



# The Tool Box

Serving the Electrical, HVAC & Plumbing Industries Since 1912

Volume 1, Issue 52 November 8, 2004

## Time for State Legislators to Stand Up for Subs

For the past three years, U.S construction companies have been dealing with a struggling market. Starting in early 2001 and accelerated by the 9/11 attacks, the construction climate has cooled outside homebuilding. No one knows this better than subcontractors. ENR's Top 600 Specialty Contractors ranking and analysis reflect this trend, with revenue for the group falling for the third straight year (see p. 38). Only recently have specialty contractors had a slight turnaround.



Any time the market is tough, contractors become more aggressive. For general contractors, this may take the form of tough and even questionable bidding practices and onerous contract provisions. The victims generally are downstream. Subs in the scramble for work - *any work* - will take the bait even though it is not particularly palatable. They may end up choking on it, but they also hurt the industry as a whole by creating the illusion that there is an approved open season on subs.

General contractors, in turn, are being pushed and pulled in directions they don't necessarily want to go by the competition, owners and the markets in general. But if the generals demand and subs accept pay-if-paid, hold-harmless or additional insureds clauses, why should generals stop asking for them?

There are no simple solutions. One possible path is for state legislatures to recognize the problem and provide minimum fundamental protections for subs. At first blush, that only makes sense on public projects where the state may end up holding the bag when a project turns sour. But most state legislatures take the position that construction contracts are matters for the parties to negotiate. This is reflected in the recent analysis of state laws protecting subcontractors by the American Subcontractors Association, Alexandria, Va. New Mexico is the only state receiving a passing grade (barely) for laws protecting subs across the board.

Subcontractors should be savvy enough to understand the nature of the bargains they make. But there is a point where contract terms and business practices become so egregious that government must address them on public policy grounds. There are plenty of examples: usury is outlawed, the courts will not enforce contracts for illegal or immoral purposes and interstate commerce has been an excuse for government to regulate all sorts of business activity.

It is time for state legislatures to reconsider the degree of business abuse being heaped on subcontractors. One place to start is "pay-if-paid clauses," which some states now prohibit. Subs generally have little connection to owners and have no say in general contract negotiations. Why should they take the risk of nonpayment to the general contractors?

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For a Copy of "The ASA Report: The Policy Environment in the States"  
Contact the MCASC State Office

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# PROJECTS FOR BID & BID FORECAST

MECHANICAL CONTRACTORS ASSOCIATION OF SOUTH CAROLINA  
 P.O. Box 384, Columbia, South Carolina 29202 · 1504 Morninghill Drive, Columbia, South Carolina 29210  
 PHONE (803)772-7834 · FAX (803)731-0390 · E-MAIL: [mflowers@mcasc.com](mailto:mflowers@mcasc.com) WEBSITE: [www.mcasc.com](http://www.mcasc.com)

JOBS TO BE BID THROUGH THE MCASC BID PROCEDURE.  
 ALL MECHANICAL CONTRACTORS WHO ARE NOT MEMBERS OF THIS ASSOCIATION BIDDING ON THESE ADVERTISED JOBS ARE  
 INVITED AND URGED TO UTILIZE THE MCASC BID PROCEDURE PUBLISHED HEREIN.  
 INFORMATION PUBLISHED BY THE MECHANICAL CONTRACTORS ASSOCIATION OF SOUTH CAROLINA

## NOTES:

1. ALL JOBS LISTED WITHOUT REFERENCE TO THE MCASC FOUR-HOUR DESIGNATION ARE EITHER ZERO OR TWO-HOUR BID JOBS.
2. ALL ASPECTS OF THE MCASC FOUR-HOUR BID PLAN APPLY TO JOBS DESIGNATED AS EITHER ZERO OR TWO-HOUR JOBS WITH THE EXCEPTION OF TIME & BID PROCEDURE OFFICE/SIGNATORY GENERAL CONTRACTOR INTERFACING.

\*MCASC BID PROCEDURE SIGNATORY GC'S INDICATED WITH "O"

## PIEDMONT AREA

CHAIRMAN DESIGNATING COMMITTEE  
 DAVID BISHOP  
 TEL: (864) 578-7252 FAX: 578-341

NO JOBS LISTED

## MIDLANDS AREA

CHAIRMAN DESIGNATING COMMITTEE

### NOTE DATE CHANGE

1. **LEXINGTON** (Lexington Co.) Educ. Bldg. & Worship Ctr. First Baptist Church, Owner. L.T.C. Associates, Inc., Columbia, Archts.  
 December 10 BIDS DUE MCASC: 2:00 PM **PREBID CONF: 2:00 PM** GENRL OPEN: 2:00 PM  
 Bidders Invited:  
 Hood Construction Company, Inc., Columbia      McCrory Construction Co., Columbia  
 Fitts and Goodwin, Inc., Columbia      John S. Clark Company, Mount Airy, NC

## PEE DEE AREA

CHAIRMAN DESIGN, COMMITTEE	PAUL PREVATTE	JIMMY LEE
WILLIAM L. SELF	G'TOWN HRY & MARION	FLO, DAR, DIL, C'FLD & M'BORO
TEL: (803) 432-8519 FAX: 432-3845	TEL: (843) 272-4915 FAX: 272-6071	TEL:(843) 669-8243 FAX: 673-0826

1. **GEORGETOWN** (Horry Co.) Carvers Bay Branch Lib., Georgetown County Purchasing, Owner. Tych & Walker Architects, LLP, Murrells Inlet  
 November 23 BIDS DUE MCASC: 1:00 PM GENRL OPEN: 1:00 PM  
 Bidders Include:  

o C. B. Askins & Co., Lake City	o Chancel Construction Group, Inc., Conway
o Complete Building Corp., Charleston	o Dawson, Inc., General Contr., Johns Island
o Emory J. Infinger & Assoc., Charleston	o FBi Construction, Myrtle Beach
o Rogers Contracting, LLC, Georgetown	o Rogers Industrial Contr., Inc., Hemingway
Colony Construction Company, , Mount Pleasant	Carolina Construction, Inc., Cheraw
Hay Construction Co., Inc., Myrtle Beach	Hunter Builders, Inc., Sumter
Coastal Structures Corp., Georgetown	Sturzenbecker Construction Co., Inc., North Myrtle Beach
Noble Construction, West Columbia	W. A. Stuckey Co., Inc., Georgetown
Westmoreland Group, Pawleys Island	Wilks Robinson Construction Co., Marion

2. **CAMDEN** (Kershaw Co.) Co. Community Medical Clinic, Kershaw County, Owner. Drakeford Architects, Sumter, Archts.  
 December 7 BIDS DUE MCASC: 2:00 PM MANDATORY PREBID CONF: 10:00 AM Off. Own. GENRL OPEN: 2:00 PM  
 Bidders Include:  

Carolina Construction, Inc., Cheraw	o MAR Construction Co., Inc., Lexington
Billy Jackson Constr. Co., Inc., Lugoff	Blackmon Realty & Constr Co., Lancaster
Penn Contracting, LLC, Ballentine	Hunter Builders, Inc., Sumter
Hawkins & Kolb Constr. Co., Sumter	Branham Brothers Builders, Inc., Lugoff
P. F. & Perry L. Mungo, Inc., Pageland	Noble Construction, West Columbia
	Sharon Builders, Inc., Matthews, NC

## COASTAL AREA

CHAIRMAN DESIGNATING COMMITTEE  
 RON RUNYON  
 TEL: (843) 556-5636 FAX: 763-3091

NO JOBS LISTED



**MCASC EXTENDS THANKS  
 DURING THIS SEASON  
 of THANKS-GIVING**



WEEK OF NOVEMBER 22, 2004-NOVEMBER 26, 2004

DAY	JOB NO.	4/HR	LOCATION	NAME	BID DATE	TIME
Tuesday	3-2705		Georgetown	Carvers Bay Branch Lib.	11/23/04	2:00 PM

WEEK OF DECEMBER 6, 2004-DECEMBER 10, 2004

DAY	JOB NO.	4/HR	LOCATION	NAME	BID DATE	TIME
Tuesday	3-2706		Camden	Co. Community Medical Clinic	12/07/04	2:00 PM
Friday	2-4056		Lexington	Educ. Bldg. & Worship Ctr. First Baptist Church	12/10/04	2:00 PM

WELCOME NEW MEMBERS

CREGGER COMPANY, INC. — CONWAY — DOYLE VARNADORE  
 L. R. GORRELL COMPANY — GREENVILLE — RON BREWTON  
 L. R. GORRELL COMPANY — N. CHARLESTON — ROBERT BRASWELL  
 MADDUX SUPPLY — JEFF ROGERS — GREENVILLE  
 UNITED RENTALS—RICH MULLINS—N. CHARLESTON

MCASC would like to extend sympathy to the following families:

Donald Martin Lemen, Jr. (Mt. Pleasant), Metro Electric Co., Charleston  
 James W. Gable, Sr., Father of James Gable, Meetze Plumbing Co., Inc., Irmo  
 Thomas R. George, Sr., father of Robbie Stephens, Temporary Services, Spartanburg  
 Marshall E. Walker, Walker Electric Co., Inc., Rock Hill

CONCERNSMCASC would like to extend thoughts and prayers to the following families:

Ronnie Douglas, Carolinas Hospital, Florence  
 Mildred George, mother of Robbie Stephens, Temporary Services, Spartanburg  
 Bob Townsend, B & W Mechanical, Charleston, at home

CONGRATULATIONS

Donny Phipps, Director of Inspection Department for the City of Columbia ,  
 announced his upcoming retirement on November 30th!

State Senate Currently Operating Under Rules Dating Back to 1895

Governor Sanford and Senator McConnell are asking for our Assistance to push forward changes in the Senate Rules for the upcoming session. In order to do so, it will take a concerted effort for **EVERYONE** to contact their State Senators and let them know that you are **EXPECTING** the Senate Rules to be revised for the 21st Century. Remember the key to getting Legislature passed this upcoming year will be dependent on changing the Senate Rules.

**Don't delay...Call your Senator Today!**

# **MCASC 2004 COURSE REGISTRATION**

**COMPLETE AND FAX OR MAIL TO MCASC**  
 P.O. BOX 384, COLUMBIA, SC 29202  
 TELEPHONE #: 803-772-7834 FAX 803-731-0390  
 EMAIL: [mflowers@mcasc.com](mailto:mflowers@mcasc.com) WEBSITE: [www.mcasc.com](http://www.mcasc.com)

**NAME:** \_\_\_\_\_ **COMPANY:** \_\_\_\_\_  
**ADDRESS:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_ **FAX:** \_\_\_\_\_  
**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_ **EMAIL ADDRESS:** \_\_\_\_\_  
**NAME ON LICENSE:** \_\_\_\_\_ **LICENSE NO.:** \_\_\_\_\_ **STATE:** \_\_\_\_\_

**Payment Method**

Please Invoice  
 Check Enclosed for \$ \_\_\_\_\_  
 Credit Card (Circle) VISA, Master Card # \_\_\_\_\_ N/A At This Time  
 Expiration Date: \_\_\_\_\_  
 Authorized Amount: \$ \_\_\_\_\_  
 Name on Card: \_\_\_\_\_  
 Card Billing Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Authorized By: \_\_\_\_\_

**NOTE:**

WE OFFER A DISCOUNT  
 IF YOUR COMPANY REGISTERS  
 THREE (3) OR MORE  
 FOR THE SAME COURSE.  
 SEND 3...THE 4<sup>TH</sup> IS **FREE!!**

**NOTICE:**

ANYONE FAILING TO WITHDRAW FROM A COURSE TWO  
 WEEKS PRIOR TO ITS START WILL BE BILLED  
 FOR THE ENTIRE COST OF THE COURSE.  
 No EXCEPTIONS.

**PLEASE PLACE A CHECK BESIDE EACH COURSE YOU WISH TO REGISTER FOR:**

- NC, GA, & AL APPROVED
- Hydronic Systems One  
 August 18, 2004 - Columbia  
 Time: 9:00 AM - 4:00 PM  
 Member: \$ 50.00 Non-Member: \$ 100.00
- NC, GA, & AL APPROVED
- Hydronic Systems Two  
 September 15, 2004 - Columbia  
 Time: 9:00 AM - 4:00 PM  
 Member: \$ 50.00 Non-Member: \$100.00
- NC, GA, & AL APPROVED
- Steam Systems  
 October 13, 2004 - Columbia  
 Time: 9:00 AM - 4:00 PM  
 Member: \$50.00 Non-Member: \$100.00

- NC, GA & AL APPROVED
- Measuring & Maximizing  
 Employee Productivity  
 November 3, 2004 - Columbia  
 Time: 9:00 AM - 4:00 PM  
 Member: \$175.00 Non-Member: \$225.00
- NC, GA, & AL APPROVED
- Cooling Tower & Chiller  
 Plant Piping Systems  
 November 17, 2004 - Columbia  
 Time: 9:00 AM - 4:00 PM  
 Member: \$50.00 Non-Member: \$100.00

- NC, GA & AL APPROVED
- The 3 Things Contractors  
 Must Do To Succeed &  
 101 Ways To Do Them  
 December 8, 2004 - Columbia  
 Time: 9:00 AM - 4:00 PM  
 Member: \$175.00 Non-Member: \$225.00

**NOTE:**

All Courses Will Be Held At The  
 MCASC State Office  
 Training Facility  
 1504 Morninghill Drive  
 Columbia, SC  
 Unless Otherwise Indicated!



**MECHANICAL CONTRACTORS ASSOCIATION OF SOUTH CAROLINA  
WINTER RETREAT  
European Plan  
March 10-13, 2005**



Welcome to the beautiful, 4-Star/4-Diamond Pinehurst Resort - site of the 2005 United States Open Championship! We are honored to be your hosts and we look forward to serving you! Please take a moment to fill out this reservation form to ensure your accommodations for your upcoming visit.

Pinehurst is requiring a 30-day cut off period for your room reservations. Reservations received after this date will be processed on a "space-available basis." THE PINEHURST RESORT CONSISTS OF A VARIETY OF LODGING ACCOMMODATIONS INCLUDING THE CAROLINA HOTEL, VILLAS, MANOR INN, HOLLY INN, AND CONDOMINIUMS. THE RESORT WILL MAKE EVERY EFFORT TO HONOR SPECIFIC ROOM REQUESTS. IF NOT POSSIBLE, THE BEST SUBSTITUTION WILL BE MADE. Please be aware that forms must be completed and returned by **February 11, 2005.**

**DAILY RATES: European Plan: Carolina Accommodations**

**SINGLE OCCUPANCY: \_\_\_\_\_ \$90.00                      DOUBLE OCCUPANCY: \_\_\_\_\_ \$90.00**

Rates are per room, per night (European Plan) and include accommodations only daily.

**Covered in the Resort Service fee are the following amenities and services:**

- Unlimited access to the Fitness Center
- Beach Club
- Afternoon tea in the Carolina
- Pitching areas
- On-site transportation
- Outdoor pools
- Business Center
- Driving range
- Tennis courts
- Bicycles
- Practice putting greens
- In-coming faxes

**ROOM PREFERENCE (based on availability):**      \_\_\_\_\_ **NON-SMOKING**                      \_\_\_\_\_ **SMOKING**

**ARRIVAL DATE:** \_\_\_\_\_                      **DEPARTURE DATE:** \_\_\_\_\_

**Check-In Time 4:00 PM - Check-Out Time 12:00 NOON**

**SERVICE CHARGE & STATE SALES TAX:** Rates are subject to 10% service charge, 7% state sales tax, and 3% occupancy tax on room portion only.

**DEPOSIT & CANCELLATION POLICY:** A deposit representing one night's rate per person is charged at the time the reservation is made. Pinehurst must receive notice of any cancellation at least 30 days prior to date of arrival in order to refund a deposit. The reservation deadline is **February 11, 2005.**

Please fill out and fax or mail with deposit to:                      Convention Reservations                      FAX: 910-235-8240  
 \*Pinehurst cannot accept individual telephone reservations\*                      Pinehurst Resort                      PHONE: 800-487-4653, option 2  
    PO BOX 4000  
    Pinehurst, NC 28374-4000

**ROOM(S) TO BE OCCUPIED BY:** (Please print or type)                      (All guests will be charged a one-night room deposit)  
**Name:** \_\_\_\_\_ **Address:** \_\_\_\_\_

**Email Address:** \_\_\_\_\_

**CREDIT CARD NAME & NUMBER** \_\_\_\_\_  
**Expiration Date & Cardholder Name** \_\_\_\_\_

**Telephone Number: (Home)** \_\_\_\_\_ **(Business)** \_\_\_\_\_

**\*\*\*\*ASSOCIATE CLUB MEMBERS\*\*\*\*                      WE LIKE TO RECOGNIZE ALL OF OUR ASSOCIATE CLUB MEMBERS.**

**PLEASE FILL OUT THE FOLLOWING INFORMATION:**  
**CLUB WITH WHICH YOU ARE AFFILIATED:** \_\_\_\_\_  
**YOUR MEMBER NUMBER:** \_\_\_\_\_

**Associate Member:  
Atlantic Occupational Health**

Atlantic Occupational Health (AOH), Inc. is presently considered one of the South Carolina's largest medical providers specializing in occupational and industrial medicine. Atlantic Occupational Health (AOH), Inc. has been in existence for over sixteen (16) years and services over 500 employers in the Low country alone. In addition, AOH has over 130 nationally affiliated locations, which allows us to handle your industrial needs not only in the Carolinas, but on a national basis as well.

A huge part of Atlantic Occupational Health (AOH), Inc.'s success has been our ability to understand business and the impact of worker compensation costs on a company's bottom line. By partnering with our many client companies, we work hard to provide the appropriate level of medical care to the injured worker and strive to keep the employer informed at all times of the status and condition of their employee. AOH works closely with your insurance carrier to insure that needless testing is not approved and that the injured worker received medical care on a timely basis.

In addition, our many clients look to Atlantic Occupational Health (AOH), Inc. to help them insure that they meet their regulatory compliance, whether it be with OSHA, NIOSH, or DOT. Drug and alcohol testing, audiometric testing for hearing conservation programs, pulmonary function testing for respirator usage, return-to-duty physicals and pre-employment physical examinations are just a few of the services that Atlantic Occupational Health (AOH), Inc. provides to help you meet the many government standards.

Because we are more than just doctors, we are also businessmen, we will work with you to meet your company doctor needs. Please feel free to visit our website at [www.aohocmed.com](http://www.aohocmed.com) or contact us toll free at 800-948-8020.

***Atlantic Occupational Health***  
***P.O. Box 62945, N. Charleston, SC 29419-2945***  
***Phone: (800) 948-8020 or (843) 207-7130 Fax: (843) 207-8633***  
***Website: [www.aohocmed.com](http://www.aohocmed.com)***

**Congratulations to our next Associate & Mechanical Members who will be highlighted in the upcoming issue of "The Tool Box":**

**Port City Electric Co., Inc. — N. Charleston  
Guy M. Beaty Co., Inc. — Travelers Rest**

**NOVEMBER 2004-JANUARY 2005 MONTHLY AREA MEETINGS**

**PIEDMONT AREA**

Tuesday, November 9, 2004 @ 6:00 PM  
Location: 288 Fairforest Way, Greenville  
Sponsored By: Trane Upstate Carolina

**Topic:** Patrick Leake with James M. Pleasants Co. to present  
"Tips for a Trouble Free Hydronic Installation"

**PEE DEE AREA**

Thursday, November 18, 2004 @ 6:30 PM  
Location: 149 Hunting Inc. Road, Camden  
Sponsored By: Self's Heating & Air Conditioning

**PEE DEE AREA  
THANKSGIVING &  
CHRISTMAS CELEBRATION**

**COASTAL AREA**

Tuesday, November 23, 2004 @ 6:00 PM  
Location: 3325 Pacific Avenue, Charleston  
Sponsored By: Cullum Mechanical & Eastern Ind. Supplies

**Topic:** Brian Smith, CPA  
of Smith, Kesler & Company, P.A., C.P.A.  
to Speak on  
"The Changes in the Tax Law"

**MIDLANDS AREA**

Thursday, January 6, 2005 @ 6:00 PM  
Location: 1504 Morninghill Drive, MCASC State Office  
Sponsored By: SIFCO Mechanical

**Topic:** Brian Smith, CPA  
of Smith, Kesler & Company, P.A., C.P.A.  
to Speak on  
"The Changes in the Tax Law"



P.O. Box 384, 29202  
1504 Morninghill Drive, 29210  
Columbia, SC  
Phone: (803) 772-7834  
Fax: (803) 731-0390  
E-mail: mflowers@mcasc.com  
www.mcasc.com

***Serving mechanical contractors in  
South Carolina since 1912.***

**MCASC Executive Board & Staff**

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**South Carolinians for Tort Reform Bill Summary**

Below you will find Talking Points for Tort Reform that will assist you when communicating with your State Legislators. It is important that you contact your Legislators before the General Assembly convenes in January 2005. "Let them know how important Tort Reform is to you."

**You Can Make A Difference – Let Your Voice Be Heard – Now Is The Time!**

Frivolous Proceedings. Would amend current law governing frivolous proceedings to require that the attorney or party have a reasonable belief that his claim or defense was warranted under existing law and the matter was not brought for delay. The following sanctions could be imposed: 1) reasonable costs and attorney's fees 2) reasonable fine to the court 3) non-monetary directive designed to deter a frivolous action. Also, requires SC Supreme Court to keep a public record of frivolous lawsuit sanctions.

\* Frivolous Lawsuits cost an average of \$25,000 to defend according to the US Dept. of Health and Human Services.

Real Property Improvement Statute of Limitation. Present law permits lawsuits against building contractors and design professionals as late as 13 years after completion of improvements to real property. This section reduces the period to six years.

\* Builders are having an extremely hard time finding insurance companies to write general liability coverage due to the extraordinary length of SC's statute of repose.

Venue. Present law permits a plaintiff to sue a defendant corporation virtually anywhere in the state, and permits lawsuits to be commenced in known "plaintiff friendly" counties." This section requires a lawsuit to generally be commenced in the county where the defendant resides, has its principal place of business, or the county where the injury or loss occurred.

\* Hampton County has been declared a judicial hellhole by the American Tort Reform Association. According to the Varnville town council Wal-Mart refused to locate there because of SC's outdated venue statute, which is 134 years old, permits excessive lawsuits in plaintiff friendly counties.

Joint and Several Liability. Present law permits a plaintiff to collect from one defendant the entire amount of a judgment rendered against several defendants, regardless of their fair share of the liability. This section requires the court to apportion liability between co-defendants, and renders each defendant liable for only his assigned percentage of fault.

\* 39 states have abolished, modified or never recognized joint and several liability. SC is out of the mainstream on this issue.