



APRIL 2011

UNITED STATES

FINANCIAL ACCOUNTING STANDARDS BOARD

Members of the Financial Accounting Standards Board (FASB) agreed that the board should retain the objective of a project requiring enhanced disclosures about an employer's participation in a multiemployer plan but stressed the need to also continue outreach to users and preparers in order to understand the costs and benefits of the proposed disclosures.

The project's objective is to enhance the transparency about multiemployer pension plans in which an employer participates. This includes the financial status of those plans, the degree of the employers' participation, and the potential effect of an employer's participation in these plans on its future cash flows. The project timeline for finalization in the second quarter of 2011 was also maintained.

CONSTRUCTION INDUSTRY FASB COALITION MEETING WITH FASB

The Construction Industry FASB Coalition (CIFC), a coalition of national contractor associations including National FCA, as well as, professionals from the banking, insurance, bonding and surety industries, met with FASB on March 30, 2011. The Coalition continues on a positive course of constructive collaboration with FASB to help achieve FASB's goal of greater transparency and disclosure of multiemployer pension plan participation in audited financial statements of participating companies, without the severe, negative collateral consequences for construction firms and their plans that were inherent in the original FASB Exposure draft ED-715. The group continues to provide in depth and expert analysis of the many issues relating to withdrawal liability, the infeasibility of disclosures relating to retiree health coverage, and the unnecessary scope of other quantitative and qualitative disclosures FASB proposed that are inappropriate for multiemployer plans and the unique way they operate in the construction industry. The coalition is offering alternative disclosure approaches that achieve FASB's objectives without the negative consequences inherent in ED-715 as proposed.

CIFC's proposals have gained the endorsement of key firms and associations in the surety and commercial banking industries - Key Bank, Amalgamated Bank of Chicago, and the National Association of Surety Bond Producers, chief among them. They have assessed our proposed disclosure and judged it appropriate for adoption by FASB, as it avoids the negative consequences the CIFC has laid out, yet still provides information and references they need to conduct sound underwriting judgments. The course of FASB's redeliberations on its original proposal is still being decided on. The CIFC will continue to reach out to FASB with its in depth expertise and analysis to help achieve an acceptable outcome. FASB has not yet decided whether to re-expose another draft after its redeliberations or to publish a final standard by the end of the second quarter of 2011.

CONGRESSIONAL RESEARCH SERVICE UPDATES REPORT ON MISCLASSIFICATION OF WORKERS

The Congressional Research Service updated its report (<http://op.bna.com/dlrcases.nsf/r?Open=vros-8euvqa>) on the tax consequences of employee misclassification to include legislation to repeal Form 1099 reporting and proposals in the fiscal year 2012 budget.

While no specific legislation addressing employee misclassification has been introduced in the 112th Congress, the report said, legislation (H.R. 4) has been introduced to repeal the requirement that corporations "furnish and file Form 1099-MISC for payments for goods and services to suppliers aggregating \$600 or more." The House passed H.R. 4 March 3, by a vote of 314-112 to repeal new Form 1099 information rules deemed burdensome by businesses of all sizes.

The report also details a proposal to modify tax code Section 530 that is included in President Obama's fiscal 2012 budget. The change would help increase certainty on worker classification. The Treasury Department estimated that the proposal would yield \$8.71 billion through fiscal 2021, the report said.

DEPARTMENT OF HOMELAND SECURITY SET TO UNVEIL TOOLS FOR EMPLOYERS

The Department of Homeland Security's U.S. Citizenship and Immigration Services (USCIS) is scheduled this spring to unveil two new tools to help employers decrease the likelihood of hiring employees who are not authorized to work in the U.S.

Both tools are to be used in conjunction with E-Verify, the federal government's electronic employment verification program, administered by USCIS and the Social Security Administration.

E-Verify Self Check is a web-based service employees can use to confirm their U.S. work authorization status or correct any errors they find in their DHS and SSA records before they are hired. The Self Check service will allow U.S. workers to enter data into the E-Verify system to ensure the information relating to their work eligibility is accurate. It is the first online E-Verify program offered directly to workers and job seekers.

The E-Verify Self Check program is designed to empower workers and decrease the number of tentative non-confirmations, which occur when employment verification information an employee provides an employer does not match DHS and SSA's data in E-Verify.

The Self Check service is free and voluntary, and gives users the opportunity to submit corrections to any inaccuracies in their DHS or Social Security Administration records before applying for jobs.

The initial launch of the Self Check program allows individuals who maintain an address and are physically located in Arizona, Idaho, Colorado, Mississippi, Virginia, or the District of Columbia to participate in the program. In the coming months, the agency will continue to expand E-Verify Self Check to additional states, and hopes to make Self Check available nationwide within 12 months.

The E-Verify Self Check service is separate from employer use of the E-Verify program, and no information entered by Self Check users will be shared with an employer or prospective employer. In addition, individuals cannot be required by an employer to use E-Verify Self Check to prove work authorization.

According to USCIS, employers will benefit from the E-Verify Self Check service because the service is designed to empower workers and decrease the number of tentative non-confirmations, which occur when employment verification information an employee provides an employer does not match DHS and SSA's data in E-Verify.

Another new initiative created to detect and reduce fraud is DHS's Records and Information from DMVs for E-Verify (RIDE) program.

RIDE is designed to help employers confirm the accuracy of employee data by matching the dates of birth and the driver's license numbers that workers provide employers with during the Employment Eligibility Verification (Form I-9) and E-Verify processes.

OSHA DIRECTIVE INFORMS INSPECTORS ON PERSONAL PROTECTIVE EQUIPMENT STANDARDS

OSHA issued an enforcement directive (http://www.finishingcontractors.org/uploads/media_items/osha-directive-on-ppe-equipment.original.pdf) that provides information on how to cite employers for violating rules requiring them to pay for their employees' personal protective equipment and rules updating the types of safety equipment required.

OSHA's final rule on employer payment for protective equipment requires employers to cover the expense except in certain cases.

Meanwhile, the final rule revising the agency's personal protective equipment standards based on national consensus standards (29 C.F.R. §§ 1910, 1915, 1917, 1918) made changes to requirements for head protection, eye-and face protective devices, and foot protection, among other types.

The directive (CPL 02-01-050) immediately went into effect and accounts for both of the rules, finalized in 2007 and 2009, respectively. It clarifies what types of equipment employers must provide at no cost; when employers must pay for the equipment or for its replacement; the payment requirements for equipment worn off the job site; and which equipment must remain at the job site, and which is employee-owned, among other issues.

Payment Requirements

OSHA's employer payment standard took effect May 15, 2008, and, with some exceptions, covers employer obligations across all industries regulated by the agency.

Examples of equipment covered under the standard include respirators, rubber boots with steel toes, nonprescription eye protection, hearing protection, personal fall protection devices, and others, the directive said.

In addition, employers must pay for replacement equipment that is damaged. However, they are not required to pay for equipment upgrades requested by an employee that go beyond minimum OSHA standards or for lost equipment, it added.

The directive also specifies that OSHA inspectors cannot cite an employer for both failing to pay for equipment and failing to provide the equipment.

Exceptions to the rule include non-specialty safety toe protective footwear or eye-wear, if the employer allows the employee to wear it off the job site; ordinary clothing; and employee-owned equipment.

Updated Standards

OSHA inspectors should verify that employers comply with the latest updates to the agency's protection regulations for eye and face, head, and feet, the directive said. Those rules were recently revised by incorporating newer American National Standards Institute standards, which are referenced in the directive.

CANADA

ONTARIO CONTRACTORS EXPECT GROWTH IN 2011

Nearly half of Ontario's industrial, commercial, and institutional sector contractors are confident their businesses will grow during 2011 according to a recent survey.

The commercial sector is expected to lead in increased construction activity in 2011, followed by the industrial sector, while the percentage of contractors expecting more work in the institutional sector actually decreased in 2011 compared to 2010, consistent with the perception that government budget restraints will constrain the development of institutional projects.

SKILLED LABOUR SHORTAGES FEARED

The 2011 survey also highlighted three factors identified by Ontario ICI contractors as key restraints to growth, shortages of skilled labor, the aftermath of the recent recession, and growing competition in the construction industry. Only 18 percent of survey respondents said they expect the availability of skilled construction workers to increase in 2011, suggesting the need for increasing awareness of opportunities for skilled trades employment and for apprenticeships with construction employers.

While 2010 was a better year, contractors remain concerned about the recent economic downturn and are only cautiously optimistic about future economic prospects and access to financing, cash flow, and the availability of new projects.

ONTARIO BUDGET INCLUDES \$35 BILLION INFRASTRUCTURE COMMITMENT

Ontario released its planned 2011 budget on March 29, which included a \$35 billion infrastructure commitment. Ontario will spend \$35 billion on improving its infrastructure over the course of the next three years.

"There was a real focus on how infrastructure projects create jobs," said Karen Renkema, Ontario Road Builders' Association (ORBA) government relations director. "We are pleased to see the infrastructure commitment as a preview to their 10 year plan which we anxiously await details of."

The plan sets aside \$12.8 billion for infrastructure in 2011, and \$2 billion for highway construction. Ontario has estimated that the investment will create or preserve more than 300,000 jobs during the next three years.

You can view the 2011 budget by clicking here, <http://www.fin.gov.on.ca/en/budget/ontariobudgets/2011/>.

CANADIAN AND MANITOBAN GOVERNMENT ANNOUNCE \$24.5 MILLION MANITOBAN HOUSING RENOVATIONS

The Governments of Canada and Manitoba announced on March 18, nearly 24.5 million in joint funding for renovations to Manitoban social housing. This project will cover 3,997 total units, and will include renovation on replacing roofing, siding, windows and doors, flooring, and drywall.

“This announcement demonstrates the province’s commitment to sustain and improve existing social and affordable housing through regular renovation and improvements, so we provide viable housing options for future generations,” said Minister Irvin-Ross.

“Not only are we investing in an important asset, we are supporting community and economic development while continuing to stimulate the Manitoba economy. We are extremely happy to continue improving provincial housing throughout the province because having a home is a key component to improving lives, building personal prosperity and improving communities.”

This contribution is part of an overall investment for the creation of affordable housing under the Manitoba Affordable Housing Program Agreement. The federal funding was made available through *Canada’s Economic Action Plan*.

The *Economic Action Plan*, designed to stimulate the economy and create jobs during the global recession, includes \$2 billion for the construction of new social housing, and the renovation of existing housing. It also includes up to \$2 billion in low cost loans to municipalities for housing-related infrastructure.

Click here for more information on the housing support under *Canada’s Economic Action Plan*, <http://www.cmhc.ca/housingactionplan/>.

ONTARIO GOVERNMENT DOES NOT PASS BILL 45

Bill 45, a bill that would prevent the hiring of replacement workers during strikes and lockouts, was voted down on March 31. If passed, the bill would have amended the current Labor Relations Act that was passed in 1995.

Union members and their supporters protested by refusing to leave the legislature following the government’s defeat of the legislature. Before the bill was voted on, union members staged a large protest to voice their support of the bill.

CANADA IMPLEMENTING HELMETS TO HARDHATS

Canada is implementing Helmets to Hardhats, a US program designed to help veterans transition from combat to construction. The program will consist primarily of a new website that matches skilled veterans and newly released Canadian Forces members with the construction sector.

"Our brave Canadian veterans have earned our deepest gratitude and highest respect," Finance Minister Jim Flaherty said upon tabling the budget.

"This is just one more practical way to provide the support they deserve."

Canada has teamed with the Building and Construction Trades Department, the American Federation of Labor and the Congress of Industrial Organizations to start the program in Canada.

The United States launched the program in 2003 and by 2008 about 1,700 former US soldiers made the transition.

FEDERAL CONSERVATIVES 2011 BUDGET TO INVEST SIGNIFICANTLY IN CANADIAN INFRASTRUCTURE

The Canadian government has committed to creating a long-term public infrastructure plan which stakeholders in the construction industry have lobbied hard for.

“Going forward, we will work with provinces, territories, the Federation of Canadian Municipalities (FCM) and other stakeholders to develop a new long-term plan for public infrastructure,” said Jim Flaherty, Canada’s finance minister, upon the unveiling of the 2011 federal budget.

This plan includes significant infrastructure investments on highways, harbors, and bridges all across Canada.

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