



## ALABAMA UTILITY CONTRACTORS ASSOCIATION

TIM AYERS, EXECUTIVE DIRECTOR  
DECEMBER 2016

### Director's Comments:



It's no secret that most of our underground infrastructure has out-lived its service life. The question is how to fund the much needed repairs and replacements. President-elect Trump has pledged \$1Trillion for infrastructure funding derived from a combination of federal spending and private investment options. If this were to come to fruition, it would bring many opportunities for our member companies, Contractors and Suppliers alike.

Recent articles highlighted such needs within our own state. The Birmingham Water Works Board will need to spend an estimated \$200-300 Million to replace approximately 380 miles of galvanized steel pipe. While in Uniontown, 90 percent of the pipes are terracotta clay, and the system is filled with dozens of cracks, breaks, collapsed pipes, blockages and more. These same stories will continue to play out all over our state until a fix can be found.

In 2017, AUCA will continue to lobby for ways for these, and many other desperately needed infrastructure projects to become a reality. However, we cannot do it without your help. There is strength in numbers, and only if we continue to come together as an industry, can we bring about the needed change.

As we move into a new year, we hope that your companies will not only remain members of AUCA, but that you will also prioritize getting actively involved within the association.

I hope you all have a wonderful Holiday season, and we look forward to working with you in the coming year to make our industry better.

*Tim*

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**Happy Holidays from AUCA**

## Health & Safety:

*Provided by HB NEXT*

### **OSHA Recordkeeping Changes**

\*\* Every Construction Company with 20 or more employees is required to electronically submit their 2016 300A by July 1, 2017.\*\*

#### **What does the rule require?**

The new rule, which takes effect January 1, 2017, requires certain employers to electronically submit injury and illness data that they are already required to record on their onsite OSHA Injury and Illness forms. Analysis of this data will enable OSHA to use its enforcement and compliance assistance resources more efficiently. Some of the data will also be posted to the OSHA website. OSHA believes that public disclosure will encourage employers to improve workplace safety and provide valuable information to workers, job seekers, customers, researchers and the general public. The amount of data submitted will vary depending on the size of company and type of industry.

#### **How will electronic submission work?**

OSHA will provide a secure website that offers three options for data submission. First, users will be able to manually enter data into a webform. Second, users will be able to upload a CSV file to process single or multiple establishments at the same time. Last, users of automated recordkeeping systems will have the ability to transmit data electronically via an API (application programming interface). The site is scheduled to go live in February 2017.

#### **Now you have to keep OSHA injury records for 5 years**

OSHA has issued a regulation that requires employers to keep injury and illness records for five years.

The final rule is a response to a 2012 DC Circuit Court decision which said by law OSHA could only require companies to keep injury records for six months.

OSHA had fined Volks Constructors of Prairieville, LA, \$13,300 for failing to properly record workplace injuries and maintain its injury log between January 2002 and April 2006. OSHA issued the citations in November 2006.

Volks appealed and its fines were eventually overturned.

The DC Circuit said OSHA's error was not citing Volks for the loss or destruction of a record. Instead, the agency cited the employer for failing to create a record in the first place.

What changes for employers? Keeping injury records isn't anything new. What will change is that

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## Health & Safety:

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OSHA will have an additional avenue for recordkeeping fines over what it had after the Volks ruling. OSHA will be able to cite companies for failure to record an injury going back up to five years instead of just six months.

The final rule takes effect January 18, 2017.

Why does OSHA want you to keep injury records for five years? When the rule was proposed, OSHA chief David Michaels said, "They will enable employers, employees, researchers and the government to identify and eliminate the most serious workplace hazards - ones that have already caused injuries and illnesses to occur."

When the Volks case started to make its way through the appeals system, the National Federation of Independent Business argued that allowing OSHA to look back as many as five years for record-keeping violations was an unfair burden on small- and medium-size businesses.

OSHA views the rule as just a return to pre-Volks status. "This rule simply returns us to the standard of practice of the last 40 years," Michaels said.

The final rule doesn't require employers to record any injuries or illnesses that they weren't already required to record.

### **Quick Tips for Success:**

- Make sure that all forms (301, 300, 300A), especially the 300A, are filled out correctly. The 301 and 300 forms should be filled out within 7 days of the incident.
- Be certain that all information is the same on each form.
- If you have NOT completed any forms (301, 300, 300A) in the last 5 years, please go back and make sure they are filled out. OSHA can go back 5 1/2 years and cite you.
- 300A forms will be posted online for public view. Employee and doctor names will be removed prior to posting.
- The 300A form needs to be signed by an Officer of the Company.
- If you have 0-19 employees, there is no change in your operations.
- Make sure employees are trained in their whistle-blower rights:  
<http://www.safetyandhealthmagazine.com/articles/14510-recordkeeping-rules-anti-retaliation-provisions-in-the-spotlight>
- If you need help or have questions about requirements and electronic submission, please contact HB NEXT for additional assistance.



News & Notes:

**Recent AUCA Meetings**



**AUCA Board of Directors Meeting  
December 7, 2016**



**Dothan Area Lunch Meeting  
December 8, 2016**



**Huntsville Area Lunch Meeting  
December 20, 2016**



**Tuscaloosa Area Lunch Meeting  
December 21, 2016**



## News & Notes:

### **2017 AUCA Membership Dues Renewal**

AUCA 2017 Membership Dues Notices will go out in early January. Please be on the lookout for the notice. We appreciate your past support of AUCA, and hope that your company will renew your membership with our group and help us continue to reach our goals in 2017.

We ask that you please return your dues by January 31st to ensure your listing in the 2017 Membership Directory and to guarantee no disruption in member benefits.

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### **New Form I-9 Required Beginning January 22, 2017**

U.S. Citizenship and Immigration Services (USCIS) has published a revised version of Form I-9, Employment Eligibility Verification. By Jan. 22, 2017, employers must use only the new version, dated 11/14/2016. Until then, they can continue to use the version dated 03/08/2013 or the new version.

Among the changes in the new version, Section 1 asks for "other last names used" rather than "other names used," and streamlines certification for certain foreign nationals.

Other changes include:

- The addition of prompts to ensure information is entered correctly.
- The ability to enter multiple preparers and translators.
- A dedicated area for including additional information rather than having to add it in the margins.
- A supplemental page for the preparer/translator.

The instructions have been separated from the form, in line with other USCIS forms, and include specific instructions for completing each field.

The revised Form I-9 is also easier to complete on a computer. Enhancements include drop-down lists and calendars for filling in dates, on-screen instructions for each field, easy access to the full instructions, and an option to clear the form and start over. When the employer prints the completed form, a quick response (QR) code is automatically generated, which can be read by most QR readers.

Form I-9 requirements were established in November 1986 when Congress passed the Immigration Reform and Control Act (IRCA). IRCA prohibits employers from hiring people, including U.S. citizens, for employment in the United States without verifying their identity and employment authorization on Form I-9.



## News & Notes:

### **AUCA Scholarship Program:**

In recognizing the labor shortage for workers entering the construction industry, AUCA plans to establish a Scholarship Program in 2017. We are still finalizing the details, but intend for the program to support in-state students that are studying for a career in the construction industry at either a local trade school, or four-year university.

We will be sending out additional information once the details have been finalized.

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### **Federal Judge Halts Overtime Rule**

As we reported last month, a federal judge in Texas put the brakes on the Department of Labor's new overtime rule, which would have doubled the Fair Labor Standards Act's (FLSA's) salary threshold for exemption from overtime pay, just days before it was set to go into effect on December 1, 2016.

Twenty-one states filed an emergency motion for a preliminary injunction in October to halt the rule. They claimed that the DOL exceeded its authority by raising the salary threshold too high and by providing for automatic adjustments to the threshold every three years.

Until a final decision is reached, employers may continue to follow the existing overtime rule.

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### **Alabama One-Call Notification System Study Commission Update:**

The One-Call Study Commission met at the ALDOT Office in Montgomery on December 16th. The majority of the meeting focused on the development of an effective Enforcement Program. Proposed legislation will include the creation of the Underground Damage Prevention Authority, comprised of underground facility protection stakeholders.

The Commission is scheduled to meet again in Montgomery in late January. In addition to Enforcement, the next meeting will hopefully resume discussions for mandatory membership in a single statewide One-Call program.

If you, or a representative from your company would like to attend the next Commission meeting, please contact the AUCA office at (205) 582-9436.



## News & Notes:

Most AUCA members work exclusively on commercial projects. However, we do have some members that also perform work on residential projects. Therefore, if the below article applies to your company, please feel free to contact Don Murphy or Stephen Von Hagel with Barfield Murphy Shank & Smith, LLC at (205) 982-5500 if you'd like to discuss further.

### **Completed-Contract Method Permitted For Grading And Soil Compaction Long-Term Contracts**

IRS Chief Counsel, in a Technical Advice Memorandum (TAM), has determined that long-term construction contracts requiring grading and soil compaction of the pad area necessary to construct home foundations qualified for the completed-contract method of accounting. As such, the taxpayer would only recognize any profit on the completion of the contract.

#### **Take away:**

Generally, long-term contracts requires use of the percentage-of-completion method of accounting. However, home construction contracts are usually excepted from this general rule. To determine whether a contract is a home construction contract is a matter of whether it passes the so-called "80-percent test" of Code Sec. 460(e).

#### **Background:**

The taxpayer was a corporation that actively participated in private subdivision housing projects. The contracts required that the taxpayer make construction improvements necessary for the development of a housing subdivision to include grading and compacting of soil for construction of homes. The taxpayer performed grading and soil compaction of the pad area for individual lots where the houses were to be constructed.

The IRS originally consented to the taxpayer's use of the completed-contract method of accounting for its long-term contracts that qualified as home construction contracts within the meaning of Code Sec. 460(e)(6)(A). On audit, a revenue agent who examined the contracts claimed that they did not qualify as home construction contracts, and sought to revoke consent to the taxpayer's use of the completed contract method.

#### **Comments:**

Code Sec. 460(e)(6)(A) exempts home construction contracts from the percentage-of-completion method of accounting.

Under the completed-contract method of accounting, revenue and gross profit are recognized when the contract is completed, deferring revenue and gross profits to the date of completion. In contrast, the percentage-of-completion method requires that a taxpayer estimates the revenue and gross profit in each period based on the percentage of work completed.



## News & Notes:

### **AUCA Membership "Affinity" Programs:**

#### **Workers Compensation Insurance:**

Before you renew your workers' compensation policy, ask your agent to get a quote from CompTrust. Make sure the agent mentions that you are an AUCA member. If you have questions, you or your agent may contact Terry Young from MRM at (256) 504-3288. MRM is the Third Party Administrator (TPA) for the CompTrust fund, and a valuable member of AUCA.

#### **Group Retirement Planning:**

BenSource Employee Benefits, also an AUCA member company, is staffed to take your call with any questions you may have about starting a retirement plan, or to compare your current plan with the ***Contractor's Retirement Plan***. BenSource can be reached at (205) 536-9204.

Here are just few of the unique benefits of this plan:

- Eliminates all TPA costs, all audit costs, 5500 costs and document costs
- Greatly reduces employee investment costs - the *power* of group buying
- Eliminates nearly all of the HR tasks typically associated with 401k
- Diverts the significant fiduciary liability away from the business owner

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### **AUCA Newest Member Company:**

#### **Sunbelt Rentals**

Company Representatives: Andy Johnson and Matt Swoboda

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# Season's Greetings



**Upcoming AUCA Events:**

**Charge the Hill - Legislative Awareness Day**  
**Wednesday, March 8, 2017**  
**9:00 a.m. - 11:00 a.m.**  
**State House Building**  
**11 South Union Street, Montgomery, AL 36130**

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**May 11, 2017**  
**Spring Statewide General Meeting,**  
**Golf Tournament & Low Country Shrimp & Crawfish Boil**  
**Arrowhead Country Club**  
**Montgomery, AL**

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**May 2017**  
**Washington, D.C. Fly-In**  
**& Clean Water Construction Coalition Reception**  
*Please contact AUCA Office for additional details*

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**October 19, 2017**  
**AUCA Fall General Meeting**  
**& Sporting Clay Shoot**  
**Lower Wetumpka Shotgun Sports Club**  
**Montgomery, AL**



***Mark your calendars today!***



## ***Clean Water Construction Coalition Report***

From Bob Briant, Jr. - Chairman CWCC and ENR Magazine

### **President Signs Major Water-Resources Bill**

A major infrastructure bill authorizing more than \$10 billion for new Army Corps of Engineers water projects and providing funds to upgrade failing drinking-water systems is now on the books. President Obama signed the new measure on December 16th, six days after it gained final congressional approval when the Senate cleared it on a 78-21 vote.

The House had approved the bill on December 8th by 360 to 61.

The core of the new Water Infrastructure Improvements Act for the Nation, or WIIN, is the \$10.3 billion in federal funds it authorizes for 30 new Corps flood-control, harbor-dredging, environmental restoration and other projects. Non-federal funds would supplement the federal dollars on many of the projects.

Although some Senate-approved clean-water programs did not make it into the final version, others survived, including funding for restoration programs for the Great Lakes and Lake Tahoe.

For construction firms, the projects contained in the bill's Corps section, titled the Water Resources Development Act (WRDA) of 2016, are "the meat and potatoes" in the legislation, says Mike Strachn, senior adviser with Dawson & Associates, Washington, D.C.

Strachn, a former Corps civil works and senior House Transportation and Infrastructure Committee aide, notes that getting projects to the construction stage "can, and frequently does, take years, depending on the size and complexity of the project."

But engineering firms are likely to see the impact of the new WRDA projects sooner, he says, observing that projects can involve one to four years of preconstruction engineering and design. "Those folks will get the work within the next year, depending on what happens with the balance of fiscal '17 appropriations and what happens with the fiscal '18 budget," Strachn says.

All of the authorizations are subject to annual appropriations.

The largest authorizations in the WRDA section of the new bill are \$2.7 billion for Ohio River lock and dam improvements in Pennsylvania; \$2.1 billion for storm protection and environmental restoration in southwestern coastal Louisiana; and \$993 million for Central Everglades environmental restoration in Florida.

In addition, the package authorizes \$170 million for programs related to drinking water, including

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## *Clean Water Construction Coalition Report*

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\$100 million to fix ailing water lines in cities such as Flint, Michigan. But the newly enacted stopgap spending package appropriates the \$170 million, assuring the money can flow to localities.

### **Provisions for Clean Water**

In addition, Patricia Sinicropi, National Association of Clean Water Agencies senior legislative director, notes that the compromise WIIN measure authorizes \$1.5 billion over five years for a Great Lakes restoration program. Sinicropi says, "That money goes to manage stormwater and nonpoint-source pollution, so that's significant."

Lake Tahoe will receive \$415 million for nonpoint storm-management issues, she adds. The legislation also has provisions for the Columbia River and the Delaware River basin but doesn't authorize specific funding.

Water officials were disappointed that, in final negotiations with the House, lawmakers dropped a \$1.8-billion authorization for a combined-sewer-overflow program; that authorization had been in the WRDA the Senate passed earlier this year. A Senate-approved provision to launch a drinking-water trust fund met the same fate.

But the WIIN bill's main House author, Transportation and Infrastructure Committee Chairman Bill Shuster (R-Pa.), said in a statement after his chamber passed the measure, "Without question, this infrastructure legislation is a win for America."

The bill's Senate supporters overcame objections from the Environment and Public Works Committee's top Democrat, Barbara Boxer (Calif.), who slammed a provision dealing with water issues in her state. She called the provision a "poison pill" that would divert water from the salmon fishery industry to large agricultural interests. She contended that it would mean "the loss of thousands of fishery jobs," would "roll back the Endangered Species Act" and "take away power from Congress to approve new dams all over the country."

Other Senators, including Sherrod Brown (D-Ohio), blasted the measure's authors for another reason—deleting language that would permanently require U.S.-produced iron and steel to be used on projects supported by drinking-water state revolving funds (SRFs).

The WIIN legislation does include a "Buy America" requirement for the SRFs, but only for 2017.

Brown said the one-year provision is already in effect and falls far short of what is needed.

But in the end, WIIN and WRDA advocates prevailed.





**AUCA MEMBER SPOTLIGHT:**  
**ServisFirst Bank**



OUR NAME IS OUR MISSION.

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**About Us**

ServisFirst is a full service commercial bank, focused on providing business and personal financial services through competitive products and state-of-the-art technology. As of June 30, 2016, the Bank has accumulated over \$5.6 billion in assets.

Founded in Birmingham (2005), ServisFirst expanded organically into Huntsville, Alabama (August 2006); Montgomery, Alabama (June 2007); Dothan, Alabama (September 2008); Pensacola, Florida (April 2011); Mobile, Alabama (July 2012); Nashville, Tennessee (April 2013); Charleston, South Carolina (January 2015) and Tampa Bay, Florida (January 2016). The Correspondent Banking division was established in March of 2011. Through the acquisition of Metro Bancshares, Inc., ServisFirst has also expanded into Atlanta, Georgia (January 2015).

**Commercial Banking**

*We know a business by more than its account number.*

Business is about people with ideas and solutions. That's why at ServisFirst Bank, you get a Commercial Banker who understands you and your vision for success. Your Commercial Banker will be your direct point of contact for all your business banking needs. From start-up businesses to long established corporations, we'll customize a Commercial Banking relationship that's right for your individual business. It's just one more reason why at ServisFirst Bank, our name is our mission.



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**AUCA IS A MEMBER-DRIVEN, NEEDS  
FOCUSED TRADE ASSOCIATION CREATED  
SOLELY TO PROMOTE AND ADVANCE THE  
UTILITY INDUSTRY IN THE STATE OF  
ALABAMA.**

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