NATIONAL FCA FINISHING CONTRACTORS ASSOCIATION
FEDERAL CONNECTION
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POTENTIAL WITHDRAWAL LIABILITY DISCLOSURE

Proposed accounting standards and reporting changes aimed at increasing the disclosure of loss contingencies related to potential withdrawal liability would add to the challenges already facing employers contributing to multiemployer plans The Financial Standards Accounting Board (FASB) has extended the comment period on the proposed changes in reporting loss contingencies and general disclosures on employer financial statements.

An exposure draft published by FASB on July 20, proposed changes in how employers that contribute to multiemployer plans report potential loss contingencies related to their multiemployer plan withdrawal liability.

The proposed accounting changes would require more employers to report potential withdrawal liability without regard to the practical probability that it will be incurred, even though the employer viewed the likelihood of incurring that liability as remote or slight.

In FASB's view, the “remote” standard for reporting loss contingencies would replace the current standard of “reasonably possible.”

In April, the International Accounting Standards Board proposed more extensive loss contingency disclosures for employers that contribute to multiemployer plans. Comments on the IASB exposure draft are due by Sept. 6, he said.

FASB released an additional exposure draft in September that would require multiemployer plan sponsors to provide a narrative description of their exposure to liability for other contributing employers' obligations to the multiemployer plans.

EPA RECOGNITION OF LEAD TEST KITS

A lead test kit can be EPA-recognized if it meets the negative response criterion of no more than five percent false negatives, with 95 percent confidence for paint containing lead at or above the regulated level, 1.0 mg/cm^2 or 0.5 percent by weight. The recognition of such kits will last until EPA publicizes its recognition of the first test kit that meets both the negative response and positive response criteria outlined in the 2008 Renovation, Repair and Painting (RRP) rule. To date, EPA has recognized three lead test kits for use in complying with the false negative response criterion of the RRP rule. They are the LeadCheck®, the State of Massachusetts kit, and D-Lead®.

- **LeadCheck®** – EPA recognizes that when used by a certified renovator, the LeadCheck® lead test kit can reliably determine that regulated lead-based paint is not present on wood or ferrous metal (alloys that contain iron). This kit is not recognized for use on plaster and drywall. Certified renovators seeking to use the LeadCheck® kit for purposes of meeting requirements in the RRP Rule can purchase the LeadCheck® kits from either LeadCheck® directly or from certain retail outlets. LeadCheck® is manufactured by Hybrivet Systems, Inc. To order a Hybrivet System LeadCheck® test kit call 508-651-7881 or e-mail Hybrivet at info@leadcheck.com.
- **State of Massachusetts** – EPA recognizes that when used by trained professionals the State of Massachusetts lead test kit can reliably determine that regulated lead-based paint is not present on wood, drywall and plaster; it is not recognized for use on ferrous metal (alloys that contain iron).
- **D-Lead®** – Based on the results of the Environmental Technology Verification (ETV) study of vendor-submitted lead test kits, EPA recognizes that when used by a certified renovator the D-Lead® Paint Test Kit manufactured by ESCA Tech, Inc., can reliably determine that regulated lead-based paint is not present on wood, ferrous metal (alloys that contain iron), drywall and plaster surfaces. Certified renovators seeking to use the D-Lead® Paint Test Kit for purposes of meeting requirements in the RRP Rule can purchase it from certain distributors and retail outlets. To locate a distributor or retailer, visit www.esca-tech.com, e-mail rrp@esca-tech.com, or call 414.962.3006.

For any questions pertaining to the recognition of these kits, contact Sam Brown of EPA, 202.566.0490, or via e-mail, brown.sam@epa.gov.

DAVIS-BACON ACT

On Aug. 19, the Department of Labor's Wages and Hour Division conducted an Internet conference to clarify guidance applying to Davis-Bacon labor standards on construction projects funded in whole or in part by tax-favored Recovery Act bonds.

The conference was to clarify an All Agency Memorandum released in May. The memo provided guidance on the Davis Bacon provision in Division B, Section 1601, of the American Recovery and Reinvestment Act, which applies to projects financed with certain tax-favored bonds.

Davis-Bacon labor standards require contractors and subcontractors to pay local prevailing wages to laborers and mechanics employed on projects in excess of $2,000 for construction, alteration, and repair.

CONTRACTOR LIABILITY

Industry experts say the issue of which employer should be liable for safety violations at multi-employer worksites remains an open question, despite the Occupational Safety and Health Review Commission's second decision in less than four years pinning liability on master contractors.

On Aug. 19, the review commission found that a general building contractor had “significant control” over a work site at which an Occupational Safety and Health Administration inspector had found a violation. As a result, even though the contractors own employees were not exposed to the hazard, the company was liable for the violation.

NEW FORM 1099 REPORTING REQUIREMENTS

Under the Internal Revenue Code (IRC), persons engaged in a trade or business that make payments totaling at least $600 to another person in a single year are required to file an information return (typically a Form 1099) with the Internal Revenue Service (IRS) and to provide the payee with a copy. For payments made after Dec. 31, 2011, the Patient Protection and Affordable Care Act (PPACA), expanded the information reporting requirements contained in IRC §6041. Under the amended provision, most payments to corporations will no longer be exempt from reporting and the types of payments that can trigger the reporting requirement will include gross proceeds and amounts received by a payee in consideration for property.

Once this provision is implemented, the 1099 reporting mandate will impose substantial paperwork and reporting burdens on the backs of governments, nonprofits, and businesses—especially small businesses and will also serve to dramatically increase accounting costs.

The Senate will vote Sept. 14, on two plans for changing the Form 1099 reporting requirements when it resumes consideration of a small business bill (H.R. 5297). It appears to leave the reporting requirement on services intact. Filing a 1099 on goods would be limited to payments totaling over $5,000, in a tax year, still exclude credit/debit card transactions and would also be limited to companies with 25 or more employees.

National FCA will continue to track this legislation.

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