



AGC of America
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA
Quality People. Quality Projects.



AGC UPDATE

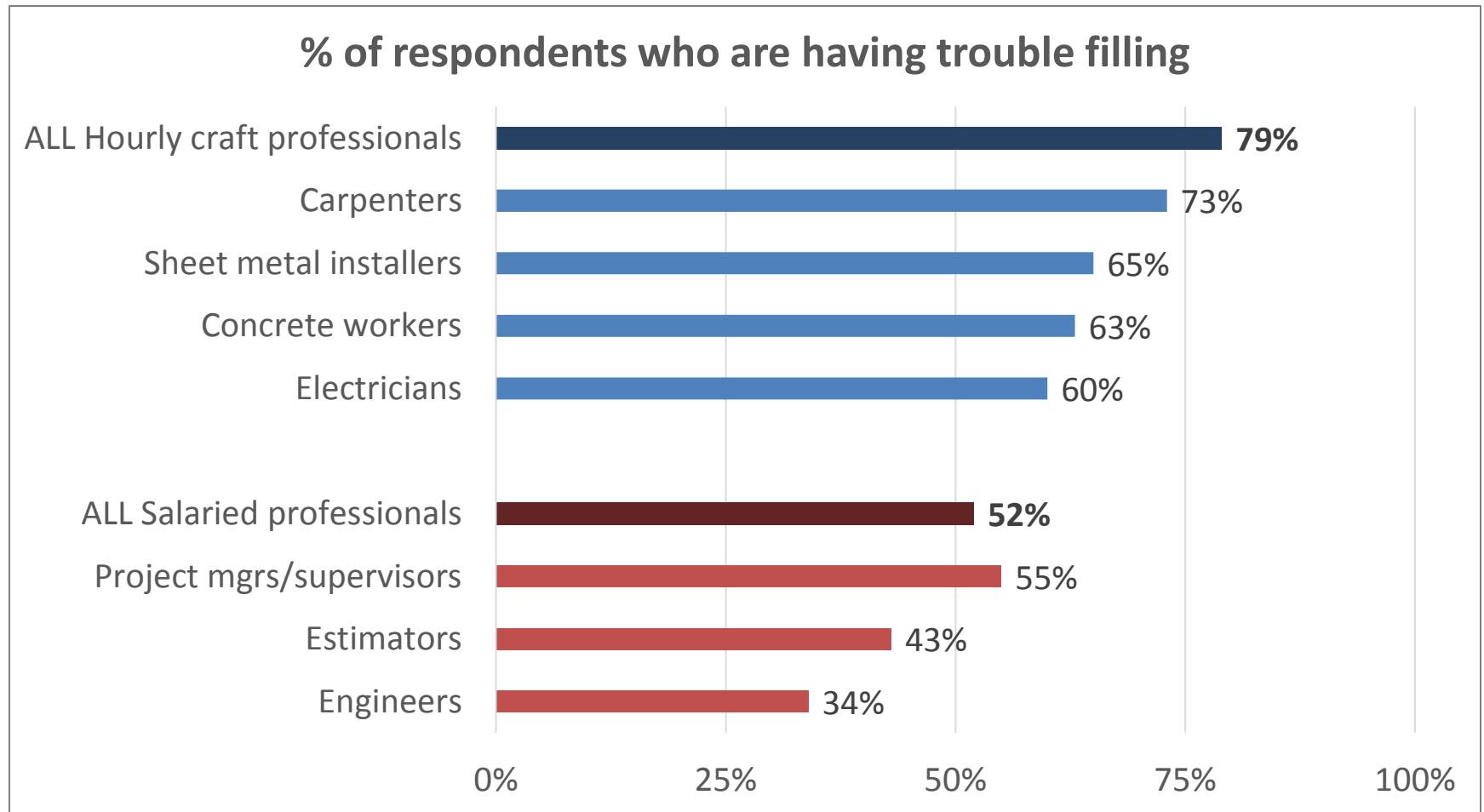
Carolinas AGS
JANUARY 29, 2016

Quality People.
Quality Projects.

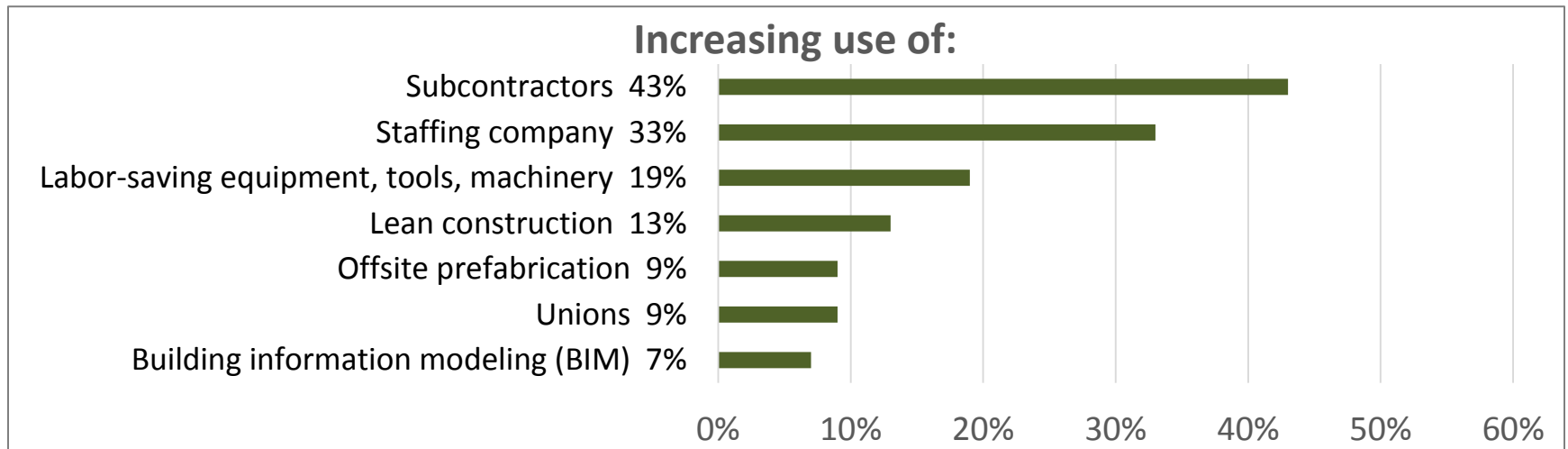
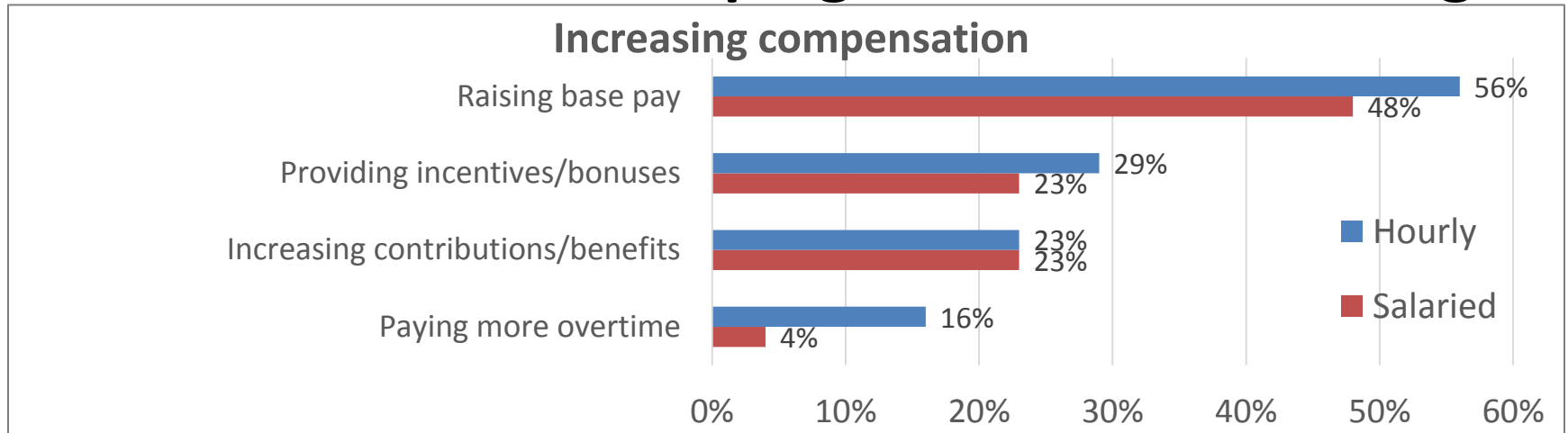


Economics

Hardest positions to fill



How contractors are coping with worker shortages



AGC members' expectations for 2016

Net % who expect dollar volume of projects to be higher

34%	All projects	12%	K-12 school
21%	Retail/warehouse/lodging	12%	Public building
19%	Private office	8%	Water/sewer
19%	Hospital	6%	Highway
14%	Multifamily	3%	Other transportation
13%	Higher education	1%	Power
		-1%	Direct federal construction

Nonresidential segments: year-to-date, 2016-17 forecast

	<u>Jan.-Nov.</u> <u>YTD 2015</u> <u>vs. 2014</u>	<u>July-Nov. 2015</u> <u>annualized</u>	<u>2016 and 2017</u> <u>(per year)</u>
<u>Nonresidential total (public+private)</u>	<u>9 %</u>	<u>-2</u>	<u>4-8%</u>
Power (incl. oil & gas structures, pipelines)	-15	-16	0 to 10
Educational	7	8	3 to 5
Highway and street	7	-2	1 to 4
Manufacturing	47	-10	-10 to +10
Commercial (retail, warehouse, farm)	8	14	0 to 10
Office	22	7	5 to 15
Transportation	8	2	0 to 5
Health care	5	1	3 to 8
Sewage and waste disposal	9	-24	
Amusement & recreation	26	-20	
Lodging	31	8	-10 to +15
Other (communication; water; public safety; conservation; religious): 8% of total	0	6	

Summary for 2014, 2015-17 forecast

	2014 actual	2015 forecast	2016-17 annual average forecast
Total spending	10%	10-12%	6-10%
Private – residential	14%	10-12%	5-10%
– nonresidential	11%	11-13%	5-10%
Public	2%	5-7%	2-5%
Materials PPI	-0.9%	-3 to -5%	0-2%
Employment cost index	1.8%	2-2.5%	3-4.5%

2015 Legislative Report

2015 Major Events D.C.

- **January 6** - Incumbent Speaker Boehner re-elected despite 25 defections
- **January 20** - State of the Union Address
- **June 4** - Chinese hackers steal data from nearly 4 million federal government workers
- **July 30** - Treasury announces "extraordinary measures" to avoid gov't default
- **September 24** – Pope Francis addresses joint meeting of Congress
- **September 25** - Speaker Boehner announces that he will resign from his position
- **October 29** - Chairman Paul Ryan is elected Speaker of the House
- **November 2** - President signs budget package (includes debt limit suspension)
- **December 3** - Congress approves 6-year highway authorization (FAST Act)
- **December 18** - Gov't funded via Omnibus Appropriations & Extenders (PATH Act)

2015 Victories

- Terrorism Risk Insurance Act
- Protecting Affordable Coverage for Employees Act
- Delay of HIT, Med Device, Cadillac Taxes
- Tax Extenders, Budget Deal, Riders
- Highway Reauthorization
- VA Construction Reforms
- Construction Procurement Reform

Fixing America's Surface Transportation – FAST Act

- Strong Bipartisan – Bicameral Support
 - House 359-65
 - Senate 83-16
- First long-term authorization since 2005
- Five years increased funding – paid for
 - 5% in 2016/2% subsequent years
- Doesn't solve the long-term problem: 24% from General Fund

Industry Success

- Fly-ins and coalitions
- Contacts with Congress
- 25,000 Hardhats for Highways contacts
 - 504 Members of Congress/all 50 states
- Management / workers

Reforms

- Environmental streamlining
- Expedited project delivery
- Hours of service
 - Extends reset exemption from 50 mile to 75 mile radius
- Work zone safety – positive barriers
- User fee study money for VMT

AGC Plays Defense

- Avoided local hire change
- Killed bridge training / certification requirement
- No DBE program changes

Extenders & Other Industry Priorities

- **Protecting Americans from Tax Hikes (PATH) Act.**, combined \$1.1 trillion year-end omnibus and \$622 billion tax extenders package (PATH), addressed all of AGC tax priorities in various ways.
- **PERMANENT Extensions of the Following AGC Policies:**
 - R&D credit: extends the research and development (R&D) tax credit
 - Section 179 expensing: extends the small business expensing limitation and phase-out amounts in effect from 2010 to 2014 (\$500,000 and \$2 million, respectively)
 - 15-year recovery for leasehold and restaurant improvements
 - Charitable contributions of S-corporations: extends the rule providing that a shareholder's basis in the stock of an S-corp is reduced by the shareholder's adjusted basis of property contributed for charitable purposes

VA Construction Reform

- AGC instrumental in enacting reform bill that limits VA to projects \$100 M or less
 - Sponsors relied on AGC's recommendation on threshold
- House Budget Committee requested an “off the record” meeting to discuss additional reforms
 - Some talk of stripping all projects from VA
 - AGC seeks to incorporate reforms suggested to VA

Procurement Reforms

- Individual sureties required to demonstrate assets
- JV partners may submit individual past performance (not the past performance of the JV)
- Overturned court decision requiring small contractors to purchase all materials and supplies from other small businesses
- SBA issued regs for counting lower tier subs for small business subcontracting goals

2016 Omnibus - Labor Policy Riders

- **Denies funds and FTE authorization for a new "Office of Labor Compliance."**
- Directs DOL to make changes to H-2B Visa program, including wage determinations, enforcement provisions and definitions; includes cap exemptions for returning H-2B workers.
- Directs OFCCP to cease utilization of its "de facto quota system" for evaluating hiring practices and report to Congress on its steps to enforce these standards on a fair, case-by-case basis and not on statistical generalizations.
- Directs WHD to submit a report on steps taken to correct deficiencies, address recommendations, and improve the process for wage determinations under the Davis-Bacon Act.
- Directs BLS to submit a report on how it accounts for various forms of employment in current economy (small business, part-time/temporary workers, workers with fluctuating schedules, and the self-employed).

Two-Year Budget Deal

- Bipartisan Budget Act Passed Oct. 28th with unanimous Dem. support but only 79 GOP yes votes (167 against).
- Negotiated between Congressional Leadership (Fmr. Speaker John Boehner) and White House
- Averted automatic, across-the-board budgets cuts in 2016 and 2017.
- Impact:
 - Clears the path for individual, annual agency spending bills (allowing construction projects to move forward and *possibility to include policy riders*).
 - Limits chances of government shutdown in 2016.
 - Suspends national debt limit to March 17, 2016.
 - Repeals mandatory auto-enrollment in employer health care coverage.
 - **OSHA fine increases...(not what we were looking for)**

Budget Bill – OSHA Civil Penalty Increase

- Repeals prohibition from 1990 on increasing civil penalties for inflation.
- Secretary could limit increases (unlikely).
- Future increase will go through the formal notice and comment process.
- 82% increase in penalties in 2016.
- Congressional Democrats and current administration had advocated for years.
- No debate or committee consideration
- Provision increases revenue by \$1.3 billion over ten years. (revenue from enforcement goes to the U.S. Treasury).



AGC's Congressional Scorecard

- **HOUSE VOTES**--We have scored 9 votes in the house
ACA 40 hours, Keystone, 179 permanent, ambush
elections, blacklisting, wetlands, devolution, FAST Act
- **SENATE VOTES**—Similar to the House, we scored
keystone, highway bill, ambush elections, wetlands,
PLAs and fast track trade authority
- Senate averages—Overall 71%, GOP 85%, DEM 54%
- House Averages—Overall 66%, GOP 85%, DEM 41%

South Carolina

House (D-41%, R-85%)

- 1 Mark Sanford (R) 70%--T&I, Budget
- 2 Joe Wilson (R) 75%--ED and Workforce, Armed Services
- 3 Jeff Duncan (R) 71%
- 4 Trey Gowdy (R) 74%--Gov Reform, Judiciary
- 5 Mick Mulvaney (R) 67%--Gov Reform, Financial Services
- 6 James Clyburn (D) 40%--Assistant Leader
- 7 Tom Rice, Jr. (D) 83%--Ways and Means**

Senators (AVG GOP 85%/AVG DEM 54%)

- **Lindsey Graham (R) 83%--Armed Services, Approps, Judiciary, Budget**
- **Tim Scott (R) 76%—Finance, HELP, Sm Business**



North Carolina

House (D-41%, R-85%)

- 1 Butterfield (D) 43%--Energy and Commerce
- 2 Ellmers (R) 91%--Energy and Commerce
- 3 Walter Jones (R) 78%--Armed Services
- 4 David Price (D) 43%--Approps
- 5 Virginai Foxx (R) 69%--Rules, ED and Workforce
- 6 Mark Walker (R) 78%--Gov Reform
- 7 **David Rouzer (R) 89%--Transportation**
- 8 Richard Hudson (R) 78%--Emergy and Commerce
- 9 Robert Pittenger (R) 91%--Financial Services
- 10 **Patrick McHenry (R) 76%--Financial Services, Deputy Whip**
- 10 Mark Meadows(R) 78%--Gov Reform, T & I
- 11 Alma Adams (D) 30%--ED and Workforce, Sm Biz
- 12 George Holding (R) 83%--Ways and Means

Senators (AVG GOP 85%/AVG DEM 54%)

- **Richard Burr (R) 87% —HELP, Finance**
- **Thom Tillis (R)—100%--Armed Services, Judiciary, Veterans**



2016 Political Environment

The Poll Averages

Race	Poll	Results	Spread
Iowa Caucus	Real Clear Politics	Cruz 27, Trump 33, Rubio 13, Carson 8, Bush 4, Paul 4, Christie 3, Huckabee 2, Kasich 2, Fiorina 1, Santorum 1	Trump +6
Iowa Caucus	Real Clear Politics	Clinton 45.8, Sanders 46, O'Malley 4.3	Sanders +0.2
NH Primary	Real Clear Politics	Cruz 13, Trump 33, Rubio 10, Carson 3, Bush 8, Paul 4, Christie 7, Huckabee 1, Kasich 11, Fiorina 4, Santorum 0	Trump +20
NH Primary	Real Clear Politics	Sanders 53.3, Clinton 38.6, O'Malley 2.6	Sanders +14

The Poll Averages

Race	Poll	Results	Spread
National	Real Clear Politics	Cruz 19, Trump 36, Rubio 11, Carson 8, Bush 5, Paul 2, Christie 4, Huckabee 2, Kasich 2, Fiorina 2, Santorum 0	Trump +17
National	Real Clear Politics	Sanders 37, Clinton 52.5, O'Malley 2.2	Clinton +15.5
South Carolina	Real Clear Politics	Cruz 20, Trump 36, Rubio 12, Carson 9, Bush 11, Paul 3, Christie 3, Huckabee 2, Kasich 3, Fiorina 2, Santorum 1	Trump +16
South Carolina	Real Clear Politics	Sanders 30, Clinton 62.5, O'Malley 2	Clinton +33

GOP Win Will STOP Regulatory Machine

- Last election Obama 332/Romney 206
- Dems start with slight edge 217-191 (130 up for grabs)
- Who can win in: CO, FL, IA, NV, NH, NC, OH, PA, VA, WI
- 2nd tier MI, MN, NM, AZ, GA=58
- Conventional wisdom is useless



2016 Legislative Challenges

2016 Legislative Outlook

- *Election 284 days → Iowa Caucus 3 days → Super Tuesday 31 days*
- Unlikely significant employee benefit or employment related legislation enacted in 2016. Labor issues overshadowed by National Security and other issues:
 - Congressional schedule includes long recesses. House in session 110 days, Senate in session 149 days
 - Congress influenced by November election (All 435 Representatives, 34 Senators and President)
 - Few opportunities for “must pass” legislation (2 year budget deal through FY2017 and tax extenders are done)

2016 Hot Topics

Democrat Messaging Bills in 2016

- Pregnancy Discrimination
- Minimum Wage
- Paycheck Fairness
- Restrictive Scheduling

State of the Union Address:

- “Equal pay for equal work”
- “Paid leave”
- “Raising the minimum wage”
- Oppose attempts to block Overtime and Fiduciary rules
- Defended the ACA

Potential for Enactment:

- Background checks
- Reauthorizing and updating Career and Technical Education
- Provide new pension plan options

2016 Legislative Overview

- Don't expect much to happen in Presidential year
- GOP has to defend 24 out of 34 Senate seats in 2016
 - 5 GOP seats in states Obama won 2X
 - Dems need gain of 5 to gain control (4 if Dems win White House)
 - McConnell will need to protect vulnerable incumbents
- House likely to stay in GOP hands (hold your breath if Trump nominee)

Unfinished Business for 2016

- Multi-employer pension reform
 - Seeking enactment of composite plans
 - 2014 law permitting benefit cuts having political impact
- Continue to play defense on tax reform
- Continue efforts on eliminating prior authorization requirement
- Beat the drum on infrastructure investment

The Regulatory Battle Continues

EPA “WATERS OF THE U.S.”

- EPA “clarification” of definition issued late May
- AGC had significant impact on final rule
 - 5 years of “working” EPA
 - Some of our fixes accepted verbatim
 - Thanked EPA/USACE for listening to us
- Follow-ed up w/EPA after issuance
 - Further clarifications/permit delays
- Still identifying Congressional/legal options

OSHA SILICA RULE

- AGC formed construction industry coalition
- Proposed rule:
 - Halves exposure limit
 - Requires ER provided medical surveillance
 - Requires increased training/PPE/engineering controls
- Rule at OMB for review
- Release this quarter?

“BLACKLISTING” E.O.

- Issued in July 2014
- Requires federal contractors to list violations of 17 federal labor/employment laws & comparable state
- “labor advisor” to determine if “responsible”
- Subcontractors must list as well
- AGC in business coalition w/USCC
 - Committed \$25 K to lawsuit(s)
 - Leading effort to raise additional funds

REGULATORY DOCKET

- Department of Labor
 - Overtime rules final in July?
 - Equal opportunity in Apprenticeship (AGC comments this month)
 - “Persuader rule” final in March?
- EPA
 - Lead paint in commercial buildings
 - AGC in small business advocacy review process
 - Uncertain whether EPA will proceed
 - AGC participating in positive changes to current rule covering pre 1978 structures inhabited by kids

2016 Reacting to NLRB

- **Joint Employer Standard:** attempts to reinstate the board's prior standard (considered joint employers if each has “actual, direct, and immediate” control over essential terms and conditions of employment.
- **Ambush Election Rule:** changes to union election procedures took effect in Apr. 2015. Litigation and legislation has been unsuccessful to date.

GOVERNMENT PLAs

- AGC has been successful in thwarting
- Letters to contracting agencies forcing justification
 - Evaluate whether it meets “efficiencies and economies in government contracting”
- AGC has sent 97 letters
 - 1 PLA was put forward (NH DOL center)
- Threat of letter has been enough in some cases

OTHER REGULATORY ISSUES

- DOT local preference
- OFCCP affirmative action requirements
- OFCCP equal pay reporting
- DOL paid leave for federal contractors
- DOL expansion of overtime coverage

We Need Your Help

- **Sign up**—For Construction Legislative Week in Review and Legislative Alerts
- **Speak up**—When we need grassroots help (letters, calls and visits) and when we need company specific impact of laws and regulations
- **Keep up**—Look at how the delegation votes on issues that are important to the industry

