



Vol. 42, No. 6

(518) 869-9800

December 2024

Wishing You Happy Holidays and a Healthy, Prosperous 2025

Contractor/Subcontractor Registration Becomes Effective December 30, 2024

In late 2022 Governor Kathy Hochul signed legislation requiring contractors and subcontractors performing public work (or work on covered private projects) to register with the NYS Department of Labor. Contractors and subcontractors must be registered before submitting any new bids or commencing new work on public or private projects covered by Article 8 of the Labor Law (prevailing wage law) on or after December 30, 2024. Private projects subject to Article 8 of the Labor Law include those covered by Labor Law Sections 224-a (public subsidy funded projects), 224-d (renewable energy systems), 224-e (broadband projects), 224-f (climate risk-related and energy transition projects, and roadway excavations).

To register, contractors and subcontractors must submit an application through the New York State Department of Labor's (NYSDOL's) online Contractor Registry portal at <https://dol.ny.gov/contractor-and-subcontractor-landing>. There is no paper application process available. To complete the registration process, contractors and subcontractors must provide detailed identifying information about their business, its officials, workers' compensation and disability insurance, previous labor law violations, apprenticeships, and other information.

A \$200 nonrefundable fee is required at the time of registration. New York State certified Minority or Women-owned Business Enterprises (MWBES) pay a reduced nonrefundable fee of \$100 at the time of registration. There is an additional credit card processing fee of \$1.97. Registration will not be valid until a Certificate of Registration has been issued by NYSDOL. Providing incomplete or inaccurate information will delay the issuance of a Certificate of Registration. Each registration certificate is valid for two calendar years from the date of issuance. Contractors and subcontractors must renew their registration at least 90 days before the expiration date of their current registration. Contractors and subcontractors may access their Certificate of Registration or check on the status of an application at any time through the Contractor Registry portal.

Unless NYSDOL finds the applicant unfit, a Certificate of Registration with a unique registration number will be issued to the applicant electronically through the Contractor Registry portal. Contractors and subcontractors will be able to download and print the Certificate of Registration from their Contractor Registry portal account.

A contractor or subcontractor will be determined unfit to register in the following circumstances:

- The contractor or subcontractor is currently debarred or ineligible pursuant to Section 220-b(3) of the Labor Law or Section 141-b of the Workers' Compensation Law.
- The contractor or subcontractor is currently subject to a final determination or court order for violation of state or federal prevailing wage law which has not been fully satisfied.

Contractors or subcontractors who fail to comply with the registration requirements are subject to a penalty of up to \$1,000 and the issuance of a stop work order.

Any questions should be directed to the Bureau of Public Work and Prevailing Wage at 518-457-5589

NESCA
Holiday Reception & Dinner
December 12, 2024 – Century House
6:00 p.m. – Cocktail Reception and
Hors D'oeuvres
7:30 p.m. – Dinner
Toys for Tots Presentation
Cost - \$110
Spouses/Significant Others Come for Free!



PRESIDENT'S MESSAGE

NESCA's first membership meeting of the year was held on November 14th at the Century House, and by all measures it was highly successful. We had 190 members turn out that night to hear Don Hillmann with Couch White, LLP fill us in on two new laws that will significantly impact all public work contractors and subcontractors. The first law becomes effective on December 30th of this year and will require contractors and subcontractors performing public work to register with the NYS Department of Labor. The registration process will require contractors and subcontractors to provide information about their companies to DOL and pay a biannual registration fee. No contractor or subcontractor will be eligible to perform public work in New York unless they are registered. Following enactment of the registration requirements, Governor Hochul recently signed legislation that will require public work contractors and subcontractors to submit certified payroll records and other information directly to DOL in an electronic format. To provide the Labor Department time to develop

and implement the electronic format, this law won't become effective until the end of 2025. If you have questions about either of these two new laws, please contact the NESCA office.

In addition to our November 14th membership meeting, NESCA held a membership meeting for our members in the Binghamton region on November 21st. This meeting presented an opportunity for our Binghamton region members to learn more about the contractor/subcontractor registration requirements and the electronic certified payroll requirements. NESCA counsel Walter Breakell from Hinman, Howard & Kattell, LLP made this presentation.

Coming up on December 12th, NESCA will hold its annual Holiday Reception and Dinner at the Century House. This event will be a "non-business" gathering of our members and their spouses (or significant others) who will enjoy a 1 ½ hour cocktail reception with a nice assortment of delicious hors d'oeuvres followed by a fantastic dinner. As we have for more than 40 years, NESCA will be participating in the U.S. Marine Corps Toys for Tots campaign, so we are asking all members to bring an unwrapped toy with you to the meeting. By no means are you limited in bringing just one gift. If you find it in your budget and heart think of the families with multiple children who are struggling during this holiday season. In addition to the toys we collect, NESCA will present a representative of the Marine Corps with a check for more than \$5,000! I'd like to acknowledge that at the November membership meeting Claudio Zullo with Schenectady Steel pledged an additional \$4,000 contribution to Toys for Tots and Scott Mueller with National Business Technologies donated his 50/50 raffle winnings (\$400) to Toys for Tots. In

addition, at NESCA's September golf outing, Mitch Johnson with The NEFCO Corp. donated his \$950 in 50/50 winnings to Toys for Tots. Thank you, Claudio, Scott, and Mitch!

I hope to see you at our December 12th Holiday event. This is a great chance to dress up, be in a great holiday setting and help give, as an organization, to those who are less fortunate. This holiday season let us give from the heart, not just the wallet. Let's spend time with those who matter most, creating memories that will last a lifetime. And let's find joy in the simple things like a warm fire, a good book, or the warm hug of a loved one. This holiday season let's remember what's truly important. Each other. Happy Holidays everyone. I hope this year's challenges become a steppingstone to even greater success in 2025.

Bryan Berry, President

NESCA NEWSLETTER

*Published monthly by the Northeastern
Subcontractors Association*
6 Airline Drive, Albany, NY 12205
(518) 869-9800 www.nesca.org

BRYAN BERRY, President
JOE JERKOWSKI, Vice President
JEFF ORVIS, Treasurer
RICK OTIS, Secretary


ROB KIND
1st Immediate Past President

CHRIS WHITE
2nd Immediate Past President

WALTER BREAKELL
Legal Counsel

MICHAEL MISENHIMER
Executive Director


TRUST OUR EXPERIENCE Celebrating 50 years
1974 - 2024



BURT
crane & rigging


Beginnings in 1870

Full Service Warehousing now available at our Selkirk location
just minutes from Ports of Albany and Coeymans



• Crane Rentals • Riggers • Erectors • Local & Long Distance Hauling

- Green Island, NY
- Selkirk, NY
- 518-271-6858
- burtcrane.com



MEMBER
Specialized
Carriers
& Rigging
Association

NYS Certified WBE

"BUILDING THE FUTURE - TOGETHER"



Kamco
SUPPLY CORP.
OF NEW ENGLAND

Installation of doors, bathroom partitions & accessories

Commercial doors & frames hardware

Drywall, insulation and framing

Acoustical ceilings, walls & isolation products

Millwork

36 Railroad Avenue • Albany, NY 12205
(518) 729-1122 • Fax (518) 453-9527

10 Silver Circle, Queensbury, NY 12804
(518) 798-7245 • Fax (518) 793-8397

PROTECTING YOUR LEGAL RIGHTS



KEVIN LAURILLIARD
ATTORNEY AT LAW

Construction Law • Employment Law
Corporate Law • Dispute Resolution • Litigation



O'CONNELL ARONOWITZ
ATTORNEYS AT LAW

A full service law firm established in 1925.

54 State Street | Albany, NY 12207
www.oalaw.com
518-462-5601

■ *Going beyond your expectations*



TBC
Teal, Becker & Chiaramonte
CERTIFIED PUBLIC ACCOUNTANTS & ADVISORS

Accounting • Auditing • Tax • Consulting
Pension Plan Administration

www.tbccpa.com | 518-456-6663

INSIDE
300
FIRMS

ALBANY BUSINESS REVIEW
BEST PLACES TO WORK

B P I W

TOP
WORK
PLACES
2024



COUNSEL'S MESSAGE

Out of state prime contractors have recently received contracts to perform work in the geographical areas of our membership. The membership will probably be presented with "standard" subcontracts of those prime contractors when seeking to secure work. Frequently those agreements will contain clauses which violate New York Law.

It is not unusual to encounter subcontract clauses that purport to "waive" a subcontractor's entitlement to file a Mechanics Lien against a project. In 1975 NESCA was instrumental in securing passage of §34 of the New York Lien Law which declared void as against public policy and unenforceable any contract, agreement or understanding whereby the right to file a Mechanics Lien is waived prior to receiving payment for its work. This legislation was a tremendous victory for subcontractors when initially enacted. There have been many victories since that time.

Another frequently encountered provision of out-of-state subcontracts is one which addresses "Venue" for hearing of disputes and the state law to be applied in determining those disputes. Those clauses may provide that any dispute arising under the subcontract must be heard in the home state of the prime contractor and adjudicated under the laws of that state (ie; Texas, California, Massachusetts etc.) regardless of the fact that the work was performed in New York. A rash of court decisions enforcing these wholly inequitable and unfair clauses led to a provision incorporated within the Prompt Payment Law which was introduced and enacted as a result of NESCA's support.

NY General Business Law §757 declares several frequently encountered subcontract provisions, both from out-of-state as well as New York general contractors, to be void and unenforceable under New York Law. Those provisions are as follows:

§ 757. Void provisions

The following provisions of construction contracts shall be void and unenforceable:

1. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract, with the exception of a contract with a material supplier, that makes the contract subject to the laws of another state or that requires any litigation, arbitration or other dispute resolution proceeding arising from the contract to be conducted in another state.
2. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract stating that a party to the contract cannot suspend performance under the contract if another party to the contract fails to make prompt payments under the contract.
3. A provision, covenant, clause or understanding in, collateral to or affecting a construction contract stating that expedited arbitration as expressly provided for and in the manner established by section seven hundred fifty-six-b of this article is unavailable to one or both parties.
4. A provision, covenant, clause or understanding in collateral to or affecting a construction contract establishing payment provisions which differ from those established in subdivision three of section seven hundred fifty-six-a and section seven hundred fifty-six-b as applicable.

The enactment of the Prompt Payment Law, which incorporated the banning of these unfair and financially burdensome contract provisions, has resulted in significant legal protection for subcontractors in the State of New York.

It is extremely important the membership be aware of these legal rights and benefits to which you are entitled when reviewing proposed subcontracts from prime contractors, both out-of-state and within the State of New York. These laws are your tools when negotiating agreements and it is important you are aware of their existence and insist that any violative clauses be eliminated from an agreement.

Walter G. Breakell, NESCA Legal Counsel

HH&K
Hinman, Howard & Kattell LLP
ATTORNEYS

*Serving the Capital District
Construction Industry Since 1980*

A full service law firm with emphasis on

- Commercial and Residential Real Estate
- Contract & Construction Law
- Commercial Litigation | Creditors Rights
- Arbitration | Mediation | Bond Claims
- Appeals (Civil & Criminal) | Criminal Defense
- Banking & Financial Services
- Health Law | Matrimonial & Arbitration
- Personal Injury | Will, Trust & Estates

10 Airline Drive, Suite 205
New York, New York 12205
(518) 869-5552 | www.hhk.com

attorney advertising

Gallagher
Insurance | Risk Management | Consulting

The Gallagher Construction team focuses on developing surety, insurance and risk management programs for contractors and subcontractors.

AJG.com | The Gallagher Way. Since 1927.

© 2022 Arthur J. Gallagher & Co. | 42502

CIS
Construction Information Systems, Inc.

**Unlock Efficiency using
Cloud based Sage Intacct
for Construction!**

Secure Anywhere, Anytime Access
Powerful financial insights

Call Paul Unter 518 373-9005
www.consinfo.com

For All Your WBE Building Material Needs

COMMERCIAL RESIDENTIAL
BONDED
BUILDING MATERIALS, INC.

A New York Certified Woman-Owned Business Enterprise

- * SHINGLES * INSULATION *
- * EPDM * TPO * PVC * TRUSSES *
- * METAL ROOFING *
- * CUSTOM METAL FABRICATION *
- * SIDING * WINDOWS * DOORS *
- * SKYLIGHTS * COATINGS *
- * PLYWOOD * LUMBER *
- * AIR BARRIERS *
- * SNOW RETENTION SYSTEMS *

1329 Amsterdam Rd., Scotia, NY 12302
(518) 346-2395

Welcome New Members

Endorphin Digital Marketing

Troy Innovation Garage
24 Fourth Street, Suite 209
Troy, NY 12180
518-250-9035

erik@endorphindigital.com
Contact: Erik Bunaes

Daisy Ventures NY, Inc.

5 Southside Drive, Suite 11-158
Clifton Park, NY 12065
518-391-1864

daisyventure2018@gmail.com
Contact: Olivia Whyte

The Moore Insurance Agency

15 25th Street
Watervliet, NY 12189
518-273-9501

pmoore@mooreia.com
Contact: Phil Moore, Sr.

Calendar of Events

December 5, 2024

Board of Directors Meeting
Century House, Latham, 6 pm

December 10, 2024

*4-Hour Erosion & Sediment
Control Training*
Saratoga City Center, 1 pm

December 12, 2024

Holiday Reception & Dinner
Century House, Latham 6 pm

December 13, 2024

Handling OSHA Inspections
AGC NYS Office
10 Airline Drive, Albany, 10 am



NESCA's December 12th Holiday Reception & Dinner will be our 46th Annual Toys for Tots Night! Please remember to bring an unwrapped toy with you to the meeting. The Marine Corps will have a representative in attendance.

Milestone Member Anniversaries

Atlantic Contracting & Specialties – 5 Years

Troy Ironworks, Inc. – 10 Years

Neoplanta Restorations – 15 Years

Insulation Specialty, Inc. – 25 Years

J. Hogan Refrigeration & Mechanical, LLC – 30 Years

Sanders Fire & Safety – 40 Years

Question of the Month

Q. We are being asked to do a project with a company as co-op work. We are not sure how to handle as we understand these are under review as being illegal. We don't want to get caught up in a mess. Do you have any input on this?

A. Yes. Over the last year or so, we have seen a proliferation of local public projects (particularly school districts) being awarded without competitive bidding using various cooperative purchasing models. It is NESCA's position that these types of arrangements violate New York's competitive bidding laws. Members are cautioned about getting involved in this type of procurement method for public work construction contracts because these contracts could later be found to be illegal, which would not only void the contract but also require the contractor to disgorge (give back) any payments received for work previously performed. Bottom line? Talk to your lawyer before bidding this type of work.



When Construction Problems
Require Legal Solutions

New York - Albany: Tel: 518.300.3213
New York - Hudson Valley: Tel: 845.538.8204

Connecticut:
Tel: 203.363.0081

Construction,
Real Estate,
Labor & Employment
and Commercial Law



www.WBGLLP.com

L&W Supply
Drywall & Wallboard
Steel Framing
Ceilings & Acoustical
Commercial Doors/Frames/
Hardware
Interior Finishing
Insulation
Fasteners
Tools & Accessories

L&W Supply - Cohoes
36A Green Mountain Drive
Cohoes, NY 12047
Phone: (518) 783-6121
www.lwsupply.com

MARSHALL + STERLING
SECURE YOUR SUCCESS

518-384-1100
marshallsterling.com/scotia
25 MOHAWK AVE., SCOTIA, NY 12302

JOHN MULLINS
RIGGING & HAULING

CRANE & RIGGING SPECIALISTS SINCE 1870

- Crane Service to 330 Ton
- Heavy Hauling to 300 Ton
- Air Dolly Systems
- Warehousing & Storage
- 24 Hour Emergency Response
- Machinery Moving & Installation
- Boom Lengths to 350 Feet
- Forklifts to 80,000 Pounds
- Hydraulic Gantries to 200 Ton
- Plant Maintenance Services
- Three-Dimensional Lift Plans
- Millwrighting & Steel Fabrication
- HAZMAT, MSHA, OSHA Certified Operators & Riggers

WOMAN-OWNED SMALL BUSINESS ENTERPRISE
WWW.MULLINSRIGGING.COM

1 Pine Street - Green Island, New York 12183
(518) 273-0771 Phone • (518) 273-3780 Fax