

National Association of Construction Auditors 2nd Annual Conference

Las Vegas, Nevada

September 17-19, 2012



Monday – September 17

7:30 – 8:00

Registration/Continental Breakfast

8:00 – 8:15

Opening Remarks

8:15 – 9:30

Which Critical Trends Are Driving the Future of the Construction Industry?

Sustained growth is critical to long-term success in the construction industry. However, consistency is difficult to maintain within our current slow-paced economic climate with its rollercoaster volatility. As we enter into 2013 and look to 2014, FMI will give an outlook on the economic forecast and the national and regional trends that are driving the industry.

Timothy Sznawajs
FMI Capital Advisors, Inc.

9:45 – 10:35

Managing Construction Claims: What Do You Do When a Good Project Goes Bad, or a Bad Project Gets Worse?

To address the continuing downward pressure on construction project revenue, contractors, service providers that support contractors and others associated with the construction industry need a well-rounded, fundamental understanding of the foundations of complex construction claims, including delay, acceleration and cumulative impact claims. Mr. Alexander and Mr. Schumacher will lead an informative, interactive discussion regarding the basic legal tenants of the construction claims process, including recent trends, as well as how to successfully navigate through the minefield that is the construction claims process both during and after a project.

J. Scott Alexander
Kenneth I. Schumacher
Murphy Austin Adams
Schoenfeld LLP

Auditor Involvement Before Signing the Contract

Discussion on GMP contracts will focus on ways to Partner with the Construction Team & Senior Management and key Contract Terms to Review, such as: Records and Right of Audit; Contingency & Savings; Cost of Work; Disallowed Costs; Insurance; and Change Orders.

Craig Davis
Equity Residential

11:00 – 11:50

Networking Break

The Importance of Construction Estimating & Bidding Due Diligence

Discussion to convey the importance of proper due diligence by the Construction Estimator during the bidding phase of a project, highlighting those activities and duties of the Construction Estimator that would likely be reviewed by a Construction Auditor during a bond claim analysis, a change order proposal, or a forensic examination of a construction project conducted for any reason. We will also examine unethical bidding practices and discuss the Canons of Ethics of the American Society of Professional Estimators.

Daniel G. Frondorf, CPE
DG Frondorf and Associates,
LLC

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Owner's Rep Role in Construction Project

The construction project Owner hires a representative...who is it and what are they supposed to do.

Dale Helle

Brown Smith Wallace, LLC

Lunch Break

1:00 – 2:15

Change Order Pricing and Related Analysis

Change Orders often represent significant risk to an organization, both in terms of number and dollar value. While some organizations are successful at planning and maintaining discipline throughout the construction process to minimize the impact of changes, for many others, Change Orders are hard to avoid. Change Orders occur for a variety of reasons, and not all of them are "manageable risk". Nonetheless, organizations who achieve success in this area have succeeded by focusing on the following two fundamental objectives: Minimize the occurrence of change orders; and Minimize the cost of change orders that do occur. Additionally as part of this discussion, we will provide "case studies" highlighting recent change order pricing anomalies that illustrate "approved" change orders where the related pricing was subsequently determined to be defective (i.e. defective pricing).

John L. Wisz

WiszCo, LLC

2:30 – 3:20

Applying Data Analytics to Efficiently Audit Vendors & Contractors

Each year, billions of dollars are spent by companies around the world to start up, operate and maintain their businesses. Of this spending, there are millions of dollars that are billed outside of contract terms, duplicative, or simply erroneous. With massive amounts of potential cost recoveries and the global economy forcing companies to be more efficient with resources, auditors must apply techniques such as data analytics to audit vendors and contractors for contract compliance. Using tools currently on your computer and asking the right questions of a vendor/ contractor can positively impact your bottom line with significant cost recoveries that can pay for your department and then some.

Paul D. Pettit, Jr.

Protiviti

The Benefits of ESOPs in Construction Companies

An often overlooked and underutilized succession planning technique is a sale of company stock to an employee stock ownership plan ("ESOP"). In the right circumstances, ESOPs are an advantageous succession-planning tool that provides a number of benefits over more traditional succession-planning techniques. This presentation will address the benefits and the concerns with implementing an ESOP in a construction company.

Mark R Fournier

Stout Risius Ross

Networking Break

3:45 – 5:00

Integrated Product Delivery (IPD)

John M. Sier

Kitch Drutchas Wagner
Valitutti & Sherbrook

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7:00 – 9:00

Reception

Tuesday – September 18

7:30 – 8:00

Continental Breakfast

8:00 – 9:15

Establishing a Control Framework for Governance of Construction Activities

Mr. Sheinfeld will be discussing: How to determine and assess areas of risk within your construction function; What are the steps for developing Policies and Procedures for construction projects; What specific controls need to be implemented to ensure management's objectives are being met; How to develop a Construction Control Procedures Manual and communicate it to the field; and, How to get buy-in from your senior management to establish a world-class control environment for construction activities. He will also be sharing his unique experiences as a former Store Development Controller during which a major corporate defalcation occurred causing a \$1.6 billion accounting restatement. The incident was the subject of investigations by the SEC, FBI, and the US Attorney's office and the presenter testified in front of a federal grand jury.

Steven J. Sheinfeld
Rite Aid Corporation

9:30 – 10:20

How to Use ACL (Audit Control Language) to Analyze Data in the Construction Audit Process

The best known auditing data tool is often not utilized on construction auditing engagements. Find out why it should be and the benefits gained by doing so.

Janet Beckmann
Brown Smith Wallace, LLC

10:50 – 11:40

Networking Break

Auditing A&E Costs

Oftentimes owners focus on auditing the contractor but forget about the agreement with the Architect and Engineering (A&E) firm. The A&E firm plays a significant role in a construction project. The involvement of the A&E firm will vary based upon the type of construction. In addition, the A&E firm may be compensated using various payment and delivery methods. Auditing the A&E firm for compliance with the contract agreement may provide added value to the owner. During this session the attendees will become familiar with the: Responsibilities of the A&E firm; Fee structure in relation to construction costs; Different types of A&E agreements; and Risks associated with the different types of agreements.

John Croy
McGladrey, LLP.

Government Contracting: Compliance

The objective of a compliance program is to create a process for identifying and reducing risk and improving internal controls. From a legal enforcement standpoint, an effective compliance program reduces the likelihood that an organization will be found to have recklessly disregarded

Carl W. Gouaux
CWG & Associates

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or deliberately violated the law. Contract compliance is an integral part of government contracting. The term means many things to many people; the material covered in this session will outline programmatic requirements, contemporary issues in the compliance, and what a notional compliance program might look like for a federal contractor.

11:40 – 1:00

Lunch Break

1:00 – 2:15

“How Open is the Book?” – Panel Discussion with a Contractor, Lawyer, Owner, & Construction Auditor

The open book contract clause is typically understood to be full disclosure by the contractor of all actual costs incurred on a project and the requirement maintain the appropriate supporting documentation for these costs. The interpretation on how to fulfill these requirements may be different between the various parties of a construction contract. The purpose of this panel discussion is to explore concepts of open book from the differing perspective of a contractor, lawyer, owner and construction auditor. The topics will include: General philosophy of Open Book; Self Performed Work; Payroll and Burden; Overhead and Profit; Cost allocations for technology; Insurances and Sureties; Contractor Forecasting and Trending; and Project Management Software Data. The panel members each come from different industries and geographies representing a cross section of the construction industry. As part of the audience, you will be encouraged to provide input and participate in this discussion as well as bring up other open book topics for discussion.

Jake Ortego

Commercial Cost Control

Daniel Dumke

Suffolk Construction Co.

John Sier

Kitch Drutchas Wagner Valitutti

& Sherbrook

Colin Daigle

Marsh Risk Consulting

2:30 – 3:20

Invest in Construction Fraud Risk Management

Fraud is a major, and typically unanticipated, contributor to the cost of construction. Construction fraud is not limited to developing countries, but is a problem impacting engineered and constructed projects all around the world. It is estimated that globally, construction fraud accounts for 10% of all construction expenditures. The objective of this presentation is help owners and contractors recognize where and how fraud can occur on their projects and how to minimize, or prevent the financial impact of fraud. To accomplish this objective, the presenters draw on their own experience and that of the industry in general, to explore: a definition and categorization of the types of construction fraud; the direct and indirect cost impacts; the profile of the “fraudster”; organizational weaknesses that enable fraud; and, recognizing the “red flags” of fraud. The presenters synthesize this information in the context of construction fraud case studies to present prevention, detection and mitigation solutions that owners and contractors should consider as an investment to minimize the financial impact of fraud and improve their bottom-line.

William Hart, P.E., CCA

James Miller, CPA, CCA

Marsh Risk Consulting

Government Contracting: Ethics

Government business must be conducted in an ethical manner above reproach. The general rule is to strictly avoid any conflict of interest or even the appearance of a conflict of interest. The official conduct of government

Carl W. Gouaux

CWG & Associates

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and contractor personnel must be such that they would have no reluctance to make a full, public disclosure of their actions. This session will outline the applicable Federal Acquisition Regulations, highlight several best practices, and present examples of contractors and government personnel that crossed the line.

Networking Break

3:40 – 4:30

Proper Accounting of Indirect Costing

FASB ASC 605-35-25-34 (formerly SOP 81-1) states: "contract costs generally include all direct costs, such as materials, direct labor, and subcontractors, and indirect costs identifiable with or allocable to the contracts." This is the accounting guidance for construction contractors in regards to job costs. The question many contractors have is what is identifiable as indirect costs with or allocable to the contracts? This topic will discuss what the best methods are for accurately allocating indirect cost or overhead and how it impacts your financial statements and overall management of a particular project.

Chad Maddox
Mason Brugh
Shelton & Company CPAs, P.C.

Follow the Money: Successful Construction Contract Compliance & Claim Prevention Strategies

Every year construction auditors identify millions of dollars of overcharges. The process to actually recover these funds once contractors have been paid is often difficult and takes a significant amount of time to get resolution. Over the past 5 years we have audited over \$5 Billion in construction spend encompassing over 70 contractors. What is the root cause of the overcharges? How do companies improve their processes when overcharges are identified to avoid future overcharges? We will discuss the lessons learned from these construction audits performed and how companies have effectively used the results of these reviews to improve their procurement, operations, and finance processes. By leveraging these lessons learned, companies have developed claim prevention strategies to prevent future overcharges and unnecessary project expenses.

Ryan Foughty
Crystal Xi
Luis Castro
Deloitte & Touche LLP

Wednesday – September 18

8:00 – 9:15

Subguard®

To provide a clear understanding of what the Subguard® product is and how it fits within the Construction Industry. The areas of focus include: History; Coverage; Benefits to all parties; common misconceptions; and focus areas for construction auditors.

Nils Sorenson
Will Ribbens
Zurich North America

Cost Reimbursable Contract Auditing 101

Your company is building a new warehouse and they've asked your internal auditing team to ensure the costs being billed are correct. Only

Jon Conley
Pacific Construction
Consultants

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problem, you've never audited a construction project. Learn some basic techniques for reviewing a cost reimbursable contract driven project.

9:30 – 10:40

Latest Hot Topics in Construction Auditing - Roundtable

Join in the discussion as three third-party independent construction control professionals identify and chat about the issues they have recently encountered during their recent engagements.

Robert A. McDonald
McDonald & Associates, Inc.

Scott Cupp
Warren Hudson
Cupp & Hudson

Reliance on the Opinion of an Engineering Expert to Quantify Excess Damages From a Fire

Dr. Kreuter will present a summary of a litigation case involving a fire loss where the insurance carrier filed a claim of subrogation against multiple parties for negligence in the design, installation and maintenance of the fire suppression system, alleging that the damage resulting mainly from water and smoke would have been substantially reduced had the system not been flawed. A further complicating factor involved a claim that the insured (a food manufacturer) may not have properly disclosed its plans for actual use of the room where the fire started or attempted to mitigate its damages due to claimed lost revenues.

Eric A. Kreuter, Ph.D.
Marks Paneth & Shron LLP

Networking Break

11:00 – 11:50

Don't Forget Your Deposition is in the Morning! Are You Ready?

Learn about construction claims cases and giving related testimony from industry experts. Hear about real life scenarios and tips on how to prepare for such an event.

David R. Kirschbaum, CMA
Baker Tilly Virchow Krause,
LLP

Timothy E. Heffernan
Watt, Tieder, Hoffar &
Fitzgerald, LLP



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