



American Subcontractors Association, Inc.

NEWS RELEASE

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ASA Helps Subcontractors Manage World of Non-Standard Contract and Insurance Provisions

ALEXANDRIA, Va. — Construction subcontractors are routinely asked to sign subcontracts that vary widely on complicated issues like delays and claims, indemnity, and final payment. Such differing provisions create uncertainties, burdens and risks that subcontractors need to manage. The American Subcontractors Association (ASA) offers specialty trade contractors solutions for effectively bidding and negotiating contracts with three updated forms. ASA has also developed two new resources that specifically address the increasing risks of owner- or contractor-controlled insurance programs, also known as insurance “wrap-ups.”

Current ASA members may access five new/updated contract resources in the member resources section of the ASA Web site (<http://www.asaonline.com>):

- The revised *ASA Subcontractor Bid Proposal (2008)*.
- The revised *ASA Addendum to Subcontract (2008)*.
- The revised *ASA Short-Form Addendum to Subcontract (2008)*.
- The new *ASA Contract Offer Terms for Projects Using Wrap-up Insurance (2008)*.
- The new *ASA Addendum to Subcontract – Project-Specific Insurance (2008)*.

Nonmembers can get a sneak peek of the *ASA Subcontractor Bid Proposal (2008)* by signing up for ASA’s “Sample View” at <http://www.asaonline.com/Web/sample.htm>.

“These ASA resources should be part of every subcontractor’s bidding and negotiating arsenal,” said 2008-09 ASA President David Bradbury, Precision Concrete Construction Inc., Alpharetta, Ga. “Correcting the excesses and omissions seen in non-standard contracts and insurance policies pays off for subcontractors. Don’t wait until after your insurance claim is denied or a contract dispute ends with a major financial loss — use ASA’s resources to prevent the problem.”

(MORE)

The *ASA Subcontractor Bid Proposal (2008)* offers subcontractors and their clients an opportunity to establish the standard terms of the ASA-endorsed *ConsensusDOCS 750 Standard Form of Agreement Between Contractor and Subcontractor*. If a client accepts the subcontractor's bid that has been properly conditioned with this form [instructions are included with the form], a binding contract exists based on the terms of the *ConsensusDOCS 750*. The previous edition of ASA's bid proposal conditioned the subcontractor's bid on the American Institute of Architects' (AIA) A401-1997 *Standard Form of Agreement Between Contractor and Subcontractor*, but that AIA form was superseded by the A401-2007, which ASA does not endorse.

If not already obligated to sign a particular subcontract, a subcontractor can use the updated *ASA Addendum to Subcontract (2008)* to ask a client to modify its proposed subcontract to eliminate a wide range of potentially harmful provisions. In more limited negotiations, a subcontractor can use the updated *ASA Short-Form Addendum to Subcontract (2008)*, which would modify the client's subcontract in four key areas: hold harmless; insurance; payment terms; and changes and claims.

One major change made in all three of the revised documents was to remove any obligation of the subcontractor to participate in a controlled, or "wrap-up," insurance program. Many wrap-ups employ inadequate coverage and burdensome procedures for subcontractors that can significantly amplify exposure to risk, increase administrative costs and paperwork, and generate problematic outcomes. ASA's 2008 bid proposal, subcontract addendum, and short-form addendum all state that "Subcontractor shall not participate in a consolidated insurance program ("CIP")."

The new *ASA Contract Offer Terms for Projects Using Wrap-up Insurance (2008)* and *ASA Addendum to Subcontract – Project-Specific Insurance (2008)* both provide model language to help subcontractors that choose to bid or negotiate contracts for projects with wrap-up insurance. These new tools give subcontractors the right to: supplement the insurance provided by the wrap-up; limit their own insurance to not apply to the work covered by the wrap-up; limit their contractual indemnity to the coverage and limits provided by the wrap-up; indemnify against paying wrap-up deductibles; and procure replacement insurance or terminate the subcontract agreement at the client's cost if the wrap-up insurance is discontinued.

The *ASA Subcontractor Bid Proposal (2008)* and the *ASA Addendum to Subcontract (2008)* also include references to the *ConsensusDOCS 706 (2007)* performance bond and *ConsensusDOCS 707 (2007)* payment bond forms.

Founded in 1966, ASA amplifies the voice of, and leads, trade contractors to improve the business environment for the construction industry and to serve as a steward for the community. ASA's vision is to be the united voice dedicated to improving the business environment in the construction industry. The ideals and beliefs of ASA are ethical and equitable business practices, quality construction, a safe and healthy work environment, and integrity and membership diversity.

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