

In The News

What's Happening in Washington & How It Could Affect Your Company

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Construction Business Owner

Ready for the year ahead of us? It's sure to be an interesting one. The United States economy is in one of its longest periods of expansion ever, unemployment is low and consumers are spending. Over the past several months, construction economists have fluctuated on their predictions for the year ahead before eventually settling on this: While the construction markets are expected to slow somewhat next year (current numbers are around 1.7% growth, compared to 3.3% in 2019), we aren't heading into a full-blown recession.

In Dodge Data and Analytics' 2020 outlook, Chief Economist Richard Branch said commercial contractors will see a slight decline, calling for a 6% decrease in commercial starts. For public works contractors, though, Branch predicted a 4% increase in starts. Go ahead and breathe a sigh of relief—we can deal with a slight slowdown. For now, let's focus on a market driver whose opinion fluctuates more than any economist's: the federal government.

Unless you live under a rock, you know it's an election year. In November, the nation will vote on its next president. Until then, sitting President Trump will be using the last year of his term to work on fulfilling his campaign promises, and one of those may just be a long-awaited infrastructure bill. Yep, we said it.

In early 2019, a rare bipartisan compromise happened when Democrats and the Trump administration agreed to the loose outline of a \$2 trillion bill. Trump had several demands in order to move forward with the bill, including the passage of the U.S.-Mexico-Canada Agreement (USMCA), a ratified free-trade agreement (aka a new North American Free Trade Agreement). And it's likely that the Trump administration will be eager to pass an overarching bill ahead of his potential reelection.

The American Society of Civil Engineers' (ASCE) most recent infrastructure grade for the nation was a D+. The ASCE estimates that the U.S. needs to spend around \$4.5 trillion by 2025 to repair America's failing bridges, roads, waterways and more. "We don't have any choice but to start rebuilding roads, bridges and tunnels. Much of the underground work that was done over 100 years ago is well on its way to disrepair and will soon be in need of replacement. This includes underground plumbing, electrical infrastructure, subways, etc.," said Michael Bordes, president of AA Jedson Company, a general development and design-build firm.

Bordes said the enactment of new laws will be key to the industry's growth where infrastructure is concerned—and that doesn't just apply to roads and bridges. "The renewable energy sector will also be booming over the next few years. The government plans to make renewable energy 20% of the country's total energy mix by 2020. This includes 10,000 megawatts in subsidized housing and 3.0 gigawatts in military capabilities by 2025," Bordes said. "These plans are big business for construction companies."

Also important to note is the human element—the U.S. population is expected to reach 347.34 million by 2025. With that growth comes the need for increased residential space and a stronger infrastructure.

However, even if a federal bill doesn't come to fruition in 2020, states and local municipalities have forged a path of their own in 2019 and will continue to do so this year. Ben Vaught, chief executive officer of DemandStar

Corporation, cautions contractors against hedging their bets on a federal infrastructure bill. “Common ground is a scarce commodity in D.C., and it will grow even scarcer in an election year. Contractors should not expect an infrastructure deal to get done at a federal level, which is unfortunate because a nationwide push on infrastructure would benefit every state and community, regardless of whether they are red or blue,” Vaught said.

However, if the U.S. does, in fact, go into an economic downturn, government spending will account for proportionately more than any new construction projects than the commercial or residential sector during that period. Vaught encourages contractors to increase their focus on federal, state and local government contracting opportunities now.

Remember that mention of the USMCA? After a year and some months of back and forth over tariffs on imports from a slew of countries, things may be looking up. At press time, House Democrats and the Trump administration had reached a compromise over a new agreement. The Association of Equipment Manufacturers said the agreement will “preserve duty-free market access to our most important trade partners, add more than \$68 billion to the U.S. economy, and create 176,000 U.S. jobs.”

The positive movement concerning the USMCA comes at a good time—contractors noted ever-increasing materials prices as one of their top worries going into 2020. Steve Seeger of Cozen O’Connor construction law practice named import restrictions, tightened obligations and tariffs as some of the biggest federal trends for contractors to watch in the coming year.

Nelson Dong, a partner at Dorsey & Whitney LLP, echoed Seeger’s remarks. “The administration’s constant use of punitive tariffs against foreign-made products (especially steel and aluminum products and manufactured goods) across several geographic fronts will clearly drive up the cost of some imported equipment and many building materials, but will inevitably also create a de facto higher ‘floor price,’ even for domestic-made equipment or building materials because those U.S. products will no longer have to meet the lower prices of the foreign competition. However, the USMCA is a positive sign in terms of materials prices and sourcing for the industry.”

“Since there is significant cross-border trade on hundreds of imported items that are made in Canada or Mexico and used widely in the U.S. construction industry—from lumber and plywood to rebar to concrete to nails to drywall—the USMCA should produce some much hoped-for stability in the prices of such goods, free from new U.S. tariffs,” Dong said.

Let’s see. Tariffs, infrastructure and ... what have we missed? Labor. You knew we’d talk about it. The bad news is the industry’s labor shortage will continue into 2020, and there is no silver bullet to solving it. The good news is there are many ways to alleviate it. And where Washington is concerned, hiring undocumented workers may not be the best strategy to solve your own company’s labor issues.

“Construction business owners should probably assume that the administration’s skepticism about, if not outright hostility toward, even legal immigration of foreign workers will continue, providing little or no counterbalancing of the present tight labor markets and the higher cost of construction workers, especially skilled workers,” Dong said.

Dong said the administration’s opposition to immigrant labor, along with the visa quotas set by Congress, will continue to cause construction firms to compete to hire from the existing U.S. labor force. And while some competition is healthy, it also means you need to be planning your improved strategy.

Regarding documentation and compliance, Irina B. Plumlee, a shareholder with the law firm of Munsch Hardt, reminds business owners to pay careful attention to all regulations and enforcement actions pertaining to the I-9 employment eligibility verification compliance. “In the era of high immigration scrutiny and enforcement, it is

advisable to conduct regular self-audits of corporate I-9 practices and ensure proper completion of I-9 documentary verification forms for employees, and timely reverification of employment eligibility.”

According to Plumlee, for businesses that engage vendors and subcontractors in 2020, one of the “hot” items will be how much control they have over their I-9 compliance.

How to Get Ahead in 2020

Check out the following advice from our experts to government and commercial contractors in 2020.

- **Vaught:** “Focus on building your own community of prime and subcontractors, materials and service providers, and partners who have experience working with the federal government. Remember that your competitors and partners are feeling the macro trends, too. But with a strong community around you, you’ll be able to respond quickly when a government opportunity comes up for bid.”
- **Seeger:** “Sign up for e-Verify if you’re not already using it. Every construction company should be utilizing the system for all of its workers, all of the time. It’s just not worth the risk otherwise—whether you’re on a government project or not.”
- **Plumlee:** “Advanced planning of labor and immigration needs is key for immigration compliance and sponsorship success. Having trained human resources and legal assistance goes a long way toward staying out of trouble if an audit occurs.”
- **Dong:** “Establish processes to retain the satisfactory skilled workers your company already has, knowing how hard it may be to replace them in a labor market filled with uncertainty for both employers and employees.”
- **Bordes:** “Implement additional training programs for your new employees and add incentives for long-term thinkers. Apply adaptability programs and try to help existing employees diversify their talents by adding more training and responsibility. Partner with local educational facilities that will send qualified talent to your business.”

The full article can also be viewed by clicking [here](#).

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