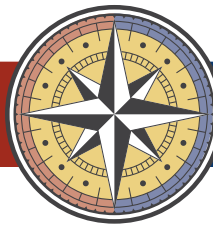
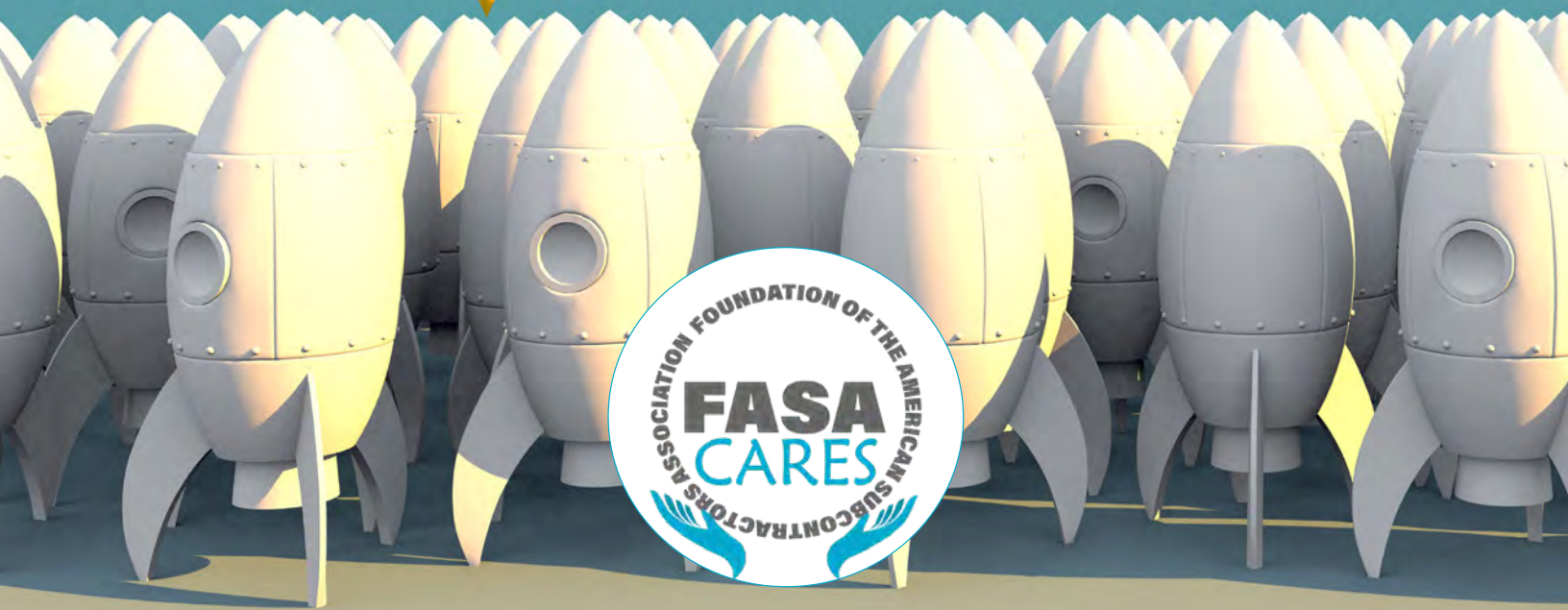


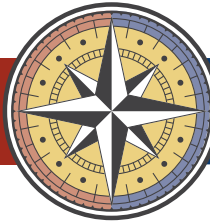
THE CONTRACTOR'S COMPASS



Efficiency, Innovation, and Profit: Best Practices



THE CONTRACTOR'S COMPASS



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. 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. 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

To educate and equip subcontractors and suppliers with the education and resources they need to thrive in the construction industry. Additionally, FASA raises awareness about issues critical to and about construction in the United States.

SUBSCRIPTIONS

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

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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.

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PRESIDENT'S LETTER



Dear Readers:

As I start this letter, the containers are now coming off the ship that collided with the Francis Scott Key Bridge in Baltimore. A couple of paths have been cleared so boats can travel again and they expect the port to be fully open by the end of May. But it will be years before the bridge can be rebuilt, and even longer before the families of the construction workers who lost their lives that night can start to rebuild their sense of normalcy. Like we hopefully do from our own mistakes - let's learn from this tragedy so it doesn't happen again.

The ***New York Times*** found that at 309 major bridges on navigable waterways in the United States, inspections in recent years have found protection systems around bridge foundations that were deteriorating, potentially outdated or nonexistent, leaving the structures perilously exposed to ship strikes. That's called opportunity - among other things.

Our **ASA's Baltimore chapter** is in the middle of the news on this, and we hope they have some insights to share in the future.

On a much more positive note, my personal congratulations - and don't be shy to give your own congratulations - to **ASA's San Antonio chapter**, which just passed a 200 member milestone! A few years ago, this chapter was struggling, but thanks to Jenn Swinney and her boundless energy, optimism, and passion for ASA, this chapter is now the largest in the U.S. Any challengers? ;-)

ASA's annual Legislative Fly-In is coming to Washington, D.C. this year on June 11 and 12. Registration deadline is **May 10** in order to get all the planning done for the capitol visit. Book your hotel now, register now, and be with us when we discuss our priorities with our representatives. If you've got a concern Congress can help with, come to DC and let them know the impacts and importance of change.

I'm looking forward to **May 1 for our next President's Call** with the Executive Directors and Chapter President, which, unfortunately will be my last as National President. We will have Mike Oscar on that phone call and he will be discussing our fly-in and will give us a little more of what to expect. It will also be just a good time to check in with everyone and find out what's top of mind for you.

That's all I got for the time being. Closer to home, I'm enjoying the spring weather and all the challenges associated with it: rain, wind, hail, and tornadoes! Being in this industry, the weather always provides opportunities for my business.

Hope some of you were able to enjoy the eclipse and all of its spectacular, awe-inspiring effects.

Until next month,
Brad Miller
President, ASA - 2023-24



Subcontractors Who Account for Financing Costs Have 11% Larger Profit Margins

According to Findings from Billd's 2024 National Subcontractor Market Report



Subcontractors act as the “interest-free banks” on every project. No surprise, the cost of financing those projects strain their profit margins. All the while, inputs like labor and materials steadily rise year after year. And slow pay—it's slower than ever.



This year's report uncovers the gains in profit, revenues and outlooks for subcontractors that account for their financing costs.

Now, we're sharing the report for free at billd.com/market-report-2024

We surveyed nearly 700 construction executives to find out:

- Microeconomic conditions affecting subcontractors in 2023
- How businesses are covering the cost and fueling growth
- The business impact of accounting for the cost of financing
- Outlooks for 2024



Download the National Subcontractor Market Report for free and stay ahead of industry challenges in 2024

Access your free copy at billd.com/market-report-2024



CONTRACTOR COMMUNITY



Construction Employment Grows

Per Saturday, April 6th's Wall Street Journal and as highlighted by the Department of Labor, "construction employment continues to boom, adding 39,000 jobs in March and 270,000 since March 2023." Nonresidential construction has increased by 4.1 percent in more than a year; 24,600 new hires in nonresidential construction last month.

Congrats to National Glass Association

For the ***second consecutive year***, NGA was named one of the Best Nonprofits to Work For in 2024, by The NonProfit Times (NPT), a

leading national business publication for nonprofit managers, and Best Companies Group. The survey and awards program is designed to identify, recognize and honor the best employers in the nonprofit industry. NGA ranked #2 out of 50 total organizations, and #1 in the small employer category.

ASA Legislative Fly-In on Capitol Hill and ASA Board Meeting

June 11-12, 2024

Washington, DC.

Advocacy is a long game built on relationships. These relationships are often initiated and maintained by the work ASA members do during the annual walk on Capitol Hill. Evidence of our success includes the recent appearance by ASA's Andrew Christ

from Compass Constructors in front of the House Small Business Committee ([video link](#)) and the visit by SBA Administrator Isabel Guzman to Andrew's business shortly after. We don't get ***that*** kind of visibility without ***this*** kind of work.

Let's make this year's fly-in the strongest ever. ***Register today*** for the 2024 ASA Legislative Fly-In on Capitol Hill and help us make ASA a familiar name around Washington, D.C. (**Registration Deadline: May 10th**)

Gen Z Workers Heading Towards Trades

An April 14 [Axios article](#) talks about the rise in enrollment in vocational programs...and hopes it continues, as the need for construction workers continues to grow.

2024 Legislative Fly-In

June 11-12 | Washington D.C.



Tuesday, June 11

- ✓ Board Meeting
- ✓ Prep Session
- ✓ Reception and Dinner

CAPITOL HILL HOTEL
WASHINGTON DC

Wednesday, June 12

- ✓ Capitol Hill Visits

Registration Deadline - May 10, 2024

[Click here for registration information](#)



Construction Data & Figures

Associated Builders and Contractors reported that its Construction Backlog Indicator increased to 8.2 months in March from 8.1 months in February, according to an ABC member survey conducted March 20 to April 3. The reading is down 0.5 months from March 2023.

View ABC's [Construction Backlog Indicator](#) and [Construction Confidence Index](#) tables for March. View the full Construction Backlog Indicator and Construction Confidence Index [data series](#).

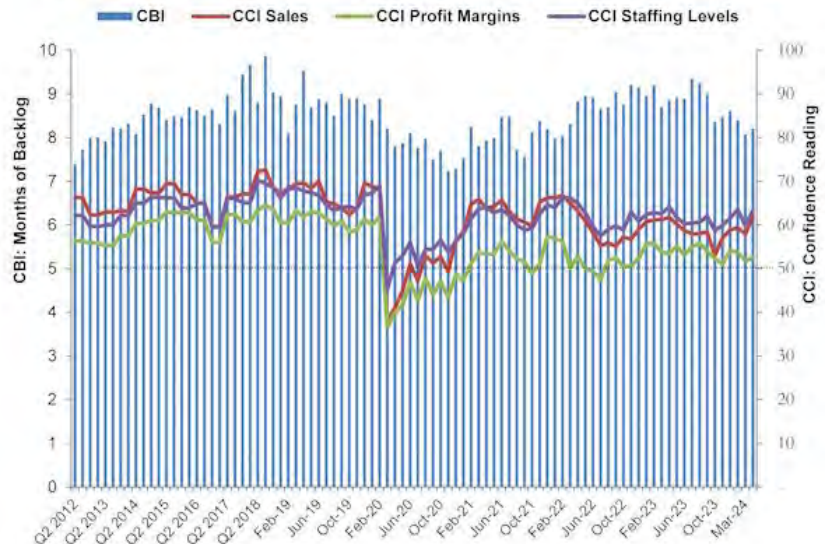
Backlog is down over the past year for every region except for the Middle States, which now has the second largest backlog of any region. The South continues to have the largest backlog despite a large decline over the past year.

ABC's Construction Confidence Index readings for sales, profit margins and staffing levels increased in March. All three readings remain above the threshold of 50, indicating expectations for growth over the next six months.

"Given headwinds such as high borrowing costs, emerging supply chain issues, project financing challenges and labor shortages, the persistent optimism among



ABC Construction Backlog Indicator & Construction Confidence Index, 2012-Mar. 2024



©Associated Builders and Contractors, Construction Backlog Indicator, Construction Confidence Index

nonresidential construction contractors is astonishing," said ABC Chief Economist Anirban Basu. "Last month, contractors reported rising backlog and greater conviction regarding likely growth in sales, employment and profit margins.

"While certain readings are below year-ago levels, there was broad-based improvement in March," said Basu. "For instance, in the category of profit margins, 32% of those surveyed in February expected

improvement over the next six months. That share rose to nearly 34% in March, with only 24% hinting at near-term margin compression. That indicates that though costs of delivering construction services continue to rise, contractors collectively enjoy enough pricing power to support stable to rising margins. If interest rates begin to decline during the summer as is widely expected, confidence is likely to climb further."

Construction Sector Adds 39,000 Jobs Between February And March With Increases In Every Residential And Nonresidential Category—

Monthly Pickup is the Largest Since January 2023, While the Industry's 5.4 Percent Unemployment Rate Is the Lowest March Rate in Five Years; However Record Job Openings Show Firms Need More Workers

The construction industry added 39,000 jobs in March—the most since January 2023—with gains among all five types of residential and nonresidential categories, according to an [analysis](#) of new government data the Associated General Contractors of America released today.

Association officials cautioned, however, that firms are still coping with significant labor shortages that are undermining broader growth in the sector.

The sector has added 270,000 jobs during the past 12 months, a 3.4 percent increase. Residential builders added 5,500 employees in March, while residential specialty trade contractors added 8,900. Employment rose as well among nonresidential construction firms, by 2,300 at building construction firms, 16,300 at specialty trade contractors, and 6,000 at heavy and civil engineering construction firms.

Average hourly earnings for production and nonsupervisory employees in

construction—covering most onsite craft workers as well as many office workers—climbed by 4.9 percent over the year to \$35.42 per hour. Construction firms in March provided a wage "premium" of 18.9 percent compared to the average hourly earnings for all private-sector production employees.

One reason for the rapid wage gains is that the industry continues to struggle to find enough workers to hire. Simonson noted that a different federal report released earlier showed there were 414,000 job openings at the end of February, the highest number of open positions yet recorded for the month.

View the construction employment [data](#).



Dodge Momentum Index Fell 9% in March

The Dodge Momentum Index (DMI), issued by **Dodge Construction Network**, fell 8.6% in March to 164.0 (2000=100) from the revised February reading of 179.5. Over the month, commercial planning fell 3.2% and institutional planning dropped 17.2%.

In March, a total of 14 projects valued at \$100 million or more entered planning. The largest commercial projects included the \$215 million Microsoft Data Center in San Antonio, Texas, and the \$158 million Melrod Data Center Building B in Fredericksburg, Virginia. The largest institutional projects comprised the \$277 million Trident Health Hospital in Johns Island, South Carolina and the \$220 million Sunset Amphitheater in McKinney, Texas.

DODGE MOMENTUM INDEX

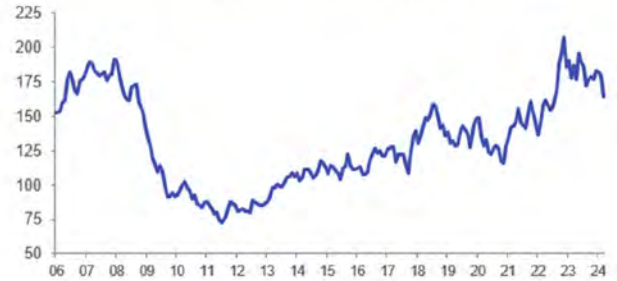
(2000=100, Seasonally Adjusted)

	Mar-24	Feb-24	% Change
Dodge Momentum Index	164.0	179.5	-8.6%
Commercial Building	193.3	199.7	-3.2%
Institutional Building	127.8	154.4	-17.2%

Source: Dodge Construction Network

DODGE MOMENTUM INDEX

(2000=100, Seasonally Adjusted)



Total Construction: Construction spending during February 2024 was estimated at a seasonally adjusted annual rate of \$2,091.5 billion, 0.3 percent (± 0.8 percent)* below the revised January estimate of \$2,096.9 billion. The February figure is 10.7 percent (± 1.3 percent) above the February 2023 estimate of \$1,889.6 billion. During the first two months of this year, construction

spending amounted to \$298.1 billion, 11.9 percent (± 1.3 percent) above the \$266.5 billion for the same period in 2023.

Private Construction: Spending on private construction was at a seasonally adjusted annual rate of \$1,617.1 billion, virtually unchanged from (± 0.7 percent)* the revised January estimate of \$1,616.8 billion. Residential construction was at a seasonally adjusted annual rate of \$901.1 billion in February, 0.7 percent (± 1.3 percent)* above the revised January estimate of \$894.5 billion. Nonresidential construction was at a seasonally adjusted annual rate of \$716.0 billion in February, 0.9 percent

(± 0.7 percent) below the revised January estimate of \$722.3 billion.

Public Construction: In February, the estimated seasonally adjusted annual rate of public construction spending was \$474.4 billion, 1.2 percent (± 1.5 percent)* below the revised January estimate of \$480.1 billion. Educational construction was at a seasonally adjusted annual rate of \$100.5 billion, 1.8 percent (± 2.0 percent)* below the revised January estimate of \$102.3 billion. Highway construction was at a seasonally adjusted annual rate of \$147.3 billion, 1.6 percent (± 4.8 percent)* below the revised January estimate of \$149.7 billion.

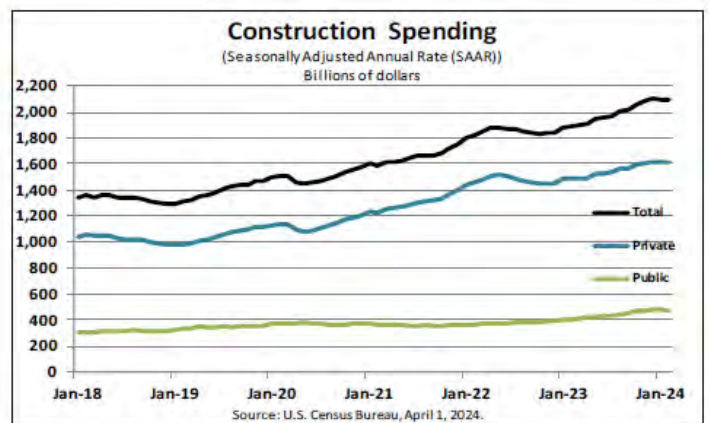


CONSTRUCTION SPENDING

FEBRUARY 2024	\$2,091.5 billion
JANUARY 2024 (revised)	\$2,096.9 billion

Next release: May 1, 2024

Seasonally Adjusted Annual Rate (SAAR)
Source: U.S. Census Bureau, April 1, 2024



Nonresidential Construction Spending Decreases in 15 Out of 16 Segments in February

WASHINGTON, April 1—National nonresidential construction spending declined 1.0% in February, according to an Associated Builders and Contractors analysis of data published today by the U.S. Census Bureau. On a seasonally adjusted annualized basis, nonresidential spending totaled \$1.179 trillion.

Spending was down in a monthly basis in 15 of the 16 nonresidential subcategories. Private nonresidential spending fell 0.9%, while public nonresidential construction spending was down 1.2% in February.

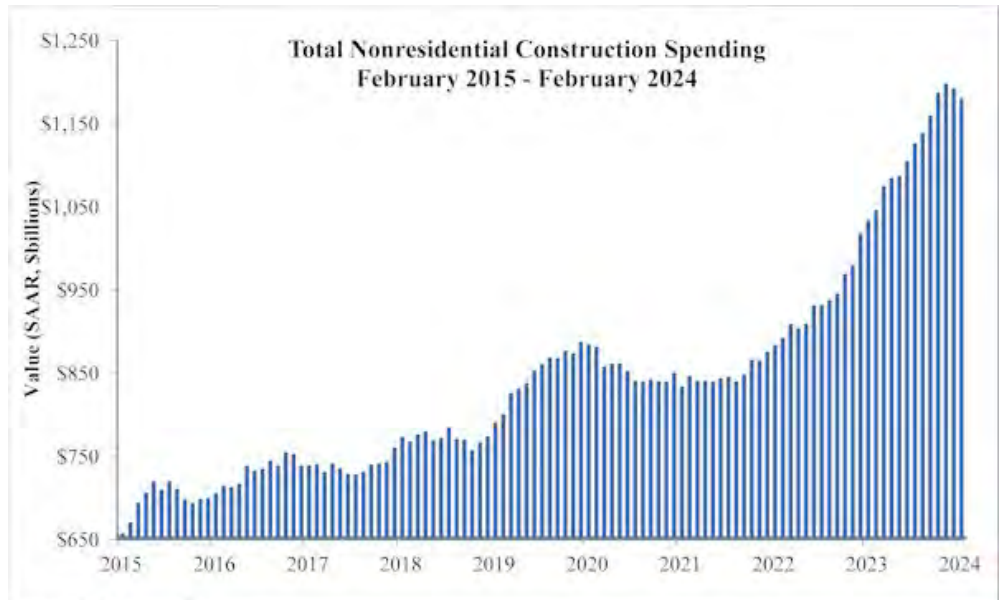
“Virtually every nonresidential construction segment experienced a decline in spending in February,” said ABC Chief Economist Anirban Basu. “In certain instances, the monthly decline was sharp, including health care (-2.2%), commercial (-1.9%) and water supply (-1.8%). The optimist will likely shrug off both the January and February nonresidential construction spending declines as merely reflecting winter weather. The pessimist will proclaim this release a wake-up call to contractors and an indication that higher interest rates have finally begun to make their mark.

“As always, interpreting the data is complicated,” said Basu. “While 15 of 16 nonresidential construction segments recorded monthly declines on a seasonally-adjusted basis, all segments have experienced year-over-year growth in spending. In 10 instances, construction spending has increased more than 10%, including 36% growth in the public safety category and 32% in manufacturing. Moreover, **ABC’s Construction Confidence Index** indicates that contractors remain confident with respect to their sales over the next six months, signaling that the data could improve with the weather.”

Nonresidential Spending Growth, Millions of Dollars, Seasonally Adjusted Annual Rate

	February 2024	January 2024	February 2023	1-Month % Change	12-Month % Change
Total Construction	\$2,091,511	\$2,096,922	\$1,889,562	-0.3%	10.7%
Residential	\$912,718	\$906,285	\$857,211	0.7%	6.5%
Nonresidential	\$1,178,793	\$1,190,637	\$1,032,350	-1.0%	14.2%
Transportation	\$66,389	\$65,960	\$62,252	0.7%	6.6%
Office	\$101,548	\$101,655	\$96,085	-0.1%	5.7%
Public safety	\$15,786	\$15,827	\$11,634	-0.3%	35.7%
Conservation and development	\$11,535	\$11,585	\$10,809	-0.4%	6.7%
Power	\$132,934	\$133,528	\$118,122	-0.4%	12.5%
Communication	\$25,355	\$25,502	\$24,661	-0.6%	2.8%
Manufacturing	\$222,875	\$224,300	\$168,976	-0.6%	31.9%
Sewage and waste disposal	\$43,140	\$43,445	\$38,380	-0.7%	12.4%
Lodging	\$23,398	\$23,704	\$22,754	-1.3%	2.8%
Amusement and recreation	\$34,128	\$34,649	\$29,588	-1.5%	15.3%
Highway and street	\$148,349	\$150,655	\$125,146	-1.5%	18.5%
Religious	\$3,922	\$3,983	\$3,225	-1.5%	21.6%
Educational	\$125,751	\$127,724	\$107,916	-1.5%	16.5%
Water supply	\$28,621	\$29,133	\$24,856	-1.8%	15.1%
Commercial	\$128,585	\$131,041	\$127,585	-1.9%	0.8%
Health care	\$66,479	\$67,948	\$60,362	-2.2%	10.1%
Private Nonresidential	\$716,018	\$722,278	\$636,032	-0.9%	12.6%
Public Nonresidential	\$462,775	\$468,359	\$396,318	-1.2%	16.8%

Source: U.S. Census Bureau



Source: U.S. Census Bureau



APRIL CONSTRUCTION MATERIALS PRICE REPORT

Commodity	12 Month % Change	1 Month % Change
Softwood Lumber	-10.2%	1.7%
Hardwood Lumber	0.5%	1.5%
General Millworks	0.5%	2.1%
Soft Plywood Products	5.0%	-0.4%
Hot Rolled Steel	-6.8%	-2.1%
Copper Wire & Cable	-5.4%	-0.1%
Power Wire & Cable	11.4%	-0.3%
Builder's Hardware	-1.0%	0.0%
Plumbing Fixtures	1.4%	0.0%
Enameled Iron & Metal Sanitary Ware	N/A	N/A
Furnaces and Heaters	4.4%	-0.2%
Sheet Metal Products	2.3%	0.7%
Electrical Lighting Fixtures	-0.4%	0.0%
Nails	-17.3%	-0.2%
Major Appliances	-0.3%	-1.5%
Ready-Mix Concrete	7.4%	0.3%
Asphalt Roofing & Siding	7.1%	1.1%
Gypsum Products	-0.2%	2.5%
Insulation	1.9%	2.4%

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ASA San Antonio Is Setting the Pace

"I am BEYOND EXCITED!!!!!!!!!!!!!! And I wanted to share the great news with y'all!!!!!!!!!"

This is taken from an email by Jennifer Swinney, the Executive Director of ASA's San Antonio chapter earlier this month. Can you tell she's excited?! And with good reason. Her chapter just topped 200 members, making it - at the moment - the largest ASA chapter in the U.S. (There's some debate whether it's the largest chapter EVER, as ASA's been around since 1966 and our collective memories don't go back that far). Anyone care to challenge?

And that's just one reason Jennifer Swinney was selected as ASA's Executive Director of the Year for 2023, as you heard at SUBExcel and read in last month's Contractor's Compass. Jenn IS ASA, and ASA is Jenn.

San Antonio was struggling, but in the eight years Jenn has held the Executive Director position, this chapter went from bleeding losses each year to enough profitability to hire two additional incredible full time staffers. Her enthusiasm and passion is infectious and inspiring, and her imagination and dedication to making ASA of San Antonio rock the

ASA world is impressive. She knows the importance of showing her appreciation for people's efforts, and making people feel valued. While technology is great, there's still a huge people component, and Jenn makes the most of both to spread her message about the benefits of ASA and the power of people coming together to make a difference. She's it.

But the war's not won, and she knows it never will be. Sure - you can rest on your laurels for just so long before you have to start fighting again. There's a friendly competition going with North Texas on who will be the largest chapter at the end of the fiscal year (with major incentives NOT to lose), so we'll keep our eye on these two chapters.

Congratulations, Jenn, San Antonio staff, and ASA members! You make us so proud!!!!!!!!!!!!!!!!!!!!!!



It's always something **AWESOME**

Celebrating Virtue, Liberty, and Independence in Pennsylvania

After more than 10 years with a company, how do you say, "Umm, it's time for me to move on"? It's not easy. Ask Loni. She got an offer she couldn't refuse, and luckily she's working with a related association (electrical), so maybe she'll be figuring ways to benefit both. I wouldn't be surprised. That's just who she is.

Loni Warharlic grabbed the reins of ASA of Central PA in September of 2013 and just kept doing what she needed to do:

- More than doubled the membership
- Built strong relationships with the community and members
- Started Women Building Women networking group for women in construction
- Took on added responsibilities at the national level, helping smaller chapters with their websites, communication, emails and events
- And Loni also embraced membership renewals, database management, and accounting projects for ASA National
- Served as ASA National's Executive Director Chair for two years and helped launch the ED Liaison program.



- Won Chapter of the Year four times in the past ten years.

Her ability to just leap in and take charge was one way to make sure a project got done.

Richard Bright, CEO of ASA, stated that "Loni has been an absolute pleasure to work with at the national and local level. Her passion for her job, our members, and the construction industry as a whole has been inspiring. I wish Loni well with her new position, and I am glad we will stay connected as she

continues her career path in construction— just with another PA association."

Asked what she's most proud of in her 10 years with ASA, she said, "the growth in the chapter. In membership, yes, we went from 28 members to 53, with a very high percentage of renewals each year, but also growing in the sense of improving the quality of events and processes, the participation of members, and the evolution of effective leadership. I consider the chapter one of my babies and I'm so grateful to have met and worked with people that I consider friends and family all while growing personally and professionally and loving what I do."

We'll miss Loni, and hope to see her around ASA's neck of the woods every now and then. We know she'll do her best to make sure her transition goes smoothly. That's just who she is.



Minimize Risks in Contractor Dispute Settlement Agreements

by Benjamin Lajoie, McGlinchey Stafford PLLC

Disputes between contractors, subcontractors and/or owners are relatively common in the construction industry. Although you should not appear over-eager in rushing into a settlement to avoid the time, costs, and stress that comes with protracted litigation, when settlement appears likely and in your company's best interests, full attention to reaching a mutually agreeable resolution should be given. Tip: if a case has already been filed, consider asking the court to "stay" (i.e., pause) the case via joint motion to allow the parties to remain focused on reaching settlement.

Although you should remain involved, engaging a lawyer early on in a dispute or anticipated dispute to lead the process can reduce stress and save time and money in the long run. Don't make the proverbial "penny-wise, pound-foolish" mistake.

Settlement agreements serve as an expedient tool to resolve disputes. Settlements are also not constrained by the traditional legal remedies of a court. Tip: focus on settlement in principle first, through use of a "term sheet."

While settlement agreements offer an efficient means of resolving disputes, they can become more complex when there is distrust between the parties about the defendant's willingness or ability to pay, including in the face of solvency concerns. By understanding the potential risks and implementing proactive strategies to address them right within a settlement agreement, parties can minimize the likelihood of encountering obstacles and achieve more secure and sustainable resolutions. To effectively minimize these risks, parties should ensure that settlement agreements are comprehensive and carefully drafted, including addressing potential bankruptcy scenarios and baking

protective measures into the settlement agreement.

A. Benefits and Risks of Structured Settlements

While simple settlements involving a prompt one-time lump sum payment to fully resolve the dispute can achieve the type of certainty and finality contemplated by the parties, this settlement structure is not always available. When cash flow is an obstacle, parties can still reach a settlement not otherwise available through use of "structured settlements," which feature a payment schedule over time.

For the defendant - a structured settlement allows finality in settlement at a smaller upfront cost, but often comes with unfavorable terms that impose liens, encumber assets and/or risk additional costs.

For the plaintiff - a structured settlement may facilitate a greater overall settlement value, but creates the risk of non-payment through a payment schedule. The plaintiff can mitigate the risk of nonpayment in a variety of ways through added protections, as covered more fully below. This is common and arguably important when there is distrust about the defendant's willingness or ability to pay under the payment schedule, and where there are concerns of potential future bankruptcy.

B. Securing Payments

To mitigate the risk of non-payment in structured settlements, parties can consider securing payments with collateral. This provides a safety net in case the paying party runs out of money to pay and/or declares bankruptcy before fulfilling its obligations. Collateral can take various forms, which may be used to impose liens on real estate, securities, or other valuable assets. Additionally,

parties may explore alternative payment structures, such as annuities or third-party guarantees, to ensure a more reliable payment stream.

Consideration to the particular defendant's assets and any existing liens on those assets should be given when tailoring the secured obligations to the relevant circumstances. Tip: before entering into the settlement agreement, when warranted, a party may seek a greater assessment of the financial health of the other party. This can involve reviewing financial statements, credit reports, Uniform Commercial Code ("UCC")¹ filings, and any other relevant financial information to gauge their ability to fulfill their obligations.

A plaintiff will want a broad definition of "collateral" to include, for example, "all assets" of the defendant. A defendant will want to negotiate a narrower definition of "collateral" to include any number of subcategories, as may be appropriate, up to a certain value, such as accounts receivable, equipment, goods or particular goods, fixtures, tangible or intangible property, or a specific deposit account. Tip: the plaintiff should consider running a UCC search to ensure there is not an existing lien or perfected security interest on the defendant's assets, as this will trump the security interest in the collateral claimed in the settlement agreement, regardless of what the settlement agreement actually says (due to the UCC's "first to file" and other priority rules).

A settlement agreement will often include a Security Agreement as an exhibit to reflect the above priority interest for "attachment." Tip: also make sure to properly "perfect" that interest under the UCC to ensure it is enforceable and has priority over other potential creditors and claims. Many security interests can be

¹ Most states have adopted a substantially similar version of the UCC. You should consult an experienced attorney for any specific questions about your jurisdiction.

perfected through the filing of a financing statement (i.e., UCC-1), although some collateral types can or must be perfected by other means, such as by “control” or by “automatic perfection” pursuant to the UCC.

Note that, as relevant to contractors, subcontractors, suppliers and others in the construction industry, each state has its own statutory scheme and body of law that prescribes the specific rules, procedures and protections arising from the provision and payment of labor, materials and the like, through the imposition of liens and bonds (e.g., bid bonds, performance bonds and payment bonds). Because individual circumstances may vary widely and state laws are constantly changing, readers should consult attorneys familiar with your jurisdiction for any specific advice.

Generally speaking, if the assets of a defendant company are already encumbered or otherwise risky in and of themselves, a plaintiff may insist on creating security through personal property owned by an officer or individual owner of the defendant company; think real estate, boats, or even ownership interest in the company (e.g., one may pledge membership interests in an LLC). This may also include a third party personal guarantee in the event of the defendant’s default of settling payment obligations. Additional security could be created via a right to payment of any settlement or judgment awarded in a different pending lawsuit, or under a separate contract with a third party.

Another place where a settling plaintiff can mitigate the risks or obstacles of non-payment and collection is through a stipulated judgment (referred to in some jurisdictions, with some variations, as a consent judgment, agreement for judgment, or confession of judgment), which may be filed or made conditional depending on the terms of the agreement.

C. Contemplation of Bankruptcy

Special consideration can be made within the settlement agreement to a defendant’s risk of future bankruptcy. When one party files for bankruptcy after entering into a settlement agreement, it introduces a level of uncertainty into

the process. The agreed-upon payments may be jeopardized, potentially leaving the other party with significant financial losses.

Payments made shortly before a bankruptcy filing may be vulnerable to preference claims. For example, there is risk that the payment received by the plaintiff will be “voidable” as a preference if the defendant files bankruptcy within 90 days after the payment. To minimize this risk, parties should aim to initiate payments promptly after reaching a settlement. Alternatively, structuring payments in smaller, periodic installments rather than a lump sum can reduce exposure to preference challenges.

A plaintiff can negotiate a term whereby the defendant stipulates to the entry of judgment for the full amount of the plaintiff’s claim. The plaintiff could agree not to execute on the judgment for 90 days and to file a satisfaction of judgment if the defendant has not filed bankruptcy within that time. If bankruptcy is filed within that period, the plaintiff can assert its full claim, as supported by the amount of its judgment, in the defendant’s bankruptcy. If the 90-day period passes without a bankruptcy filing, the plaintiff then has an affirmative contractual obligation to file the satisfaction of judgment, allowing the settlement to be realized in the manner intended by the parties.

If a defendant will not agree to a stipulated judgment, a plaintiff can mitigate its preference risk by providing in the settlement that the case is not dismissed with prejudice and the claims are not released until 90 days have passed with no bankruptcy filing.

A settlement agreement can also account for potential bankruptcy by expressly providing that the plaintiff’s original claim in the lawsuit is preserved if the plaintiff is not permitted to receive and/or retain the full settlement payment amount bargained for under the settlement agreement.

Moreover, settlements involving debts that would typically survive bankruptcy may require special attention to boost its likelihood of protection. Guided by the bankruptcy code and interpreting case law, parties should clearly articulate the reasons why the debt is

nondischargeable within the settlement agreement. Additionally, the plaintiff can negotiate that the settlement agreement explicitly preserves the right to assert nondischargeability in any subsequent bankruptcy proceedings, safeguarding their interests. The agreement can be made to expressly state that it is not the creation of a new obligation, and that the plaintiff preserves its right to assert the nondischargeable nature of the debt.

D. Additional Strategies

Parties can also explore other strategies to minimize payment and bankruptcy risks in settlement agreements. These may include conducting thorough due diligence on the financial health of the other party, obtaining insurance coverage to mitigate potential losses, and incorporating dispute resolution mechanisms that prioritize swift resolution and minimize the likelihood of bankruptcy-related delays. Last, parties should recognize that best practices for minimizing risks in settlement agreements is to treat it as an ongoing process that requires continuous monitoring and review.

About the Author

Benjamin Lajoie is a commercial litigation and corporate attorney in the Boston office of the national law firm of McGlinchey Stafford PLLC, which has attorneys licensed in 35 U.S. states, districts, and territories. Ben is a member of the ASA Attorneys’ Council, and is a committee member of the American Bar Association’s Construction Litigation and Boston Bar Association’s Business and Commercial Litigation sections.

Ben and his McGlinchey team provide a full range of legal services to the construction industry, including construction litigation involving payment disputes, breach of contract, business torts, unfair competition, deceptive trade practices and fraud; negotiation and resolution of contractor disputes and employment issues; and as transaction counsel. For more information, contact the author at blajoie@mcglinchey.com or visit his attorney bio at <https://www.mcglinchey.com/people/benjamin-p-lajoie/>



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Ready to get to work? 



FEATURE

Ready to Respond? Contractors' Best Practices for Performance Bond Claim Preparedness

by Gina Lockwood, Esq., Merchant Bonding

The frequency and severity of claims ebbs and flows, dependent on a variety of economic influences. But whether claims are on the rise or on the decline, contractors should always understand a surety's claims process, and have the right practices in place to mitigate potential impacts of a claim.

Understanding the Surety's Claims Process

The claims process involves a meticulous investigation by the surety, gathering information from all parties involved. The following are the basic steps a surety undertakes:

1. Reviews the bond form, contract documents, and other information collected during the underwriting process to ascertain the nature and scope of the bonded obligation
2. Acknowledges receipt of a claim and request information and documents from obligee
3. Discusses the situation with the principal and collect documentation and other information in support of the principal's position
4. Investigates the situation, including potential site visits, meetings with the parties, and assembly of an investigative team of construction consultants, accounts, and outside legal counsel as appropriate

5. Assesses the remaining contract funds and evaluate potential options for completion of the construction contract or resolution of problems

It's easy to see that the information contractors provide in step 3 is crucial to the outcome of a claim. Merchants suggests contractors implement the best practices below into daily operations so they're always prepared to quickly respond with the right documents to support their position in case of a claim.

Best Practices for Contractor Preparedness

Contractors' input in step 3 of the above process is pivotal to claim outcomes. Merchants recommends contractors incorporate the following best practices into daily operations for prompt and effective responses.

- **Keep a Complete Project File:** Maintain a comprehensive project file that includes contracts, change orders, plans, specifications, and relevant correspondence.
- **Understand the Contract:** Familiarize yourself with contract details, ensuring specificity in timelines, milestones, and payment terms. Issue timely notices documenting issues.
- **Formalize Changes:** Document changes formally, outlining scope, costs, and schedule impacts.

- **Document Project Progress:** Record project progress through daily logs and time-stamped photos collected in real-time.
- **Maintain Financial Records:** Keep meticulous, project-specific financial documentation, including pay applications, purchase orders, invoices, receipts, proof of payment, and releases.
- **Emphasize Safety:** Emphasize and record safety efforts, tracking trainings, meetings, and incidents.
- **Create a Paper Trail:** Always leave a paper trail to document key communications and decisions.

Choosing the Right Surety Partner

Selecting the right surety is crucial. A reliable partner works with you to prevent claims or, if unavoidable, mitigates their severity. Explore Merchants' common-sense approach to claims resolution [**HERE**](#).

About the Author:

Gina Lockwood leads the investigation and resolution of claims at Merchants Bonding Company, a role informed by her extensive private practice experience representing sureties in litigation matters. She is also the co-founder of a school for the education and professional development of surety claims professionals.



FEATURE

A Compelling Case for Construction Craft Training: The Return on Investment Is Real

by Matthew Clark, NCCER



As a workforce development manager at the **National Center for Construction Education and Research (NCCER)**, I am dedicated to advancing the construction industry through effective education and training programs. With nearly 50 years in the construction industry as a craft professional and workforce development professional, I am convinced that investment in formal construction training for our construction workforce will result in a significant return on that investment (ROI).

Understanding the size and scope of the ROI requires measurement, and while contractors typically keep records of the cost associated with training, most organizations don't systematically measure the effectiveness of it.

However, contractors do collect data indicators that have a direct correlation to the effectiveness and benefit of training. When these data indicators are tracked and compared, contractors can make determinations regarding the effectiveness and benefit of their training investments.

It's important to note that construction craft training models and delivery methods occur in many variations, both formal and informal. As an example, much of the training occurring in the construction industry takes an informal, on-the-job (OJT) approach. A semi-skilled worker is paired with a skilled worker, and with informal guidance and experience, it is hoped that technical knowledge and skills are transferred

over time. This is how I learned my trade many years ago, and while effective, it is not the most efficient in terms of time spent acquiring technical knowledge and skills, or assuring the right things are learned.

A more effective model utilizes a standardized curriculum developed with input from industry practitioners, incorporates instructional tools that meet the needs of various learning styles, utilizes written and hands-on assessments to verify learning occurred, and culminates in industry-recognized credentials that indicate mastery of craft. For the sake of this article, we are discussing the return on investment (ROI) when implementing a formal training methodology as described

above that includes classroom training, either in-person or virtual, and structured OJT that is directly related to classroom training and includes mentoring and consistent performance feedback.

Key performance indicators (KPIs) considered include increased productivity, reduction of rework, employee retention, and improved safety performance. These KPIs are typically measured by contractors, the data is readily observable and easy to analyze. The ability of a contractor to improve these KPIs has a direct correlation to improved profitability and customer satisfaction.

Increased Productivity

Labor productivity rates are a measure of the number of craft hours used to complete a given quantity of work. Labor productivity rates are determined in advance to develop a project schedule which in turn drives the estimated labor cost. When labor productivity rates don't meet the schedule demands, increased project costs occur. In some cases, contractual schedule completion dates are not met, and damages can be accrued that must be paid to the owner by the contractor.

Construction education and training programs are designed to equip individuals with the skills needed to excel in the field. Well-trained workers are more efficient and proficient in their tasks, leading to a notable increase in overall productivity. The investment in education pays off as workers contribute more effectively to project timelines, thereby meeting or exceeding project schedules.

Improved Quality and Reduction of Rework

One of the costliest negative aspects of construction projects is rework due to poor quality. Mistakes and errors can result in significant financial and schedule setbacks. Through comprehensive training programs, workers gain a deep understanding of construction principles, methodologies,

and best practices, reducing the likelihood of errors. This reduction in rework not only saves money but also enhances project timelines and client satisfaction.

Increased Employee Retention

Recruiting and onboarding new employees is a necessary but costly exercise. Reducing the need to onboard new employees due to high employee turnover rates has a direct impact on project profitability. Investing in the education and skill development of construction professionals increases job satisfaction and fosters a sense of loyalty and commitment. Workers who see their employer's dedication to their growth and development are more likely to stay with the company. Also, this increased retention is invaluable in an industry where experienced and skilled workers are in high demand. A stable, knowledgeable workforce contributes to the long-term success of construction companies.

Improved Safety Performance

Safety is paramount in the construction industry. Education and training programs prioritize safety practices, ensuring that workers are well-versed in industry regulations and the best safety protocols. The result is a safer work environment with fewer accidents and incidents. The ROI on improved safety performance extends beyond financial considerations, encompassing the well-being of workers and a positive reputation for the company.

The Construction Industry Institute (CII) in conjunction with the National Center for Construction Education and Research, and the Construction Users Roundtable conducted a research project to determine if robust construction training would indeed produce a return on the investment, and if so, to quantify that return. In 2007 CII published their findings in **Research Report 231-11**. What their

research indicated was that the ROI was substantial and compelling; productivity increased by 11%, retention increased by 14%, recordable injuries decreased by 26%, and rework decreased by 23%. Based on this data it was estimated that every dollar invested in craft training produces up to a three-dollar return.

In essence, the return on investment in construction education and training is multifaceted. Beyond the initial cost, the benefits include increased productivity, improved quality resulting in a reduction in rework expenses, increased employee retention, and improved safety performance. NCCER's commitment to providing industry-relevant, high-quality training contributes directly to these outcomes, positioning construction professionals for success in an ever-evolving industry.

As a workforce development professional, I constantly witness the transformative impact of education and training on individuals, contractors, and the construction industry. The dividends paid through increased productivity, reduced rework, employee loyalty, and enhanced safety underscore the critical role that robust construction craft training plays in shaping a skilled and sustainable construction workforce.

Learn more by downloading our white paper, "Future-Proofing the Construction Workforce: The Value of Training and Credentials" at nccer.org/research.

About the Author



Matthew Clark has fifty years of experience in the construction industry, 25 of those years as a workforce development professional at

*companies such as KBR and Jacobs. Clark joined **NCCER** as a Senior Manager of Workforce Development in 2021, providing guidance and support to organizations that want to use NCCER to build robust and effective workforce development programs.*

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LEGALLY SPEAKING

Don't Ignore the Pain Points in Your Business; That Is Where Innovation Happens

by Karalynn Cromeens, Cromeens Law Firm, PLLC

The definition of innovation is the improvement of an existing method or process. Businesses innovate when they fix things that are not working. Unfortunately, this means if you want continued innovation in your business, it only comes from pain, realizing where the pain is, and really digging in and fixing the issues. Most businesses have lots of issues that need to be fixed so where do you begin?

The first issue every business needs to address is the numbers. To stay in business, you must make money. Just because you are busy does not mean you are making money. For construction companies, this looks like correct job costing, what is each job actually costing you and how much does your markup need to be to cover all your expenses and still have a profit at the end. You cannot stay in business if you are not making money. Creating a system to know if you are making money and checking it frequently to make sure you are staying on course or if you need to course correct before it's too late, is essential to staying in business. In my business, I look at reports daily to make sure we are where we need to be and if we are not, I can put actions in place to correct any money issues. There are tons of instructive books and coaches out there that can help you create a system specifically for your business, that will show you how to make money.

After you have the numbers nailed down, usually the next big pain point is the operations of the business. Businesses have a lot of different parts required to create the end product. To ensure a consistent and excellent product, systems and processes are necessary. This means there needs to be a written process for everything that the business does. The thought of this task has most business owners feeling overwhelmed and unmotivated.



Most business owners would rather bury themselves in the “fires” of the business than deal with the root issues by creating systems and processes. I know that this was my reaction when my business was falling apart because of high turnover and things being done incorrectly. I was putting out fire after fire from clients who were unhappy because the people they were dealing with kept changing and things were being done incorrectly. When I dove in and really looked at the issues why people kept leaving, it was because expectations were not clear and things were not correct because there were no instructions. But the thought of creating systems and processes had me frozen; I didn't even know where to start. I tried having other people create the systems and processes, but that was a complete failure because they had no idea how I wanted things done. I finally decided that the project of creating systems and processes needed to become my main focus if things were going to improve. So, I dug in, read some books, took an online course, and I began little by little creating my processes. Within 60 days I had my first draft, and although not perfect or complete, we started using the

processes. Almost immediately things began to improve, people were staying, and things were being done correctly. The processes needed continuous updates at first, but the effects were amazing. If you want to innovate your business, create systems and processes again. There are books and coaches that can help you get this done and it is well worth the investment.

About the Author:

*With more than 18 years of experience in construction and real estate law, Karalynn Cromeens has filed more than a thousand lawsuits to foreclose or remove mechanics liens successfully. Her family also owns a material supply company, providing Karalynn first-hand knowledge of the construction industry. This personal understanding, combined with her extensive legal experience, guides **The Cromeens Law Firm's** true purpose—*To protect and defend all that you have worked hard for and be your partner in business. She is also a best-selling author and podcast host for **Quit Getting Screwed.****

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FEATURE

Do You Need Progress Billing Software? Nine Must-Ask Questions

by Claire Wilson, Siteline

For subcontractor accounting teams, there are few tasks as fraught with potential pitfalls as progress billing. What should be a well-orchestrated process to keep money flowing has become an arduous cycle of paperwork, customized forms, disparate payment portals, and a never-ending string of missing information.

However, recent innovations in construction technology aim to bring new efficiencies to payment workflows. This article will explain the advantages of using progress billing software and share the signs that indicate your company could benefit from it.

Why is progress billing so challenging?

At its core, the fundamental concept of progress billing is straightforward—subcontractors submit periodic payment applications for complete work, and general contractors (GCs) release funds accordingly. In reality, though, the process is full of hurdles that can turn this regular task into a constant source of frustration, inefficiency, and payment delays. These include:

- **Lack of Standardization:** Many GCs opt not to use the standard AIA billing forms as they cost around \$1,600 a year. Instead, they create custom versions with custom requirements, resulting in thousands of unique progress billing form iterations. Subcontractors must navigate this maze of differing forms, often having to learn and adapt to new formats for each project. If you accidentally use the wrong form, you can bet the GC will kick it back to you for revisions.

- **Overemphasis on Owners' Needs:** Progress billing was designed with project owners in mind—and with little consideration for other project stakeholders' workflows (ahem, subcontractors). As such, owners control the forms, billing schedules, and submission processes, leaving subcontractors with little flexibility or room to provide input.
- **Complex Documentation Requirements:** Each progress pay application requires other documentation, including detailed breakdowns of completed work, material costs, lien waivers (from you and your downstream vendors), compliance forms, and backup materials. Any mistakes on the billing forms, missed deadlines, or incomplete documentation can lead to the pay app being rejected, ***delaying your payment even further.***
- **Disconnected from Accounting Software:** While accounting software can handle many accounts receivable (A/R) processes, they're not equipped to support the intricacies of progress billing. For instance, most accounting systems can't accommodate the multitude of custom GC forms nor do they integrate with the submission portals GCs require, thereby forcing subcontractors to manage a significant portion of the process manually.

What are the advantages of progress billing software?

In recent years, construction companies have become more open to embracing software that will solve their most urgent, labor-intensive problems.

Enter progress billing software, a specialized tool designed to alleviate the many headaches subcontractor accounting teams face when it comes to payment applications.

With progress billing software, subcontractors can:

- Generate payment applications significantly faster by automating custom form population and calculations
- Reduce time to payment by eliminating manual data entry and minimizing errors that can lead to rejections
- Streamline billing workflows by centralizing all project documentation and providing clear visibility into billing statuses and deadlines
- Automate form management by storing and seamlessly populating custom GC forms with project data
- Set reminders for progress payment schedules to ensure deadlines are met
- Synchronize field teams and the back office by providing real-time visibility into all A/R data, enhancing collaboration to streamline pay app generation
- Optimize operations by analyzing billing data to identify potential bottlenecks and make informed decisions

For subcontractor accounting teams juggling multiple projects across various clients each month, progress billing software represents a new way to regain control over a convoluted, high-stakes process.

Is progress billing software right for your business?

There's no universal solution that works for every company—software included. Progress billing software may not be necessary if you run a small contracting firm handling just one or two projects at a time. However, if you manage payments for multiple projects monthly, it can be a game-changer, helping centralize information impacting your cash flow to prevent errors and accelerate payments.

To determine if a progress billing tool could benefit your organization, ask yourself and your team these nine questions:

1. Are progress billing forms a total time drain?

Whether it's the standard G702 and G703 forms or a GC's custom version, manually completing progress billing forms can be incredibly time-consuming. And naturally, the more projects your company juggles, the more forms you must complete. It's an endless cycle of paperwork that hinders productivity.

2. Do more than one of your GCs use custom forms?

As mentioned, many GCs create their own billing forms to avoid paying for the standard AIA documents. While the requirements of their custom forms often align with those of AIA's, there's no way to pull custom forms directly into your accounting software. Consequently, editing the PDFs and Excel worksheets falls to you and your team, adding an extra layer of work on top of an already arduous process.

3. Are you managing pay apps in spreadsheets?

Even if your accounting software includes standard AIA billing forms, you're likely managing part of the process—most likely managing invoice statuses and/or collecting SOV information from PMs—in spreadsheets. This approach carries the same risks as a fully manual workflow outside your ERP, making it easy to miscalculate, break formulas, forget retention billing,

miss supporting documents, or overlook payment draws.

4. Do you struggle to remember billing due dates?

With every GC enforcing its own billing schedule, it's nearly impossible to remember what's due and when. (Your ERP certainly does not track that information for you.) And as you're well aware, missing a due date means missing out on that entire pay cycle.

5. Are rejected pay apps a recurring headache?

Payment applications must be flawless. If your math is off, you use the wrong form, omit supporting documents, or the GC thinks you've overbilled, they'll reject the application. This rejection often occurs mere hours before the deadline, forcing you into a frantic race against the clock to rectify the issues and resubmit the invoice before risking payment delays.

6. Do the GCs you work with use different submission portals?

Unlike most industries where you simply email invoices, subcontractors are subject to a more elaborate submission process. They must follow each GC's unique instructions about whether to email, fax, mail, or submit applications via payment portals like Textura or GCPay. As it stands, ERPs rarely integrate with these portals, creating more logins to track, systems to learn, and processes to manage,

7. Is your project billing documentation decentralized?

Regardless of the company, file management is always a challenge. Some team members diligently upload documents to the shared drive, while others continuously save important files locally with no standard approach to version control. This disjointed approach to managing progress billing forms is a recipe for disaster, making it extremely difficult to locate the most up-to-date and accurate information when you need it.

8. Do breakdowns in field-to-office communication hinder your billing process?

One of the biggest bottlenecks in the progress billing process is the back-and-forth between the back office and field teams. The accounting staff must prepare the billing sheets, share them with the project managers for input, follow up (often numerous times) for completion, and then reassemble them based on the field's feedback before submitting. This disjointed and outdated process often results in miscommunication, lost information, and delays on both sides.

9. Are you collecting lien waivers before payment?

AIA billing forms aren't the only required documents for progress billing. Each time you submit a pay application, you must also submit the appropriate lien waivers for your company and any lower-tier subs or vendors. As you can imagine (or have likely experienced), this collection process can quickly become convoluted if you're collecting documents from many companies.

If your answer is "yes" to some or most of these questions, it's time to explore a software solution developed to alleviate progress billing pain. With the right technology, you can streamline operations, reduce errors, and ensure your team gets paid on time and in full. After all, you've put in the sweat equity—it's time to reap the well-deserved rewards without any unnecessary hassle.

About the Author:

*Claire Wilson is Head of Construction Solutions at **Siteline**, the only pay app and lien waiver management software for trade contractors. Previously, Claire was a project manager at Tishman Construction in New York City where she worked on monumental projects including Hudson Yards and JP Morgan's Corporate Headquarters. She has a BS in Civil Engineering from Bucknell University and now serves on the board of the Bay Area Subcontractors Association (BASA).*



FEATURE

Designing Your Business the Way You Would a Building

by Chad Prinkey, Well Built Construction Consulting

Imagine sitting down to design a building. First, you'd ask yourself what function that building had to perform. Once you knew the building's purpose, you'd determine a budget, draw up plans, select materials, and specify them in the design. What you wouldn't do is look around your yard and ask yourself, "What can I build with all the stuff I have here?" and expect that to pan out. Yet, this is what most contracting company owners do with their businesses each day.

Construction is a relatively low-profit margin industry compared to others. In 2022, the contractor earned net income of just **5% annually**. However, a small group of companies consistently perform at around 3X+ the average profit statistics.

What do these top 2% contractors have in common? They craft their businesses like a well-built structure, leveraging operating principles that consistently lead to increased efficiency, innovation and profits.

Laying the Groundwork: The Case for Operational Excellence

Just as no building can stand without a solid foundation, nothing you do as a construction company matters as much as your ability to produce a project that meets schedule, budgetary, and quality expectations. Your operations encompass the departments within your business responsible for delivering on these necessities.

If you're an operationally excellent contractor, you have no problem retaining clients and winning your next project. You have certainty about the financial side of projects and the confidence to price aggressively when needed because the risk of failure is low. You're not worried about meeting the budget or schedule for the work you are pursuing or performing. You expect

to beat both. How can your company become operationally excellent? Start with your processes.

Consistent, Effective Processes: The Blueprint for Efficiency

Picture this: You are the plant manager at a Coca-Cola manufacturing and bottling plant. Your job is to ensure a consistent soft drink is made, bottled, and made ready to ship. To deliver on these objectives, you ensure every step of production and packaging is down to an iron-clad process.

Now, let's imagine one of your shift managers deviates from the process and tries to improve production volume. His finished product is less consistent than the standard, but he's producing more than any other manager. How do you handle the issue?

First, you mandate that he return to the official processes and destroy the inconsistent products. Then, you may see if HQ is interested in the volume-boosting techniques your Shift Manager demonstrated. HQ might embrace the change, installing a new process for the whole facility, or they might not. Either way, it is not okay for your plant to have inconsistent processes.

Of course, construction is more complex than bottling a soft drink. Still, this scenario underscores how critical consistent processes are to efficient business functioning.

Defining your Core, Supporting, and Sub-Processes

Your organization performs certain tasks in pursuit of the same outcomes every day, week, and month. Core processes include finding project opportunities, estimating and winning

them, and planning and completing projects. Supporting processes include recruiting staff for core positions and training and upskilling them as needed. Sub-processes include steps you need to take to enact core or supporting processes. For example, to estimate a job, you must run estimating software, perform takeoffs, contact subs and suppliers for pricing, and more.

Have you clearly defined your organizational processes, and is your team performing these processes consistently? For most construction companies, the answer is no.

Start with the processes you already have but don't have documented. First, lay out your core, supporting, and sub-processes, then identify each process for which you already clearly know how you want things done. Once you've documented all the processes you already have in place, it's time to identify those that need to be built and prioritize them. One subcontracting company I helped noticed their projects consistently missing profit expectations. They had good estimating and field production processes but lacked consistent project management processes. So, that's where they started.

To build new processes, the simplest and often best approach is to see if anyone you trust and respect in the industry has processes you can adopt and adapt. Remember that the processes you're documenting and creating will directly affect your employees daily, so engage key team members in the areas of their expertise along the way.

Training and Skill Development

Efficiency in the field and office depends not solely on processes but also on the people executing them. Any processes not being performed consistently across your workforce or

that are entirely new will come with a learning curve. People need training to ensure new ways of doing things become second nature.

Training is a multi-step activity. It involves demonstrating the need for the new process; offering an overview of the process; describing and illustrating each step in detail; question-and-answer time; and practice. Training should happen regularly and involve all relevant team members, not just new hires or those who have yet to perform the process.

Innovation: Maximizing Operations

Just as modern construction techniques aim to streamline building processes – getting more done faster, cheaper or with less effort – contractors must continuously seek ways to simplify – and thus, maximize – their operations.

Technology can significantly aid in this endeavor. For example, implementing smart tools can help confirm company wide process compliance while making tasks less labor-intensive and more accurate. For example, you might create a material stocking checklist in your ***project management software*** that guides your foreman in that process and automatically generates reports – saving your employees from needing to make time for that task.

While keeping abreast of technological developments and strategically implementing them is wise, your workforce is your greatest resource for innovative excellence.

The Feedback Loop

Well-built construction companies maintain strict adherence to their processes, but they also encourage innovative ideas. If a team member, ANY team member, has an idea for an improvement or innovation, hear them out. If the idea has merit, a test group should compare methods. Then, your company should adopt the best method, document it, train employees, and adjust supervisory structures to accommodate it. An open-minded approach to innovation will improve your business, show your employees you value their input and make them feel more engaged in process execution.

Innovation in construction often results from field experiences. For example, to ensure estimates truly reflect the cost of building your projects, you must share lessons learned from project management and the field back to estimating so they can update their approach to reflect reality better. You can do this by instituting after-action reviews (AAR) upon completion of every project. Suppose field management tells your estimating team that a specific feature could not be built as estimated; you can capture that information and update the estimating tools to reflect this new data. Taking this AAR approach turns every project into an opportunity to improve.

Profit: The Keystone of Sustainability

A building that lacks structural integrity won't stand the test of time. Similarly, no construction business can survive if its financial foundation is poor.

The top reason contractors go out of business is continued negative cash flow. However, negative cash flow is only a symptom of a more fundamental problem. The underlying issue is a lack of timely, clear financial information or failure to understand the swift corrective action necessary based on the information.

Measuring What Matters

Have you ever pursued a weight-loss goal? When you step on your scale, the number shown is what's known as a lagging indicator: a result of decisions made up to that point in time. What should we do if we want the number on our scale to change? We must address our life choices, chiefly diet and exercise choices. In this analogy, diet and exercise are leading indicators: the factors that lead to your target outcomes.

In the construction business, profitability hinges on closely monitoring leading indicators. These indicators include your gross profit margin, overhead costs, total revenue, project backlog and pipeline, and dozens of other specific metrics that may be uniquely relevant to your business. To achieve your desired net profit, for example, you'll need to calculate the gross profit you need to cover your

overhead budget, then stick to that budget each month while monitoring your project backlog and pipeline – and related revenue and resource projections – to ensure you're staying on track.

Building and sticking to a budget and learning to make accurate revenue and resource projections can seem daunting, but the power these actions provide for consistently steering the business to financial success is unparalleled. Making informed business decisions based on accurate data and leading indicators ensures your company will go the distance – and thrive.

Conclusion

I founded our consulting firm, Well Built Construction Consulting, with the specific intention of helping ambitious construction companies implement vital principles that will enable them to become better businesses. Experience has shown me that any contractor who commits to operational excellence by embracing practices that support efficiency, innovation and profit can transform their business, making it as high-performing and resilient as any architectural masterpiece.

About the Author:

*Chad Prinkey is the Founder and CEO of **Well Built Construction Consulting**, an organization that has carved out a niche in exclusively serving small to mid-size commercial general contractors, construction managers, specialty contractors, owners, and developers in the building industry. Well Built's approach is hands-on, deeply invested in team skill enhancement, devising effective compensation structures, and fortifying communication within construction teams. Prinkey's strategic vision goes beyond troubleshooting; it's about nurturing a culture where continuous improvement and leadership excellence are the norms in the building industry. His expertise lies in strategically refining construction practices, guiding companies through the complexities of the market, and elevating industry standards.*



FEATURE

Stop the Hand-Off!

Attacking the Misnomers of Pre-Construction Strategy

by Gregg Schoppman, FMI

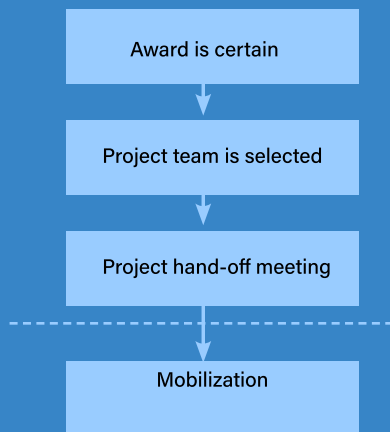


If you have ever called your pre-construction planning process a “dump meeting”, hand-off or turnover, please stop! The imagery of most pre-construction planning processes looks like it is setting the world speed record for paper shuffling. “Here are the plans, specifications, submittals, contact

list, map to the jobsite, emergency phone numbers and some aspirin. Any questions?” No one can argue that the pre-construction phase is a frenetic time of preparation. For many, it is a fine balance of joyful exuberance and the anxiety associated with having left something off the bid. Too many

organizations look at pre-construction planning as an extremely transactional process. If your pre-construction process is more of a dictation than a collaboration, you might be doing something wrong.

World class pre-construction planning is actually more about project strategy than simply checking things off a master list. Consider the following illustration:



Everything above the dashed line appears to be business as usual. Assuming there is a level of consistency in the documents that are being shared from the office to the field, one might argue that there is nothing amiss. However, real preconstruction strategy is so much more in depth and should have a level of problem solving that only comes from estimator/manager/superintendent collaboration.

The Homework Phase

First and foremost, the illustration is accurate to a point and there should be some sort of information transition. For many organizations, a physical or digital "Superintendent Job Book" is created. The next step requires some homework. After the hand-off, the superintendent spends some alone time with the drawings and estimates to familiarize themselves with the project. Many organizations provide some sort of "cheat sheet" to focus the reader on specific attributes of a project to avoid it feeling like some sort of "engineering easter egg hunt." For instance, some of the questions in the homework phase might include:

- Where would the project be staged?
- What is our history with this design team? Do we know of their nuances in their design approach?
- What are some of the normal details that get missed?
- How well overlaid of the various scopes (i.e., mechanical, electrical, structural)? Are they even using the same backgrounds as a basis for design?

The whole intention of the homework phase is to create a common platform so when there is an actual meeting of the minds, everyone comes to the table aware.

A quick caveat. Up to this point, the approach has assumed the estimating and the project manager are the same person. Having a meeting with oneself is awkward and in some cases frowned upon. If the estimator and project manager are two different people, the same approach should be taken here.

Preconstruction Collaboration

Once everyone has a fundamental working knowledge of the project, the team can now engage in real problem solving. This is where discussions about project details gets productive. For instance, some of the exchanges that can now take place include the following:

- Phasing – The estimator can explain their logic and then hear from the superintendent about their approach. If they don't align, hopefully the team can leave with a Trade Partner Involvement – One final review of the potential project team is healthy and also provides additional buy-in from all parties when there is candid discussion about a trade partners' past performance.
- Crew Sizing – Every project can be built in an infinite number of ways. The same can be said for crew composition. Reviewing the productivity targets and crew blend in this setting is a healthy conversation to have, especially when it also relates to budget enhancing ideas.
- Equipment Utilization – Similar to crew sizing, there should be a proactive dialogue about the right equipment and how it can be optimized.

There are plenty of conversations that should be had prior to mobilization but in the spirit of "getting the first shovel in the ground" those conversations are ad hoc or even discarded. Real preconstruction planning should be conversational.

Final Gameplan

The last step of true preconstruction planning is about vetting those final assumptions amongst a group within the organization, more than likely the leadership team. Reserved for larger projects, this final game plan stage ensures that there is a real winning strategy. For instance, the project team might present

the following approaches to senior management:

- Margin Enhancers – What approach will the team take to drive margins higher?
- Customer Satisfaction – What will the team do to drive superior customer satisfaction?
- Safety Hazards – What will the team do to attack job specific safety challenges?
- Trade Partner Concerns – Where does the team feel there are potential liabilities in the supply chain or trade partner team?

Ultimately, this phase is not to discuss superficial items. For instance, when asked about the safety plan, an answer like "we'll ensure all of the team where's safety PPE" should be met with dubious pessimism. Put another way, if that is the best you can come up with on a project with a 20' excavation, high tension power lines, a school next door and roof that is 100' in the air, you might want to go back to the drawing board. The senior leadership team should play the role of the devil's advocate challenging those project assumptions about everything, leaving nothing to chance.

The irony in the naming of preconstruction a "turnover meeting" is not lost as a theme. When handing the ball off, and assuming the transition from the quarterback to the running back is flawed, there is a high probability of a fumble. A capital sin in football is turning the ball over. When done incorrectly, preconstruction fumbles can lead to catastrophic losses that look really bad in the box score.

About the Author

FMI is the largest provider of management consulting, investment banking, and research to the engineering and construction industry. FMI works in all segments of the industry providing clients with value-added business solutions. For more information visit www.fminet.com or contact gschoppman@fminet.com.



FEATURE

Personal Selling in a Challenging Economy

by Tom Woodcock, Seal the Deal

I've been around the sales block a few times in my life. I've seen trends and varying market conditions. I've gotta be honest, I've never seen what's taking place in the economy such as now. Many contractors are still thriving with the backlog they've established. Some are even having record years. Don't be fooled. When interest rates go up, construction slows. Period! Combine that increase with the inflationary aspect of building and eventually you price out construction consumers, regardless of the size of the customer or project. This my friends is about to happen. I've been sounding a clarion cry to my consulting clients and from the stage at every event I speak at. I think if most contractors are honest with themselves, they see it coming. So how do you counter a potential slowdown in construction?

There really is only one answer, sell! Not sell your business, but sell in general. By expanding your customer base you can counteract any slowdown that takes place in the market. This means getting out there with your existing customer base, to protect what volume with them you have continuing, and also hit targets that are an opportunity as well. The problem is, you have projects currently and have to manage them. Some of you may be at your wits end time wise to even take care of what you have. I completely get that. The first order of business is to evaluate your time management and determine where you can find some additional time for an increase in sales work. We all waste time if

we're to be honest with ourselves, it's just human nature. Finding 3-4 extra hours in the week can result in 2 sales calls. If that's 2 more than you're doing now, you've increased your sales effort.

The second course of action is to qualify the existing or target accounts you want to pursue. Which gives you the most realistic bang for the buck in relation to time spent? Then determine the best way to connect with those individuals. Can you get them out for a lunch, meet them before an association meeting or catch them at a networking event? Any vehicle that can help get you face to face is worth the time committed. That needs to be your goal as most will rely on email or social media communication, ie: lazy selling. The more personal contact you have with existing or potential clients, the more you'll stand out from the pack. It's a more time consuming and expensive process but worth the investment of both.

Frequently, when the economy tightens and construction slows, the first reaction is to spend on marketing. Though there may be a legitimate reason to increase that spend, if it's not tied to a stronger sales effort then it ends up wasted. The point is to combine these two vehicles to have a significant impact on the marketplace. It's more common to put money into a website than increase the amount of time a company puts into their sales effort. It's the age old mentality that your marketing sells for you. This is rare in the sense that marketing can create interest but it's the sales work

that lands the projects. Sales work isn't always easy either. There's a lot of rejection and often customers are hard to read. Understanding that sales is a numbers game though, the more people you're in front of, the more you'll succeed. It's a basic sales formula that cannot be denied.

We are almost at pre-pandemic levels in relation to personal contact. People are meeting and spending time together. Association attendance has increased significantly and major events are back on. These contacts should be a part of your regular sales regimen. Then begin to be creative in your approach. Learn your client's tastes and preferences. Cater to those tastes in your sales work. Small things make a difference and a customer will notice you took the time to understand them and their needs. As the economy contracts, most forecasters are saying a recession is either upon us or imminent, be prepared by setting your sales strategy. If you don't know how that's done, get help!

About the Author:

Tom Woodcock knows sales! With over 20 years of sales and sales management experience, Tom has mastered the art of negotiation, increasing corporate revenues, team building, and driving profitability through sales restructuring. Tom has led workshops at ASA's national convention, SUBExcel several times, and continues to inspire and excite his audiences.



FEATURE

MTA Personnel Save Lives With Quick Actions in Key Bridge Tragedy

by Mike Kline, ASA Communications



In the movies, the heroes often swoop in to save the day with mere seconds to spare before disaster strikes.

Seconds also count in real life.

In the case of the Francis Scott Key Bridge collapse on March 26th, the quick actions of a handful of first responders helped to minimize the loss of life in the tragedy.

The Francis Scott Key Bridge in Baltimore was a major artery for the region with an estimated 31,000 travelers using the bridge daily. The March 26th collapse means that thousands of people have had to pivot and find other routes to get from Point A to Point B. While it's an annoyance, it's trivial compared to the knowledge that people lost their lives in the accident.

Six contractors, part of a maintenance team that was on the bridge fixing potholes, didn't make it home from their shift. The men were fathers, husbands, sons, and brothers. Four of the men have been recovered while two are still missing.

At ASA, we know that construction is dangerous work. From heavy tools to

risky work sites, shifting weather to freak accidents, often mundane situations can quickly turn tragic. In the aftermath, we're always looking to ascribe blame, and that will certainly come in this situation.

But for now, we want to mourn the lives lost and we want to celebrate the people whose quick actions ensured that numerous other lives would be saved.

- First, the crew of the ship who radioed a mayday when they recognized that their ship was out of control.
- Next the pilot association dispatcher who contacted police to halt traffic.
- And finally, the Maryland Transportation Authority officers who closed the bridge moments before it collapsed.

This all happened within 4 minutes from 1:26am - 1:30am.

Serious people doing important work focused on their tasks and jumped into action when it was required. These are the kinds of people **Mr. Rogers** was talking about in his famous "look for the helpers" quote.

The sad part is that events happened too quickly to save the workers on the bridge. As soon as the officers stopped traffic, they were trying to notify the work crew to leave the bridge when the ship hit. Lost in the accident were:

- Alejandro Hernandez Fuentes, 35
 - Dorlian Ronial Castillo Cabrera, 26
 - Miguel Luna, 49
 - Maynor Yassir Suazo Sandoval, 38
 - Jose Mynor Lopez, 30
 - Carlos Hernandez
- The three Maryland Transportation Authority officers who sprang into action:
- Sergeant Paul Pastorek
 - Corporal Jeremy Herbert
 - Officer Garry Kirts

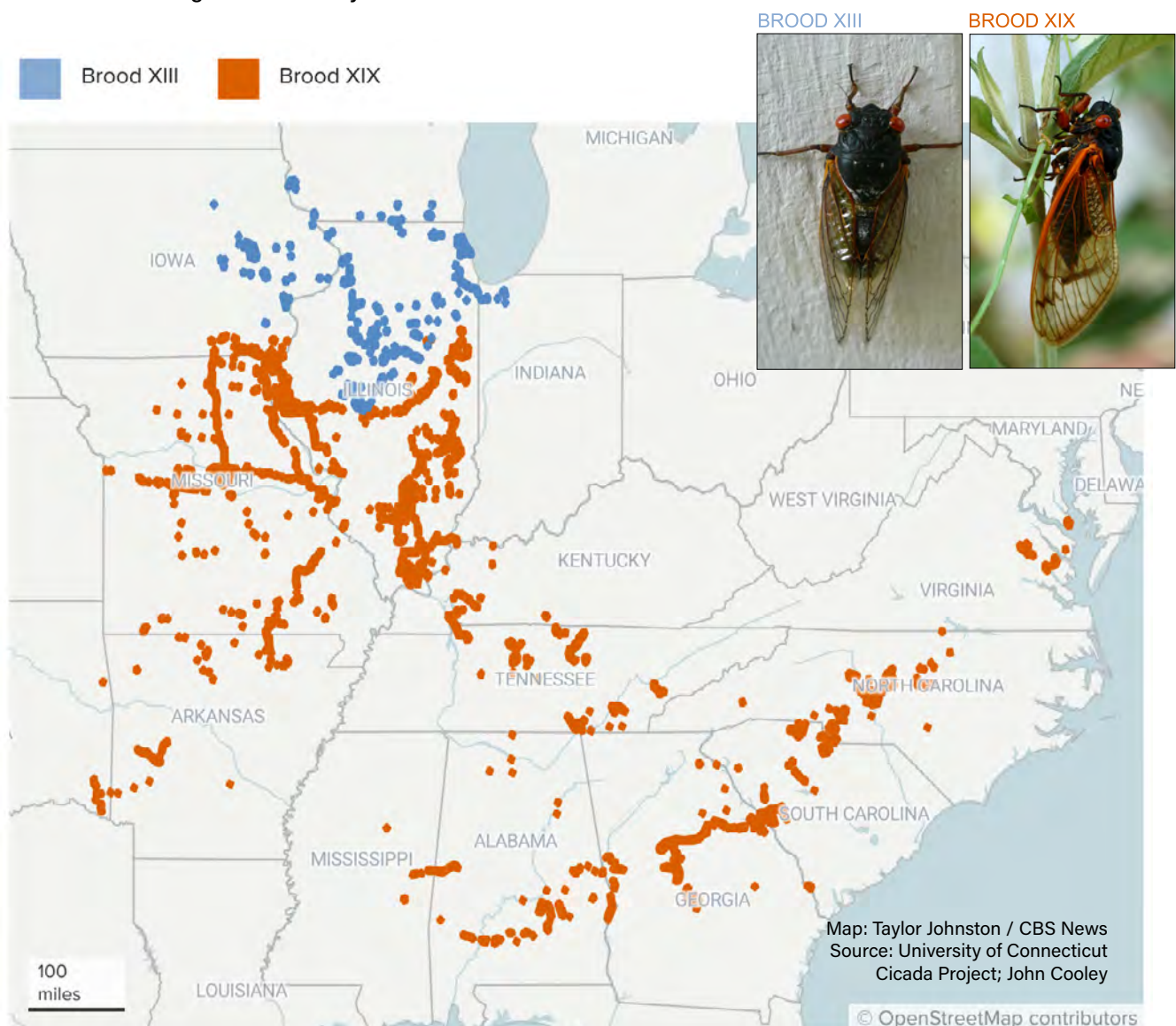
Our hearts are simultaneously filled with sadness and pride. Sad for the men who lost their lives on the job, and proud of the men who prevented the loss of more. It's the quintessential reflection of the human condition. We ask that you keep the families of the men lost, and the men who saved lives, in your prayers.

And Now for Something Completely Different

Cicadas are coming...but not everywhere

Not only did we get a solar eclipse in 2024 that traversed through North America, but we will also get a cicada extravaganza—in only a few “lucky” places. 2024 is a special year for periodical cicadas:

- For the first time since 2015 a 13-year brood will emerge in the same year as a 17-year brood.
- For the first time since 1998 adjacent 13-and 17-year broods will emerge in the same year.
- For the first time since 1803 Brood XIX and XIII will co-emerge.
- You will be able to see all seven named periodical cicada species as adults in the same year, which will not happen again until 2037. You will not see all seven named species emerge in the state of Illinois again until 2041.



Have an idea for something different? Please send your idea to communications@asa-hq.com.

UPCOMING WEBINAR

Essential Skills of Leadership

Tuesday, May 21, 2024 | 12:00pm - 1:00pm ET

Leaders (managers and supervisors) are normally chosen for their positions because of their knowledge about the products and services they provide to their customers. All too often, however, their training has covered only the technical aspects of their duties, neglecting the people-related skills which are extremely important in ensuring a successful organization. The Essential Skills of Leadership session will give you the four foundational skills for effective leadership: focusing on behaviors and facts (not attitudes or opinions), encouraging team member participation, maintaining team member self-esteem, and running effective meetings.

Register [here.](#)



Presented By: Jamie Hasty, SESCO Management Consultants

Jamie M. Hasty is a Vice President with SESCO Management Consultants, Richmond, Virginia. Jamie graduated from East Tennessee State University with a B.B.A in Human Resources Management.

Jamie is a Generalist consultant in all areas of human resource management with specialties in affirmative action, policy development, wage and hour accounting, employment regulation compliance, training and development, compensation and performance management systems, employee satisfaction assessments, executive screening and placement, and general human resources consulting.

She regularly conducts management training for clients and serves as guest speaker for state and national associations. Jamie is a certified trainer for Vital Learning Corporation, John Maxwell and SESCO Leadership Institute.

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