

# MRC

MIDWEST ROOFER

Midwest Roofing Contractors Association

May/June 2015



## **OPERATIONS**

### **Entrepreneur's Series 2**

**The Work Free Drug Place**

**MRCA Benefits: Legal Resources**

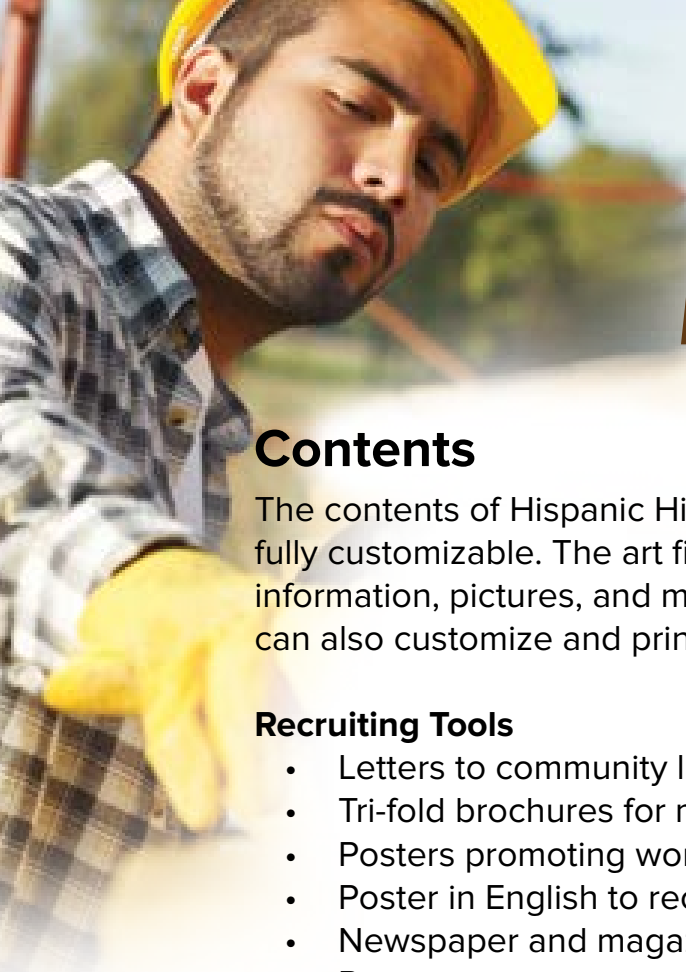
**Independant Contractor! Really?**

**Running a Successful Roofing Company**

**Random Payroll Audits**

**Injury Reporting/Heat Stress Site Safety Audits**





# HISPANIC<sup>TM</sup> HIRING KIT

## Contents

The contents of Hispanic Hiring Kit are housed on your Data CD and are fully customizable. The art files allow you to plug in your own logo, contact information, pictures, and messaging. If you would like, Bilingual America can also customize and print these files for you at a reasonable fee.

## Recruiting Tools

- Letters to community leaders and ministers (Spanish and English)
- Tri-fold brochures for mailing (two art versions in Spanish)
- Posters promoting work opportunity (two art versions in Spanish)
- Poster in English to recruit English dominant Hispanics (Spanish)
- Newspaper and magazine ads (3 sizes, Color and BW, English and Spanish.)
- Poster to encourage employees to recruit others
- Social Media training session with Ricardo González online

## Hiring Tools (All hiring tools are in both Spanish and English.)

- Applications
- Interview Questions
- Assessment for Entry Level Employees
- Assessment for Potential Leaders
- Letter of Welcome
- Letter of Reprimand
- Guide to Work Visas for Foreign Nationals
- Guide to Legal and Illegal Interview Questions
- Opportunity Axis Power Point Slides and Teaching

**FOR FULL KIT DETAILS AND TO  
PREVIEW THE CONTENTS GO TO  
[WWW.BILINGUALAMERICA.COM/MRCA](http://WWW.BILINGUALAMERICA.COM/MRCA)**

## Onboard Process (Completely in Spanish and the HHK includes access for 5 people.)

- *Cómo Tener Éxito*<sup>TM</sup> course.
- 20 day continuity program to internalize teaching of course.
- Teaches how to succeed personally and in your company.

If you're employing Hispanics, or want to, the Hispanic Hiring Kit is a must have suite of culturally relevant and professional grade tools. It provides you with everything you need, and more, to attract Hispanic employees.



May / June 2015

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Midwest  
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Association

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**Disclaimer:** The opinions and positions stated in articles published herein are those of the authors and not, by the fact of publication, necessarily those of MRCA. MRCA does not endorse roofing products or systems and shall not be deemed by anything herein to have recommended the use or non-use of any particular roofing system.

Find us on







## President's Message

# MRCA's Bright Future

Update of our Strategic Plan and Journey to the Future

Larry Marshall, MRCA President

**T**he early 1970's had been a time for growth and change at our family roofing and sheet metal business. A company culture of preparation and persistence had taken advantage of opportunity resulting in "growing pains" for ownership.

I remember "The Meeting" was scheduled for 8:00 pm on Monday night two days before my father was to meet with "The Bank". My brothers and sister finished dinner, cleaned the kitchen and went off to do the homework. Our family kitchen was about to be transformed to the company boardroom. The business meeting between my dad and mom was called to order.

Dad was well prepared. He brought the financial reports, customer lists, past project data, inventory of materials and equipment, marketing/sales reports and information regarding our staff.

Should we pursue significantly more complicated and challenging commercial roofing and architectural sheet metal projects? Do we have the leadership talent within our company to meet the expectations of the new customers? Is our sheet metal facility adequate to allow us to efficiently fabricate and compete? Do we have the financial strength to grow in a responsible manner? Can we grow and uphold our company heritage of providing top quality workmanship through our team of journeyman who feel appreciated and take pride in every project?

Mom was an excellent listener and an outstanding judge of attitude and aptitude. She agreed with him that our small construction company had developed a solid reputation for being able to take on difficult projects and deliver exceptional results. She respected the key roofing and sheet metal tradesman that worked with dad.

She acknowledged that the business, while profitable, would be stressed if we were to expand our capabilities. Her feeling was, if we followed a slow but steady strategy for controlled growth, the apparent weaknesses would become a strength.

Mom agreed with dad that opportunity for growth had been earned by the consistent company commitment to quality workmanship performed in a safe and productive manner by crews that felt appreciated.

The threats of our competition, need for a significant financial investment and the fear of the unknown did not intimidate her.

"The Meeting" concluded with her informing dad that she believed in their "American Dream" vision. She told dad that our company could achieve success by continuing to work hard and smart. Mom agreed to "sign the papers" putting their home up as collateral to purchase a new facility, to invest in additional trucks/equipment and to guarantee payment on an expanded line-of-credit. Their journey to the future was moving forward.

My mother, Elizabeth Anne "Bette" Marshall passed away from this life on March 8, 2015. She was our first "woman in roofing". She was the "Mother" to our staff, the top "Advisor" to our President and the company "Leader" who pushed management to plan for the future, define our company mission and develop our strategic thinking process for the future.

Your present MRCA Board of Directors, like our company in 1974, has recently conducted two sessions and developed a formal strategic planning document that answers the question "What will MRCA look like over the next 10 years?" The Board collectively articulated a vision and mission statement based on a SWOT (Strength, Weakness, Opportunity and Threats) analysis and developed an action plan that supports a strategy that supports growth based on a commitment to provide a return-on-investment focused on being ever relevant to our membership.

*Continued on page 5*



## President's Message

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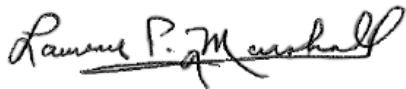
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The four critical areas that will drive MRCA future success are:

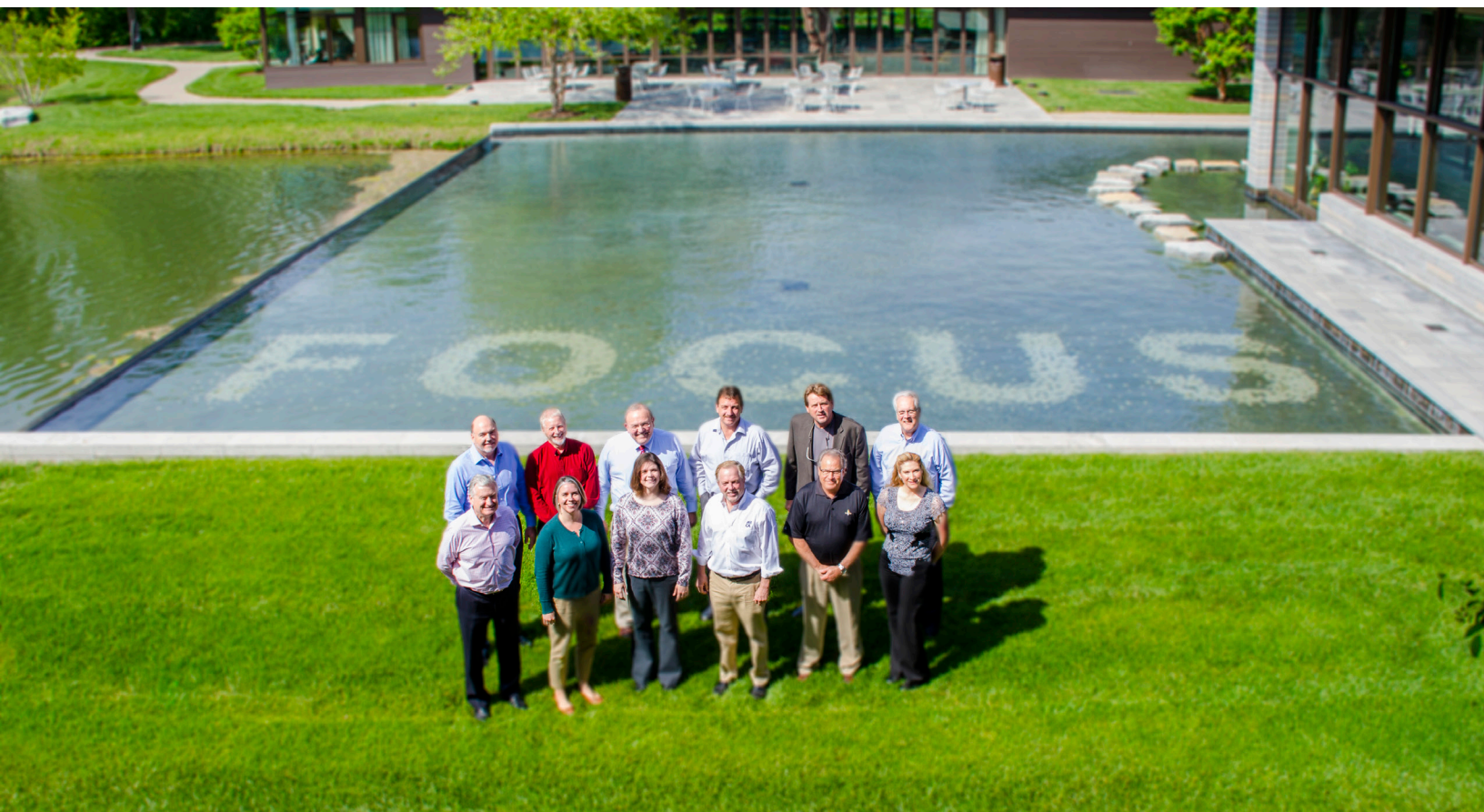
- (1) Improved Association Fiscal Management and Governance by increased transparent communication and by focusing on being ever more relevant to our Membership.
- (2) Development of Member Services and Benefits by broadening our offerings to meet the changing landscape in our industry. The Association will foster improved relations with government regulators, develop and promote a formal Professional Roofing Contractor Program, provide other critical services and continue to be the industry leader in providing Technological and Research Information.
- (3) Marketing and Branding of our services and programs will be a key initiative that the Association will pursue with the goal of better communicating to our membership. Specifically we recognize a need to create a strategy to attract and better serve steep slope and architectural sheet metal members.
- (4) Outreach to the local, state, regional and national associations within the roofing industry will be an effort MRCA will pursue to better leverage our relationships for the benefit of our membership.

The MRCA Strategic Planning Process that started in January will soon be presented to the Board of Directors for final adjustments and acceptance. Strategic Planning is a journey not an event.

A Bright Future for MRCA as “The Contractors Advocate” awaits as we start our journey to the future!



Larry Marshall, L. Marshall Roofing & Sheet Metal, Inc., Glenview, IL  
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# MRCA Expands Promotion of the CERTA Program

The Certified Roofing Torch Applicator Program (CERTA) has served the industry well for many years by providing a highly successful safety program for the installation of torch applied roofing systems.

MRCA has begun a new marketing program to promote the positive aspects of CERTA across the country, to roofing contractors, roofing consultants, building code officials, and specifiers.

MRCA has recently attended events with chapters of the Roof Consultants Institute (RCI) and the Construction Specifications Institute, as well as events with other local and state Roofing Contractor Association partners in the region to promote the CERTA Program.

The safety and marketing benefits of the CERTA Program will be covered in MR magazine throughout the coming months and it will be a key element at the upcoming MRCA Annual Convention and Expo scheduled in Kansas City, Missouri on November 10th through the 13th.

If you have any questions about CERTA, please contact the MRCA office and find out about Applicator and Train-the-Trainer Certifications Programs. CERTA is a jointly sponsored program by the Midwest Roofing Contractors Association and the National Roofing Contractors Association.



*Pictured Left: From Left to Right: MRCA Bob Pope, President of the Midstates Council of Roofers & CERTA instructor John Hayes, OVC-RCI Past President Adam Tomlinson and Current President Bill Spencer at OVC RCI open House Dayton Ohio*



*Pictured Right: MRCA Rachel Pinkus at MRCA Golf Outing at Columbus Ohio*

# MRCA President Marshal Attends Ohio Outing

On May 5th MRCA President Larry Marshall took the MRCA message to Ohio and joined with over 100 golfers in the Ohio Roofing Contractors Association (ORCA) Annual Golf Outing held at Darby Creek Golf Course just north of Columbus.

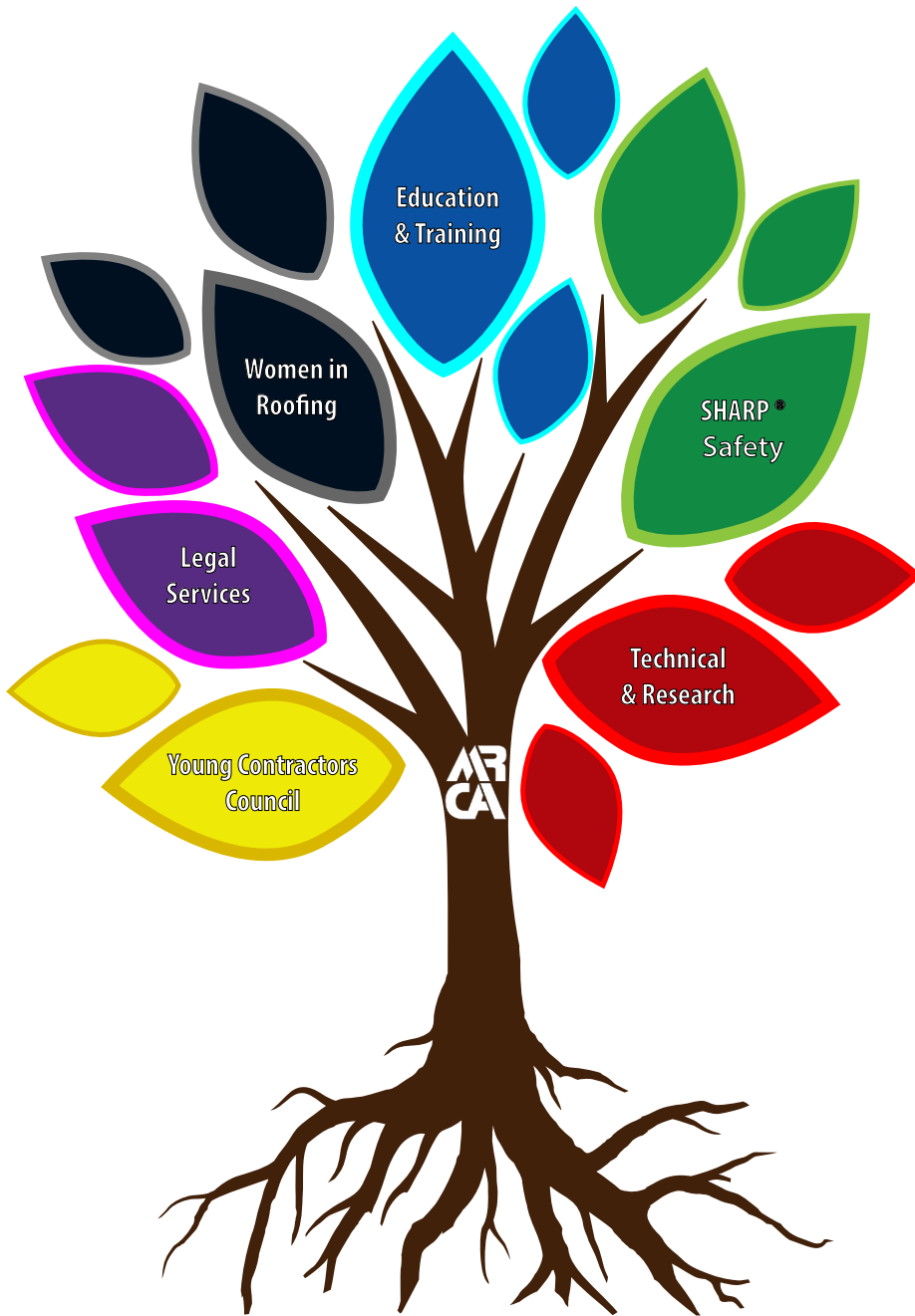
Marshall has made it a priority as leader of the MRCA to improve communications and work more closely with other roofing association partners located in the Midwest.

ORCA President, Jack Petsche of USA Roofing, asked Marshall to address the group at the dinner following the outing. Marshall answered several questions about MRCA and had an opportunity to comment on the many great opportunities for MRCA and ORCA to work together in the coming years.



*Left to Right: MRCA President Larry Marshall and ORCA President Jack Petsche at ORCA Golf Outing*

# MRCA BENEFITS: GROW YOUR FUTURE



2015

66TH ANNUAL CONFERENCE & EXPO  
NOVEMBER 10-13 KANSAS CITY, MO

BRIGHT FUTURE

1949

EST.  
STRONG ROOTS

## MRCA Legal Resources

- **Legal Services Plan** – Monthly consultation on any legal topic
- **Attorney-reviewed Applicator Agreements and Business Forms**
- **Bi-monthly article on emerging legal issues such as OSHA, WC, Labor Law, ACA, and more!**
- **Seminars and Webinars on recent decisions and legal trends**
- **Gary's Corner** – In-person access to one of the top construction industry legal experts!

One of the most powerful tools a roofing company has at its disposal is the MRCA Legal Services Program. Like it or not, the industry has become a highly-regulated litigious environment. From employment issues to increasingly complex construction contracts, roofing contractors face an array of legal issues every day. Layer on compliance issues with OSHA, EPA, DOT, and DOL and it's clear to see you need a strong ally in your corner. MRCA is that ally.

The Legal Services program allows each member one FREE phone or email consultation each month one-on-one with MRCA's nationally renowned legal counsel, Gary Auman, of Dunlevey, Mahan and Furry. Gary and his team at Dunlevey, Mahan and Furry specialize in the construction industry. From contracts, to human resource issues, to compliance they have national coverage and specific experience to counsel you on whatever issues crop up. If you need additional research or more extensive legal work, you can engage them at an hourly rate at your discretion. Sometimes a quick call with a simple question can forestall costly issues in the long-run.

In addition to the Legal Services Plan, MRCA also offers several legal resources online for MRCA Members only. Take advantage of the many model business forms that provide an excellent resource for: warranty forms; roofing proposals for new projects and maintenance; mold addendums, leak investigation and damage letters; inspection forms; lien waivers; subcontractor agreements; and prequalification statements. There are also attorney-reviewed Applicator Agreements online for your use and a program to submit your new applicator agreements to be renewed for the site as well.

You know the old saying, an ounce of prevention is worth a pound of cure! Understanding the legal implications of new rulings and regulations can keep you headed down a clear path so that you can focus on your customers. MRCA offers numerous articles, legal bulletins, quarterly legal counsel updates, and both live and webcast seminars to keep you well informed on emerging issues. All of these resources are designed specifically for roofing contractors with a full understanding of the unique concerns facing the industry.

There are many ways your investment in MRCA Membership is repaid throughout the year, but few are so powerful, so personal, and so easy to realize as the MRCA Legal Services Program. Put MRCA to work for your company and let our Strong Roots grow your Bright Future.





**Women in Roofing is a volunteer based organization with the goal to provide networking, mentoring and education for women roofing professionals. With a strong focus in mentoring and education for incoming women into the roofing industry, the organization will also create opportunities for continuing education, support and networking for professional success.**

*The purpose of the MRCA Women in Roofing Council is to encourage and recognize professional excellence in women while providing educational, networking, and mentoring opportunities for women roofing industry professionals who are involved, working or retired from the roofing industry.*

*MRCA Women in Roofing (WinR) will focus on providing education specifically to assist women in the roofing industry to handle daily work and family challenges as well as increase the professional perception of women in the industry. By cultivating a safe environment that encourages open and honest discussion without fear of repercussion, WinR will also assist in providing mentoring opportunities to help support those with less experience. WinR will operate under the bylaws, policies and procedures of the MRCA.*

*Through WinR, MRCA will help maximize the potential of women in the industry and encourage them to use their individual skill sets to elevate their positions within the industry as well as the reputations of their respective companies. The council will ultimately continue to plant a positive footprint for women in the roofing industry, empowering them to work at their best while promoting their professional perception in the roofing industry.*

## Women In Roofing - WinR

# ERA selects first female chairman

**Jennifer Ford-Smith**, MRCA WinR Advisory Council

BETHESDA, Md.—Jennifer Ford-Smith was named chairman of the EPDM Roofing Association in February, making her the first woman to hold the position in the association's 12-year history.

Ford-Smith succeeds John Geary, director of education and industry relations at Firestone Building Products L.L.C., and will be the ERA's fifth different chairman, the association said. She will serve a one-year term.

Her first goal will be more of the same—continue to get the association's message out into the industry.

"We're going to continue to enhance and keep our content relevant on the website," Ford-Smith said. "We have a list of white papers that we have our technical committee working on. We're actively pursuing to get those into publications."

Ford-Smith certainly brings strong credentials to the job. She has spent 13 years with Johns Manville, initially joining the firm in 2002 as product manager and eventually being named strategic market manager, a title she said no longer exists.

Part of her job in that role was to identify JM's growth strategy in single-ply, which led to the firm constructing its first manufacturing presence in the single-ply areas—a thermoplastic polyolefin facility at Scottsboro, Ala., in 2008, and its EPDM facility in Milan, Ohio, in 2012.

She assumed her current role—director of marketing and single ply product management—about the time the firm's EPDM plant opened, which also allowed it to join the ERA. Ford-Smith's main role with Johns Manville is to commercialize the products that are produced out of Milan.

"We are fortunate to have Jennifer leading our efforts," Ellen Thorp, associate executive director of ERA, said in a statement. "ERA is playing an increasingly active role in code-setting and regulatory activities, as well as serving as a source of information for the industry about our products. Ford-Smith has the leadership skills and in-depth knowledge of roofing membranes to take us to an even higher level of service to the building industry."

Ford-Smith said she doesn't expect the white vs. black roofing membrane debate to go away any time soon, but her primary goal to combat it is to continue to advance the curriculum and scientifically backed evidence on the strengths of EPDM and TPO to ensure that the people installing the roof have the ability to make the best decision for the building in question.

"Our goal is to help our members use science to help build credibility around EPDM and help them have a choice," Ford-Smith said. "That will continue to be our goal. All the manufacturers that are part of ERA offer a breadth of roofing products. We want to give our specifiers, architects and roofers the ability to choose the right roof for the right situation. Our goal is to give them science and support to make that case."

Regulations regarding volatile organic compounds are another issue Ford-Smith sees the ERA addressing in the near term. States like California have proposed that certain chemicals not be used or drafted regulations that would require lower VOC content, citing one that would potentially drop VOC content down to 100 grams per liter, which she said would be a drastic change.



*Jennifer Ford-Smith, director of marketing and single ply product management at Johns Manville, was appointed chairman of the ERA in February. Ford-Smith also serves on the WinR advisory council*

### ERA selects first female chairman

Most EPDM roofs are installed with adhesives, so any regulations that could cause a drastic change in their production would be of concern to the ERA.

“When you start to change the chemistry that much, then you start to have concerns of how it’s going to perform when the contractor is installing it, and this industry likes products that have a proven track record,” Ford-Smith said. “We’ll continue to question those organizations, find out what their motivation is and continue to educate them on whether or not that really is the right tree to be barking up.”

Ford-Smith also serves on the advisory council of Women in Roofing, a volunteer organization of the Midwest Roofing Contractors Association that supports women nationally and provides them opportunities in the industry to participate in networking, mentoring and education.

Women in Roofing was launched in November 2014 and Ford-Smith said 130 women were in attendance at the group’s initial networking event at the International Roofing Expo in February. She said the goal for the organization is to start rolling out more mentoring and education-focused programs in November.

**“I certainly don’t see any limitation to what a woman can do in this industry.”**

“I think you’re going to see more women taking over businesses as their fathers or mothers retire,” Ford-Smith said.

“If you statistically look at construction jobs, only 9 percent of jobs held in construction are held by women, so that’s a small pool,” Ford-Smith said. “I certainly don’t see any limitation to what a woman can do in this industry.”

ERA is a trade association that represents the manufacturers of EPDM single-ply roofing products and their suppliers.

It provides technical and research support to the public and construction industry, the MRCA as a whole. The committee will help grow membership by adding a whole new group of potential members by including those in the sheet metal field. Adding a new sector will also increase the number of people with knowledge to pass along to other contractors throughout the Midwest. We hope that this will help to spread the word and fulfill the mission of the MRCA.

The field of architectural sheet metal within the roofing industry has grown by leaps and bounds in the last few years and I feel the Architectural Sheet Metal Committee will help further the progress of architectural sheet metal throughout the Midwest for years to come.

## Industry News

### Carlisle Syntec Systems Names Wm. Kramer & Son, Inc. to 2015 Perfection Council



(Carlisle, PA) – Carlisle SynTec Systems, a leading manufacturer of single-ply roofing materials, recently selected Wm. Kramer & Son, Inc. to be a member of its 2015 Perfection Council. Made up of only 35 contractors, all selected based on their history of high-quality installations and excellent warranty claims performance, the Perfection Council acts as an advisory board to help Carlisle determine how to best support its contractor network in the upcoming year.

“It is a pleasure to acknowledge Wm. Kramer & Son’s dedication to exceptional workmanship by inviting them to be a part of Carlisle’s 2015 Perfection Council,” said Nick Shears, Carlisle Construction Materials’ Vice President of Sales and Marketing. “Wm. Kramer & Son shares Carlisle’s commitment to excellence on every roofing project, which makes their input invaluable in improving contractor support programs,” Shears continued.

To qualify for the Perfection Council, a contractor must, for each of the past seven years, have completed a minimum of 125,000 warranted square feet of Carlisle work on a minimum of five jobs per year. Honorees are

then selected based on exceptional installation quality and warranty claim performance.

About Carlisle SynTec Systems: Carlisle SynTec Systems, headquartered in Carlisle, PA, has been manufacturing single ply membrane roofing systems for more than half a century. Carlisle SynTec Systems is a business segment of Carlisle Construction Materials and has manufacturing facilities in Carlisle, PA; Greenville, IL; Senatobia, MS; and Tooele, UT. For more information, call 800-479-6832 or visit [www.carlisesyntec.com](http://www.carlisesyntec.com).

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The YCC Front

# Young Contractor's Council

2015 Community Service Event  
Wednesday, November 11th  
Harvesters Community Food Network  
3801 Topping Avenue  
Kansas City, MO 64129

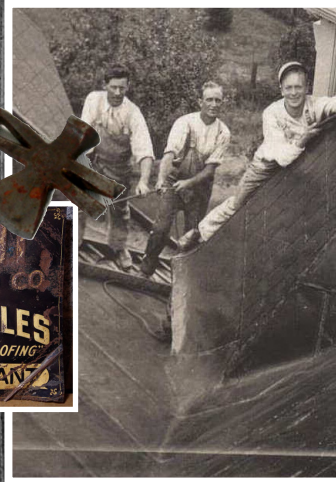


The YCC will be sorting and repackaging food for distribution to the Kansas City community. Harvesters distributes food that feeds over 141,000 people every month.



Be a part of the **solution to end hunger.**

Registration information coming soon.



This year MRCA is dedicating an area of the tradeshow floor to the history of the roofing industry. The “museum” will feature anything from original manuals and tools to old pictures and antique work vehicles. If you are interested in displaying your items, please contact Rachel Pinkus at 800-497-6722 or [rpinkus@assnsoffice.com](mailto:rpinkus@assnsoffice.com).



Help Support the MRCA Foundation by donating items to the Silent and Live Auction which, along with the Welcome Reception, will kick-off this year's Annual Conference and Expo in Kansas City. The MRCA Foundation supports educational and professional development programs and industry research. Monetary donations to the Foundation are also welcome. Contact Megan Miller at [mmiller@assnsoffice.com](mailto:mmiller@assnsoffice.com).



# 2015 MRCA Conference & Expo Exhibitors as of June 1st!



A.C.T. Metal Deck Supply  
ABC Supply Co., Inc.  
Allied Building Products Corp.  
Amerisafe, Inc.  
APOC  
Bilingual America  
Carlisle SynTec Systems  
CertainTeed Corporation  
CHEM LINK, Inc.  
Cleasby Mfg. Co.  
CNA  
Cordeck  
D-MAC Industries  
Dataforma Inc.  
DaVinci Roofscapes  
Duro-Last Roofing, Inc.

Eagleview Technologies  
FCS Control  
FiberTite Roofing Systems  
Firestone Building Products  
Franklin International (Titebond)  
GAF  
GenFlex  
Georgia-Pacific Gypsum  
HailWATCH  
HAPCO, Inc.  
Johns Manville  
Kansas Roofing Association  
Karnak Corporation  
Malarkey Roofing Products  
Owens Corning  
Peterson Aluminum Corp.  
Polyglass U.S.A., Inc.

RK Hydro-Vac, Inc.  
Roof Management  
Roofing Contractor Magazine  
Roofing Supply Group  
RoofLogic  
ROXUL Inc.  
Sika Sarnafil  
Siplast  
SOPREMA  
Spec Building Materials  
TAMKO  
The Estimating Edge  
Tremco Roofing & Building Maintenance  
TSI Energy Solutions  
United Union of Roofers

**There is still Exhibitor Space and Sponsorship opportunities available!**

Contact Rachel Pinkus at 800-497-6722, [rpinkus@assnsoffice.com](mailto:rpinkus@assnsoffice.com)  
or go view the floorplan and reserve your space at [www.mrca.org](http://www.mrca.org).





Mel Kleiman

# The Work-Free Drug Place

I saw the scariest help wanted ad last year. I was scanning the local employment classifieds before a corporate training seminar in North Carolina. I swear, I wouldn't have believed this if anyone had told me, but I saw it with my own eyes. Right there, in black and white, a two-column display ad for warehouse people, that said: "No drug testing."

While good employees are always hard to come by, this kind of desperation hiring is a surefire recipe for disaster.

U.S. government figures show nearly 6.5 million regular marijuana users and 1.25 million regular cocaine users currently in the workforce, resulting in productivity losses of \$7.2 billion annually. Substance abuse is also costly in terms of absenteeism, sick leave, and workers' compensation claims. Abusers are five times more likely to file workers' compensation claims and two-and-one-half times more likely to have absences of eight days or more. Nearly half of all industrial injuries can be traced to substance abuse.

After a decade of slowly declining workplace drug test results, Quest Diagnostics reports the trend reversed last year with more workers testing positive, particularly for marijuana and amphetamines. Although the total positive

## 44 percent said they had sold drugs to other employees

results are small — of 7.6 million urine tests 3.7 percent were positive — it does represent a 5.5 percent increase from 2012's 3.5 percent positives and it is the first increase since 2003, when 4.5 percent of the samples found traces of drugs.

In fact, in the past 25 years, drug use among Americans has escalated dramatically and has become legal in Washington and Colorado.

- 75 percent said they had used drugs on the job
- 64 percent admitted that drugs had adversely affected their job performance



- 44 percent said they had sold drugs to other employees
- 18 percent said they had stolen from their employer or co-workers to support their habit

Do you have a drug-free workplace policy? If not, consider the fact that 71 percent of Americans who engage in illicit drug use are employed and 81 percent of large employers have drug testing policies and programs in place. Where, then, do you suppose the drug users apply for jobs?

If you need workers so badly that you'll risk employing someone who "only" uses marijuana on their day off, you'd better think again. Even casual users are a threat to themselves, co-workers, and your business.

Stanford University conducted a study in which airline pilots smoked weak, government-issued marijuana cigarettes, and were then tested on flight simulators. Predictably, smoking grass resulted in "crashes" right after the marijuana use. More alarming, however, was the fact that it also resulted in "crashes" 24 hours later when every pilot reported no residual effects nor any reservations about flying.

If you're concerned that the good employees you now have will bolt if you institute drug testing, I suggest you ask them to see if it's true.

The Gallup organization did a comprehensive survey of about 8,000 employees that included the question, "What is the greatest problem facing the United States today?"



## The Work Free Drug Place

The number one response was “drugs.” The same survey also showed that employees have an increasing intolerance for drug abuse and expect employers to take strong steps to provide drug-free workplaces. Most American workers don’t abuse alcohol or use drugs and they are not willing to risk working with employees who do.

I’m not saying every employer needs to have a full-blown education, counseling, testing, and rehabilitation program. If you can’t or won’t do anything else, at least start including “Ours is a drug-free workplace,” in all your recruitment advertising.

After Service Merchandise hung signs outside each location’s employment office that read: “Service Merchandise tests ALL job applicants for illegal drug use,” Charles Krivcher, Director of Safety for the company said, “We’ve seen applicants read the sign and turn around and leave.”

I also recommend that every employer write a “testing for cause” policy and use it. Like the Service Merchandise signs, simply having a policy in place reduces the likelihood of abuse. But, if you don’t have a policy, you cannot protect yourself by testing after an accident or when there is reasonable suspicion of substance abuse. (The U.S. Department of Labor website on substance abuse has suggestion on setting up an abuse policy.)

If you want to start testing, be aware that there are substantial employee rights at issue, including privacy, confidentiality, the need for accuracy in testing, and the need for a company policy that is fairly and consistently enforced.

Most employers use two-step testing to ensure accuracy. In one type of two-step procedure, the urine sample is divided. If the first, less expensive, but normally accurate, test is positive, a second, 100 percent accurate, test is conducted.

There are restrictions in a dozen or so states and cities about and who can be tested when, but employers generally have a right to establish a policy that requires employees to be drug-free and to implement drug testing.

Drug testing works. Some users don’t even apply, some stop using for fear of being caught, and some are caught and “go straight.”

While small businesses have been slower to adopt testing programs, many have found ways to realize benefits. Approximately 100 small businesses in Richmond, Va. receive free drug testing for their employees as part of the group health insurance they buy from Trigon Blue Cross Blue Shield. “We know that preventing substance abuse on the front-end is going to prevent costly

trips to emergency rooms and other expenses that we and employers will have to bear,” says Vanessa Scherzer, a Trigon spokesperson.

Chamberlain Contractors Inc., a paving contractor in Laurel, Md. with 60 employees, implemented a drug-free workplace program out of necessity. Owner Harold Green watched his insurance premiums soar after a series of drug- and alcohol-related accidents, including a two truck collision – both of them his.

In 1987, he began instituting a zero-tolerance substance abuse program that included drug testing, education, an employee assistance program, and safety incentives that paid employees cash bonuses during the Christmas party. After installing the program, the cost of the company’s insurance for general liability, workers’ compensation and auto insurance fell from \$252,000 in 1987 to \$121,000 in 1991.

Mr. Green estimates the annual cost of the program at approximately \$15,000 a year. “It’s a fraction of what we get back in hard dollars,” he says, “not to mention the softer benefits of higher productivity, better motivation, and lower absenteeism.”

Mr. Green says that most small businesses are too short-term oriented to realize the benefits of a substance abuse program. But there is a huge risk of allowing drug and alcohol abuse to continue. “You are one accident – or one employee – away from being out of business,” says Green.

Electronics supplier Amfac employs about 150 people in Kent, Washington and, according to Will Bentley, an Amfac executive, “After the announcement of the implementation of drug testing, job applicant positives became virtually non-existent.”

At W. W. Gay, a mechanical contractor with 800 employees, positives went down from 17% to 3% and president Gay said “We’ve gotten back \$19 for every dollar spent. This includes the decrease in worker’s comp bills and savings in medical costs on denied benefits for failure in post-accident testing.” He adds, “With the number of large companies that are drug testing, if you don’t have a drug-free workplace policy, all you have is a work-free drug place.”

*Certified Speaking Professional Mel Kleiman is an internationally recognized consultant, author and speaker/trainer on strategies for finding and keeping the best hourly employees. He is the president of Humetrics, a leading developer of systems, training processes, and tools for recruiting, selecting and retaining the best hourly workforce. Kleiman is the author of five books, including the best-selling “Hire Tough, Manage Easy.” For more information, visit [www.humetrics.com](http://www.humetrics.com) or call (713) 771-4401.*





# I WANT YOU FOR MRCA BOARD

**WWW.MRCA.ORG**

Please consider nominating yourself or a fellow MRCA contractor member to serve as an MRCA Director. Submitting complete, accurate and timely information will help MRCA's Nominating Committee in making its selections.

**A nomination form is available online at: [www.mrca.org](http://www.mrca.org)**

Board members act on behalf of the membership according to mission statement, and goals and objectives, within parameters of the bylaws. They direct the business of MRCA, establish policies and procedures, approve appropriate contracts for the organization and foster the growth and development of MRCA.

Ideal candidates for must meet the criteria listed below:

- Ability to serve a three-year term
- Ability to subsidize personal travel and expenses to a minimum of two of four annual Board meetings, held in January, April, June, and September.
- Willingness to serve on MRCA Committee(s) and participate on regularly scheduled conference calls and meetings
- Attend the Annual Conference and Expo
- Commitment to serve the interests of the greater MRCA membership in order to grow membership and fulfill the mission of MRCA

If you meet the criteria above and have the leadership ability, commitment, and ambition it takes to serve as a Director consider nominating yourself or a fellow colleague today! Simply complete the nomination form found at [www.mrca.org](http://www.mrca.org) and return it to MRCA Headquarters by June 20, 2015.

All nominations will be reviewed by the MRCA Nominating Committee and qualifying nominees will be voted on by the active members at the MRCA Conference and Expo being held in Kansas City in November.

Qualifying nominees must have a simple majority of votes to be elected.



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*Bob Dunlevey*

# INDEPENDENT CONTRACTOR!

## REALLY?

**F**or as long as one can remember, employers have been misclassifying employees and calling them independent contractors to save money on taxes and overtime. But, the “game” is coming to an end and you need to make sure that all of your workers are properly classified. Both at the state and federal levels, legislation and enforcement initiatives are arising to curb the abuse of misclassifying employees. Just recently, the U.S. Department of Labor awarded \$10.2 million in grants to 19 states for continued independent contractor misclassification

### “Legislation and enforcement initiatives are arising to curb the abuse”

detection and enforcement. The grants are focused on unemployment insurance programs and, more specifically, a company’s failure to pay unemployment insurance premiums for workers treated as independent contractors but who are actually employees. In addition, in the President’s 2015 fiscal year budget, the fifth of six “funding highlights” listed in the Department of Labor budget is “increasing support for agencies that protect workers’ wages and overtime pay, benefits, health and safety, and investing in preventing and detecting the misclassification of employees as independent contractors.” The DOL also signed a Memorandum of Understanding with the IRS creating a joint initiative to improve compliance by enhancing the exchange of information between the two agencies as to employers possibly violating the law. Moreover, approximately one-third of states recently have enacted legislation to prevent misclassification which tightens the definition of “employee” in various state employment laws, including workers’ compensation, unemployment compensation and state wage-hour laws.

Why is this being done? Monies needed – monies lost! Many state unemployment and workers’ compensation funds are underfunded and all governmental entities are looking for more money. The federal government estimates that \$7 billion can be recouped in additional federal taxes in the

next ten years by the IRS misclassification initiative alone. Ohio previously estimated that 92,500 employees had been misclassified costing the state treasury \$363 million. In the U.S., it is estimated that 30% of companies misclassify employees – 3.4 million workers. The most frequently misclassified workers are truck drivers, construction workers, home health aides, high tech engineers and sales persons. The construction industry appears to be getting the most attention. Remember, just because you pay a commission to a worker, such as a sales person, doesn’t mean that he or she is an independent contractor.

By misclassifying workers as independent contractors, an employer can save up to 30% of the cost of the worker including such things as federal social security tax, federal unemployment tax, state unemployment insurance, workers’ compensation premiums, and overtime compensation. No wonder such abuse currently exists and why our state and federal governments are cracking down.

The risk of misclassification has always been significant. For example, the failure to withhold taxes can result in the collection of back taxes, interest assessments and penalties. Workers misclassified who are injured on the job can subject an employer to the total cost of the claim being passed directly through to the employer and the retroactive payment of workers’ compensation







premiums.

Several factors are considered in determining the “independent-ness” of workers and they include: degree of control by the employer over the worker, whether the worker is “at risk” with respect to his or her capital when performing the work, the method of compensation, and whether the worker



possesses the qualifications, tools and equipment to successfully perform the job without help. If you classify a worker as an independent contractor but that individual works only for you throughout the year, there is a strong presumption that that worker is not an independent contractor

because he or she has only one customer. For a complete checklist of “Independent Contractor vs. Employee” status and other helpful information, visit the library section of the website for Dunlevey, Mahan & Furry and click on <http://www.dmfdayton.com/learning-center/articles/item/161-independent-contractor-vs-employee.html>.

If you intend to utilize independent contractors, it is imperative that a well crafted independent contractor agreement be entered into with each worker. Model independent contractor agreements from a bookstore no longer will suffice. Most of the characteristics of independent “contractor-ness” must be incorporated within the agreement. Not only should you have a written agreement,

the worker should actually abide by all of the terms of the agreement. The contractor should bill your business for the services rendered on a periodic basis and the contractor should have its

## “The worker may very well bring an action against the company”

own workers’ compensation coverage and other insurance. As much independence as possible should be given in the areas of hours worked, where and how the job is to be performed, etc. The contractor should provide its own tools, supplies, permits, training and transportation and make the services available to the public. Set the job specifications but don’t tell the independent contractor how to do its job. Don’t forget to provide the IRS 1099 form at the end of the year.

Now is the time to clean up any misclassifications and to establish true and defensible independent contractor relationships before you are audited. Remember, a consensual, informal agreement with an employee to classify him or her as an independent contractor is fraught with peril. The agreement is unenforceable and, moreover, when the individual becomes disgruntled, the worker may very well bring an action against the company claiming employee status. Dunlevey, Mahan & Furry performs wage-hour compliance audits which include independent contractor status analysis. Often, positions can be restructured and re-documented in order to properly classify the individual as an independent contractor. Legal counsel should be consulted in order to effectively restructure a position. Watch for significant developments about this issue coming soon from both Washington, as well as your State capitol.

*For further information, contact Bob Dunlevey at Dunlevey, Mahan & Furry (937) 223-6003 or visit the firm’s website at [www.dmfdayton.com](http://www.dmfdayton.com).*



# Running A

## Successful Roofing Company

Ken Kelly

### Growing a successful roofing company

Small roofing companies tend to be more successful than larger ones. They typically have a higher profit margin, less debt and greater customer loyalty. The reasons are simple. Small business owners are directly involved in every aspect of the business process. Think of the owner as a hub in a wheel. Each of the different business divisions are spokes in that wheel. The four big spokes are marketing, sales, operations and administration. Every decision made in the business goes through the owner, and the owner has complete control over the entire operation. Promises made at the initial sales estimate are delivered through completion. Eventually word gets out and referrals bring in a steady stream of work.

But what happens when the business starts to grow? It's not humanly possible for one person to run everything, not even with today's technology. Things typically get out of balance when the owner has to rely on others. The only way to ensure continued success is to empower employees.

Follow these guidelines:

- Hire slow and fire fast. Look for talent and ability, not skill.
- Teach your employees how to do the job better than you can.
- Give them the authority to make tough decisions.
- And the responsibility to make good ones.
- Measure duties and manage results.

Always remember, as the saying goes, "You cannot manage what you cannot measure."

### Planning for Expansion

The next step is to remove yourself from the center of the business. This is the hard part for most owners. Spend sixty percent of your time working on the business, not in the business. More than half your time should be spent

working with employees, developing future process and managing business operations, rather than talking to customers, dealing with suppliers or doing other daily tasks employees can do. Jim Collins in the book *Good to Great* says, "You get the right people on the bus, the wrong people off the bus and the right people in the right seats. When you do the bus drives itself."

Planning for growth is critical. The common way to grow a company is by increasing marketing — the thought being if marketing increases, leads increase, sales increase, work increases and more money is made. I wish it were that easy, but it's not, as you may have learned. Increasing marketing alone only causes the business to run lopsided — it's like increasing the length of just one of the spokes in the wheel. Without additional salespeople, leads are burned and potential customers become upset. Without trained crews, work isn't completed correctly, causing callbacks. Without enough capital to finance increased payroll, the company can ruin account status and cause dissent.

The way to successfully grow a roofing company is to increase the length of each spoke in the business wheel slightly — all at the same time.

Here are the seven steps:

1. Identify one improvement in each of the four key business areas: Marketing, Sales, Operations and Administration. ("If it ain't broke, break it!" — Sam Walton.)
2. Set a timeline for implementation.
3. Quietly work on each division behind the scenes.
4. Test each improvement prior to launch.
5. Launch the new improvements close to each other.
6. Usher in the change personally to verify adoption and ensure success.
7. Repeat and grow the wheel even bigger.

*Reprinted with permission of Roofing Contractor magazine. You can find more articles written by Ken Kelly at [www.roofingcontractor.com](http://www.roofingcontractor.com)*



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# Random Payroll Audits from Multiemployer Funds

## Are They Really Necessary?



Michael Ledbetter

*This article is being provided by MRCA for their Members that are signatory to union bargaining agreements that include Taft-Hartley multi-employer pension and hospitalization plans.*

Contractors frequently raise questions and complaints over the necessity or scope of random employer payroll audits. The process can be invasive and cause disruption to a contractor's normal business operations. Additionally, large contractors may face multiple audits from different plans each year. The purpose of this article is to provide an overview of the process and answer questions frequently raised by employers.

### What is the Reason for Employer Payroll Audits?

Plan fiduciaries have an obligation under ERISA to ensure employers are abiding by the terms of collective bargaining agreements and contributing all monies owed to the fringe benefit plans. If the fiduciaries fail to conduct payroll audits, the Department of Labor can reject the DOL Form 5500 (Annual Report) and levy a fine of \$1,100 per day. Plan trustees can be held personally liable for violating their fiduciary obligations. This obviously creates a strong incentive for plan fiduciaries to fulfill their collection obligations.

### What Right Does a Board Have to Audit My Records?

When an employer makes a contribution to a plan, it is bound by the terms of that plan's trust document. Nearly every trust document grants fiduciaries the right to audit an employer's records to determine compliance with the collective bargaining agreement-- but regardless of the trust language, most court decisions recognize the authority of the trustees to conduct regular payroll audits.

**How Often Should Random Audits Be Conducted?** The plan's auditor has some leeway in determining the number of audits to be conducted per year. However, AICPA guidelines and the Department of Labor suggest that plans should attempt to audit every employer within a 3-6 year window.

**Are there Other Types of Employer Audits?** In addition to the random program many plans will require audits of all new contractors during their first year of participation and those contractors who stop contributing to the plan. Also, if the fiduciaries have questions about an employer's contributions, they may request a "for cause" audit.

**Who Pays for the Employer Audits?** In most cases the plan itself will bear the costs of the audits (typically \$1,500 to \$2,500). However, if the audit reveals a material underpayment from a contractor, the costs of the audit will become the responsibility of the contractor.

**What Should I Expect During a Payroll Audit?** The auditor will contact your office and set a mutually agreeable time to visit your office to review a list of documents. Alternatively, the auditor may ask that several documents



be scanned and provided electronically. You will need to have someone available to answer questions and supply any additional information requested by the auditor. At the conclusion of the initial process the auditor will typically conduct an exit interview and present the contractor with a list of potential issues. The goal is to address these items before a final report is issued. If there are problems, the contractor will be contacted directly by the trustees or the plan administrator.

**What Information is Typically Requested by the Auditor?** Keep in mind that the auditor has an obligation to go beyond the standard payroll records and search for problems like independent contractors performing bargaining unit work, improper subcontracting, employees being worked out of classification, etc. Auditors will request the documents they believe are most likely to uncover these problems, including: contribution reports, W-2s, state returns, federal returns, payroll journals, cash disbursements journal, accounts payable, 1099s, subcontracting information and/or the general ledger.


**What if I Object to an Auditor's Request or Finding?** Any dispute concerning the audit process should be put in writing and sent to the administrator as soon as possible with a copy to the employer trustees. Plan fiduciaries are almost always willing to work with contractors to resolve legitimate disputes. However, if a contractor refuses to cooperate or provide records, the fund attorney will likely file an action in federal court to force compliance.

**Is More Information Available?** If you have additional questions about the audit process, contact the plan administrator. Nearly every fringe benefit plan maintains detailed collection and audit policies. As a contractor you are entitled to a copy of these documents.

Random employer payroll audits are costly to plans and burdensome for contractors. Nonetheless, the DOL requires that plan fiduciaries maintain a regular auditing program. If you have an additional questions about the audit process, please contact the Association Office.

*Michael Ledbetter of Ledbetter, Parsi, Sollars, LLC, can be reached at [ledbetter@fringebenefitlaw.com](mailto:ledbetter@fringebenefitlaw.com) Mike serves as Fund Counsel to multi-employer Taft-Hartley Funds across the country. He is also a frequent speaker for the International Foundation of Employee Benefits*





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## Site Safety Audits

Gary Auman

### Injury Reporting

As I am sure you are aware, OSHA has amended its injury reporting rules as of January 1, 2015. These changes have expanded the occasion in which an employer must make a telephone report to OSHA concerning the injury to an employee. The change has reduced the number of employees hospitalized from one accident that necessitate your calling OSHA to advise them of the event from three (3) employees to one (1) employee.

Beginning January 1, 2015 you are required to notify OSHA within twenty-four (24) hours of any accident that results in the hospitalization of one or more employees, the amputation of any extremity (no matter how minor) or the loss of an eye. The twenty-four (24) hours begins to run from the time you (your company) become(s) aware of the loss. The hospitalization must occur within twenty-four (24) hours of the accident to make the accident reportable. The obligation to report fatalities has not changed. Fatalities are still reportable within eight (8) hours of their occurrence, or of when you become aware of the fatality.

As a result of these new injury reporting rules, OSHA anticipates that there will be over 25,000 more accident reports this year than in past years. To accommodate this increased number of report, OSHA has established a protocol for addressing these reports. Of course reported fatalities will automatically trigger an inspection. In addition inspections will occur for accidents in which two or more people are hospitalized; any hospitalization involving a worker under 18 years of age; employers with a know history of similar events having occurred in the previous twelve (12) months and repeat offenders (employers with prior willful, failure to abate or repeat citations).

In other cases the area director will consider the facts surrounding the report and decide from that review whether an inspection will be needed or whether a letter will be sent to the employer requiring a response within five (5) working days. The questions considered will include:

1. Are the employees still being exposed to the underlying hazards?
2. Was the employee exposed to a serious hazard such as falls and heat stress?
3. Were temporary workers injured or made ill?
4. Does the employer have a prior OSHA inspection history?
5. Did the incident involve health issues such as chemical exposure of high heat?

While this is not a complete list, it should confirm

that OSHA is looking closely at these types of reports and that temporary workers and heat stress are real areas of concern within OSHA.

### Heat Stress

In the preceding section we saw that heat related illnesses are of significant concern to OSHA. As we move into the warm weather months I want you all to remember to take heat illness very seriously. OSHA has argued in several recent cases that the heat index, as calculated from the NOAA Chart as well as on the OSHA heat tool, is for an "average worksite". By that comment I am referring to a worksite on which the employee is not working in direct sun and without a moderate breeze.

**You are required to notify OSHA within 24 hrs of hospitalization**

OSHA has taken the position that the NOAA Heat Index table requires the addition of up to 15 degrees Fahrenheit for worksites in direct sun, without shade and with little or no breeze.

Be sure your heat illness program is up to date and is being properly administered. Remember you need all five components of the NIOSH Criteria Document on heat illness in order to have the start at a compliant heat stress program.

They are:

1. Program for acclimatization of new employees or employees back on the high heat index job site after a period away from work.
2. Protocols to establish a work/rest regimen based on the heat index.
3. Program to ensure that all employees are adequately hydrated.
4. Locate a cooling off area with shade and /or air conditioning in close proximity to the worksite and establish procedure for the use of this area.
5. Train all employees on the dangers of a high heat index environment, how to identify the symptoms of heat illness in themselves and others and the first aid steps to take with regards to anyone suffering from heat illness.

*Take advantage of a great MRCA member benefit-complimentary legal advice on OSHA-related issues from MRCA Legal Counsel Gary Auman. Contact Gary at [GWA@dmfd Dayton.com](mailto:GWA@dmfd Dayton.com).*



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