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ARIZONA ROOFING INDUSTRY
FOUNDATION



NRCA



WSRCA

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Letter from the President

Greetings Fellow ARCA Members:

I HOPE EVERYONE AND their families are safe and secure through these pandemic times. I've personally met a few people that have contracted the COVID-19 virus and know that it has varying effects on people and their health. Please do your part to help everyone limit their exposure and halt the spread of this disease. We are hoping that these long-endured and annoying times will be over soon.

If you see **Jennifer George**, make sure to congratulate her! She has been awarded the position of Director of ARCA, effective the beginning of this year. She has been doing a tremendous job as the sole full-time employee of ARCA since Duane's retirement last fall. The executive board will be meeting with her periodically this year to help with this transition and give her guidance on any tasks she hasn't had experience with in the past. However, the full board has her complete support and we think she's going to be a great director. Hopefully in the near future we will be busy enough with ARCA activities to add an assistant to help her out.

Meanwhile, we are all looking forward to a great 2021 in the roofing industry in Arizona. Most economic indicators—including a strong real estate market—point to a busy year ahead for us roofers and roofing associates. Arizona remains a major destination for incoming employees and businesses from other states. Our low cost of living, clean and new infrastructure, and pro-business tax structure (despite the disappointing prop 208 vote) will propel Arizona for years to come.

At ARCA, we have remained committed to meeting with our respective committees to coordinate and facilitate all the association's activities. Although many meetings are being conducted remotely via Zoom due to the pandemic, we continue to deliver the safety training, industry resources, and social/charitable events that make ARCA membership so valuable to its members.

While these efforts have kept our membership strong, we would like to focus on growing our membership this year. Please help us spread the word to all roofers and associates you know and deal with. ARCA benefits its members tremendously through safety training and social events that allow us all to grow, learn from each other, and improve our businesses and lives. I encourage everyone to reenergize themselves and participate in as many ARCA events as you can.

Sincerely,

Russell Hyman, Gryphon Roofing
ARCA President



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The graphic features two flags on a white pole against a light grey background. The top flag is the United States flag, and the bottom flag is the Arizona state flag. Overlaid on the flags is the text 'ARIZONA LEGISLATIVE UPDATE' in large, bold, sans-serif letters. 'ARIZONA' is in yellow with a black outline, while 'LEGISLATIVE UPDATE' is in white with a black outline.

ARIZONA LEGISLATIVE UPDATE

SB1721—TPT (TRANSACTION PRIVILEGE TAX)

By Ryan Demenna, [Demenna Public Affairs](#)

IN 2013, THE Arizona Legislature overhauled the construction industry's sales tax system with the goal of simplifying how contractors pay sales tax.

Unfortunately, the overhaul left contractors more confused than ever, and subsequent legislative changes and conflicting direction from the Arizona Department of Revenue have only added to the confusion.

SB 1721 (TPT; prime contracting classification) establishes a simple dollar threshold test that makes it easy for Arizona contractors to determine how to pay the sales tax associated with a particular project.

If SB 1721 becomes law, residential projects with contract price below \$100,000 will be taxed at the point of purchase. Residential projects with a contract price in excess of \$100,000 will be treated under the Prime Contracting Classification.

On the commercial side, projects with a contract price below \$1,000,000 will be taxed at the point of purchase, while projects with a contract price in excess of \$1,000,000 will be treated as Prime.

SB1721 also ensures that contractors who did their best to make payments under the old system will be "held harmless" for not paying the correct amount, meaning the contractor will not be required to pay any additional tax, penalty, or interest by the Arizona Department of Revenue.

On February 17, SB1721 was approved by the Senate Finance Committee by a vote of 8 ayes, 1 nay and 1 not voting. 🏠

Amazon Smile

AmazonSmile customers can now support Arizona Roofing Industry Foundation in the Amazon shopping app on iOS and Android mobile phones! Simply follow these instructions to turn on AmazonSmile and start generating donations.

1. Open the Amazon Shopping app on your device
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Contractors to benefit from latest round of PPP funding

By [Anna Hrushka](#), [Jenn Goodman](#)

Legislation approving additional and new Paycheck Protection Program loans will provide much-needed relief to many construction firms, says an industry expert.

ONE OF THE most anticipated aspects of the \$908 billion coronavirus relief measure signed by President Trump at the end of last year includes \$284 billion for a revamped Paycheck Protection Program.

The measure — attached to a \$1.4 trillion bill set to fund the federal government through September — allows existing borrowers with less than 300 employees to apply for a second loan of up to \$2 million as long as they show a revenue decline of at least 25% in at least one quarter of 2020. The legislation also features a simplified forgiveness application for loans of \$150,000 or less that requires borrowers simply to state the number of employees retained and the amount of PPP funds spent on payroll.

The provisions for additional and new PPP loans and potential forgiveness will provide much-needed relief to many construction firms, according to Phillip Ross, Anchin partner and leader of the firm's A&E and Construction groups.

"The AEC industries operate with long pipelines," he said. "Shrinking backlogs remain a reality in the wake of the pandemic and so further relief will go a long way to ensuring that the building industry remains active."

The relief package addresses some of the pain points that plagued prior iterations of the small-business loan platform, according to industry analysts. Chris Hurn, CEO and founder of Fountainhead Commercial Capital, told Banking Dive, our sister publication, that the simplified one-page forgiveness application for smaller loans will help both

borrowers and lenders.

"It will free up the borrowers to focus on running their business, and it'll free up the lending community to focus on taking in more applicants and helping more businesses," he said.

The relief package also put to rest concerns that forgiven loans might be taxable, Ross said. [IRS guidance in November](#) indicated that expenses paid with the forgiven proceeds would not be deductible, potentially creating bigger tax bills for some contractors.

"With Congress making the PPP loan forgiveness non-taxable, this overrides the initial IRS ruling and will help deliver on the original intent of the law," he said. "This will be a huge help to the AEC firms that did the right thing, according to the rules, and kept employees on payroll."

PPP 2.0

Mike Brauneis, managing director and U.S. financial services industry leader at global consulting firm Protiviti, said the Small Business Administration's infrastructure should be better positioned than it was in April to handle what may be a huge initial surge of applications.

"That said, the draft legislation came together very quickly and there are many fine-point details that SBA will need to issue guidance to address before banks and other lenders can begin making loans," he said.

In addition, as businesses gear up to apply for the latest PPP loan window, they may face a smaller pool of lenders willing to participate, Hurn said.

"There's a fair amount of PPP fatigue and burnout in the lending community right now," he said. "I am sure there is going to be a sizable chunk of lenders that participated in the first-draw PPP loans that do not participate in the second draw." 

Report: Highest-paying construction jobs that don't require a college degree

By [Zachary Phillips](#), reprinted from [Construction Dive](#)



DIVE BRIEF:

- Several of the highest-paid jobs in the country that don't require a college degree are related to the construction industry, according to a [recent report from Advisor Smith](#). Construction managers earn the second-highest salary on the list of jobs that don't require a degree, which is based on data from the Bureau of Labor Statistics.
- The analysis found that even though 58% of construction managers do not have a college or associate degree, the median salary for the job is \$95,260 a year—well above the national median salary of \$39,810.
- Fifty-four percent of adults in the U.S. workforce over age 25 do not have a college degree. The high salary earned by construction managers shows the value a long career in construction can have without higher education, according to the report's author, Advisor Smith CEO Adrian Mak.

DIVE INSIGHT:

THERE ARE NEARLY 300,000 construction managers in the U.S., but the most common job that doesn't require a college degree was first-line supervisors of construction trades and extraction workers, with over 626,000 workers. Over 81% of those workers don't have college degrees, according to BLS.

The highest-paid job in the country without a college degree, the study found, is nuclear power reactor operators, who

earn an annual median salary of \$100,530. Several other construction-related jobs are in the top 25 highest-earning jobs without a degree.

Here are the highest-paying construction-related jobs that don't require a college degree:

JOB	MEDIAN SALARY	WORKERS WITHOUT A DEGREE
Construction managers	\$95,260	58%
First-line supervisors of construction trades and extraction workers	\$66,210	81%
Construction and building inspectors	\$60,710	55%
Crane and tower operators	\$56,690	90%
Civil engineering technologists and technicians	\$53,410	57%
Brickmasons and blockmasons	\$53,100	92%

In construction and engineering, associate's degrees and certificates can lead to careers with wages as high or higher than many bachelor's degrees, a study from Georgetown University's Center on Education and the Workforce found last year.

Certificate holders in engineering technologies have a median salary between \$70,000 and \$150,000, the center found, and certificate holders in construction trades have a median salary between \$40,000 and \$50,000, higher than certificate holders in computer science, business management, accounting, healthcare, or education. 🏠

NWiR

National Women in Roofing

NWiR Day 2021— New Show Dates

NWiR DAY IS held in conjunction with the International Roofing Expo, sponsored by the NRCA. The 2021 IRE in-person event has been rescheduled for August 10–12 at the Mandalay Bay Convention Center in Las Vegas, Nevada. In addition to the physical event in August, IRE is launching a virtual conference and expo on March 2–4. NWiR will be participating in both events and our one-day conference will take place in August in conjunction with IRE.

View more details on the [IRE website](#).

ABOUT THE AUGUST EVENT:

The Fourth Annual NWiR Day is the premier conference for multidisciplinary women professionals in the roofing industry to get together to learn about the latest business strategies and tactics and share their secrets to success. It is a chance to connect with professional, like-minded, spirited women from all facets of the roofing industry and experience insight, inspiration, and fun.

The is a *full-day* program and will begin at 10:00 AM and end at 5:30 PM, with a light breakfast, lunch, and snack included, plus a fun evening activity planned immediately afterwards. Sessions topics include business development, communications, career development, mentoring, recruitment, roofing technology advancements, hands-on product demonstrations, a safety wear fashion show, and networking.

The first 300 registrants will receive a swag bag of gifts from our sponsors. Be sure to [check the IRE site](#) for up-to-date registration information. 🏠

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Seven COVID-19-related challenges contractors need to tackle in 2021

The industry will face significant headwinds, economists and other experts predict.



By Shelley D. Hutchins, LEED-AP, reprinted from [Construction Dive](#)

MORE THAN A year since the first coronavirus cases were reported in Wuhan, China, COVID-19's global spread continues to plague commercial construction.

Since the pandemic hit the U.S., contractors across the country have faced a range of obstacles including [layoffs](#), [project shutdowns](#) and [increased construction costs](#).

With 2020 behind us, economists and industry experts predict many of these issues will continue to challenge contractors. Here are the top seven factors to watch:

1. Labor shortage. Pre-pandemic, the industry faced a historic shortage of skilled labor and the issue isn't going away just because COVID-19 has shut down projects and slowed others. Although firms have been calling back workers who were laid off in the spring, some have refused to return to work, citing a preference for unemployment benefits, virus concerns, or family responsibilities.

Looking ahead to the beginning of a recovery, labor gaps might get even larger, especially in states like California, Texas, and New York, according to Daniel Pomfrett, vice president of Los Angeles-based project management and cost consulting firm Cumming Corp. Lack of worker migration — especially to expensive markets with greater job opportunities like California and New York — also aggravates the labor shortage, Pomfrett said.

2. Shrinking backlog. Associated Builders and Contractors' Construction Backlog Indicator was at a modest 7.3 months in December, a decline of 1.5 months from last year at this time. In addition, the association's Construction Confidence Index readings for sales and profit margins also decreased.



DOWNTOWN PHOENIX
DURING LAST YEAR'S LOCKDOWN

The months ahead don't look hopeful for contractors looking to add to their backlog of work, [said ABC Chief Economist Anirban Basu in a release about the indicator](#).

"ABC's survey data indicate that we are in the early stages of a nonresidential construction spending downturn," he said. "With few exceptions, declines in backlog have begun to accelerate across all markets and regions."

3. Falling construction costs. A variety of pandemic-related forces have caused construction costs to decline slightly for the first time in a decade, which could lead contractors to feel a pinch in profits.

The Turner Building Cost Index, which measures costs in the U.S. nonresidential building construction market, fell to a value of 1171 in the third quarter of 2020, a 1.5% quarterly reduction from the beginning of the year. This year marked the first time the index from Turner Construction has reduced in value since 2010.

"Trade contractor competition has increased in many areas as they work to secure backlog due to uncertainty they have about future opportunities," said [Attilio Rivetti, the Turner vice president](#) responsible for compiling the Cost Index in a press statement.

4. Less work. Various sectors of commercial construction will continue to experience a decline even after the rest of the economy begins to recover from COVID-19, economists say. For instance, experts predict people will continue to work from home more often than they go into a central office, so construction of office buildings remains a gray area in terms of future growth.

The construction of new healthcare

facilities also could drop significantly because of changes in lifestyles post-COVID-19, according to Ken Simonson, chief economist for the Associated General Contractors of America.

"Hospital use dropped off drastically in the spring and it's not certain if visits for elective surgery and other non-essential procedures will come back," Simonson said. "Or will we see growth of alternative medical care through urgent care or surgery centers?"

He also questioned if nursing home construction would fall because people might be more hesitant to check themselves or family members into the facilities.

Travel and hospitality sectors, along with sports or performance venues, also look grim according to Simonson. That's primarily because their revenue sources — sales taxes, convention income and tolls — are taking a big hit and aren't expected to get replenished anytime soon as the pandemic hits a third wave of intensity with two additional variants of COVID-19 making their way to the US.

5. Price increases. 2020 saw fluctuations in the prices of construction materials, most recently with the [skyrocketing cost of lumber](#). Prices have been rising on most materials since May, [according to ABC](#).

"Despite the lingering pandemic, the global economy has been recovering, increasing demand for key commodities," said ABC's Basu. "Rapid viral spread, including in Europe and parts of North America, render materials shortages more likely through the winter months."

Some contractors are taking proactive steps to expand their supplier network as well as buying hedges on some materials

to protect from upward price swings, [according to Joe Natarelli](#), leader of the national construction industry practice at accounting firm Marcum.

6. Supply chain issues. "Production is getting back to where it was internationally," Pomfrett said, "but the strain on supply chains and how to get materials and equipment delivered remains."

Natarelli said his clients are building resiliency into their supply chains so that they're not beholden to a single supplier for any one material.

"The days of having one material supplier are gone," he said. "We're seeing clients setting up three separate suppliers, in different geographic locations, where in the past they may have had just one or two. Some are even getting as many as five in place."

Plus, the pandemic caused a decline in shipping as well as air travel, which means less air freight gets moved so even the reduction in moving materials across state lines has caused issues, he said.

7. Diminished state and local government revenues. Basu said this is one of the top challenges facing contractors right now. [A report from the Brookings Institution](#) estimated state and local government revenues declined \$155 billion in 2020 and will decline \$167 billion in 2021 and \$145 billion in 2022 — about 5.5%, 5.7% and 4.7%, respectively — excluding the declines in fees to hospitals and higher education.

This means that state agencies such as departments of transportation have less money to fund infrastructure initiatives like roads, bridges, and transit projects. Many will look to the federal government for additional revenue. 🏠



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JANUARY 15, 2021



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	Candias Rivera
SECOND	Ross Dietrich
	Clint Tarpley
	Jeffrey McIllece
	Brandon Cox

FLIGHT B

PLACE	Pete Schmautz
	Jeff Klein
FIRST	Michael Reeves
	Grant Martin
SECOND	Sarah Weiss
	Alfred Kahn
	Bernie Brown
	Mark Schouten

AWARDS

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Steven Ramirez, Charly's Roofing

MEN'S CLOSEST TO PIN

Dale Nelson, Roofing Consultants of AZ

WOMEN'S LONGEST DRIVE

Jessica Gonzalez, APOC

WOMEN'S CLOSEST TO PIN:

Jen George, ARCA

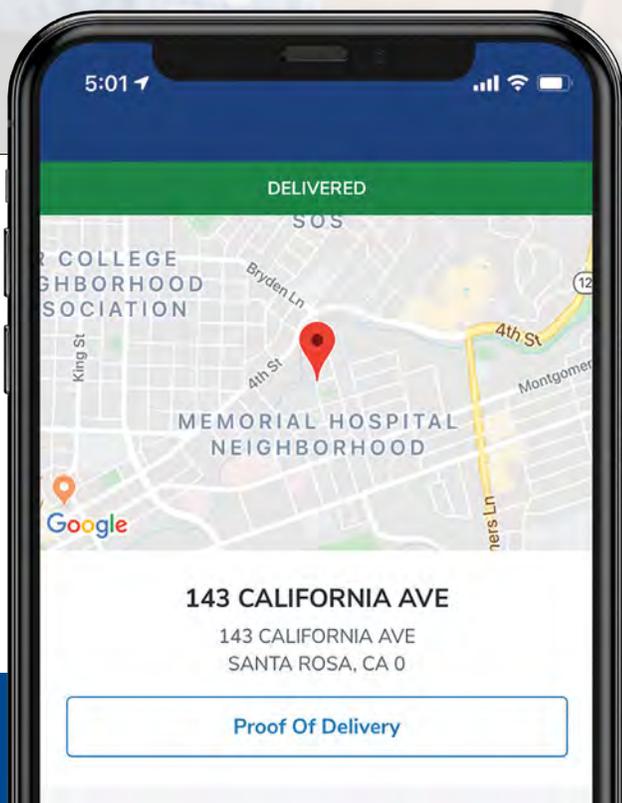
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Higher OSHA penalties raise the stakes for worker health

By [Andrew Wenker, Lang & Klain](#)

Not many people like to be told what to do – especially by the federal government – but complying with tighter OSHA standards and keeping your workforce intact are good for business.

EMPLOYER EFFORTS TO protect workers from Covid-19 are a focus of the Biden Administration. On January 21, the President issued an [Executive Order on Protecting Worker Health and Safety](#), which, among other things, requires the Labor Department to:

- “review [OSHA] enforcement efforts [...] related to COVID-19 and identify any short-, medium-, and long-term changes that could be made to better protect workers and ensure equity in enforcement”; and
- “focus OSHA enforcement efforts related to COVID-19 on violations that put the largest number of workers at serious risk or are contrary to anti-retaliation principles.”

COMPLIANCE

To prepare for the heightened enforcement efforts, employers should periodically review [OSHA’s Covid-19 webpage](#).

For contractors, OSHA offers [construction-specific guidance](#) intended to help protect their workforce, including:

- using personal protective equipment (PPE) “necessary to protect workers from other job hazards associated with construction activities” [1];

- training workers on how to put on, use and remove protective clothing and equipment;
- cleaning shared tools with [EPA-approved chemicals](#); and
- cleaning and disinfecting portable jobsite toilets and providing hand-sanitizer dispensers.

Other construction-specific OSHA guidance (see “Construction Work”) includes task-specific precautions, engineering controls, administrative controls, and useful details concerning safe work practices and PPE. The administrative controls include sample screening questions that employers should ask before sending employees to work indoors if the area may also be occupied by other people.

[1]Although the CDC recommends using cloth face coverings as a protective measure against COVID, it is not an appropriate substitute for PPE.

VIOLATIONS

OSHA standards can result in fines on contractors for Covid-19-related violations. Some pertinent standards govern:

- access to employee exposure and medical records;
- sanitation;
- personal protective equipment;
- eye and face protection; and
- respiratory protection.

In addition, Covid-19 could be a [recordable](#)

[illness](#) that must be included on a contractor’s OSHA 300 log, if:

- there is a confirmed case of Covid-19;
- the case is “[work-related](#)”; and
- the case involves at least one or more [general reporting criteria](#), such as days away from work or medical treatment beyond first aid.

Failure to adequately ensure workplace safety could result in an investigation by OSHA and significant fines.

OSHA PENALTY INCREASES

On January 8, OSHA announced its intention to increase its [maximum penalties](#) for 2021:

Type of Violation / Penalty per Violation

- Serious / Other-Than-Serious / Posting Requirements: **\$13,653**
- Failure to Abate: **\$13,653 per day** beyond the abatement date
- Willful or Repeated: **\$136,532 per violation**

With these increasing penalties, it becomes that much more important to achieve OSHA compliance by reviewing your internal policies and procedures regarding worker health and safety. [🏠](#)

For help with an OSHA compliance issue, contact your [Lang & Klain attorney](#).



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The Employee and Employer Relationship

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THE ARIZONA REGISTRAR of Contractors recently received information about companies hiring workers from out-of-state and paying them in cash, without paying taxes or properly covering them under workers' compensation. When hiring someone else to work on a project, businesses are required to comply with local and state laws.

Under Arizona law, it is mandatory for employers to secure workers' compensation insurance for their employees, regardless of how many workers and whether they are part-time, full-time, minors, immigrants, friends, or family members. When applying for an Arizona contractor's license, a company must either provide a policy number or attest to having no employees and meeting one of the exemptions outlined by the Industrial Commission of Arizona.

Failure to comply with Arizona law regarding workers' compensation is grounds for citations, suspension, or revocation of a license.

1099 INDEPENDENT CONTRACTORS

Although workers' compensation is generally not required under Arizona law for independent contractors, this does not apply to licensed contractors. Licensees should only be using bonafide employees covered under workers' compensation insurance or subcontract work to other appropriately licensed contractors when allowed by the scope of their license classification. In addition to being out of compliance with workers' compensation laws, licensees hiring independent contractors can also be charged with aiding and abetting unlicensed contractors, which may lead to suspension or revocation of their license.

SOLE PROPRIETORS

Though a sole proprietor operating without employees is not required to maintain workers' compensation insurance to cover him/herself, the sole proprietor may decide to get coverage nonetheless. However, if there are any employees working for the sole proprietor, the sole proprietor must maintain workers' compensation insurance on the employees.

CORPORATIONS

A corporation is an employer and is therefore required to hold workers' compensation insurance for its employees, which may include officers, directors, or shareholders.

LLCS

If an LLC employs one or more employees, the LLC is required to obtain workers' compensation insurance for those employees. Employees may include members and managing members. Workers' compensation coverage is not necessary if the LLC employs no employees and all owners hold 50% ownership in the company.

QUESTIONS?

The Arizona ROC worked closely with the Industrial Commission of Arizona on the language used to gather workers' compensation insurance information on our applications. If you are unsure if you qualify for an exemption or have questions about obtaining workers' compensation insurance, you can reach the Industrial Commission of Arizona at 602-542-5766 or www.azica.gov. 



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2021

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ARCA Multiple Employer Plan

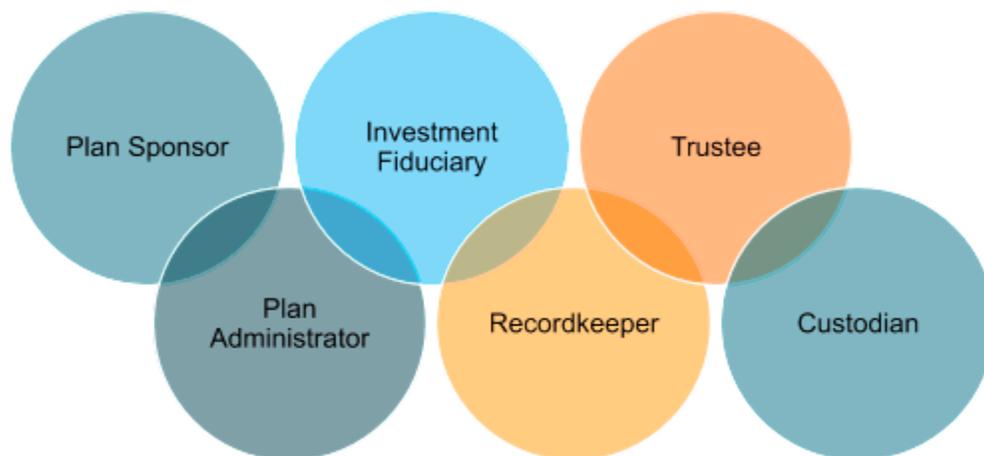
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What's an MEP and why should I join?

According to the Bureau of Labor Statistics, only 48% of employers with fewer than 50 employees sponsor a 401(k) plan. Stand out from the crowd.

1. Lower costs for each employer
2. Decreased fiduciary liability for adopting employers
3. Each plan has autonomy, but is pooled together for fees
4. Separate matching formulas
5. Separate eligibility and entry dates
6. Companies cannot see each other's sensitive (payroll, census) information
7. Reduced administrative burden
8. Economies of scale, increased buying power
9. Enterprise Bank/EPIC RPS manages the plan and the parties (listed below) involved

What's involved?





Mir-ARCA-I on 3rd Street: 8th Annual Holiday Party

Thank you to everyone who joined us on December 10, 2020 for the MirARCA-I on 3rd Street, ARCA's 8th Annual Holiday Party.

The celebration was hosted on the scenic rooftop of our new office in Central Phoenix. Attendees were greeted with a view of the downtown city skyline and an amazing sunset. Our 8th Annual Holiday Party had 50 people in attendance and featured a well-participated ugly sweater contest, delicious food catered by AJ's Fine Foods, and a well-rounded raffle of in-kind donated door prizes.

ARCA and the Membership & Marketing Committee would like to give a huge SHOUT-OUT to the event sponsors—your continued support is appreciated!

We look forward to seeing everyone at the 9th Annual Holiday Party this December...keep your eyes out for a Save-the-Date!

thanks to our event sponsors:

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The Young Professionals Committee ends 2020 invoking generosity and the spirit of Christmas

EVEN WITH COVID-19 wreaking havoc on monthly meetings, volunteer opportunities, and social gatherings, the Young Professionals still managed to pull off a successful Holiday Toy Drive. Along with generous gifts and donations from ARCA members, the event helped 45 Home of Hope (Casa Grande) youths find sponsors for Christmas. In addition, three stockings were donated to children at UMOM for their holiday drive, and 27 gift cards were collected for New Pathways. Despite the hardships faced by all in 2020, ARCA members found it in their hearts to fully embrace the season of giving.

With all the uncertainly heading our way in 2021, the Young Professionals remain more dedicated than ever to providing mentorship and leadership in the community and roofing industry.



ROC 205554

Lyons Roofing remains grateful for all ARCA does to advance the success of our Roofing Community.

To all members of ARCA; Lyons Roofing wishes you a healthy and prosperous 2021.



COVID-19 Vaccination Policies in the Workplace



By Julie Pace, David Selden, Heidi Nunn-Gilman, and Demetra Makris // [Gammage & Burnham](#)

CAN YOUR COMPANY mandate COVID-19 vaccinations to protect employees and customers and try to keep a business open?

The Equal Employment Opportunity Commission (“EEOC”) issued a highly anticipated update to its publication, “What You Should Know About COVID-19, the ADA, the Rehabilitation Act, and Other EEO Laws.” The new guidance addresses whether employers can require employees be vaccinated before returning to work and how such COVID-19 vaccinations interact with the legal requirements of the Americans with Disabilities Act (“ADA”), Title VII of the Civil Rights Act of 1964, the Pregnancy Discrimination Act, and the Genetic Information Nondiscrimination Act (“GINA”).

Companies May Require Employees to Get a Vaccination, But Must Engage in Interactive Dialogue and Consider Reasonable Accommodations for Employees with a Disability

Under the EEOC Guidance, a company generally may require at-will employees to be vaccinated, although exceptions exist. If employees have a prohibiting

disability or religious objection to receiving the vaccine, the company then would engage in an interactive dialogue and address whether a reasonable accommodation can be implemented to allow the employee to perform required job duties. Employees still would need to meet performance expectations. If a company issues a mandatory vaccination policy, the company should be flexible to comply with the ADA and Title VII.

Under the ADA, employers may institute a requirement that an individual shall not pose a direct threat to the health or safety of individuals in the workplace. If an employer mandates employees get the COVID-19 vaccination, but an employee cannot do so because of a disability, the employer must determine whether the unvaccinated employee would pose a direct threat to others due to a significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation.

Employers must conduct an individualized assessment to determine whether an employee poses a direct threat, including:

1. The duration of the risk;
2. The nature and severity of the potential harm;
3. The likelihood that the potential harm will occur; and
4. The imminence of the potential harm.

The EEOC states if, after conducting an individualized assessment, the employer determines the employee who cannot be vaccinated due to a disability *does* pose a direct threat, the employer cannot exclude the unvaccinated employee from the workplace “unless there is no way to provide a reasonable accommodation (absent an undue hardship) that would eliminate or reduce the risk so the unvaccinated employee does not pose a direct threat.” Employers should exercise caution when determining whether to exclude an employee from the workplace and should consult with legal counsel before taking adverse action.

Employers should engage in a flexible, interactive process to identify workplace accommodation options. When determining whether reasonable accommodations can be made, employers and employees should evaluate factors that include the following:



Conclusion

Companies that want to require employees to be vaccinated for COVID-19 can create a new policy that allows reasonable accommodations for individuals with a disability or religious objection preventing them from getting the COVID-19 vaccination. Companies are advised to engage in an individualized assessment for employees who state that they cannot receive the vaccine and determine if reasonable accommodations can be made for the employee.

Companies that wish to require employees to be vaccinated for COVID-19 should have their handbooks and policies updated to address mandatory vaccinations while maintaining continued compliance with other laws. It is imperative that employers stay informed with the continued changing guidance provided by government agencies and state laws.

Many employers may choose to not implement a mandatory vaccination policy, and instead choose to let their employees make their own choices and use a positive approach to encourage employees to get vaccinated. This option de-escalates conflict.

Customers may require your employees to be vaccinated before allowing your company's employees to physically work at the customer's job sites. Proof of vaccination may be needed to work at such job sites.

Even with a fully vaccinated workforce, during these pandemic times, companies should continue to mandate wearing masks and practicing physical distancing. At-will employees can be let go for violating safety rules. Remember that the current vaccinations require two shots and then after the second vaccination, it does not become effective for several weeks. And, even if vaccinated, the individual can still transmit COVID-19, so the safety precautions will continue indefinitely. 🏠

→ For more information and guidance on how to navigate the rapidly evolving EEOC guidance on COVID-19, how to move forward with COVID-19 mandatory vaccination policies, and how to continue navigating these unprecedented times, please contact [Julie Pace](#), [David Selden](#), [Heidi Nunn-Gilman](#), or [Demetra Makris](#).

1. The employee's job functions;
2. Whether there is an alternative job the employee could do that would make a COVID-19 vaccination less critical; and
3. How important it is to the employer's operations that the employee be vaccinated.

Reasonable accommodations may include remote working, wearing a mask, social distancing, or leaves of absences. Companies generally do not need to lower the required performance or conduct standards.

Reasonable Accommodations May Be Required for Employees with a Religious Objection

After an employer is on notice that an employee has a sincerely held religious belief, practice, or observance that prevents them from receiving a vaccination, the employer then engages in the interactive dialogue to determine if a reasonable accommodation can be implemented unless it would pose an undue hardship under Title VII of the Civil Rights Act.

Under Title VII, undue hardship means having more than a de minimis, or very small, cost or burden on an employer, which is a significantly lower standard than undue hardship under the ADA. The EEOC states that because the definition of religion is broad and employers may not be familiar with an employee's particular beliefs, practices, and observances, employers should generally assume that an employee's request for religious accommodation is based on a sincerely held religious belief. If an employer has an objective basis for questioning either the religious nature or the sincerity of a

particular belief, practice, or observance, however, the employer may be justified in requesting additional supporting information.

If Reasonable Accommodation is Not Available, Exclusion from the Workplace May be a Last Option

According to the EEOC Guidance, it generally is lawful for employers to exclude employees from the workplace if an employee cannot get vaccinated for COVID-19 because of a disability or sincerely held religious belief, practice, or observance, and there is no reasonable accommodation possible that can work and is acceptable to the employer.

It is important to note, however, that excluding a worker from the workplace does not necessarily mean termination. Employers should determine if there are any other rights that apply under the EEO laws or other federal, state, and local authorities. Again, consult with legal counsel before taking adverse action against employees who refuse to be vaccinated.

Unionized Employers Need to Review the Terms of Collective Bargaining Agreements Before Implementing a Mandatory Vaccination Policy

Employers with a unionized workforce must review the terms of applicable collective bargaining agreements to see if there is a clause that provides the employer with the right to mandate COVID-19 vaccinations with its workers. If there is no specific provision in the collective bargaining agreement that addresses vaccinations, then unionized employers may need to bargain with the union over mandatory vaccinations.

An aerial photograph of a small wooden cabin with a dark roof, situated in a dense forest. A yellow boat is parked on a path leading to the cabin. The scene is lush with green trees and foliage.

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Monte Horst Named Vice President of Sales and Marketing at OMG Roofing Products



AGAWAM, MASS., January 2021—As part of its ongoing efforts to drive growth and value, **OMG Roofing Products** has named **Monte Horst** as vice president of sales and marketing.

Monte is responsible for developing and executing the division's overall sales and marketing strategies to support the three business units—Fasteners, Adhesives & Solar, and Metal Accessories. In this role he will work closely with the company's marketing communications and customer service departments. Monte reports to Peter Coyne, senior vice president and general manager of OMG Roofing Products.

"I am very pleased to welcome Monte as the new leader of our commercial organization. Monte's strong track record at Black & Decker, US Fence, and Danaher Corporation brings significant expertise and experience to OMG Roofing Products. Monte is a strong leader with a proven track record of developing teams that generate profitable revenue growth, drive brand awareness, and create long-term customer value," said Peter Coyne. Monte holds a bachelor's degree from the University of Texas-Arlington and a master's degree from the University of Nebraska.

Headquartered in Agawam, Massachusetts, OMG Roofing Products is a leading manufacturer of commercial roofing products, including specialty fasteners, insulation adhesives, drains, pipe supports, edge metal systems, and productivity tools. The company's focus is delivering products and services that improve contractor productivity and enhance roof system performance. For additional information, visit OMGRoofing.com or call 800.633.3800.

UPCOMING EVENTS

FEB 5, 12, 19, 26
7:00 AM–4:00 PM

WEBINAR: OSHA 30-HOUR TRAINING (ENG)
Webinar login details provided upon registration.
[View here.](#)

FEB 18
7:00–8:30 AM

WEBINAR: DISTRACTED DRIVING (ENG)
Webinar login details provided upon registration.
[Register here.](#)

FEB 24
11:00 AM–12:30 PM

YOUNG PROFESSIONALS LUNCH 'N LEARN: BUSINESS HEALTH CHECK-UP
ARCA TRAINING ROOM (ON PREMISES, NOT VIRTUAL)
3839 N. 3RD ST., STE. 106, PHOENIX, AZ 85012

MAR 4
9:00–10:30 AM

CPR AND FIRST AID—PHOENIX, AZ (ENG)
ARCA TRAINING ROOM (ON PREMISES, NOT VIRTUAL)
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MAR 5
9:00–10:00 AM

SIGNALMAN TRAINING—PHOENIX, AZ (ENG)
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MAR 5
10:30–11:30 AM

RIGGING TRAINING—PHOENIX, AZ (ENG)
ARCA TRAINING ROOM (ON PREMISES, NOT VIRTUAL)
3839 N. 3RD ST., STE. 106, PHOENIX, AZ 85012

MAR 9
1:00–2:00 PM

WEBINAR: WORK PLACE VIOLENCE-ACTIVE SHOOTER TRAINING (ENG)
Webinar login details provided upon registration.
[Register here.](#)

MAR 11
7:00–8:30 AM

CONFINED SPACES PHOENIX—PHOENIX, AZ (ENG)
ARCA TRAINING ROOM (ON PREMISES, NOT VIRTUAL)
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MAR 11
9:00–10:00 AM

WEBINAR: ARCA MEP 401(K) PLAN (ENG)
Webinar login details provided upon registration.
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MAR 12
7:00 AM–3:00 PM

ARCA ACADEMY: SPRAY POLYURETHANE FOAM BASED ROOFING—PHOENIX, AZ (ENG)
ARCA TRAINING ROOM (ON PREMISES, NOT VIRTUAL)
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MAR 17
8:00 AM–12:30 PM

TILE ROOFING INSTALLER CERTIFICATION WEBINAR—PHOENIX, AZ (ENG)
ARCA TRAINING ROOM (ON PREMISES, NOT VIRTUAL)
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MAR 27
11:00 AM–TBD

2021 SPRING RIDERS RALLY
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APR 2
7:30 AM–TBD

SPORTING CLAYS TOURNAMENT - SPRING 2021
BEN AVERY CLAY TARGET CENTER, 5060 W. SKEET STREET PHOENIX, AZ 85086

APR 9
7:00 AM–4:00 PM

ARCA ACADEMY: COATINGS FOR ARIZONA ROOF SYSTEMS—PHOENIX, AZ (ENG)
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