

AICN Newsletter

The quarterly publication of the Alliance of IEEE Consultants Networks

Spring 2010

In Memory of AICN Co-Chair Bob Adams...

In early May, AICN Co-Chair Bob Adams, P.E., passed away after a lengthy illness. Bob graduated from the University of Kentucky, with a degree in Electrical Engineering. Over the years, Bob served IEEE in many different ways.

In January 2010, William Kassebaum and Bob Adams had taken the positions of AICN Co-Chairs. Long-time AICN Chair Gary Blank (1999-2002 and 2008-2009) paid the following tribute: "Bob introduced me to IEEE-USA. I was his AICN Chair in 2002. He nominated me to replace him as the IEEE-USA VP of Member Activities in 2002, campaigned for me, and also got me elected to the IEEE-USA Board in 2002."

"Many years ago, when I was a candidate for Region 4 Director-Elect (before he became Director Region 4), Bob was my campaign manager. His passing is a significant loss for all of us," Blank said.

Will Kassebaum said Bob was a tremendous asset to the Central Indiana Section, Region 4, IEEE USA and IEEE. Further, Kassebaum said: "Bob encouraged many in their IEEE careers. He certainly was a mentor to me, and I was greatly looking forward to working more closely with him. He will be missed."

IEEE-USA President-Elect Ron Jensen commented that Bob was a mentor to him, and encouraged him in his volunteer career with the IEEE. "Our prayers are with Chloe Ann and the family," Jensen said.

If you would like to read more about Bob Adams, his [obituary is included in *The Indianapolis Star*](#).



Webinar: Consulting 102

The Alliance of IEEE Consultants Networks (AICN) is holding the second in a series of webinars on 17 June 2010 at 2:00 pm EDT. This webinar will be most informative, addressing issues consultants deal with every day.



Consulting 102

This webinar will address the most important challenge facing consultants "How To Find Clients." As a continuation of the Consulting 101 Webinar (introduction and how to get started) this webinar will present several proven methods for finding clients for consulting services and also how clients find consultants.

This webinar is a free presentation. You can register for this event and also view the Consulting 101 webinar at <http://www.ieeeusa.org/careers/webinars/>.

How Much Should You Charge? Find Out in the 2009 Profile of IEEE Consultants

The results of the 2009 Consultants Fee Survey are in!

As a consultant is preparing a proposal or negotiating a contract, one of the primary concerns is deciding how much to charge. To establish a fixed price, or a fee that is both competitive and fair, the consultant needs to know what other consultants working in similar fields are charging. In response to this need, the Alliance of IEEE Consultants Networks (AICN) conducts national fee surveys of its members. This *2009 Profile of IEEE Consultants* provides the profile of typical self-employed and independent technical consultants, including their education, experience, business practices, median earnings and hourly fee.



To review the results, purchase your copy of this new IEEE-USA E-Book at <http://www.ieeeusa.org/communications/ebooks/>.

Member Price: \$9.95; Non-member Price: \$19.95

For questions, comments or submissions please contact Daryll Griffin at +1 202 530 8337 or d.r.griffin@ieee.org.

www.ieeeusa.org/business

IEEE★USA

The Alliance of IEEE Consultants Networks Newsletter is published by IEEE-USA. Copyright 2010 IEEE. IEEE-USA | 2001 L Street, NW Suite 700 | Washington, DC 20036



Employee or Independent Contractor? ... Déjà Vu All Over Again?

Organizations representing self-employed independent contractors are gearing up for another battle in a long and contentious war in Congress — over the “common law test” that the Internal Revenue Service uses to decide whether workers should be classified as employees, or as independent contractors, for federal tax purposes. This year’s fight takes place in the midst of growing federal and state budget deficits, and widespread allegations that many businesses treat certain workers as independent contractors instead of as employees, to avoid paying Medicare and unemployment insurance taxes and providing other benefits for these workers. To address these concerns, Congress and the Obama Administration are proposing new legislation and regulations intended to rewrite applicable tax code provisions, and crack down on the misclassification of workers.

Here’s some background on these initiatives and underlying worker classification issues:

Common Law Test — Under current law, the determination of whether a worker is an employee or an independent contractor is generally made using an extremely subjective common law test. This test includes 20 questions. The answers help to establish whether or not a worker is subject to the control of an employer or service recipient, not only with respect to the nature of the work performed, but also the terms and conditions under which the work is performed and related services are provided. (1)

Significant consequences — for individual and corporate taxpayers — can result from the classification of a worker as an employee or independent contractor. These consequences relate to withholding and employment tax requirements, as well as a taxpayer’s ability to exclude certain kinds of compensation from income, or take tax deductions for certain business expenses. Some consequences favor employee status, while others favor independent contractor status. Employees, for example, are allowed to exclude the cost of employer-provided pension, health and life insurance benefits from gross income for federal income tax purposes. Independent contractors, on the other hand, can establish their pension plans and make tax-deductible contributions to those plans.

Significant tax consequences can also result if a worker is misclassified, and subsequently reclassified, as a result of an IRS audit. For employers and service recipients, such consequences may include penalties for failure to withhold taxes, as well as disqualification of employee benefit plans. For workers, the consequences commonly include liability for self-employment taxes, and denial of eligibility to deduct certain business-related expenses.

After years of contentious and often unresolved disputes between taxpayers and the Internal Revenue Service over employment tax classification decisions, Congress enacted a statutory alternative to the common law test in 1978.

Section 530 of the Revenue Act of 1978 – Section 530 allows taxpayers to treat workers as independent contractors, regardless of their employment tax status under the Common Law Test, if they have a reasonable basis for doing so. A reasonable basis includes a judicial precedent, a prior IRS audit or longstanding industry practice. If a taxpayer meets one or another of these criteria, the IRS is prohibited from reclassifying its workers as employees, even prospectively. Section 530 also prohibits the IRS from issuing regulatory guidance about the appropriate classification of such workers. (2)

Obama Budget Proposal – The Obama administration’s FY 2011 budget proposal includes provisions that would allow the IRS to issue regulatory guidance on employment tax classification matters and to reclassify workers found to have been misclassified, even if such a reclassification would otherwise be prohibited under Section 530. (3)

To enforce this proposal, the President’s budget earmarks \$25 million for 100 additional tax compliance officers. The IRS has already announced plans to audit 6,000 companies for compliance with current law.

The budget document anticipates that the resulting crackdown will generate at least \$7.3 billion in employment tax revenue over the next 10 years. A number of states, including California, Illinois, Massachusetts, Montana, New Jersey and New

York, are also stepping up their enforcement of employment tax laws, often by enacting stricter penalties for taxpayers that misclassify workers. (4)

Current Congressional Initiatives – In addition to the President’s regulatory reform proposal, key members of House and Senate tax-writing committees have introduced bills to modify existing statutes governing employment tax classification practices. Last year, Representative Jim McDermott (D-WA-07) and Senator John Kerry (D-MA) introduced the Taxpayer Responsibility, Accountability and Consistency Act of 2009. This legislation (S 2882/HR 3408) would amend relevant sections of the Internal Revenue Code and the Revenue Act of 1978 by expanding taxpayer reporting requirements, changing the Section 530 safe harbor rules and increasing civil penalties for noncompliance.

Similar legislation has been introduced in Congress in the past, only to die a slow death in the face of continuing disagreements about the best way to reform the always contentious employment tax classification process. Proponents of employment tax classification reforms, including many AFL-CIO affiliated labor unions, have long argued that businesses deliberately misclassify employees as independent contractors to reduce their federal and state tax obligations, and to avoid having to pay for overtime and other employee benefits.

Small businesses and self-employed workers in the construction, direct sales, transportation and computer consulting industries — where the use of independent contractors is pervasive — are usually among the loudest critics of the proposed reforms. Although everyone agrees that the employment tax classification statutes could use greater clarity, there always has been, and continues to be, vehement disagreement on how best to codify and implement appropriate changes.

Section 1706 of the 1986 Tax Reform Act – Disputes about the proper classification of technical services workers, including engineers and computer specialists, that began in the early 1980s culminated in Congress enacting Section 1706 of the *1986 Tax Reform Act*.

Section 1706 effectively revoked the Section 530 Safe Harbor protections, but only for “engineers, designers, drafters, computer programmers, systems analysts, and other similarly skilled workers” in brokered (three party) relationships involving individual workers, technical services providers (staffing firms) and client companies. As a result, workers who provided technical consulting services to clients through a staffing firm were once again obliged to comply with the 20 factor Common Law Test for employment tax classification purposes. (5)

Sustained efforts in the late 1980s and early 1990s by organizations representing independent contractors and self-employed consultants – including IEEE-USA and the National Association of Computer Consultant Businesses – to persuade Congress to repeal Section 1706 were unsuccessful.

Legislative Outlook – The 111th Congress and the Obama administration seem determined to re-engineer current laws and regulations governing the classification of workers as employees or as independent contractors for federal employment tax purposes. In view of the very real likelihood of Congressional action in the coming months, IEEE-USA will re-examine the need for an updated position on this controversial issue. Suggestions from readers on what position, if any, IEEE-USA should take will be very much appreciated.

Sources

Congressional Joint Committee on Taxation, Present Law and Background Relating to Worker Classification for Federal Tax Purposes (JCX-26-07), May 7, 2007. <http://www.irs.gov/pub/irs-utl/x-26-07.pdf>

Section 530 of the *Revenue Act of 1978* <http://www.workerstatus.com/530text.html>

Department of the Treasury, General Explanations of the Administration’s FY 2011 Revenue Proposals (February 2010). <http://www.treas.gov/offices/tax-olicy/library/greenbk10.pdf>

Steven Greenhouse, Federal and State Officials Crack Down on “Contractors” as a Tax Dodge, New York Times (Feb 18, 2010) <http://www.nytimes.com/2010/02/18/business/18workers.html>

Department of the Treasury, Taxation of Technical Services Personnel: Section 1706 of the Tax Reform Act of 1986 (March 1991) <http://ia310833.us.archive.org/2/items/taxationoftechni01unit/taxationoftechni01unit.pdf>

Vin O’Neill, is an IEEE-USA Senior Legislative Representative, and lobbies Congress and federal regulatory agencies on professional careers issues, including education, employment, health care, immigration reform, offshore outsourcing, retirement security, and tax issues of special concern to IEEE’s US members.

(Reprinted from the March 2010 issue of Today’s Engineer)

Obama Administration Announces Nearly \$100 Million for Smart Grid Workforce Training and Development

For consultants interested in teaching and instructing, U.S. Secretary of Energy Steven Chu announced in April that the Department of Energy has awarded nearly \$100 million for 54 smart grid workforce training programs that will help prepare the next generation of workers in the utility and electrical manufacturing industries. These projects will leverage more than \$95 million in funding from community colleges, universities, utilities and manufacturers to develop and implement training programs. The selectees estimate that the programs will train approximately 30,000 Americans. These workers will help to modernize the nation's electrical grid, and implement smart grid technologies in communities across the United States.

Secretary Chu made the announcement while visiting a PEPCO engineering and service center in Rockville, Maryland, that is receiving \$4.4 million in funding that PEPCO estimates will train 700 new and existing employees. This funding is the Obama administration's latest investment to develop the smart grid, and builds on the more than \$4 billion in *Recovery Act* funding for smart grid deployment and demonstration projects nationally.

"Building and operating smart grid infrastructure will put tens of thousands of Americans to work," said Secretary Chu. "Today's investment will help ensure that we have the work force in place to meet this need. This is a great opportunity for workers to upgrade their skills and earn more, or for laid off workers from other industries to start fresh in a new and growing field."

The programs will focus on training activities that support electricians, line workers, technicians, system operators, power system engineers, cyber security specialists and transmission planners. The selections include support to develop and deploy training programs broadly, as well as to conduct actual personnel training for current and future employees. Workers will receive training on transmission and distribution systems, as well as new intelligent grid systems, such as smart meters, phasor measurement sensors and advanced communication networks.

The award selections support two types of workforce training initiatives:

- **Developing and Enhancing Workforce Training Programs for the Electric Power Sector (Topic A)** — 33 projects have been selected to receive \$41.6 million in *Recovery Act* funds for the development of new training programs, strategies and curricula related to the electric power sector and the smart grid. These new programs include projects at universities, community colleges and technical schools that will help serve as models for training or retraining workers across the country. The awards also include support for the Strategic Training and Education in Power Systems (STEPS) initiative, which will develop cross-disciplinary electric power system programs at university and college levels.
- **Smart Grid Workforce Training (Topic B)** — 21 projects have been selected to receive \$57.7 million in *Recovery Act* funds to conduct workforce training programs for new hires — including displaced workers and military veterans— and retraining programs for electric utility workers and electrical equipment manufacturers to further enhance their knowledge of smart grid technologies and implementation. These projects will help ensure utilities and manufacturers have the necessary trained work force to support ongoing smart grid deployment projects, including Smart Grid Investment Grants and Demonstration Projects funded under the *Recovery Act*.

View the full [list of selected projects](#). Source: U.S. Department of Energy Press Release, 8 April 2010

Survey Results Released Regarding Independent Contractors Struggles

The Freelancers Union, a nonprofit organization representing independent contractors, has released a survey examining how the current social safety net does not protect those who work on an independent or contract basis. The Freelancers Union conducted an online survey of more than 3,000 independent workers from across the United States, to find out how independent contractors are managing during the economic downturn. The survey report appears intended as a catalyst to kick start discussions on policy change for how the social safety net should be designed to protect independent contractors. Although this is an advocacy piece, it does reveal some interesting information. For example, survey respondents spent more than 17,000 hours pursuing unpaid wages; and average survey respondents were unable collect nearly \$6,000 in fees for services owed to them.

For those interested, this [survey report](#) may provide for some interesting reading.



Consultants Can Also Access Assistance from the SBA

Last summer, 2009 IEEE-USA President Gordon Day signed a [historic agreement](#) between IEEE-USA and the [U.S. Small Business Administration \(SBA\)](#). The agreement establishes a strategic alliance between the two groups for the purpose of encouraging and fostering the creation of new, high-tech businesses.

SBA provides aid, counsel and advice to small businesses by providing them with financial, contractual and business development assistance. SBA also advocates on behalf of small business interests within the federal government.

The alliance between IEEE-USA and SBA will help improve communication between the agency and U.S. technology entrepreneurs. Under the agreement, SBA will provide IEEE-USA with information on SBA programs, products and services. The agency will also share information on its resource partners, provide speakers to participate in IEEE-USA events to discuss SBA financing, government contracting, and other business topics; invite IEEE members to attend local SBA-sponsored events; and offer training at IEEE-USA-designated locations.

This alliance has been heavily promoted through IEEE-USA, but mainly directed toward our entrepreneurship community. A common thread between both consultants and entrepreneurs are that most, if not all, are small business owners.

Merriam-Webster Dictionary differentiates entrepreneurs from consultants: "One who gives professional advice or services as an expert is a consultant." "An entrepreneur is one who organizes, manages, and assumes the risk of a business or enterprise."

We believe most consultants also assume the risk of managing a business, so they may find SBA resources very useful. As a start, IEEE-USA recently sponsored a joint webinar with SBA outlining its products and services. The IEEE-USA webinar, "[How the SBA/IEEE-USA Partnership Can Help Engineering Entrepreneurs](#)" is a general overview of SBA that touches upon the partnership, and the range of services/products that will benefit IEEE's U.S. members.

Also, consultants should be on the lookout for other IEEE-USA/SBA joint activities that may provide insight on how to grow your small consulting business.

Reprinted, in part, from the July 2009 issue of Today's Engineer "[IEEE-USA Forms Alliance with Small Business Administration](#)" by Russ Harrison.

AICN Welcomes a New Network in Houston

The Alliance of IEEE Consultants Networks Coordinating Committee (AICNCC) wants to congratulate **Richard Gillette** and the IEEE Houston Section Consultants Network for meeting MGA Board Operations Manual requirements to form an Affinity Group.

Their official formation date was 10 March 2010. If you want to wish them well, check the [IEEE-USA website](#) for contact information for the Houston Section Consultants' Network. If other groups want to form a consultants network, the IEEE-USA website also contains step-by-step instructions about how to become a formal network. New consultants networks are required to register as "Affinity Groups" to the Alliance of IEEE Consultants Networks. If groups do form a network, they can take advantage of IEEE's branding and resources, and also qualify for funding through IEEE Section rebates.



If IEEE members are out there who belong to Consultants Networks, but you don't see the network's contact information on our website, please contact Daryll Griffin at d.r.griffin@ieee.org, so we can bring you into the AICN fold.

Send in Your Recommendation for an IEEE-USA Award

The 2010 Alliance of IEEE Consultants Networks Coordinating Committee (AICNCC) is encouraging Consultants Networks and Consultants Network members to think about who maybe deserving of one of IEEE-USA's many awards. IEEE-USA Awards are given to recognize professionalism, technical achievement, and literary contributions that increase public awareness and understanding of the engineering profession in the United States.

IEEE-USA gives awards and recognition to recognize excellence, outstanding service, and contributions in furthering its objectives. IEEE-USA's Awards and Recognition Committee administers the awards program, and award recipients are announced each year at a special Awards Ceremony held in conjunction with IEEE-USA's annual Professional Activities Conference.

The 2010 AICNCC wants to promote Consultants Networks – and nominate members who have added value to the consulting profession; helped build and maintain active networks; and have made significant technical and literary contributions to increase public awareness and understanding of the engineering profession in the United States. July 31 is the deadline for submitting awards nominations.

For more information about IEEE-USA's Awards and Recognitions, visit: <http://www.ieeeusa.org/volunteers/awards/index.html>



Lessons from Bootstrap to Billions

a 5 part webinar series on entrepreneurship by Dr. Dileep Rao

Webinar: Lessons from Bootstrap to Billions

Dr. Dileep Rao, author of Lessons from Bootstrap to Billions, will lead a series of IEEE-USA webinars for future and seasoned entrepreneurs. The webinars will be based on Rao's book, which illustrates how, contrary to currently popular belief, entrepreneurs can bootstrap to success. Bootstrap to Billions shows entrepreneurs and managers how business giants used alternate financing options to grow. The first webinar in this series is on 20 May. Register at: <http://www.ieeeusa.org/careers/webinars/2010/Bootstrap-to-Billions.html>