply states, "Tell us why you answered that way, or tell us how we can improve." A two-question survey drastically increases participation and completion rates. Together, Human Resources and Marketing can audit results for trends and make recommendations based on their findings.

Be intentional in nurturing A-Players on your team. Don't take their leadership and engagement for granted. Instead, offer a mid-year program that shapes deeper conversations with high performers. Ask for their candid feedback on what the company is doing well; how company values are lived out; how they want to continue individual development; and what additional skill sets your team could benefit from if asked.

Modern distribution methods for these programs range from fully-robust intranet platforms to low-cost integrated solutions using email marketing, group texting and social media platforms.

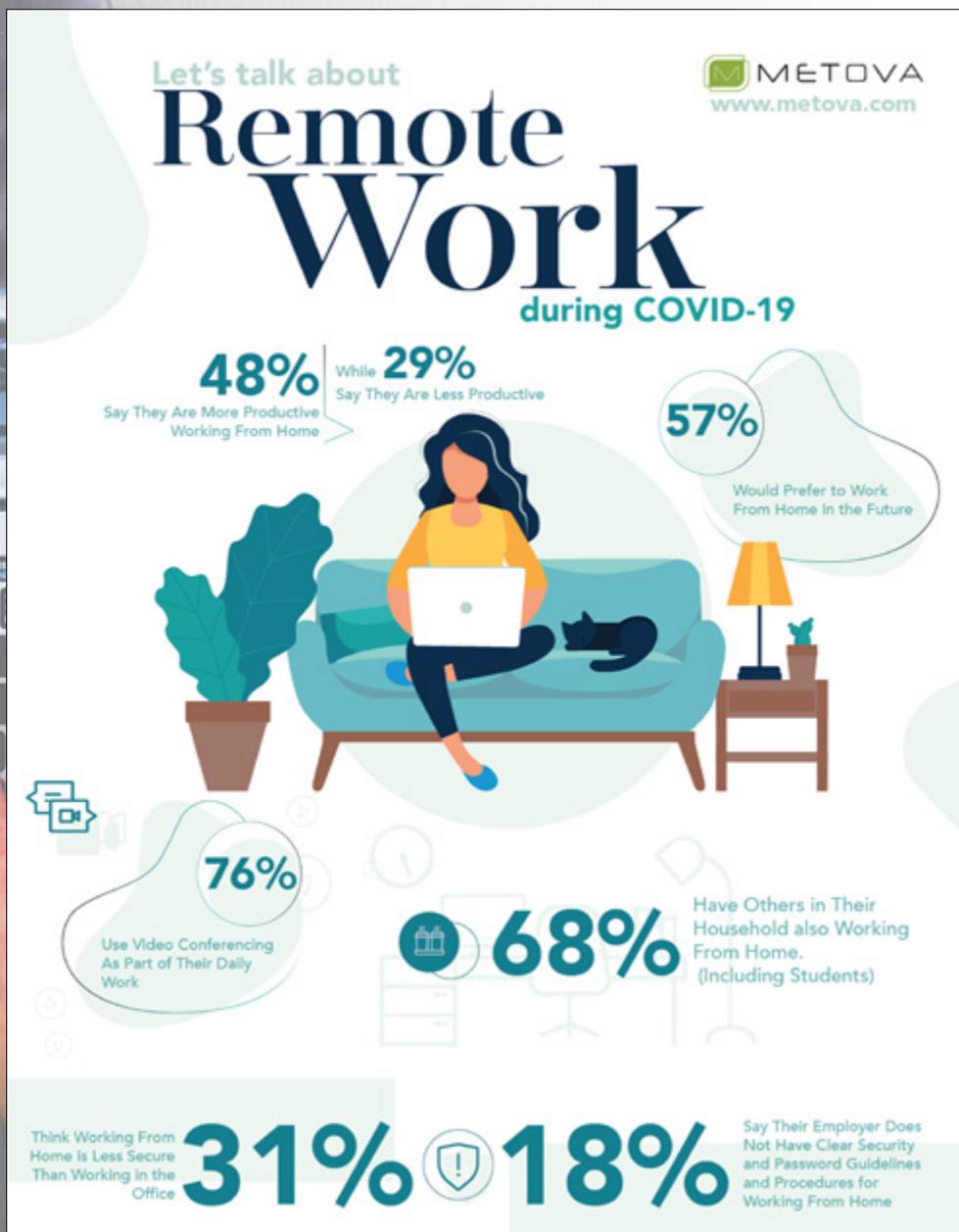
Working together, Human Resources and Marketing can standardize key processes, programs and messages. This critical work builds engagement, retention and high performing teams that make a difference on the bottom line.



Leah Gradl oversees Marketing, HR, Training & Development and related support operations for Kent Companies, Inc. Kent Companies is the 9th largest concrete contractor nationwide and employs over 1,500 team members in nine offices across the country. Visit their website at www.kentcompanies.com

Survey Reveals a New Normal

In a survey conducted in April 2020, 48 percent of respondents say they are more productive working from home, 57 percent would prefer to work from home in the future, and 68 percent have other workers or students also working in their household. Metova, a provider of mobile, web, connected home and car, and IoT (Internet of Things) solutions, conducted this recent survey of more than 1,000 consumers who are new to working from home due to COVID-19 on topics including technology, productivity, and security. Here are the results:



A 2019 IoT Breakthrough award winner and an **AWS Advanced Consulting and Technology Partner**, Metova provides a complete range of technology services designed to equip businesses to lead their market and increase customer loyalty by leveraging emerging solutions for mobile, web, connected home, connected car, and IoT technologies.



FEATURE

Responding to Employee Concerns During the Pandemic

by Patrick Hogan, CEO, Handle.com

Before the COVID-19 pandemic swept the world, workplace-related headlines were dominated by allegations of financial misconduct, gender and racial discrimination, and sexual harassment. Largely ignored were the things that represent a bulk of what employers and employees need to talk about.

As a business owner or construction team manager, an important aspect of your job involves addressing the problems and concerns of your employees. No one wants to hear complaints or confront employees about workplace issues they might have. But the fact is that nothing gets resolved and the business will not move forward if these concerns are not addressed. Some of these concerns may be small but if you don't show any proactive disposition regarding your employees' grievances, they can build up and sow a seed of discord within their ranks. Having disgruntled employees can result in a demoralized team, which can affect productivity.

Especially now, in the time of the coronavirus outbreak, empowering employees so they can voice out their concerns should be one of your top priorities. Here are some of the ways you can have pleasant and productive "let's talk" sessions with your employees.

Creating the Right Environment

Employee communication is founded on trust. Companies that create a culture based on trust will foster an environment where employees trust employers enough to voice out their concerns. The more an employee trusts their employer, the more likely they are to come forward as soon as they see a problem occurring.

Not a lot of construction companies exert effort to foster an environment that is conducive to employee communication. While most companies do have certain mechanisms in place to get employee feedback, such as dedicated hotlines and

feedback programs, these are usually done only to comply with the law. Convincing employees to use them at all can be a daunting task. Without a culture of trust, these systems that you put in place will be useless.

Construction businesses face a lot of business challenges, from supplier problems to **payment issues**, and understandably, there may not be as much emphasis on employee communication. But overcoming this hurdle can provide big benefits to your business. A great way to do so is to ensure anonymity and complete confidentiality in your feedback programs.

Hearing Employees Out

There are several ways you can hear out employees regarding their concerns and complaints. For instance, you can solicit the help of team leaders, who can talk to their teams and report their findings to you. Phone hotlines and dedicated email addresses for feedback are also some of the best channels to gather employees' opinions. Finally, regular employee surveys and even physical suggestion boxes are great ways to check the pulse of your organization.

The effectiveness of these feedback methods, however, lies in you as the listener. Communication is a two-way street and you need to actively listen to what the other person is saying to ensure that both of you are on the same page. Give your employees your full attention and feel free to ask questions if you want them to clarify their concerns. You want to be empathetic and show that you understand the problem.

At the end of the conversations, you and your employees should have a clear agreement on what the next steps will be. More often than not, this will be gathering more information about their concerns and talking directly to the people involved to verify their claims. Don't leave your employees wondering if their problem will be resolved. If you think you can't do

anything about the situation, explain it clearly.

Communicating During the Pandemic

The current crisis has created extraordinary circumstances for many construction employees. Some states have declared construction work essential while others have ordered workers to stay at home in order to slow down the spread of the novel coronavirus. As a consequence, many construction employees will have pressing concerns about their work as the crisis continues.

It is at this time that effective communication is important more than ever. There will be an increasing level of frustration as uncertainty takes over your workforce. We all have been caught off guard by the pandemic and unfortunately, not every company is well-equipped to quickly adapt to the situation.

When talking to employees about the current situation, you need to put yourself in their shoes and think about what it means to your employees. Anticipate their questions and answer them as honestly as possible. Complete honesty can be scary, but being truthful establishes trust and prevents the build-up of tension, especially in this time of uncertainty.



Patrick Hogan is the CEO of Handle.com, where they build software that helps contractors, subcontractors, and material suppliers with late payments. Handle.com also provides funding for construction businesses in the form of invoice factoring, material supply trade credit, and mechanics lien purchasing.



Improving Construction Safety with Communication

by Deanna Quintana, NCCER Contributing Author

There is no “I” in team.

This is especially true when it comes to ensuring the construction industry is safe, and that craft professionals have support on the job. But, with numerous workers on a construction site completing projects, the construction industry depends on an often-unnoticed skill – communication.

According to an article in NCCER'S Breaking Ground, Cole Davis, Corporate Safety Director with NOVA Group, states, “Safety incidents and accidents are 100% preventable. That may sound like a bold statement, but we have been able to prove it in every single investigation we have done.”

There are consequences to unsafe practices in construction as well as miscommunication. In fact, the 2019 State of Employee Communication and Engagement Study found 36% of employees were in unsafe situations because of poor communication. With this knowledge, it is imperative that craft professionals strengthen this crucial skill.

A skill that can be taught, practiced and integrated in numerous ways, communication can build trust within a team and lead to a safer workforce.

Trust Safety Managers

Safety is more than an individual effort. The well-being of craft professionals, stems from personal measures as well as construction safety managers who oversee safety fundamentals on site each day.

Focusing on safety for the entire construction site, these individuals are equipped to identify hazards and stay informed on both existing and new regulations. From training staff, inspecting daily safety procedures to implementing steps to prevent accidents, these individuals are at the core of keeping the industry safe.

With this responsibility, strong communications skills are tested, as reports and investigations of routine inspections or safety measures need to be shared. The team needs to trust that these managers on site are being transparent about safety.

Safety managers should create a

professional, but welcoming environment for craft professionals to share any issues or concerns. In addition, when safety managers share updates about corrected issues, new protocols or regulations, craft professionals on the job can be assured that they are being made aware of new information.

Creating this open dialogue about construction safety, on top of trusting the role of the safety manager, will keep employees informed and most importantly safe when working in the field.

Continued Safety Training

Proper safety training is crucial, especially for industries where there are health and safety risks in the work environment. While this is important to conduct when craft professionals first enter the industry, ongoing training is beneficial for both new and current employees.

Continued safety training can include targeted safety sessions, certification courses and programs that focus on basic safety procedures and the proper operation of equipment. However, in addition to these topics, teams should integrate ways to enhance and strengthen communication practices.

Encouraging the upkeep of general communication skills can include tips for active listening, creating clear drawings for projects or avoiding jargon in emails. By eliminating confusion on site, in conversation or with design, construction avoids those minor inconveniences that might halt productivity.

If there is a communication chain of command, ensure the team is refreshed on who to speak to about issues. Whether it be a safety manager, project owner or individual worker, defining standardized communication measures creates efficiency and accountability.

Creating an environment that can openly discuss best practices and regularly strengthen these skills will allow the construction industry and craft professionals to embrace an effective safety culture.

Utilize Mobile Technology

Communication can happen in the palm of a hand, allowing craft professionals to share information quickly and efficiently. Although new technology continues to hit the market, there are ways to introduce the benefits of mobile technology without requiring the latest model of a device.

According to Pew Research Center, nearly 96% of Americans own a cellphone. Through basic call and text functions, craft professionals can communicate at a faster speed and with more detail.

In addition, technology can improve communication within the industry using video, camera tools and specialized construction-specific applications. Revolutionizing the industry by sharing workplace safety issues in real-time or allowing craft professionals to actively mitigate job site hazards, mobile technology is enhancing construction safety with the push of a button.

Encouraging the use of mobile technology within the industry can foster a safe working environment. Even simple tasks such as sending daily safety reminders can improve safety and overall productivity.

Communication is Essential

When working in the industry, interpersonal communication can be just as important as proper equipment operation and craft-specific knowledge.

Effective communication creates an environment that is safe, productive and efficient. With the well-being of employees at the forefront, communication skills are key to keeping craft professionals in our industry safe each day.

Deanna Quintana, originally from Las Vegas, is pursuing a Bachelor of Science in public relations with a minor in business administration at the University of Florida. As a marketing intern at NCCER in Alachua, Florida, she devotes her time to writing, editing and updating content for the company website. In her role, she is learning about the construction industry and how to better recruit and educate new craft professionals.



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888.622.3720



Employee Engagement in Unprecedented Times— Key Concepts to Consider

by *Stephane McShane, Director, Maxim Consulting Group*

The COVID-19 virus has changed much of what we knew as familiar in our work lives. Many are working remote, causing a change in environment and, perhaps, a shift in how they view work. Being home, interacting with family, spouses, and children along with a heightened awareness of a serious physical threat to their wellbeing has shifted the perspective of many. The current state isn't causing just a simple shift in geography. If it were simply "working from home," much of what we would be doing would be the status quo. However, with the stress of health preservation and the mirror of mortality being displayed so prominently in the media today, it most certainly is causing a change of priorities for many. How could it not?

Construction work on our jobsites is considered to be "essential" and our folks must brave infection in order to service the public's needs. They join doctors, nurses, first responders, grocery store workers, etc. in this classification. We applaud and respect them for their sacrifices. Their efforts are nothing short of Herculean. How has the added stress shifted their perspective and, more importantly, their priorities?

As business leaders, it would be wise to consider that the lens of our staff may be shifting. As some have spent more time at home, reconnecting with those dearest to them, there is a good possibility that this is ground that they might not wish to entirely give up. Or, at least not right away. For industries such as construction that are behind others when it comes to workplace flexibility, it is understood that this strategy was pushed to the forefront by the virus. However, it would be prudent to begin preparing for the idea that this type of working environment, or some semblance of it, may become more of the norm. People are realizing how convenient it is not to have a commute, how great it is to connect around the dinner table again, and how to have more than a few hours' worth

of interaction with their loved ones per day. Additionally, today's younger workforce works in order to have a life. They do not live to work. This is truly a key distinction that has been downplayed in the past, but we will not have the luxury of ignoring it moving forward.

For those still working on jobsites, there is tremendous burden knowing there is a physical threat to their wellbeing, and that their exposure could affect the health and wellbeing of loved ones, family, and friends. How is that shifting their lens? Having owners and contractors placing moratoriums and/or devices on workers to ensure no one gets within six feet of one another keeps the reality of the situation front and center in everyone's minds, and keeps the worry of physical jeopardy in the forefront as well.

So, what is your strategy? How do you transition from the period of lockdown to a newer normal? What steps must be taken so that the choices you make as a leader are the right ones? There are many items to consider. Your employees are watching and looking to you for guidance, for confidence, and for caring. It should be weighing heavily on you what you are going to deliver to them, as it is more important than ever. Here are some tips to consider.

BECOME AS EDUCATED AS POSSIBLE. It is your responsibility to look objectively at data and recommendations from reliable sources to discover solutions to keeping exposure contained as much as possible. Look to your construction associations for guidelines and webinars. Identify and follow credible health organizations, and review their updates daily. Seek out advice from medical professionals you trust. This is absolutely critical. Half truths and outright lies are being published as fact. Ensure that you take the opportunity to increase your leadership credibility by immersing yourself with knowledge from the right sources. Start compiling data and information, along with their reference

origins, in order to share this with your staff. Start a reference library on your company intranet with these sources and links. Gain knowledge that is so critical in facilitating fact-based conversations. Become the best educated leader on the team, in order to increase your effectiveness as a solutions provider.

TALK WITH YOUR EMPLOYEES! Especially in uncertain times, a major differentiator between successful or unsuccessful employee engagement depends heavily on how much your employees feel that they are heard. For your office staff that have worked from home, partially or entirely, a conversation needs to be held surrounding what their fears and desires are moving forward.

Have the conversation regarding these three scenarios.

1. Are we doing the right things right now?
2. What should we do if the restrictions begin to lift?
3. What should we do to prepare ourselves should the shelter in place orders be extended, tightened, or a resurgence of exposure occurs?

So many construction firms are stuck in the model of having most, if not all, of their office staff in offices on the premises every day. Though it caused tremendous discomfort for many, it was forced upon the industry to shift this model to allow work to happen remote. When the lockdown orders are lifted, to simply dictate to your staff that it should automatically be business as usual, and that those people need to report back to their offices 5 days per week may be a shortsighted and uninformed move. Without discussing the needs and desires of your staff, you do not have the information you need to make those decisions. Could it be 3 days in the office and 2 days remote for one person and 5 days in the office for others? Quite possibly. Be open, and listen to understand, not listen to respond. Remove

your lens and listen until you understand their perspectives from their points of view. If that does not occur, you have not yet listened well enough.

Let's consider those who work in the trade side of our business. What discussions have taken place to ensure that they feel safe, protected, and, frankly, cared for? Again, the solution comes with discussion, not dictatorship. While it is leadership's role to eventually institute solutions that make sense, the right solutions cannot be determined without open and honest discussions with those who live it daily. It would be important to know what culture they are currently experiencing, which could differ greatly project by project. What pressures are they feeling? What is their level of stress regarding exposure to, and the possibility of passing on, the Coronavirus? What do THEY believe needs to be done? Do they believe their current level of PPE is adequate? Has the information and training they have received been adequate? Do they feel comfortable with social distancing on the jobsite? Are the current restrictions causing issues and, if so, what? Are the leaders on the jobsite supportive of the safety culture and concerns about the pandemic or are they pushing dangerous work habits in an effort to "get things done?" What changes need to occur from their boots on the ground perspectives? Have the same discussion with your field personnel regarding the three scenarios outlined above.

PLAN. Begin with global solutions for your organization. Know what options are available to you, and plan for the 3 scenarios outlined above. Scenario 1: Identify what to change now in order to address the immediate items you have gathered. Scenarios 2 and 3: Know what quantifiable factors would influence you in making a change to the current, and a realistic the timing associated with it. Stay in tune with information regarding questions such as: Will the pandemic restrictions be lifted? How soon? Will it be staged? If so, how will this affect us? Will we see a resurgence? If so, what will we do? Make a long list of these types of questions, then work with a team of people within the organization, perhaps even

better to retain outside assistance, and create the action steps necessary for the different scenarios.

For individual performance management, only by listening to your employees can you begin crafting the right solutions. Determine, by job title, what the expectations of performance are. This should be a coordinated effort between leadership and key employees who employ those positions on how to best accomplish their duties. Best case you already have a role and responsibilities matrix with performance metrics. Worst case, your employees don't have complete clarity behind your expectations. Some of the questions that must be answered are:

- Are their deliverables clearly understood?
- Are there defined systems and processes for the key performance aspects of their job?
- Is additional definition or training needed?
- Is moving back into the office full time the right answer?
- Should workplace flexibility be an option?
- Do we need different or better technology solutions?
- Does a culture or trust shift need to take place by some or all of your organization in order to best move these plans forward? If so, how?
- Do we possess the right level of transparency to facilitate remote work?
- Do policy revisions need to be written?
- How is success in this position defined?
- How should success in this position be measured?
- How do we best implement these changes to ensure success?

CONCLUSION. Remember that your employees have opinions. They have perceptions. They have well-founded concerns and fears. They have needs. Understand that their perceptions are, in fact, THEIR reality, regardless if their perceptions are correct or not. The influence that you have as a leader upon their perceptions is great and, by inference, your influence on their level of engagement

is as well. This is a golden opportunity to create much needed changes in your organization that mean the most to your employees. Prepare yourself for the open dialog needed to effectively lead through the seemingly daily changes we are experiencing. Retain coaching or external assistance if you believe this will be a challenge for you. Be sensitive to the fact that your employees may come back different, with needs that have changed. Migration back to "normal" may take time, or need to be redefined entirely. And, realize that this is ok. It's a great opportunity, albeit forced upon you, to take a strong look at the current environment, collaborate, and find the common ground. It is your opportunity to not only allow for change, but to encourage it. Give yourself the chance to have more open and honest conversations with those who do the work. An organization's success moving forward and eventually coming out of this shut down will rest entirely on the leadership to make the right, informed decisions. The level of employee engagement will be a product of these discussions and the alignment created from them. It is far better to be proactively considering this, given the unknown term of shutdown we currently face. These are powerful conversations to have, and could lead to even greater loyalty and engagement if managed correctly. They are watching you lead. Make sure to give them exactly what they truly need from you.

Stephane McShane is a Director at Maxim Consulting Group, responsible for the evaluation and implementation processes with clients. Stephane works with construction-related firms of all sizes to evaluate business practices and assist with management challenges. Her areas of expertise include: Leadership development, organizational assessments, strategic planning, project execution, business development, productivity improvement, and training programs. Mrs. McShane is an internationally recognized speaker, mentor, author, and teacher. She can be reached at stephane.mcshane@maximconsulting.com, or visit www.maximconsulting.com.



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FEATURE

Is Empathy the Missing Essential in your Client Relationships?

by Sina Falaki, Product Marketing Manager, Procore



Construction is a hard business known for its machismo. Perhaps that's why a term like empathy isn't easily spoken of or passed around. But, just as it takes multiple tools to hang drywall or erect curtain walls, it takes multiple tools to create a customer-centric company culture. Empathy could be the missing element in your customer relationships.

Wouldn't it be nice if you could know exactly what your clients want even before they do? Or, wouldn't it come in handy to know beforehand whenever you can do something to convert a client pain point into a client joy point? It doesn't take big data or complicated algorithms to reach these levels of customer care. However, it does take a little empathy.

When you embrace empathy, you gain not only a deeper perspective on what your clients need, but also new insights into your own business.

The COVID-19 pandemic has forced us to radically change our lifestyles and how we work. Stay-at-home

restrictions and social distancing have made face-to-face conversations difficult if not impossible, so we all must find new ways to connect and empathize with clients. Even without the ability to meet in person, we can use technology that helps our construction projects continue safely on site while also reducing our clients' (and employees') anxiety. Now more than ever before, empathy is becoming an essential tool not only in our personal lives, but our work as well.

Empathy here means understanding. It means being able to put yourself in your client's shoes and know what it feels like to be them. In essence, it means learning how to treat your customers the way they want to be treated. To get to that state, you have to go to the source in a specific manner.

Here's why as well as some pointers on how to start using it.

What Do You Really Know?

You might think customer A has told you everything you need to know about what's hurting them in their relationship with you. But, if you have that impression simply based on your typical communications, the chances are you're not getting the real picture. That's because daily business talks are transactional and based on agendas. Sometimes, you need them to make decisions, or iron out a pay request. Other times, they need you to explain an overage, or inform them on a new method. Whether it's your agenda or theirs, those interactions are mainly about accomplishing something.

Now, suppose you invited your client to a breakfast to just sit and chat? In that environment, you're more likely to learn how your customer really feels. You are also likely to discover what keeps them up at night and what recurring factors and issues drive them crazy.

If you go into the meeting with no agendas and no expected transactions, you stand a good chance of gaining new understandings about your client.

You might have these "one-on-ones" several times, or you might decide to make them recurring meetups. Through these interactions, you'll learn how you can care for your customer from an empathic place. That leaves you set up to help them with their goals.

Goals Motivate

Most of your clients have goals. Those goals come in two flavors, business and life. But, with goals, also come goal blockers. Blockers either crop up consistently or randomly and prevent your clients from reaching

their goals. While you might not be causing blockers, it might be within your power to help overcome some obstacles and prevent others.

While you might prefer to stay out of helping them on life goals, the reality is that by helping out on the business side you often affect people's personal life as well. As you listen to them talk about their goals, you'll learn about the pain points and problems they face in reaching those goals.

These bits of information can inspire ideas that will benefit both them and you. So, as you listen to them talk about the things they want to do in business, listening being the key here, consider how your actions or inactions affect those goals.

Feelings Run Deep

As you listen, try to cue in on feelings. Whether it's the actual words, the expressions, or the tone of voice, if you really listen to their message, you will detect feelings hidden behind the words.

For example, if they talk about their goal of bringing down construction costs across their portfolio of projects, do you sense they are frustrated, losing hope, or simply not secure in moving forward? When you pick up on these emotional cues, you can ***identify with how they are feeling.***

You get a deeper understanding of their needs and motivations.

What you are doing here is getting to know your client better. When you manage to do that at the feeling level, you are empathizing. Over time, you might consider how to reduce your customer pain points. Maybe, one of their pain points is coincidentally one of yours. When you empathize with multiple customers, you can get a realistic view of how others in your market perceive your company. With that knowledge, you can chart a course that maintains or even improves your reputation.

When you use empathy, it provides a deeper perspective on what your

clients need while providing you new insights into your own business.

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Sina Falaki is a Product Marketing Manager for Specialty Contractors at Procore. Procore is a construction management platform designed for the way you actually build. Manage your project, resource, and financials on one open platform, so every contributor is working from the same, accurate information.

COVID-19's Unprecedented Impact on the Workforce: How Employers Can Help Employees Adapt

How can employers keep employees safe and engaged while planning for life after the pandemic? May article in Risk&Insurance tackles how to handle post-COVID-19 relationships between employees and employers, and how to prepare for the "new normal."

Focus on the Employee. Keep communication open; boost morale.

Develop a Telecommuting Playbook. Accommodate for those with special needs. Offer VPN service

Stay Ahead of Sick Leave and Legal Requirements.

Do you have to adhere to FFCRA? Legal risks to those who contract COVID-19?

Keep Safety Top-of-Mind. Safety protocols may be rusty; inactivity may make workers more prone to accidents

Prepare for a Return to the Workplace. Limit travel? Reorganize work space? Limit large meetings?

[Click here to read the article.](#)



Know Your OSHA Obligations Pertaining to the COVID-19 Hazard

by Philip Siegel, Hendrick, Phillips, Salzman & Siegel, P.C.

In today's world, every employer is certainly aware of the COVID-19 hazard. Knowledge of this serious health hazard has significant legal consequences in the construction workplace, especially when you consider each employer's obligations under the federal Occupational Safety and Health Act ("OSHA").

Can I get a citation relating to COVID-19?

Under OSHA, employers are required to furnish each of its employees employment and a place of employment, which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to its employees. Most construction employers are familiar with specific OSHA regulations or standards that apply to their trade. These regulations provide a standard of care for the construction employer to follow. Consider the case of a commercial roofing contractor which has its employees working on low-slope roofs exposed to a fall hazard. OSHA's regulation for roofing work on low-slope roofs provides various means by which roofing contractors can provide fall protection which meets OSHA's standard of care, such as the use of a personal fall arrest system and warning line. Notably, there are no such regulations or standards that show employers in the construction industry how to address the COVID-19 hazard in the workplace.

When OSHA is left without a specific standard to rely on when alleging an employer has failed to meet its duty to address recognized hazards in the workplace, it instead relies on what is commonly referred to as OSHA's

general duty clause. The general duty clause provides as stated above: "Each employer shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees."

In order for OSHA to prove a violation of its general duty clause, it must provide evidence on four elements. OSHA must show the following as part of its prima facie case alleging a violation of the general duty clause:

1. The employer failed to keep the workplace free of a hazard to which employees of that employer were exposed;
2. The hazard was recognized;
3. The hazard was causing or was likely to cause death or serious physical harm; and
4. There was a feasible but useful method to correct the hazard.

Importantly, OSHA has published an alert which provides COVID-19 guidance for the construction workforce. In an effort to reduce the risk of exposure to the coronavirus, OSHA offers the following for those working in the construction industry:

- Encourage workers to stay home if they are sick.
- Allow workers to wear masks over their nose and mouth to prevent them from spreading the virus.
- Continue to use other normal control measures, including personal protective equipment (PPE), necessary to protect workers from other job hazards associated with construction activities.

- Advise workers to avoid physical contact with others and direct employees/contractors/visitors to increase personal space to at least six feet, where possible. Where work trailers are used, all workers should maintain social distancing while inside the trailers.
- Train workers how to properly put on, use/wear, and take off protective clothing and equipment.
- Encourage respiratory etiquette, including covering coughs and sneezes.
- Promote personal hygiene. If workers do not have immediate access to soap and water for handwashing, provide alcohol-based hand rubs containing at least 60 percent alcohol.
- Use Environmental Protection Agency-approved cleaning chemicals from List N or that have label claims against the coronavirus.
- To the extent tools or equipment must be shared, provide and instruct workers to use alcohol-based wipes to clean tools before and after use. When cleaning tools and equipment, workers should consult manufacturer recommendations for proper cleaning techniques and restrictions.
- Keep in-person meetings (including toolbox talks and safety meetings) as short as possible, limit the number of workers in attendance, and use social distancing practices.
- Clean and disinfect portable jobsite toilets regularly. Hand

sanitizer dispensers should be filled regularly. Frequently-touched items (i.e., door pulls and toilet seats) should be disinfected.

- Encourage workers to report any safety and health concerns.

Construction employers that follow OSHA's guidance will certainly be positioning themselves to avoid or defeat any OSHA citation alleging a violation of OSHA's general duty clause. However, construction employers must also be sure to provide their employees with training on the COVID-19 hazard itself. Just like with any other safety training provided by a construction company, that training should be documented in the form of an agenda identifying the topics covered, and an attendance sign-in sheet should be maintained identifying the attendees.

Do I need to record cases of employees with COVID-19?

Despite a company's best efforts to maintain a safe workplace free from the COVID-19 hazard, it may be that an employee reports having tested positive for COVID-19. A common question arising out of these cases concerns whether the employee's positive test result presents a recordable event under OSHA's recordkeeping regulations. Importantly, OSHA issued interim guidance for enforcing OSHA's recordkeeping requirements as it relates to recording cases of COVID-19.

Under OSHA's recordkeeping requirements, COVID-19 is a recordable illness, and employers are responsible for recording cases of COVID-19, if the case:

1. Is confirmed as a COVID-19 illness;
2. Is work-related as defined by OSHA regulations; and
3. Involves one or more of the general recording criteria under OSHA regulations, such as

medical treatment beyond first aid or days away from work.

OSHA notes that construction employers may have difficulty making determinations about whether workers who contracted COVID-19 did so due to exposures at work. Understanding this difficulty, OSHA states that, until further notice, OSHA will not enforce its recordkeeping requirements to require these employers to make work-relatedness determinations for COVID-19 cases, except where:

1. There is objective evidence that a COVID-19 case may be work-related; and
2. The evidence was reasonably available to the employer.

OSHA's enforcement guidance provides that if a number of cases develop among workers who work closely together, this could be evidence the illness is work-related, if there is no other alternative explanation.

What steps should I take to protect the safety of my workers if an employee reports testing positive for COVID-19?

- Construction companies should be developing an Infectious Disease Preparedness and Response Plan, which addresses how the company is responding to the hazard. Many of the elements from OSHA's guidance for the construction industry should be incorporated into the Plan. The Plan should also include the steps the company will take when it learns an employee has tested positive for COVID-19.
- When an employee reports testing positive for COVID-19, construction companies should follow the CDC's guidance. The CDC provides advice for employees who have had close contact (less than six feet) for a prolonged period of time with a

person with symptomatic COVID-19 during the period from 48 hours before symptoms onset until that person meets the criteria to discontinue home isolation. The CDC's guidance suggests that those who have been so exposed should self-quarantine for 14 days after the last exposure. Therefore, when it is reported to the company that an employee has tested positive for COVID-19, that employee should be instructed to create a list of co-workers with whom the employee had close contact for a prolonged period of time during the period beginning 48 hours before symptoms onset until the employee reports testing positive and begins staying at home. The co-workers on that list should be instructed to self-quarantine for 14 days in an effort to spread the virus.

Conclusion

Unfortunately, the COVID-19 hazard is a real one, and it will remain a hazard for the foreseeable future. Among other concerns for construction company employers in today's world is making sure the workplace is safe for their employees. By following OSHA's guidance, not only are companies avoiding an OSHA citation, but they are also taking affirmative steps to make sure their workforce remains safe and healthy.

Philip Siegel is a partner and shareholder with the firm ***Hendrick, Phillips, Salzman & Siegel, P.C.***, whose practice focuses on labor and employment matters within the construction industry. Philip has an undergraduate B.B.A. from the University of Michigan, and he obtained his law degree from Emory University School of Law. Philip can be reached at either (404) 469-9197, or via e-mail at pjs@hpslaw.com.



Opportunity Marketplaces: Aligning Workforce Investment and Value Creation—Findings from the 2020 Future of the Workforce Global Executive Study and Research Project

by Michael Schrage, Jeff Schwartz, David Kiron, Robin Jones, and Natasha Buckley

Many leaders are rethinking how they value and invest in their workforces. Across the business landscape, corporate leaders are seeking to develop more flexible, adaptive, and valuable workers. Based on a survey of nearly 3,900 respondents and 18 executive interviews, the authors found that the most effective approaches to achieving a

higher-value workforce have a common core: opportunity.

Targeted investment in opportunity is fast becoming the central organizing principle for making more people more valuable in more organizations. The multiple interviews identify the design of opportunity marketplaces as perhaps

the key leadership challenge for most organizations seeking to ethically maximize human capital returns.

Schneider Electric, a global energy management company, has hired a vice president of talent digitization, who's job is to "help generate revenues by launching technologies that ensure employees

work more efficiently, they remain with Schneider, and their engagement levels go up." Schneider created this position, as almost half of the employees that left felt they had no growth opportunities within the company. Matching employees with opportunities within the organization has improved retention. **Read more here.** Workers and Managers are Misaligned: Leaders accustomed to compliance and

control should lead through influence and create options for workers — in much the same way that companies attract and create options for customers. Practices that support workers' growth within the company and the promotion of top talent should be driven by opportunity rather than prescribed career paths. With this opportunity approach, organizations and their people are better able to recognize that their mutual success depends on

ever-smarter investment in themselves and each other.

Originally published by MITSloan Management Review, in collaboration with Deloitte® Insights

Full report can be accessed at <https://sloanreview.mit.edu/projects/opportunity-marketplaces/>, including a case from Schneider Electric

FIGURE 1: DEVELOPMENT IS VALUED, BUT EMPLOYEES LACK INCENTIVES

There is a disconnect between many organizations and their workforce in today's digital environment.

(Percentage of respondents who agree or strongly agree)

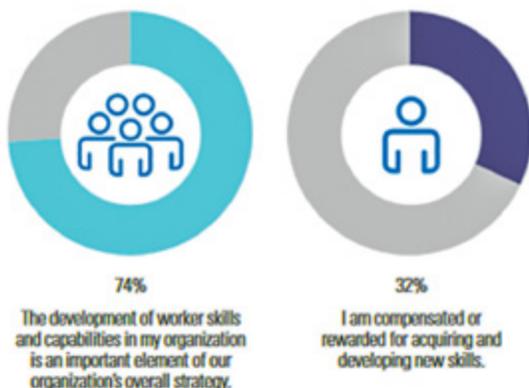


FIGURE 2: DISSATISFACTION WITH PROFESSIONAL DEVELOPMENT INVESTMENTS

Executives and employees alike are dissatisfied with the investment their organization is making in their professional development.

(Charts do not total 100% due to Don't know/not sure responses)



FIGURE 3: TO WORKERS, OPPORTUNITIES ABOUND ELSEWHERE

Many workers do not feel attached to their organizations, and some would consider taking their skills elsewhere.



FIGURE 4: WORKERS REVEAL MIXED FEELINGS ABOUT THEIR SKILLS

While workers are confident they learn valuable skills and remain employable, only 41% recognize they have the skills needed to thrive professionally for five or more years.



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LAST CHANCE:

THURSDAY, MAY 28, 2020, 2:00 - 3:30 PM (ET)

ASA COVID-19 Response: Reopening The Worksite - Attorneys' Council Panel

Presenters:

- Dan McLennon, Smith, Currie & Hancock, LLP, Attorneys Council Chair
- Bethany Beck, Sanderford & Carroll, PC, Attorneys Council Chair-Elect
- Courtney Little, ACE Glass, ASA Executive Committee
- Charles Keller, Snell & Wilmer, LLP

Join us for this important webinar panel as we address your questions regarding the challenges and pitfalls ahead as each state approaches reopening during the COVID-19 pandemic. From written notice and supply chain issues to worker safety and PPE on the site, our dedicated group of attorneys is here to guide our subcontractor community through the process.

[Register here.](#)

TUESDAY, JUNE 9, 2020, NOON TO 1 PM

Setting the Table for Effective Contract Negotiations by Using ASA Bid Conditions

Presenter: Dan McLennon

Conditioning your bid can be a powerful tool for negotiating and securing your preferred contract terms and conditions. In this workshop, you will receive suggested bid condition language and tips on how to negotiate using them. Presented by Dan McLennon, Smith, Currie & Hancock LLP.

Daniel F. McLennon is a Partner in the San Francisco office of Smith, Currie, representing public entities, general contractors, subcontractors, suppliers, premises owners, manufacturers, professionals, corporations, and individuals. He practices in the areas of commercial and construction litigation.

[Register here.](#)

TUESDAY, JULY 14, 12:00PM - 1:00 PM (ET)

How to "Turn the Corner" on Auto Claim Increases

Presenter: Jim Berriatura

Auto insurance rates continue to increase. Distracted driving is causing accidents at an alarming rate. The traditional auto risk management methods have not dented the jump in claims. Join Jim Berriatura, VP at Gallagher Global Construction Services, for "lessons learned" on how to make crash avoidance (i.e., a zero-accident program) your answer to rising auto insurance rates. Discover how the construction industry stands to benefit from technology-based collision detection systems.

Jim Berriatura is currently the Vice President as well as a Producer for Gallagher Global Construction Services in San Francisco, CA. He is a Construction Team Civil Engineer Graduate from Loyola Marymount. Jim has been a Producer for the Gallagher Construction Unit for 22 years.

[Register here.](#)

Coming Up

in the June 2020
Issue of ASA's



Theme:

Keep Your Eye on the Ball

- The novel coronavirus has disrupted businesses worldwide. How can companies get back to what they do best, while still protecting their employees and customers?
- How Can We Keep From Falling?
- Revenue Protection in the Time of COVID-19
- Plus More

Look for your
issue in June.

To access past issues of The Contractor's Compass, please [click here](#).

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