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CONSTRUCTION MANAGERS
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CONSTRUCTION U:

NEW PROGRAM
DEVELOPS SAFETY LEADERS

YOUTH APPRENTICESHIP

MAKING A HISTORIC LINK
INTO ADULT APPRENTICESHIP

HIRING THE EX-CON

A Q+A WITH A
PROPONENT OF THE IDEA

HIRING THE NEXT GENERATION

CONSTRUCTION INDUSTRY STEPS UP
EFFORTS TO RECRUIT NEW TALENT

ALSO INSIDE:

**CONSTRUCTION U
EXPANDS TO MEET
NEEDS OF OUR MEMBERS**
PAGE 5



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HIRING THE NEXT GENERATION

CONSTRUCTION INDUSTRY STEPS UP EFFORTS TO RECRUIT NEW TALENT

MERIT SHOP

CONTRACTOR

TABLE OF CONTENTS

MAY / JUNE 2019

- 5 President's Message**
Construction U expands to meet needs of our members
- 6 Youth Apprenticeship**
Making a historic link into Adult Apprenticeship
- 10 Producing Champions**
Wisconsin's future construction managers shine nationally
- 13 Construction U:**
New program will develop safety leaders
- 16 The Rise and Targeting of the Independant Contractor**
- 20 Hiring the Ex-Con**
A Q+A with a proponent of the idea
- 22 Associated Builders and Contractors New Members**



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FROM OUR PRESIDENT

Construction U expands to meet needs of our members



As we deliver this workforce development and education issue of the *Merit Shop Contractor* magazine to you, it offers a good opportunity to reflect on how important education is to ABC of Wisconsin. During the past 30 years, ABC of Wisconsin has educated thousands of apprentices and provided



training and education for thousands of our members' employees in countless safety programs.

Continuing education is important for your business. It can contribute to better performance, results and productivity. It is also essential for retaining employees who want to grow in their respective positions and feel appreciated for their efforts and purpose.

That's why, nearly four years ago, ABC of Wisconsin leaders identified management and leadership training as the next area to be delivered to members' employees. Construction U was established to provide education for your supervisory management level employees and rising young professionals eyed as potential future middle managers. At the time, there were very few supervisory programs

available and none dedicated to educating supervisors and project managers in construction. ABC of Wisconsin is still one of the few sources for this education specific to construction.

Construction U began with the Emerging Leader program, a multi-course program developed by a taskforce of experts and taught by industry professionals, based on their respective expertise in construction. Because of its success, Construction U was expanded into Project Supervision, Project Coordinator, as well as other short- and long-term middle management education.

I'm very pleased to announce the continued expansion of Construction U. There are several more Construction U offerings coming your way, including the six-part Safety Leader 101 program (featured in this issue) for jobsite managers who wish to enhance their safety expertise beyond OSHA 30 (prerequisite for this program). A six-part Safety Leader 102 program will also be offered at a later date. Construction U is also offering one-day programs this fall in the new Construction Foreman program for first-time foremen and crew leaders, the Construction Leader program and the upgraded Critical Skills® Program.

Take advantage of everything Construction U has to offer. It's an effective way to get better results and keep your workforce productive and satisfied.

— John Mielke

“
*CONSTRUCTION U
WAS ESTABLISHED
TO PROVIDE
EDUCATION
FOR YOUR
SUPERVISORY
MANAGEMENT
LEVEL
EMPLOYEES AND
RISING YOUNG
PROFESSIONALS
EYED AS
POTENTIAL
FUTURE MIDDLE
MANAGERS.”*



YOUTH APPRENTICE

Dakota Schuh is a junior in high school working through his youth apprenticeship with Suburban Electrical Contractors/Engineers and will become one of the first youth apprentices to transition seamlessly into the adult apprenticeship program as a high school senior.

MAKING A HISTORIC LINK INTO ADULT APPRENTICESHIP

By Kyle Schwarm — ABC of Wisconsin Marketing & Communications Director

Youth apprenticeship has been providing career exploration and pathway opportunities to high school students for more than 25 years. It can be a big advantage for students who have an idea of what they want to do but aren't sure if a particular career area is right for them. It also provides employers with a new resource for talent.

Youth apprenticeship has been around for years in other industry sectors, such as auto and manufacturing, which have seen significant success with it. It was approved for construction four years ago and is beginning to gain significant momentum in Wisconsin.

More than 3,500 employers and 5,000 youth apprentices across Wisconsin are participating in 11 YA program areas during the 2018-19 school year, including 426 in Architecture & Construction, compared with 306 in 2017-18, or a 39% increase in one year. This compares with a 16% increase in all 11 program areas for the same school year.

ABC of Wisconsin member Suburban Electrical Contractors/Engineers, Appleton, is all in on youth apprenticeship as a resource for future employees to become licensed journeymen electricians.

"We have committed to growing our youth apprenticeship because

it is a good way to fill the gap that is currently happening with trying to recruit in the skilled trades," said Yvette Woerishofer, human resources coordinator with Suburban Electrical Contractors/Engineers who testified in support of expanding youth apprenticeship at the Wisconsin Assembly Committee on Workforce Development in March.

Youth apprenticeship is a school-to-work initiative by the Wisconsin Department of Workforce Development designed for high school students interested in combining classroom instruction with onsite occupational experience. On-the-job training follows state approved specifications while students receive instruction from qualified teachers and skilled worksite mentors. Youth apprentices meet high school graduation requirements and get a head start on a career.

"It is a great way to open the door for new potential employees. It gives them a chance to try out the career before they commit to it. It works well that we have a pre-fab shop for them to work in if there aren't any local job sites for them to work," Woerishofer said. "This keeps them working on a steady basis and exposed to different types of work."

Challenges for employers include the ability to provide good mentors who are patient about sharing their talents and remembering that youth apprentices are younger workers who have limits. Contractors also must be conscious about tool restrictions. Suburban Electrical Contractors/Engineers and many other ABC of Wisconsin members have worked through the logistics.

There are also challenges for students. With some job sites a significant distance from town, many YA students will get the bulk of their work hours in the summer. In addition to transportation,

MORE THAN
3,500

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AND
5,000

YOUTH APPRENTICES

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SCHOOL YEAR

YOUTH APPRENTICESHIP

students have to work out a schedule for a real-work environment and remember to be students first. Regardless of the challenges, students all seem to have one common denominator: a passion to learn on the job.

“Going through a youth apprenticeship was very beneficial for me,” said Owen Aerts, who works for Suburban Electrical Contractors/Engineers and was one of the first construction youth apprentices in the state.

“It allowed me to learn new things and see firsthand what a career in the electrical field looks like,” said Aerts, who is now in his third year of the adult electrical apprenticeship program.

As of this upcoming school year – thanks to the ABC-backed legislation to allow adult registered apprenticeship for seniors in high school – the pathway between youth apprenticeship and adult registered apprenticeship in high school has been connected. The measure allows qualified high school seniors to begin adult apprenticeship



Yvette Woerischer, Suburban Electrical Contractors/Engineers, testifies before the Assembly Committee on Workforce Development in March.

programs early, therefore bridging the two programs for the first time.

“When Suburban informed us they were planning on putting a youth apprentice into the registered adult apprenticeship program, we were very excited,” said Leigh

Emrick, ABC of Wisconsin Apprenticeship director. “This means the two paths are being connected into a larger pathway.”

Since that time, the company has committed to putting three of its youth apprentices into the registered adult apprenticeship

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program. One of these individuals is Dakota Schuh, a high school junior whose experience as a youth apprentice has convinced him that apprenticeship is a better option than college.

"I learn better when I am doing a task," Schuh said. "In the apprenticeship, I use my hands and see how things go together. It's not just a book that you have to read. You have to solve real-life problems."

He is also pleased that he gets paid to go to school.

"For me, this will create a drive to do good in school," said Schuh, who will acquire his journeyman's card with little to no debt. "I can start full time right after high school and start making good money. This is the key factor that drove me to go into the trades."

Establishing a program like this doesn't come without some effort by contractors and some accommodations by high schools.

"Our challenge was quickly making this

THERE WAS A
39%
INCREASE IN YOUTH
APPRENTICES IN
ARCHITECTURE
& CONSTRUCTION
LAST YEAR

as seamless as possible," said Emrick. She is referring to the discussions that contractors need to have with guidance counselors and others and the high schools to make this happen.

Adult apprentices in high school need to tweak their class schedules to attend paid-related apprenticeship instruction every other week. First-year apprentice classroom hours are at a set time, so students need to work around them, to not miss class. They also need to work around their schedules to

acquire enough on-the-job training. It should be noted that youth apprenticeship work hours are transferable to adult apprenticeship.

"We're doing due diligence on our end, to make sure that it's successful for those individuals who are in high school and want to get into youth apprenticeship and/or registered adult apprenticeship," Emrick said. "It's certainly an investment on the part of the contractor who really makes it happen, but it's worthwhile."

Interestingly, high schools who lose youth apprentices to adult apprenticeship lose grant funding, so there may be some understandable reluctance by school districts.

"Generally speaking, though, high schools have been very accommodating for these programs because they want to see their students succeed in a career path. Now, even before graduation, they're gainfully employed and at their high school graduation they will be second-year apprentices," said Emrick. "That's really cool." 🇺🇸



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SAFETY



The UW-Stout Construction students stand tall after the ABC Management Competition.

PRODUC

CHAMPIONS

WISCONSIN'S FUTURE CONSTRUCTION MANAGERS SHINE NATIONALLY

By Kyle Schwarm — ABC of Wisconsin Marketing & Communications Director

Wisconsin ABC members have a lot to be proud of after sponsoring a team of University of Wisconsin-Stout students who won first place in the Safety Category at the National ABC Construction Management Competition (CMC) in California in March.

The competition, which included teams from Ohio State, Clemson, LSU, Fresno State and Colorado State University, is designed to

challenge construction knowledge, organization, time management and presentation skills. It gives the nation's top construction management students a glimpse into the real world of construction, as well as an opportunity to showcase their talents.

"It was not only rewarding, but also stressful at times and very real-life oriented," said Alex Daniels, a junior from Burlington. "Com-

ing from the little bit of experience I have with internships, definitely the closest you can get to doing a real-life proposal on actually dealing with owners and different parts of the project.”

For the competition, participating teams assembled a general contracting firm that represented their school and the Wisconsin ABC Student Chapter in the competition. The UW-Stout team members are all students in the Construction Management Program at the university.

There are first, second and third place winners named in Estimating, Project Management, Quality Control and Safety, in addition to an overall winner.

“Basically, they handed us a project that was already in progress; a real-life project and we had to make a full budget proposal forward,” said Daniels. “So, anything from estimating the project and coming up with the schedule, to writing a safety and sites-specific safety plan and then quality control and just any site utilization that we could think of.”

ING

The majority of their work was completed prior to going to the competition at the ABC National Convention in California, but then competitors are given some unknowns with which they have to deal.

“You have a whole proposal done before you get out there and submitted. And then once you get out there, they have you sit down for a whole day and eight hours of competition. Then they give you an addendum to that project,” Daniels said. “Then you have to reconstruct their proposal, redo your schedule, touch up your estimate, and just make sure everything’s in place; basically seeing how you work in that atmosphere and with little to no time just making sure that you actually know a lot about the project and not just rely on having a lot of time to do it.”

ABC of Wisconsin member and Board Member Jim Bunkelman of Royal Construction, Inc., in Eau Claire served as the students’ faculty advisor guide. Bunkelman, who is an adjunct professor for

COMPETITION OVERVIEW

The ABC Construction Management Competition provides competing teams an opportunity to experience an actual project that exhibits unique characteristics and issues. Participating teams assembled a general contracting firm that represented their school and ABC Student Chapter in the competition.

The 2019 competition focused on the selection of a general contractor for a project based on price and technical proposal. The selection was facilitated in three steps.

Step One –

Price and Technical Proposal consisted of pre-competition work that provided the team’s estimated project cost and demonstrated their overall experience and capability in constructing the project.

Step Two –

Competition Day consisted of a spontaneous exercise led by the CM Competition Committee.

Step Three –

Interviews consisted of face-to-face discussions between the team’s leadership and the Competition Judges.

the UW-Stout Construction Management Program, is clear to point out the students did the work.

“My role as their faculty advisor is to challenge the answers they come up with and develop a proposal they truly believe in. I’m also a resource to connect them with industry experts that can help them refine their ideas,” Bunkelman said.

Each team takes six competitors to the competition, with four main competitors who present. The other two are alternates. Once teams reach the top eight, they move to the stage of presenting to the owners. This consists of face-to-face discussions with a real construction team’s leadership and the competition judges.

This is great experience for construction management students, many of whom have been afforded no construction experience prior to entering college.

“It was a phenomenal experience,” said Michael Sonsalla, a junior



UW-Stout students during their presentation to the competition judges.

“COMING FROM THE LITTLE BIT OF EXPERIENCE I HAVE WITH INTERNSHIPS, DEFINITELY THE CLOSEST YOU CAN GET TO DOING A REAL-LIFE PROPOSAL ON ACTUALLY DEALING WITH OWNERS AND DIFFERENT PARTS OF THE PROJECT.”

from Arcadia. “It’s pretty close to what we’ll be dealing with once we’re out of this program. So, it’s a great experience with just the networking you get to do with some industry professionals. There are not many settings that you get to be in like that.”

Vincent Lien, a sophomore from Chippewa Falls agreed with his teammate.

“Overall, it was a great experience; everything, from going to ‘Cali’ with some of my friends to the competition and networking with people I would have never met. All in all, it was great,” Lien said.

It was the third competition for Jordan Jenson, a senior from Anoka, Minnesota, who is graduating this spring.

“Each year, I’ve been progressing and learning more and more. It’s been a great experience overall,” Jenson said.

“It was a lot of work, but it’s definitely worth it. I think we’re all pretty glad we did it,” said Daniels.

It’s somewhat ironic that the students won in the Safety Category because there is only one course in the Construction

Management Program at UW-Stout that is dedicated entirely to safety. The course is taught by adjunct professor Garry Kroft, MS.

“This is very impressive because they finished first out of 21 competitors,” said Kroft, who brings more than 40 years of experience in construction to the classroom, including 30 years of safety/loss control in insurance.

“It’s wonderful. I’m glad they persevered,” Kroft said. “I do try to impress upon them the importance of the OSHA 30 card because it’s becoming more and more a big deal.”

“I started trying to impress them from day one that you probably have to trust me a little bit on this, but it’s a big deal,” said Kroft, who is a certified safety professional. “You’re going to go out and be a project manager or assistant superintendent, etc. You’re going to be part of the management team. And I think in short order, you’re going to see how important it is for you to have that credential.”

Kroft hopes his rigor in class provides extra preparation for the students. This includes developing a five-minute tool box talk that

must be presented in front of class and personal protective equipment assessments for various trade specialties.

"It's not a requirement for construction, but it is a requirement for general industry. I think it's important that workers need to be geared up for what they're doing," Kroft said.

Interestingly, not all the competitors have completed his class yet.

The team, which also included Nicholas Casper, a senior from West Bend, John McGuire, a freshman from Pleasant Prairie and Matthew Jagodzinski, a sophomore from Schofield, didn't think of this as too big a deal at first.

"I don't think any of us realized how big of a deal it was until we got back home to Menomonie," said Lien.


Bunkelman anticipated a solid performance, but not necessarily a win. "Honestly, I was shocked when they won ... This year's team has several underclassmen and lack of experience is truly a factor," Bunkelman said.



ABC of Wisconsin Apprentice Chad St. John, Northcentral Construction Corp., (above and below) earned a bronze medal at the National Craft Championship.



After winning, word about the competition is getting around the program.

"It was nice this year to be able to say, 'Hey, we were the best.' And hopefully, we can make up a really rock star team again next year," Daniels said. 

THE STREAK CONTINUES EACH YEAR FOR OUR NATIONAL CRAFT COMPETITORS

Since 1990, ABC of Wisconsin has had at least one apprentice earn a medal at the National Craft Competition through ABC National. Chad St. John, a carpentry apprentice for Northcentral Construction Corporation, earned the bronze award in the competition's residential-commercial carpentry division in California. St. John advanced to the NCC after receiving the top score in carpentry during ABC of Wisconsin's Skills Competition on Jan. 25 in West Bend.

"It is a great honor for Northcentral Construction," said Jim Brunet, General Superintendent with Northcentral Construction Corporation. "Chad is one of those young men that you don't come across too often. He has made leaps and bounds in a short amount of time."

"Getting Chad surrounded with the right leadership, accompanied with the ABC Apprenticeship and his abilities to be a fast-learning, hard-working employee, he has excelled quickly," said Brunet.

Brunet adds that Northcentral Construction Corporation is looking forward to St. John continuing to grow and becoming a future mentor to employees as he continues to climb the company ladder.

The NCC featured a field of 168 craft professionals competing for top honors in 14 competitions representing 12 crafts, from electrical and plumbing to carpentry and welding, as well as a team competition with journey-level competitors from four different crafts working to complete a joint project. The competition included a two-hour written exam and a day-long, hands-on practical performance test.

In addition to St. John, Wisconsin was represented in the NCC competition by Jedidiah Krug of Current Electric Co., Brookfield, in the residential-commercial electrical division and Cody Heath of Terrytown Plumbing, Baraboo, in the plumbing division.

NEW

Construction

PROGRAM WILL DEVELOP SAFETY LEADERS

SAFETY LEADER 101
IS EXPECTED
TO BE THE
FIRST OF TWO
NEW SAFETY
LEADERSHIP
PROGRAMS

By James Debilzen — ABC of Wisconsin Marketing & Communications Specialist

The newest offering from ABC of Wisconsin's Construction U aims to help member companies develop their safety supervisors and managers into safety leaders.

Safety Leader 101 will debut this fall at the ABC of Wisconsin Training Center in Madison, offering a 48-hour, six-session course over a six-month period that provides the tools needed to develop safety leaders, regardless of job title. Students will explore the importance of leadership, cultural transformation and the safety management process.

Don Moen, ABC of Wisconsin's human resources and safety director, said the course was developed with smaller companies in mind, particularly those with fewer than 50 employees, where the safety person typically wears many hats.

"A lot of times, safety is going to be one of the supervisor or superintendent's responsibilities, along with the other functions of the job," Moen said. "The thought behind this course is to be able to get to those people and those frontline supervisors, superintendents, lead people, along with whoever's designated the safety person, and give them basic training in running safety programs, running safety on a construction jobsite, and how to deal with people with safety issues so they can continue to lower accidents on the jobsite and be more productive."

The sessions will begin Nov. 12 and continue to meet monthly through April 2020. Participants will receive a certificate at the course's completion. Safety Leader 101 participants are required to have completed OSHA 30 training prior to starting the course.

Safety Leader 101 is expected to be the first of two new safety leadership programs under Construction U, said Wayne Belanger, director of education for ABC of Wisconsin. A second advanced-level course is currently under development.

"It's groundbreaking," Belanger said. "As far as I know, this is the first time that an ABC chapter is putting something like this together. When I'm talking to people in our other Construction U classes, the participants are definitely showing an interest in participating in this one."

Former ABC of Wisconsin Board Chair Dan Bertler of Supreme Structures, Fitchburg, was on board with this program from the minute it was proposed in chapter strategic planning.

"Safety is everyone's responsibility," Bertler said. "No matter who steps foot on the jobsite, a safe eye should always be used," he said.

Belanger said the main concept of Construction U is to feature top industry instructors and content that participants can take back to their companies and begin to implement the next day.

"It's our number one priority to make sure everyone returns home to their family safely at the end of each day. This program allows us to do just that and not just rely on one person for safety expertise," Bertler said.

"That's really the hallmark of this," Belanger added.

THE COURSE'S SIX AREAS OF STUDY ARE:

- The Road to World-Class Safety – Nov. 12, 2019
- Risk Analysis and Hazard Control – Dec. 11, 2019
- Inspections, Observations and Site Plans – Jan. 22, 2020
- Leading by Training – Feb. 19, 2020
- Conducting Effective Safety Meetings and Emergency Plans – March 18, 2020
- Successfully Managing Incidents – April 15, 2020

The course will be taught primarily by Mark Miner, an assistant professor in building construction safety and occupational safety at the University of Wisconsin-Platteville, with the lead-off session taught by Jared Weber, one of ABC of Wisconsin's safety managers.

"For decades, our industry has made great strides to become safer, but the structure, subjects offered, the focus, the length and the energy and commitment associated with this program will take that effort to an entirely new level, and I am excited to be part of that effort," Miner said.

Weber will lead the first session on the emotional and behavioral components behind building a safety-first culture. Weber joined ABC with more than a dozen years of experience in safety and loss control in construction and manufacturing and has a degree in occupational safety and health from UW-Whitewater.

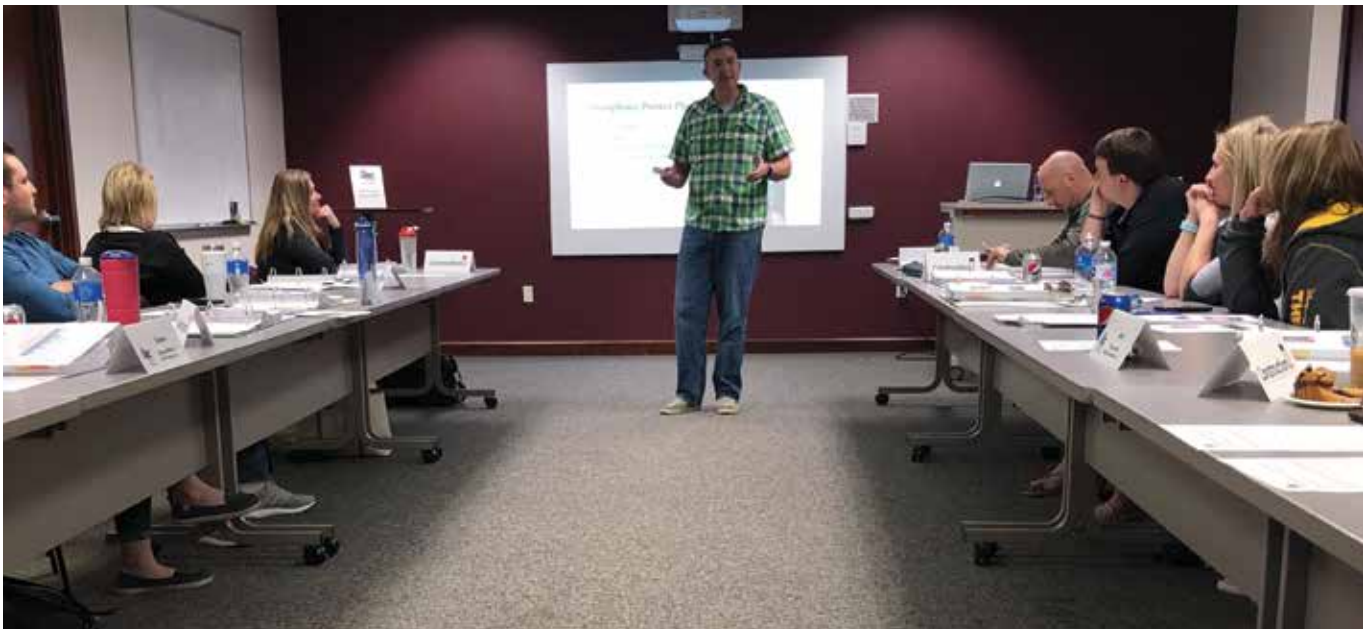
Miner has more than 31 years of experience in the construction industry. He earned a Bachelor of Science degree in industrial arts education and later earned a master's degree in safety. He taught construction safety at UW-Stout in Menomonie as a graduate student, where he found his calling to teach.

"While I was in school, I realized I wanted to go back to the academic world and share my experiences, my failures and my successes with future safety professionals," Miner said. "I purposely garnered experience in many sectors of construction – underground, commercial, heavy commercial, heavy industrial and highway. This also gave me experience with both the insurance industry and OSHA."

"My being at Platteville is more than a job," Miner added. "I want the terrible things that have happened to people working in the construction industry to stop. I firmly believe that the new generation of people going into construction management, supervision or safety – who will be the future leaders – are the generation of change."

Miner said he believes safety is a function of management, and if leadership becomes believers in safety, it can bring about powerful change in a company's culture.

"These people who will be participating in this program are those future leaders," Miner said. "If they understand their role, responsibility and their value in regard to safety, change will be forthcoming. I believe this program is spot-on and will have tremendous success and be a model for the industry." 





THE RISE AND TARGETING OF THE **INDEPENDENT CONTRACTOR**

By John Schulze — ABC of WI Director of Legal and Government Affairs

Advances in technology have resulted in one in five jobs in America now being some form of non-traditional worker-company relationship, such as an independent contractor. Independent contractor work is appealing for both the worker and the company. The contractor has the benefit of setting prices, work hours, type of work, and completion schedule. The company has the freedom and flexibility to staff to meet needs and reduce training time and costs.

Unfortunately, what appears to be a win-win isn't always the case. Misclassification occurs when an employer incorrectly defines a worker as an independent contractor rather than as an employee. Oftentimes, misclassification is an honest mistake by an employer, but there is a perception among some elected officials and union officers that employers misclassify their workers to evade the laws that protect employees and avoid paying taxes and overtime.

In mid-April, Wisconsin Gov. Tony Evers created a taskforce to "crack down" on what he perceives as independent contractor classification abuse. This effort is neither novel nor new. The carpenters' union has championed this effort in at least 16 other states, and those task forces have recommended extending subcontractor misclassification to general contractors, fining third-party service providers like accountants and HR firms, and publicly shaming violators. Even before Evers was elected, both Democratic Gov. Jim Doyle and a Democrat-controlled legislature and Republican Gov. Scott Walker and a Republican-controlled legislature weighed in on the issue. During the last year of Gov. Walker's administration, his Department of Workforce Development found \$70 million worth of wages had been unreported, and fined violating employers nearly \$2 million in taxes, interest and penalties. Misclassification occurs in many industries, including trucking, catering, nail salons, and Uber/Lyft services. However, we can expect Wisconsin to step up its

enforcement focused on the construction industry, specifically drywall, rough framing and floor covering.

Regardless of the newly created Wisconsin taskforce, the difference between an independent contractor and employee is complicated and crucial, and the risks of even accidental misclassification can expose a company to retroactive wage and benefit payments, taxes with interest, monetary penalties, and legal defense fees. Unfortunately, there is no single test to evaluate whether a worker is an independent contractor. A Wisconsin employer has as many as five different tests to apply, and each has different requirements and weighs different factors. For example, a company could face a scenario where a worker is an independent contractor for federal income tax purposes, but an employee under Wisconsin workers compensation laws. The law and technology in this area is evolving rapidly, and it is important to consult an attorney to address your specific situation. Regardless, there are steps a Wisconsin employer can take to be "safer."

Do not pay an independent contractor like an employee.

- Do not provide independent contractors with W-2 forms, only 1099s.
- Pay by task or project, not hourly or weekly or on specific dates or regular amounts. A flat fee payment arrangement makes it more likely that a worker is an independent contractor.
- Require independent contractors to submit invoices.
- Do not provide employee benefits or reimburse for expenses or travel to independent contractors.

Verify and document.

If the person doing the work fits the definition of an employee, the company is required to treat them as an employee, even if they would prefer to be an independent contractor.

REGARDLESS OF THE NEWLY CREATED WISCONSIN TASK FORCE, **THE DIFFERENCE BETWEEN AN INDEPENDENT CONTRACTOR AND EMPLOYEE IS COMPLICATED AND CRUCIAL,** AND THE RISKS OF EVEN ACCIDENTAL MISCLASSIFICATION CAN EXPOSE A COMPANY TO **RETROACTIVE WAGE AND BENEFIT PAYMENTS, TAXES WITH INTEREST, MONETARY PENALTIES, AND LEGAL DEFENSE FEES.**

DURING THE LAST YEAR OF GOV. WALKER'S ADMINISTRATION,
HIS DEPARTMENT OF WORKFORCE DEVELOPMENT FOUND **\$70 MILLION WORTH
OF WAGES HAD BEEN UNREPORTED, AND FINED VIOLATING EMPLOYERS
NEARLY \$2 MILLION IN TAXES, INTEREST AND PENALTIES.**

An independent contractor should not look like an employee. The independent contractor should not hold themselves out as a company employee.

- Have the independent contractor provide proof that they are running an independent business, such as corporate formation documents, business website, any advertising, professional licenses or business license.
- An employee should not have a company title, company business cards, or company email address.
- The independent contractor should not supervise your employees.
- Do not let the independent contractor work at your office unless necessary.
- Do not refer to an independent contractor as an employee or the company as their employer. Do not invite independent contractors to employee meetings or functions.

Do not train and supervise the independent contractor like an employee.

- A defining trait of an independent contractor is that they have specialized knowledge or experience needed for a specific project that can be completed without direction.
- Do not supervise either the independent contractor or their subordinates or provide ongoing instructions on how to do the work.
- Do not provide training to the independent contractor.
- Do not establish working hours.
- Do not require the independent contractor to provide status reports.

- Do not discipline or terminate an independent contractor except as set forth in the written agreement.
- Do not provide formal reviews or performance evaluations to independent contractors.

Put it in writing.

It does not matter that the written agreement between the person doing the work and the company states that the worker is an independent contractor or a freelancer.

- The written agreement needs to spell out that the independent contractor is responsible for their own expenses, taxes, liability insurance, licenses, and quality of work.
- The agreement should specify that the worker holds the company harmless for any losses resulting from misclassification and specify that the worker must re-do poor work.
- It may be best to only contract with incorporated/LLC independent contractors, not individuals.


Remember Bing Crosby –

Don't fence your independent contractors in.

Employees generally work for one employer, but independent contractors provide services to the general public.

- Do not restrict your independent contractor from working for other companies and avoid giving your independent contractor so much work or such short deadlines that they are working full time for your company.
- Limit the duration of projects to avoid open-ended relationships.
- Do not give the independent contractor new work after the original project is completed without signing a new agreement.
- Use confidentiality language in contracts prohibiting independent contractors from giving away business secrets to competitors.

Sometimes it is what it is.

All the tests focus on two issues: Direction/control, and whether the worker has an independently established business. If you are telling a worker what to do, and/or the worker only works for you and no other contractors, the worker is an employee, not an independent contractor. There are going to be times when a company cannot keep direction to a minimum, cannot let a worker come and go as they please, and cannot allow them to work for other companies. When that is the case, the company needs to treat the worker as an employee, not an independent contractor. 



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HIRING THE EX-CON

A Q&A with a proponent of the idea

Featuring Joshua Johnson, Wisconsin DWD, Bureau of Apprenticeship Standards

With no end in sight for the labor shortages in construction, contractors are looking at all resources for labor, including individuals who have spent time in prison. The obvious question is whether this is a good idea. Many contractors want to hire the best candidates for the job, regardless of criminal history, but those who have hired individuals with criminal records understand there are challenges.

There are also benefits if it works out. A recent survey by the Society of Human Resource Managers (SHRM) found that 82% of managers and 67% of HR professionals believe the quality of work for individuals with criminal records is the same or higher than workers without records.

Joshua Johnson, field operations chief with the Department of Workforce Development Bureau of Apprenticeship Standards (BAS) made a presentation at the Wisconsin Apprenticeship Conference, which garnered some attention. It advocated for construction contractors to consider hiring individuals with criminal records and even enrolling them in apprenticeships. ABC of Wisconsin asked Joshua a number of questions on the topic, which are provided with his responses below:

What are your thoughts about unlocking the potential of individuals who are re-entering society?

Utilizing the untapped talent pool that exists in state correctional institutions is a strategy employers can use to address industry's need for a skilled and qualified workforce. This strategy also assists in decreasing the recidivism rate of former offenders; keeping them in the workforce and positively contributing to communities, which is also better for businesses. The BAS, in partnership with the Department of Corrections and the Wisconsin Technical College System, are developing registered apprenticeship and pre-apprenticeship programs within the correctional system that are directly related to industry needs and requirements. One of the biggest reasons for their return to prison is not just a lack of work but, more importantly, a lack of experience and skills needed to find a family and life-sustaining career. With proper training, the BAS feels we can give these men and women the tools they need to start an apprenticeship and bring value to our apprenticeship sponsors.

Why are efforts like this important?

The high demand for properly trained and qualified workers makes utilizing these untapped resources more important than ever. Our apprenticeship sponsors are actively seeking qualified workers and are not able to fill all their open positions, so we are trying to connect them with an available talent pool where we can identify and train potential candidates.

More importantly, with the proper training and employment, these men and women have an opportunity to provide for themselves and their families, making it less likely they will commit another crime. Reducing the recidivism rate lessens the burden on our prison system, improves the lives of the families affected, and keeps individuals in the community. Successfully integrating these individuals into the community means more taxpayers, goods purchasers, business supporters and workforce participants, creating better communities which supports a better Wisconsin.

What types of state and/or DWD initiatives are used to help get individuals with criminal records placed in construction jobs and/or on the path to acquiring skills to make a good living? Is apprenticeship a good option for these individuals?

Apprenticeship is a great option for former offenders, specifically in the construction trades. Construction employers are likely to give someone a chance if they fit the Local Apprenticeship Committee's criteria. Apprenticeships allow a former offender to start earning money right away while receiving on-the-job training; giving the former offender time to learn and up-skill without having to attend school or training full-time. There are other training options for former offenders, however a lot of them require that the former offender take full-time classes, which means they are not earning money, which sets the former offender back. These individuals are released with little resources, so finding employment and earning a wage as soon as possible contributes to their success.

The BAS is actively engaging with construction sponsors to gather input and suggestions about what specific training and/or schooling would be most beneficial to provide in correctional institutions that will produce former offenders with the right skills to

WHAT ABC MEMBERS SAY:

We believe everyone should be offered an opportunity; what they do with it is up to them. If it's an offense which leads to incarceration, they have paid their time to society. We are very open to hiring candidates in this situation. Initially they are very grateful for the opportunity and are hard-working, loyal employees. Most of them continue down that path. For others, even if they have not been incarcerated but have loaded criminal background checks, sometimes issues occur with needing to check in with their probation officer, which becomes irritating if it occurs frequently or they need to take time off work for this. Some use this as an excuse to get off work early – we're doing a better job of asking for proof of such meeting to ensure it is valid or sometimes discuss with the PO that we prefer their meetings happen after work hours.

— **Dena Gullickson, human resources manager with Stevens Construction Corp.**

People who are 18 to 25, sometimes do stupid things, but we take it on a case-by-case basis. Then, you can generally gauge, based on their work history, what type of employee they would be. We hired a guy who was recently released from prison on a drug-related offense. He was a good worker; worked with us for about two months. Then, all of a sudden, he wasn't showing up. It turns out, he was violating parole for some reason and was put back in prison and I never heard from him again. Construction is a great opportunity; good money. In a normal week, if they get 50 hours, laborers can take home \$2,000 gross pay for a week. You can instantly be middle class, earning \$60,000 to \$70,000 for the season, so there's plenty of upside for this.

— **Tony Zignego, human resources manager, Zignego Company**

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get started in an apprenticeship once they are released. BAS is working to set up a system that connects former offenders with the proper construction committee upon release who will also help to shepherd them through the process of qualifying and starting their apprenticeship as soon as possible upon release.

In many instances, insurance companies are not open to insuring individuals convicted of violent offenses and there are concerns about personal safety. Are there myths that need to be clarified regarding employability?


Employers and at-risk employees can receive fidelity bonding. DWD provides this fidelity bonding at no-charge to employers or employees. The bond is a business insurance policy that protects the employer in case of any loss of money or property due to employee dishonesty, including any type of stealing by theft, forgery, larceny, or embezzlement. *(More details can be found on the DWD website, <https://dwd.wisconsin.gov>.)*

Hiring former offenders can seem like a risk for employers. However, there are different strategies they can use during the hiring process to help employers learn more about the individual and decide if they will be a fit for their open positions. Different human resources associations can provide guidance to HR departments and hiring managers on navigating the hiring of former offenders.

Are there financial incentives for contractors/employers who hire individuals who have been incarcerated?

The Work Opportunity Tax Credit (WOTC) is a federal income tax credit designed to help people gain on-the-job experience and achieve better employment outcomes. The WOTC program offers federal tax credits to employers as an incentive to hire people in several specific target groups, including “ex-felons” *(More details can be found on the DWD website, <https://dwd.wisconsin.gov>.)*

What would you personally like to see for long-term/long-range programs related to this?

Ideally, we would like to see industry needs being met while also reducing the crime rate and recidivism in our state. By helping connect former offenders with life and family-sustaining careers, we feel this goal could easily be met. 



As the chief of field operations for the Bureau of Apprenticeship Standards, Joshua Johnson is responsible for oversight of the 15 apprenticeship training representatives located across the state.



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Associated Builders & Contractors of WI – 608-244-5883

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• AJ Construction of WI , LLC

Carmen Hoffmann
3532 Playbird Road
Sheboygan, WI 53083
Phone: (920) 565-5350
Description: General Contractor
Sponsor: Dan Scheider, R&R Insurance Services, Inc.
Beam Club Members-to-date: 2

• Brandt Plumbing LLC

Jason Brandt
1385 Highway 33
West Bend, WI 53095
Phone: (262) 224-8155
Description: Plumbing Contractor
Sponsor: Casey Malesevich, Sure-Fire, Inc.
Beam Club Members-to-date: 1

• General Communications, Inc.

Jeff Farquhar
2880 Commerce Park Drive
Fitchburg, WI 53719
Phone: (608) 271-4848
Description: Two-way Radio and Vehicle Lighting Supplier
Sponsor: Devin Kellenberger, Enterprise Fleet Management
Beam Club Members-to-date: 1

Kjelstad Plumbing, Inc.

Travis Arneson
3705 Vold Court
Eau Claire, WI 54701
Phone: (715) 834-9052
Description: Plumbing Contractor
Sponsor: Jim Bunkelman, Royal Construction, Inc.
Beam Club Members-to-date: 2

• N & N Electric

Nate Coleman
5227 County Road M
Waunakee, WI 53597
Phone: (608) 316-6122
Description: Electrical Contractor
Sponsor: Dan Bertler, Supreme Structures Inc.
Beam Club Members-to-date: 33

• Robertson Ryan & Associates Inc.

Robert Flath
20975 Swenson Drive, Ste 175
Waukesha, WI 53186
Phone: (262) 278-1278
Description: Insurance Agency
Sponsor: Phil Lazarski, Liberty Mutual Insurance
Beam Club Members-to-date: 1

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Finish Line Electric LLC

Jeff Jasicki
7338 W. Wind Lake Road
Wind Lake, WI 53185
Phone: (262) 717-5188
Description: Electrical Contractor
Sponsor: Kevin Day, Corporate Contractors Inc. (CCI)
Beam Club Members-to-date: 5

• Optimum Electric, Inc.

Michelle Utech
2624 S. 9th Street
Sheboygan, WI 53081
Phone: (920) 946-5767
Description: Electrical Contractor
Sponsor: Troy Carlson, McClone
Beam Club Members-to-date: 12

• Total Electric Inc.

Sandy Tjugum
W12061 Pergande Road
Columbus, WI 53925
Phone: (920) 210-4775
Description: Electrical Contractor
Sponsor: Eric Heise, Supreme Structures Inc.
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