



PLUMBING & MECHANICAL
ASSOCIATION OF GEORGIA 

HOTLINE

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November 2006

GEORGIA SOIL AND WATER CONSERVATION COMMISSION PRESENT AT FALL BOARD MEETING

PMA's Board met recently at Brasstown Valley Resort and heard a presentation from the Georgia Soil and Water Conservation Commission regarding new education and training certification requirements for persons involved in land disturbing activities.

For those of you unfamiliar with House Bill 285 that passed in 2003, it amended the Georgia Erosion and Sediment Control Act of 1975. The statute amendments included mandatory certification for all individuals involved in land disturbing activities in Georgia after December 31, 2006.

The presentation generated more questions than it answered. It was clear to the attendees the language of the bill, left as is, could be open to various interpretations by the local authorities responsible for enforcement. PMA asked for followup documentation to share with our members that would clarify who is impacted by this law. The enclosed Fact Sheet was provided by the agency.

The state enforcers are interpreting the law to require that if you are working in a development where over an acre of land is being disturbed, regardless of whether or not you are disturbing that amount, someone certified, must be onsite at all times.

PMA's legislative chairman, Danny Richardson; executive director, Rob Sumner; assistant executive, Ellen Whitaker; and PMA lobbyist, John Poole; met last week with state representative Tom McCall to discuss our concerns. PMA is investigating how to protect the plumbing industry from the cost of unnecessary training and unwarranted fines.

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IMMIGRATION TURMOIL AND CONTRACTORS: WHAT'S A CONTRACTOR TO DO?

by Stephen M. Phillips

While Congress appears paralyzed to adopt a new comprehensive immigration policy that controls illegal immigration and meets workforce needs and political leaders seem content to allow the immigration issue to be used as a political punching bag, construction contractors and other U.S. industries unable to find enough employees willing to work are left in a quandary.

The construction industry, like other segments of the U.S. economy, needs personnel to man jobs and has had great difficulty in attracting the number of American-born workers required to meet their needs. Contractors want to be able to honor their contractual and bond obligations and comply with the law without fear of being subject to a job-site immigration raid.

After many years of little effort by the federal government to crack down on the pervasive use of fraudulent worker authorization documents and the growth of an illegal immigrant population now estimated to be 12 million, the federal government, through the Immigration and Customs Enforcement (ICE) arm of the U.S. Department of Homeland Security, has now engaged in a well-publicized campaign of job-site raids, immediate deportation of unauthorized workers and the threat of bringing criminal charges against employers of illegal immigrants. In addition, in the absence of federal legislation, state legislatures and local governments have become active in enacting laws intended to penalize employment of unauthorized workers. Although the number of employers that have been subject to raids are relatively few, the threat of a raid has left many contractors who employ Spanish-speaking workers worried that they might suddenly lose a substantial portion of their workforce with no advance notice.

Until and unless there are changes in the federal law that provides for some type of guest worker program, what is a contractor to do?

First, contractors should review their operations and procedures to be sure that they are acting in accordance with current immigration laws. Since 1986, it has been unlawful for an employer to employ or to continue to employ a worker whom the employer knows is an illegal immigrant. Employer knowledge can either be actual knowledge that the worker in an illegal immigrant or constructive knowledge.

continued page 4

PRESIDENT'S REPORT



**2006-2007 President
Ted Zurn**

Hello Friends,

Recently the PMA was contacted by Ike Casey, executive director of the National PHCC. He was requesting our assistance in setting up a meeting with the top level executives of Home Depot Supply. As you are probably aware, Home Depot

entered the plumbing and HVAC wholesale supply business a few years ago with the acquisition of APEX Supply. More recently they have acquired Hughes Supply along with several other water utility supply companies. Their annual sales on the wholesale side of these businesses is approximately 12 billion dollars.

In late October our executive director Rob Sumner; assistant director Ellen Whitaker; myself; Chip Greene; Ike Casey; and Jo Wagner, national PHCC president, traveled to Orlando, Florida. We met with Frank Garcia, president of Home Depot Supply; Joe DeAngelo, Home Depot Supply executive vice president; and Buddy Wallace, vice president of HVAC sales. The purpose of the meeting was to ensure that Home Depot Supply top executives were familiar with PHCC, as well as for us to understand the intentions of Home Depot Supply

and its possible effects on us as contractors.

The points that were discussed involved exploring ways to encourage young people to enter the plumbing, heating, and cooling trades.

Also discussed was how Home Depot Supply and PHCC can work together to promote the professional contractor, with the PHCC logo being a symbol of professionalism. Another area of discussion was shared training opportunities for all levels of the business from apprentice to contractors. These training opportunities would benefit Home Depot Supply employees as well as contractors.

Apex and Hughes were big supporters of PMA and our industry before they became Home Depot Supply. We must be involved and stay abreast of changes in the supply industry that affect us. Also, it is in the interests of Home Depot Supply, as well as all suppliers to promote education and training of contractors. Today, as well as in the future, supply companies will need good contractors and business people to sell their products to.

Home Depot Supply is not the only company we as contractors can purchase from, but they are a big player and if they are willing to help promote the professional contractor we should explore the possibilities.

Until next month,

Ted

NEW MEMBERS

On behalf of the members, directors, and officers of the Plumbing & Mechanical Association, we would like to publicly welcome our new Associate Member:

J.R. Greenway, **James Greenway**, Buford, GA

PMA also congratulates the following company that recently became a Contractor Member:



D.E.W Plumbing,
Derek Ware,
Buford, GA

For more information on membership please contact contact the PMA office or contact PMA First Vice President, Ron Kikta at 770-945-4260.

IMPORTANT DATES

- | | |
|------------|----------------------------------------------------------|
| Jan 3-6 | Essentials of Project Management
Lansdowne Resort, VA |
| Jan 23 | Board of Directors Meeting
Capital |
| Feb 22-24 | Power Meeting XXVI (QSC)
Scottsdale, AZ |
| Mar 7-9 | Construction Contractors' Alliance
San Diego, CA |
| Apr 17-22 | PHCC Leadership Conference
Capital Hill |
| June 21-24 | 115th Annual Meeting
St. Simons Island, GA |

EXECUTIVE DIRECTOR'S REPORT



Rob Sumner, Executive Director, recently announced that he did not wish to renew the contract for management of PMA.

Thank you for the privilege of serving as your executive director for nearly 14 years. I love all of you and the work I do for PMA. However, time brings change to all of our lives. I need to devote more time to my legal and consulting practice representing trade and professional associations so I will no longer be in the association management business. I do plan to

serve PMA as a consultant to help ensure PMA's continued success. PMA will benefit from having a new executive director who will undoubtedly do things a little differently and help lead the Association to new levels of success. The PMA executive committee has chosen Ellen Whitaker as your new Executive Director. I have been helping Ellen prepare for the role of executive director for most of the four years she has been with PMA so that, in case such circumstances occurred, PMA would be in good shape. Legislative matters will be handled by our lobbyist, John Poole, who has been PMA's lobbyist for four years. A transition plan is being implemented and PMA will carry on without missing a beat.

When PMA selected me as your executive director in 1993, the Association was going through one of the down cycles that trade associations sometimes face. Financial reserves had been depleted. The next year, PMA was able to repay members of the board of directors for personal loans they had made to keep the organization going. Financial performance in subsequent years began to build a modest reserve.

PMA now has the largest number of full contractor members since I became executive director, and the largest number of contractors who participate in PMA, including associate members.

Attendance at our annual conventions in recent years has been better than ever. Important financial support from industry members and other sponsors has greatly increased. PMA initiated continuing education for plumbers through legislative action and it has hosted over 100 CE classes in addition to more advanced contractor education programs. A membership marketing consultant was retained, resulting in increased local PMA meetings and member participation. A Lifetime Achievement Award was created and recognition of individuals who have made special contributions to the industry was established as a "Hall of Fame" of plumbing contractors.

A few years ago, the Association was practically excluded from effective participation in the State Codes Advisory Committee due to past conflicts between the Association and the state code agency. Currently, a PMA member contractor serves on the state codes committee and another PMA contrac-

tor participates on the plumbing codes task force. PMA is recognized as an effective force at the state capitol. We also influence federal legislation by working with our national PHCC staff and the Georgia congressional delegation. PMA's legislative chairman has won the National PHCC Legislative Award and one of our members was recognized as the PHCC HVAC Contractor of the Year. The PMA Hotline has twice been recognized as the top state chapter newsletter.

I am proud of what we have done together and I want you to feel good about what your Association is accomplishing. PMA will continue to flourish. It's success will, in many ways, determine the success of contractors decades into the future. And PMA's success depends on your active participation. As legal counsel to over thirty national and state trade associations, I have worked with many volunteer association leaders. PMA's leaders are more dedicated and generous with their time and expertise than the leaders of most other associations.

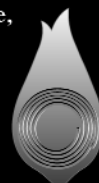
Thank you for the professionalism you have shared with me and with your professional trade association. Thanks even more for your personal friendship, which I hope to continue for many years to time. Keep up the good work.

Sincerely,

Rob

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IMMIGRATION TURMOIL AND CONTRACTORS: WHAT'S A CONTRACTOR TO DO?

The employer may be found to have constructive knowledge when the employer has information that indicates the employee is unauthorized to work in the U.S. and the employer fails to take any action to ascertain the employee's legal status.

Ensure Compliance with I-9 Process

Following passage of the Immigration Reform Control Act of 1986, the mechanism that employers are required to utilize to determine that an individual is authorized to work in the United States is through completion and execution of the I-9 form for every employee hired after November 1986. Employers are to examine prescribed documents, demonstrating the employee's identity and eligibility to work in the United States. Particularly given ICE's current campaign of raiding job-sites and the homes of suspected illegal immigrants, employers should check to make sure that they have proper, current and complete I-9 forms for all employees. Rather than possibly being surprised by an I-9 audit conducted by ICE, bring in an outside person to conduct your own I-9 audit so that you know that you have I-9 forms for all employees, that the I-9 forms do not rely upon work eligibility documents that either have expired or appear on their face to be fraudulent and that the I-9 forms are properly and fully completed.

Be sure that all personnel in your company who hire new employees are well-trained in the I-9 process. Remember that the person who hires the new employee must review the documents presented and sign the I-9 certification. If hiring is done by several people, you should have one individual in your company review all the I-9 forms to be sure they have been completed properly. Though not required by current law, your making and keeping copies of the documents that have been presented and are referenced in the completed I-9 form should demonstrate that you were complying with the law and relied upon documents that certainly appeared to be genuine in the event the legal status of an employee or the authenticity of a document is later challenged.

Discrepancy in Work Authorization Documents

If you receive information indicating that there is a problem with a document submitted by an employee, do not ignore this information, but follow-up in a manner that is reasonable under the circumstances. For instance, if you receive a "mis-match" letter from the Social Security Administration, you should review your records, notify the affected employee about the discrepancy, make whatever revisions are needed to correct clerical discrepancies and seek to get the discrepancy resolved with the Social Security Administration. The Department of Homeland Security has proposed a new federal regulation that, if adopted, would, in essence, require employers either to terminate employees if discrepancies were not resolved within 60 days or redo the I-9 process without reliance on the document that was the subject of the discrepancy and use a document that included a photograph.

Consider Participation in the Basic Pilot Program

In order to develop a work force that would not be subject to challenge, a contractor may choose to participate in the federal electronic employment eligibility program, known as Basic Pilot. This program is currently voluntary, but has been written into otherwise conflicting proposed federal legislation passed by the House and Senate and state legislation. Electronic verification and more reliable identification documents will undoubtedly be used in the future in lieu of the current I-9 program because of the widespread use of

fraudulent paper documents that appear authentic, making it very difficult for employers, who are not allowed to require presentation of documents from the prescribed I-9 list other than what the employee chooses to submit, to distinguish between legitimate and fake documents.

Basic Pilot is an internet based electronic program which compares information included on the I-9 form with information contained in federal data bases. Employers, who chose to participate in the program, submit social security numbers and work authorization information to the Social Security Administration and Department of Homeland Security whenever a new employee is hired. The SSA and DHS will then inform the employer electronically within three days whether the employee is eligible to work. If the employer is given a tentative notice of non-eligibility and the discrepancy is not resolved within ten days thereafter, the employer should terminate the employee to avoid potential liability based on constructive knowledge. Basic Pilot currently applies only to new employees. Employers can also submit names and social security numbers to the Social Security Administration for verification without participating in the Basic Pilot program.

H-2B Work Visas for Temporary Workers

Contractors who are unable to find U.S. born workers to meet peak or unusual manpower needs may want to consider obtaining H-2B work visas to employ foreign workers on a temporary basis. H-2B visas are issued to U.S. employers by the U.S. Citizenship and Immigration Services (USCIS) arm of the U.S. Department of Homeland Security after the employer obtains a temporary labor certification from the Employment and Training Administration of the U.S. Department of Labor. H-2B visas allow foreign workers to enter and work in the U.S. on a temporary basis.

Up to 66,000 foreign workers can enter the U.S. each year on H-2B visas. So that all 66,000 H-2B visas are not used at the beginning of the year, Congress has provided that 33,000 H-2B visas are available for the first six months of the federal government's fiscal year, which starts October 1st, and 33,000 additional H-2B visas are available for the second six months of the government's fiscal year. In past years, USCIS has approved approximately 100,000 H-2B petitions to utilize fully the 66,000 cap to take into account the number of visas that are not used.

Established by Congress in 1990, H-2B visas can be issued to either skilled or unskilled workers. The H-2B visa category is ideally suited and has customarily been used by industries that have a high demand for seasonal workers, such as the hospitality industry at ski resorts and summer vacation properties. However, the construction industry has also been a high consumer of H-2B visas and several roofing contractors have obtained and benefited from employing foreign workers with H-2B visas to augment their normal work force in order to meet special needs. The USCIS website states that "typically, H-2B workers fill labor needs in occupational areas such as construction, health care, landscaping, lumber, manufacturing, food service and resort/hospitality services."

H-2B visas cannot be obtained to expand a contractor's permanent, normal workforce. An H-2B visa is a temporary, non-immigrant work visa intended to allow an employer who cannot find U.S. workers to hire employees from outside the United States on a temporary basis. In order to obtain an H-2B visa, the employer must show that he has a temporary need for additional employees and that no qualified U.S. workers are willing and available to take the job.

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MEMBERS MAKING A DIFFERENCE



PMA Members Support C E F G A , SkillsUSA Plumbing Contest

PMA Members Ron Kikta of R.M. Kikta Plumbing and Jerome Sabol

(pictured at left) of Plumb Works recently judged the SkillsUSA Georgia State Plumbing Contest for high school students. The one-day contest is organized by CEFGA - the Construction Education Foundation of Georgia - to give top plumbing students in the state an opportunity to compete.

The plumbing contest is one of eight construction-related contests organized and sponsored by CEFGA. All told, more than 120 high school students competed in the state contest in April 2006. The winners of each state contest went on to compete in the National SkillsUSA contest in Kansas City in June. The state winner of the plumbing contest - Ryan Dockery of White County High School - placed third in the nation.

The next SkillsUSA Georgia plumbing contest is April 27, 2007 at the Gwinnett County Fairgrounds. For more information or to assist with this contest, please contact Kevin Ward at 678-889-4445.

Georgia Branch, AGC Members Get Active in Central GA Construction Schools

High school students in central Georgia will be getting an up-close look at the construction industry in the next few weeks, thanks to a group of AGC members in the Macon area.

The group, officially known as the AGC Central Georgia

Workforce Development Task Force met on Oct. 5 with construction teachers and administrators from six different construction schools. Industry leaders and educators brainstormed ideas on how to get high school students interested in careers in the construction industry.

The result of the session is that 10 Georgia Branch, AGC members in the Macon area will partner with five high school construction programs and Central Georgia Technical College to implement the following over the next six weeks:

- Industry partners will meet with high school construction teachers to review curriculum and provide necessary materials.
- Industry partners will provide at least one guest speaker to talk about careers in construction at one high school the week of Oct. 16.
- Industry partners will provide job shadowing opportunities for students interested in a career in construction. More than 450 students are enrolled in the construction schools represented at the Oct. 5 meeting.

The meeting, which included 23 industry and education representatives was organized by the Georgia Branch, AGC and facilitated by CEFGA - the Construction Education Foundation of Georgia. PMA Past President **Chip Greene**, Greene & Associates is participating on this task force.

This was the second meeting of the AGC Central Georgia Workforce Development Taskforce. The goal of the group is to help construction-related training programs in central Georgia achieve CEFGA accreditation; to make students aware of careers in construction and to provide work opportunities for students who wish pursue a career in construction.

The next meeting is November 16, 4:30 p.m. at Central Georgia Technical College. Contact Kevin Ward at 678-889-4445.

CARE & CONCERNS

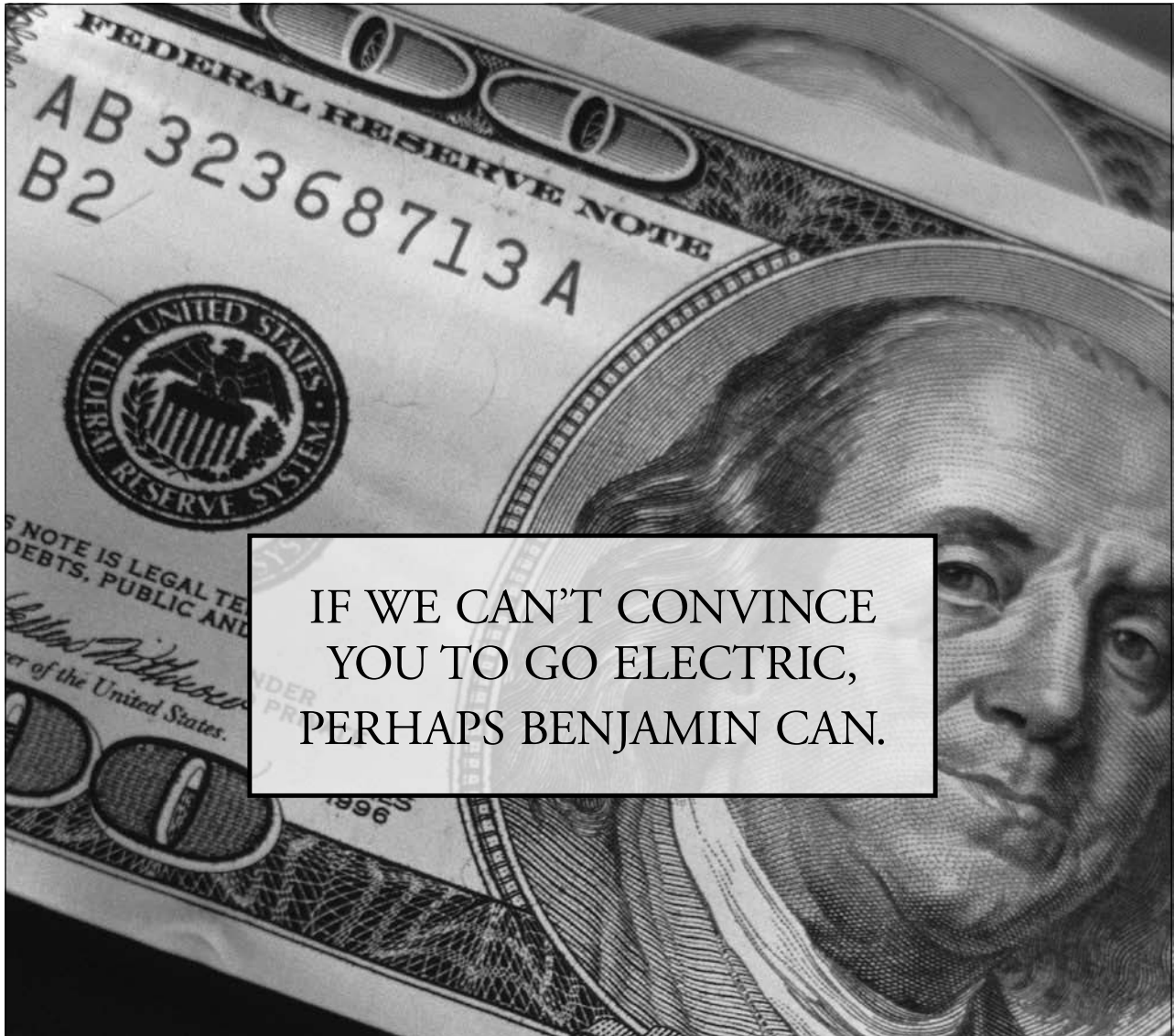
Our thoughts and prayers go out to the family of PMA Industry Members Ted and Mike DeVore on the loss of their father, Theodore Carroll (T.C.) DeVore. T.C. passed away on November 11, 2006. In 1950 T.C. and his wife Helen moved to Athens, where he opened DeVore and Johnson Inc. with his business partner, Cecil L. Johnson. DeVore & Johnson has been an active and generous supporter of PMA and the plumbing industry throughout the years, T.C. will be missed by many.

PMA asks that you keep in your thoughts and prayers, Jim and Jerome Sabol's mother who under went open heart surgery recently.

Dear Members,

Rob and I would like to thank everyone for your care and concern during the recent illness and death of my father, Edwin Salter. The flowers that were sent by the Plumbing & Mechanical Association were absolutely beautiful at the graveside. It is comforting to be surrounded by so many understanding and considerate people. This association is made up of the best people I know and it has been a pleasure to work with all of you.

*Sincerely,
Jane Summer*



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* Restrictions apply. Offer subject to end 12-31-06. For program details, call 800-524-2421.



IMMIGRATION TURMOIL AND CONTRACTORS: WHAT'S A CONTRACTOR TO DO?

There are four circumstances that meet the temporary need criteria:

- One-time occurrence. A temporary event of short duration has created the need for a temporary worker.
- Recurring seasonal need. The need for services or labor is tied to a season of the year by an event or pattern and is recurring.
- Peak load need. The employer needs to supplement its permanent workforce due to a short-term demand.
- Intermittent/occasional job. The employer occasionally or intermittently needs temporary workers to perform services for short periods.

H-2B visas are issued for a maximum period of one year and are for jobs that last less than one year, normally no more than ten months. The job should have reasonably firm start and finish dates. H-2B visas issued to a foreign worker can be renewed twice in one year increments. Employers who desire to obtain H-2B workers should initiate the process at least 60 days, but no more than 120 days, before the worker is needed. The complete process normally takes four to six months.

To obtain an H-2B visa, the employer must obtain a certification from the Employment and Training Administration of the U.S. Department of Labor that qualified persons in the U.S. are not available and that the proposed terms of employment will not adversely affect the wages and working conditions of similarly employed workers in the U.S. The employer's attempts to recruit U.S. workers and the appropriateness of the offered wages and working conditions are considered.

The first step to obtain the necessary certification is for the employer to file an Application for Alien Employment Certification (Form ETA 750), describing the job to be performed, the job requirements, the efforts that have been made to recruit U.S. workers, the number of openings and a statement explaining why the job opportunity is temporary. The employer's application is filed with the state labor and employment agency where the job will be located. State agencies where the employer's certification application is initially filed are such agencies as the Alabama Department of Industrial Relations, the Arizona Department of Economic Security - Alien Employment Certification Unit, the Georgia Department of Labor - Foreign Labor Certification Program, the California Employment Development Department - Job Service Division, H-2B Program, the Colorado Department of Labor and Employment, the Florida Agency of Workforce Innovation - Office of Workforce Services, Alien Labor Certification Program, and the Texas Workforce Commission - Alien Labor Certification Unit. Employers can find a complete list and addresses of state agencies at <http://workforcesecurity.doleta.gov/foreign/contacts.asp>

One application is sufficient for as many workers as are needed for the described position. There is no limit on the number of H-2B workers that an employer may hire, other than demonstrating the need for the number of requested visas and the unavailability of U.S. workers. While the application is pending, the employer must advertise the position for three consecutive days in a local newspaper and the state agency will post the job, using the same job description included in the employer's application.

The state agency will then forward the application and its recommendation to the regional office of the Employment and Training Administration of the U.S. Department of Labor. Upon receipt of the application and state agency's recommendation, the regional DOL office will either issue or deny

the temporary labor certification. If the application is approved, the certification is issued to the employer. The labor certification is not issued to an individual worker and is not transferable from one employer to another or from one worker to another.

Once the DOL certification is issued, the employer submits its Petition for Nonimmigrant Worker, USCIS Form I-129, to the district director of the USCIS, with the DOL certification, and the employer identifies the workers to whom the employer wants H-2B work visas to be issued. The USCIS review process normally takes four to six weeks, but for an additional \$1,000 filing fee for premium processing service, the USCIS servicing center will process (approve, deny or send request for additional evidence) the petition within 15 calendar days. Upon approval by USCIS, a visa stamp is placed into the foreign worker's passport at the U.S. consulate. After appearing at the U.S. Consulate in his or her home country to obtain the H-2B visa, the foreign worker can enter the United States to perform the job. Spouses and children under 21 of the H-2B visa holder may enter and stay in the U.S. for the authorized duration of the H-2B worker and are issued H-4 visas.

The H-2B program is not ideally suited to meet the labor needs of construction contractors, but can be helpful in adding labor capacity for a contractor who has a greater need for personnel during certain months or has a particularly large job or several jobs upcoming for which additional labor beyond the contractor's normal workforce is needed. If the same need arises the following year, the H-2B visa can be renewed and a foreign worker who has been trained by the contractor can be re-employed by the employer the following year, but the foreign work first must return to his or her home country prior to expiration of the initial H-2B visa and then return to the United States. For the last two fiscal years, returning foreign workers are not subject to the 66,000 cap. An illegal immigrant working in the U.S. is not eligible for an H-2B visa.

Summing Up

To reduce potential liability for an immigration law violation and foster a legal workforce, construction contractors should:

- Be certain not to hire or continue to employ an employee whom the employer knows is unauthorized to work in the U.S.
- Be sure to comply fully and in good faith with the I-9 process.
- Arrange to conduct your own I-9 audit to be certain that you have properly and fully completed I-9 forms for each and every employee and have not, knowingly or unknowingly, continued to rely upon work authorization documents that have expired.
- Check if the state in which you do business has enacted immigration legislation.
- Take reasonable follow-up steps when and if you receive information indicating that there may be a problem with the work authorization documents presented by an employee.
- Consider participating in the federal Basic Pilot program to verify electronically employment eligibility of new employees.
- Consider applying for H-2B worker visas to employ foreign workers to supplement your existing workforce if you need additional manpower to meet a temporary (less than one year) need and have not been able to obtain U.S. workers.

Mr. Phillips is an attorney at the Atlanta law firm of Hendricks, Phillips, Salzman & Flatt, PC.