

CREATE PROGRAM SUPPORTS ILLINOIS MANUFACTURING

THE ILLINOIS Manufacturer

www.ima-net.org

Fall 2012

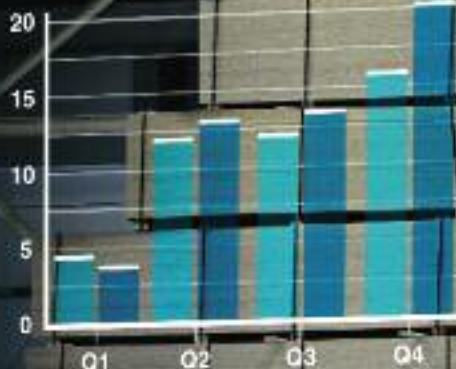
A big STEP for export growth



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Fall 2012



A big STEP¹⁶ for export growth

The Illinois State Trade and Export Program (STEP) provides assistance to manufacturers interested in starting or growing their export business.

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Mission Statement

The object for which the Illinois Manufacturers' Association was formed is to strengthen the economic, social, environmental and governmental conditions for manufacturing and allied enterprises in the state of Illinois, resulting in an enlarged business base and increased employment.

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Discovered!

"Don't it always seem to go . . . that you don't know what you've got til it's gone?"

— Joni Mitchell, *Big Yellow Taxi*



Americans want to live in a country that makes things, not just buys them. And politicians know it. Our country was built on the bedrock of three major sectors of the economy: mining, agriculture and manufacturing.

The next time you're in front of your computer, Google the name of any Illinois or Midwestern congressional candidate and add the word "manufacturing" to the search. You'll find that most of them have an economic recovery plan that highlights the improvement of this nation's manufacturing environment at its core. Manufacturing has been discovered . . . after only 200+ years of producing goods and jobs to anchor this nation's economic core. That must mean that — finally — our politicians have seen the light and will fight for issues vital to improving the nation's manufacturing landscape. Right?

Well, not so much.

In truth, many candidates have become "friends of manufacturers" as elections loom. There simply is no evidence of long-term commitment in their statements. But rather than view this as yet another blinding glimpse of the cynical nature of politics, I'm viewing it as a step in the right direction. Here's why: I know a bit about politics, so I understand what drives these new-found statements of support for manufacturing. It can be summed up simply:

Americans want to live in a country that makes things, not just buys them. And politicians know it. Our country was built on the bedrock of three major sectors of the economy; mining, agriculture and manufacturing. The federal government is doing all it can to kill the last vestiges of the mining industry and agriculture has become so efficient that only a small percentage of our population is still involved. So now, as manufacturing employment in the nation dwindles, it looks like manufacturers are finally being noticed.

The loss of manufacturing jobs in Illinois to states that have a more business friendly environment has been felt throughout the Land of Lincoln, and *The People* know it. They want to hear candidates say the right things. Unlike the lyrics of *Big Yellow Taxi* that opened this article, our citizens know what they're in danger of losing.

But that doesn't mean all candidates "get it." Many of those same folks who now champion manufacturing also support job-gutting initiatives such as Card Check, Cap & Trade, government controlled health care and a myriad of other programs that the nation cannot afford without blowing up the deficit even higher and stalling any kind of an economic recovery. It's time to pay close attention to more than just the rhetoric.

For that reason, I urge you to do what so many other manufacturers in Illinois are doing: invite your member of Congress and state lawmakers to visit your facilities. It's good politics and a great communication strategy. Let them know how much you appreciate their understanding of the importance of manufacturing to our economy, our communities and our future. And — most importantly — let them know that you'll be watching and holding their feet to the fire.

In the meantime, enjoy feeling like the prettiest girl at the dance. ■





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Manufacturing matters at the ballot box



Officials and candidates are trying to bask in the glow of an enhanced and robust manufacturing sector while business leaders are looking forward with a cautious eye and concern for future growth.

With only days remaining before Americans take to the polls to elect our next generation of political leaders, there is no doubt that the manufacturing sector clearly remains in the spotlight. Candidates at all levels of government, including both President Barack Obama and Governor Mitt Romney, are focusing on manufacturing largely because the industrial sector is growing and outpacing every other sector of the economy during a time of continued economic turmoil, as evidenced by a survey commissioned by the National Association of Manufacturers.

According to the recent survey of eight hundred small and mid-sized manufacturing and business leaders, 55 percent of respondents believe that the national economy is in a worse position compared to three years ago. Factors such as burdensome regulations, tax policy, government spending, energy and health care costs contributed to the negative economic outlook. Two of every three companies surveyed believe that there is too much uncertainty in the marketplace to expand, grow, or hire new workers while more than one-half believe that China and India are more supportive of their manufacturing sector than we are.

Officials and candidates are trying to bask in the glow of an enhanced and robust manufacturing sector while business leaders are looking forward with a cautious eye and concern for future growth. This presents a very interesting convergence and an historic opportunity for the IMA to lead the debate and help shape policy in Congress and the Illinois General Assembly.

The IMA is poised to capitalize on the manufacturing focus and utilize the positive momentum to elect good candidates for office who will advocate for pro-manufacturing policies. In Illinois, we need lawmakers who will finally vote to reform the severely underfunded pension systems and balance the state budget without raising taxes. Pro-growth policies that will close the education skills gap, promote energy solutions such as hydraulic fracturing, and strengthen and build upon the 2011 Workers' Compensation reforms are essential.

Nationally, the Presidential race features two very different visions for our nation and control of the U.S. Senate and Congress are up in the air. Issues like the Employee Free Choice Act, Keystone Pipeline, Affordable Care Act and tax policy will be determined by who controls the legislative bodies.

We need your help now! There is no doubt that you are considered one of the most reputable sources of information for your employees. The IMA encourages employers to invite lawmakers into your plants so they can meet your workers and understand the challenges that face your company. Materials are available so employers can promote voter participation and organize voter registration drives. Most importantly, educate your workforce on the candidates running for state and federal office using the IMA's Annual Legislative Ratings, and let them know how these issues impact your company's bottom line.

If you'd like to get even more engaged, consider making a contribution to the Manufacturers Political Action Committee (MPAC), or send it directly to the candidate of your choice. MPAC is aggregating member contributions and targeting key races with mail pieces, radio and television advertising designed to make a huge impact on behalf of strong pro-business candidates.

In November, voters elect a President, 435 members of Congress, 33 U.S. Senators, 11 Governors and every General Assembly. At home in Illinois, we will elect 18 congressional representatives and 177 members of the legislature. We have a tremendous opportunity and little time to take advantage. It's time to get to work. ■



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Talent Acquisition — “A road map for success”

Over the past few years, many internal and external factors have made talent acquisition more of a critical issue with owners and senior management of middle-market manufacturing companies. These factors include:

- The aging baby boomers and the talent drain that has begun at all levels of many companies. Remember, the first of the baby boomers hit 65 in 2011. This drain will accelerate over the next decade.
- The competitive marketplace — not just for customers but for the talent/key people your company needs to drive growth, profits and operational excellence. Many companies have a desire to upgrade their talent or create new positions their companies did not have before.
- Unemployment may be at a 30-year high, but for many key positions the unemployment rate is below 4.2 percent (Accounting/Finance, Information Technology, Operations and Sales positions). The high unemployment rate is really being driven by three factors: 1) people in specialized positions in hard hit industries, i.e., construction, unable to find positions; 2) unskilled people displaced due to technology, process improvement, and offshoring; and 3) younger people with unproven skills or recent college grads unable to be absorbed into a low-growth economy.

If your company wants to attract, recruit and retain key talent, you need to have a well thought out approach. With input from our middle market clients, we have developed a road map that outlines the critical steps to be successful.

Step 1 — Understand your needs today and tomorrow

This step is often overlooked. Step 1 goes beyond updating or creating a position description. It should include the following:

- Define what you need today and define what you will need in the future. Draw the organizational chart for your department, division or organization for it will look like one, three and five years out. Factor in how the business will change and evolve. Some positions will split into two roles or be refined as the organization grows. Factor in new locations, product or service lines, retirements, and planned mergers or divestures, etc.
- Define the position specifications, which is sometimes referred to as the success profile. These are the skills and competencies required to perform the role successfully

today and in the future. This success profile should include management style preferences. These style preferences may take some thoughtful analysis and internal discussions. You should consider assessing the dominant style of your current team and potentially what is lacking. For example, if the dominant style is a driver style, you may want a candidate who is more collaborative in their management style and approach.

Step 2 — Develop your sales pitch

A key part of your strategy is to first determine why a candidate will want this position as well as why they want to work for your company. You need to be able to sell your company and the opportunity. Some companies fall short on this step — not because they do not have a good story to tell, but because they do not develop it,

see **TALENT ACQUISITION** page 10





IMA strategic partner and member, Heritage-Crystal Clean, a long time leader in parts cleaning and industrial waste disposal services, now offers both Oil and Vacuum truck services throughout the state of Illinois.

Heritage-Crystal Clean built and is operating a 50 million gallon grass roots oil re-refinery in Indianapolis, IN.



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For more information please contact HCC's Jim Skelton @ 630-333-5901, jim.skelton@crystal-clean.com or visit the website www.crystal-clean.com



Protecting your company from punitive damages

It goes without saying that the threat of a punitive damages award, in a civil lawsuit, is serious business. Punitive damages are awarded against product manufacturers whose conduct is considered to be, as Illinois law describes, “outrageous” or “evil.” While trying to understand precisely what these terms mean under the law can be difficult, the fact remains that a punitive damages award can cause irreparable damage to the reputation of a manufacturer and its product. Moreover, it is against Illinois public policy for insurance to cover punitive damages awards, unless the award is based on vicarious liability for the conduct of an agent or employee. Fortunately, there are steps that a manufacturer can take, now, in order to minimize the likelihood of facing such an award.

This article provides an explanation of the basic law surrounding punitive damages, describes what happens during and after a civil trial, and offers practical ideas for how a manufacturer can work to avoid ever facing the threat of such an award.

The basics: What does Illinois law say about punitive damages?

Illinois law does not favor punitive damages awards. There is a concern, in the law, that the possibility for large punitive damages awards may have a chilling effect on research as well as the development of new products that provide substantial public benefit. Nonetheless, Illinois law recognizes and allows for the recovery of such awards in appropriate cases. The purpose of a punitive damages award is not to provide compensation to an injured plaintiff but, rather, to punish a defendant for certain types of conduct and to deter others from engag-

ing in similar conduct. Some courts have described punitive damages awards as being similar to a criminal penalty. Notably, a defendant who is found liable for punitive damages in a civil trial can also be subject to criminal penalties for the same conduct.

In Illinois state court, a plaintiff seeking recovery for product liability or negligence cannot simply file a complaint which includes a request for punitive damages. In such cases, a plaintiff can only seek punitive damages by first gaining the permission of the court following a full hearing on the issue. During the hearing, the plaintiff must establish a “reasonable likelihood” that he will prove sufficient facts, at trial, to justify an award of punitive damages. If a plaintiff is unable to convince a judge that he has sufficient facts, the

court will not allow that plaintiff to even add a request for punitive damages to the complaint. If the court is convinced, and allows a claim for punitive damages, the fact that such a claim is presented to the jury does not mean that the jury will automatically award such damages.

During the hearing to assess whether punitive damages are appropriate, the court will look for evidence of conduct that is outrageous, and similar to conduct which constitutes a crime. It is not enough if a defendant was merely negligent, had a lapse in judgment or simply made a mistake. The law requires that the defendant have acted in a manner which was indifferent to the rights of others, or with an evil motive.

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think it through and consistently tell the story. You need to be able to answer the following questions:

- What is the vision for the company or organization in three, five and 10 years? Think in terms of the following: revenues, number of employees, new markets, services or products and profitability. Don't be afraid to talk about the softer matters like cultural change and change management initiatives that the company plans for the future.
- How does your organization differ from your competitors? What is your competitive advantage? Can you substantiate or quantify this?
- Is this position newly created or is this revised? If so, how should the position appeal to the candidate.
- What is the turnover in your company? Why do people stay? Why do they leave?
- If this is a privately held company either owned by an individual(s), family or private equity firm, executive and management level candidates will want to know the succession plan or exit strategy. Answers to these questions can convey a big opportunity or raise some questions. This point is discussed more when discussing the offer and compensation package.
- Do you understand what the market pays for this position? Have you benchmarked the salary, annual incentive and, if appropriate, the long term incentive and related benefits for this position? If your total compensation package falls below the median you will not be able to attract top talent for this position. If you do attract them, you will run the risk of not retaining them over time.

Keep in mind to attract key people to interview with your company, as well as get them to accept an offer, the above questions will need to be addressed.

Step 3 — Developing your recruiting game plan for sourcing candidates

The challenge is finding the right candidates that fit your specifications and success profile. There are more sources for candidates than ever due to three factors: 1) Internet resources; 2) Networking events; and 3) Groups specializing in professional skills and interests.

The potential sources for candidates are varied and consist of numerous sources:

- Career and job boards;
- Networking groups;
- Professional and industry associations;
- Alumni associations (business and educational);
- Personal contacts; and
- Referrals from employees and friends of the company.

The use of a Search Consultant/external Recruiter is not a negative against your HR department. The reasons companies use outside recruiters varies. Some of these reasons are:

- The criticality of this position — the need for a very thorough sourcing effort from multiple resources. External recruiter networks and resources are often more extensive.
- Their ability to sell and influence candidates versus an internal recruiter. Candidates can ask a search consultant/external recruiter questions they would rarely bring up or be afraid to ask an internal recruiter.
- Search consultants/external recruiters only focus on finding the right talent to fit into your company. They are well trained in determining behavioral traits and seeing what others might not see. (Candidates are more likely to divulge more information to a search consultant/external recruiter, than an internal hiring manager, when initially screening the candidate.)
- Search consultants/external recruiters have significant time available to dedicate to each position. A comprehensive external search can take 100-300 hours plus.
- Search consultant/external recruiter capabilities compliment

your HR department and let them focus on their primary duties and responsibilities.

- They are objective and have no bias.
- The advantages and disadvantages of using a search consultant/external recruiter need to be understood by the organization. The cost of external recruiters can be expensive and needs to be balanced and weighed against the above considerations. Also keep in mind the cost of turnover of a key position is anywhere from 150 percent to 300 percent of a person's salary when you factor in the following: lost productivity, internal training and development costs, recruiting costs, employee morale, and customers perceptions to the change, etc.

Step 4 — The internal interviews and due diligence process

The HR department or hiring manager/executive should have a well thought out process that should include most, if not all, of the following:

- A phased or multiple visit process so that only the most promising candidates are brought back for a second or third round of interviews, testing, etc.;
- Internal interviewers trained in asking behavioral/situational type interview questions;
- Interviewing and meeting a cross section of people the candidate will be working with;
- Psychological and leadership assessment testing to better understand the candidate, their management style and leadership skills; and
- A thorough background and reference checking process.

In addition we believe the following steps are essential for employers to conduct for senior level positions:

- A process that allows the more promising candidates to get a better feel for their position, the company, the opportunity and the challenges including, as appropriate, reviewing components of the company's business or strategic plan, reviewing key financial information and other information that may be relevant to their position or decision;
- Asking candidates to bring past

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Trademark owners: Nine steps to defend your brands on the new Internet

Establishing your “brand” in the manufacturing industry takes years, often decades of providing consistent, quality products and services that stand out against the competition. Throughout the process, use of a distinctive trademark can help focus your efforts and build customer recognition. Federal registration of these trademarks will help protect your company’s investment, and enable it to prevent the use of confusingly similar trademarks by competitors and other third parties.

The internet has become one of the major modern marketplaces for manufacturing industry goods and services. With this growing importance, local, national and international companies have been challenged by unscrupulous entities seeking to profit off brands of others by registering and using confusingly similar domain names and trademarks to misdirect online consumers.

Now, the organization which oversees the registration and use of internet domain names — the Internet Corporation for Assigned Names and Numbers, or ICANN — is allowing the registration and establishment of new top level domains (TLDs, the characters to the right of the dot such as “.com,” “.net,” “.edu,” et al.) using any word, trademark, or name. Consider, www.cheapsales.YOUR_BRAND! These new domains can drive traffic away from your website, and engage in promoting and selling competing or counterfeit products. At the same time, these TLDs will establish new territory in which second level domain names (SLDs — the words to the left of the “dot”) may be regis-

tered and used, thereby opening additional layers of domain names that consist of, or are confusingly similar to, your company’s trademarks. The first round of applications for new TLDs has closed. ICANN has established certain rights protection mechanisms for trademark owners. However, many of these are only available for a limited time. Manufacturers and trademark owners should therefore take steps now to protect their trademarks in this new domain name system.

Rights protection mechanisms

ICANN’s new TLD program incorporates several protection mechanisms for trademark owners. First, trademark owners can submit public comments concerning new TLDs for consideration as part of the application review process. Second, trade-

mark owners can file Formal Objections to prevent the registration of domain names that are identical or confusingly similar to their trademarks or otherwise violate their legal rights. They can also file objections to challenge TLDs that are identical or confusingly similar to a word or generic term that is used in a particular industry or community, or that violates public taste or moral standards. Third, there is an “Anti-Abuse Procedure” for challenging registrars that engage in a pattern of domain name abuse.

Another protection mechanism is the establishment of a Trademark Clearinghouse (“TMCH”), in which owners of registered trademarks can record their trademarks. If entity attempts to register a second level domain (SLD) in a new TLD that is

see **TRADEMARK OWNERS** page 20



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TALENT ACQUISITION

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work product. Sometimes this is not necessary although a search consultant/external recruiter can request and see this information. Due to confidentiality reasons, candidates, rightfully so, have a difficult time showing this information to a potential employer.

- Asking candidates to develop their thoughts on how they would like to tackle the first three to six months in their role. This can only be done after the candidate has been through two rounds of interviews since they need to learn about the organization before developing such a plan.
- One-on-one time with the CEO, or other C-Level executive, discussing what they have learned, questions they may have, as well as a walkthrough of their thoughts on the first three to six month personal on-boarding and business plan.

Step 5 — The offer and employment agreement

Considerations to making the offer and the actual offer itself include:

- A candidate's compensation history should have been obtained early on in the process along with desired compensation information. If the candidate works for a competitor, you should be aware if they are bound by any employment agreement considerations such as non-compete, non-solicitation of employees/customers/prospects agreements. This can be done by the internal recruiter or external recruiter. You do not want any surprises when it comes to making an offer. The candidate also does not want surprises.
- The hiring executive should have the key provisions of the offer outlined on paper and discussed with the recruiter (internal or external). External recruiters can take the emotion out of the discussion with the candidate by either introducing the offer or assist with the negotiation. This should be driven by the hiring executive. Roles should be clarified up front

with the internal and external recruiter to prevent any misunderstandings. If the search firm is a retained firm, their fee should be independent of the offer in most cases and fixed up front based upon targeted compensation.

- Certain executives and positions are more prone to loss of jobs if a company sells, especially to a strategic buyer. To reduce this risk, the employer should consider one or more of the following strategies: A long term incentive, a sale

incentive, a change of control provision that triggers severance typically if the executive loses their position within a 12-24 month period following a change of control. All of these can help retain key talent and often times help drive shareholder value if properly structured.

- The search consultant/external recruiter or hiring executive should make it clear at this stage, if not sooner, in the interviewing process that they do not want their offer to be used as leverage with their current employer. They should ask up front what the candidate's response will be if the current employer counters with an offer. This makes it clear to the candidate that you do not intend to play this game. It also confirms the candidate's real intentions with respect to a potential offer.
- Offers can be extended, but be sure to specify that it is contingent on a positive background check.

Step 6 — On-boarding

Some companies have an excellent on-boarding process and some do not. A comprehensive on-boarding process should include the following:

- Providing the basic traditional company orientation;
- Developing key internal and external relationships;
- Learning about organizational practices and systems especially those germane to the position;
- Goal setting and identifying key initiatives to be involved with;
- Providing more in depth orientation including history, cultural norms, strategy and planning matters; and
- Providing feedback for both the employer and the new candidate at the three month and six month marks.

Conclusion

Following the above six steps will greatly increase your success in attracting, recruiting and retaining the key talent you need to succeed in the competitive marketplace. In addition, these steps should help insure your new candidate gets off to a great start and creates value for the organization. ■



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PUNITIVE DAMAGES

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It is important to bear in mind that a manufacturer can be subject to liability for punitive damages based on vicarious liability for the acts of its employees. The law will allow for such a recovery in several circumstances: (1) if the employer authorized the wrongful act; (2) if an employee or agent is unfit and the employer was reckless in employing that person; (3) if the agent was working as a manager and acted within the scope of his employment; or (4) if the employer

or his agent somehow approved of the wrongful conduct.

The failure to conduct a proper check of an applicant's background can, potentially, lead to an award of punitive damages. For example, if an employee intentionally injures another who then sues the employer for punitive damages, the employer may be subject to liability if a proper background check would have revealed that the employee had a propensity to cause harm to others. However, punitive damages are not appropriate if the background check would have merely revealed facts that would have caused the employer not to hire that applicant as opposed

to information, say, indicating that the employee who later injures someone had a propensity for violence.

In product liability cases, the defendant is typically a manufacturer or distributor who, as one court has explained, "command[s] little sympathy from jurors." In such cases, the law requires an evaluation of commercial misconduct to determine whether or not to award punitive damages, and such damages are only appropriate against a company who demonstrates a flagrant disregard for or indifference to public safety.

In such cases, a plaintiff will typically claim that an injury causing product was defective in its design, manufacture or labeling. Plaintiffs often allege that the manufacturer took short cuts in the design or manufacture of the product, or that insufficient research or testing resulted in inadequate warnings. Plaintiffs may then argue that by taking short cuts, or failing to conduct sufficient research or testing, the manufacturer engaged in outrageous conduct and favored profits over safety. A plaintiff who presents sufficient facts to support these allegations, and proves that a manufacturer engaged in outrageous conduct, may successfully recover punitive damages.

There are some limitations on punitive damages. For example, punitive damages are not recoverable in wrongful death actions, nor can a plaintiff recover punitive damages in cases involving a breach of contract or warranty unless the breach was intentional. Also, Illinois law does not allow a jury to award punitive damages in order to punish a defendant for harming persons who are non-parties to the lawsuit at issue. However, evidence of harm to non-parties may be relevant to demonstrate, for example, the reprehensibility of a defendant's conduct, which, as discussed below, is a consideration relevant to whether or not the jury decides to award punitive damages at trial.

What happens at trial?

If a court concludes that there is sufficient evidence, it will allow the plaintiff to include a request for punitive damages in the complaint. At trial, the jury will receive an instruction that it is to consider an award for punitive damages against

a simple concept:

PRECISION



To learn how our firm is serving manufacturers in Illinois and beyond, contact:

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CREATE program supports Illinois manufacturing

Submitted by Wesley "Wes" J. Lujan, Director, Public Affairs, Illinois and Metra Commuter Relations, Union Pacific Railroad

Ford Motor Company sparked an economic revival when, in 2010, it renovated an 80-year old assembly plant at 130th Street and Torrence Avenue on Chicago's far south side and fitted it with the latest technology to manufacture cars. Just a half mile away, Ford turned a brownfield site that had been vacant for 40 years into its first U.S. supplier manufacturing campus to provide parts for the assembly plant. As a result, Ford has brought 4,000 jobs to the area.

One element that made Ford's plan possible is an infrastructure investment to grade separate the roadway and rail lines at 130th Street and Torrence Avenue, adjacent to the factory. Currently, freight trains can block the roads adjacent to the Ford facility for up to 20 minutes, thus restricting critical access to the site for employees and deliveries, as well as the movement of cars from the assembly line to rail shippers. The project to resolve these issues involves construction of three new bridges and the realignment of roadways to separate several freight railroad tracks from the busy intersection of 130th Street and Torrence Avenue. Work began in spring 2011, and significant progress has already been made toward project completion in 2015.

This grade separation is one of the projects in the Chicago Region Environmental and Transportation Efficiency (CREATE) Program, which includes 70 critically needed rail and

highway infrastructure improvements in Northeastern Illinois to reduce congestion, improve the quality of life of area residents, and increase the efficiency of freight and passenger rail service throughout the region and across the United States.

Increased freight rail efficiency through Chicago will provide economic benefits throughout the region and nation. Ports throughout the U.S. and internationally depend on Chicago to move freight. Twenty-five percent of all the nation's rail freight passes through Chicago, including 50 percent of all goods shipped from the port of Los Angeles and 76 percent of all inbound freight from the Ports of Seattle and Tacoma. Additionally, the CN Railway sends two dedicated trains per day to Chicago from Prince Rupert Port located 500 miles north of Vancouver.

While Chicago is still considered the nation's most congested rail hub, conditions continue to improve. CREATE has completed fourteen projects, twelve projects in construction and 19 are currently in planning and/or design. A freight rail simulation conducted in the summer of 2011 showed the investment in CREATE to date has resulted in a 28 percent reduction in freight rail delay and 33 percent reduction in passenger delay compared to the system if no CREATE projects were built. The program, estimated in 2009 to cost \$3.2 billion, has received over \$980

million in funding so far from federal, state, local and private sources.

With the support of the IMA, the Illinois General Assembly recently passed House Bill 4568 and Senate Bill 2332 that authorized \$211 million for CREATE. These funds were originally appropriated in Illinois Jobs Now legislation. The CREATE partners continue to seek additional funding sources to continue forward progress.

On the Western Avenue Corridor a third track was added to increase capacity and train speeds.

However, even with projects such as CREATE underway, pressure on the rail freight system is steadily growing. The demand for freight transportation is forecast to nearly double between 2005 and 2035. U.S. international container traffic is expected to triple in the next 20 years.

According to a study by the University of Illinois's Regional Economic Applications Laboratory, if the CREATE Program improvements are not completed and Chicago's railroads are unable to accommodate the expected growth in future freight rail traffic demand:

- 172,000 job years would not be created in the Chicago region from 2018-2040; and
- \$1 to \$7 billion in annual production would not be generated in the Chicago region.

The CREATE Program is key to the economic success of our state and

see **CREATE** page 26



A big step for growth: Illinois' State Trade and Export Program

Businesses of all sizes increasingly look to the world to sell their goods and services, especially during times of slow growth domestically. By connecting with the world's fastest growing markets, companies can increase their sales and create more jobs at home.

But reaching those global markets is often complicated and costly. For Wood Dale-based IMA member company Wiegel Tool Works, Inc., state and federal government resources are helping the company overcome those obstacles so it can attract customers worldwide.

Earlier this year, Wiegel Tool Works took a step — or a STEP — toward growing its business at Hannover Messe trade fair in Hannover, Germany. A grant match through STEP, the State Trade and Export Promotion program, is helping the company expand its global reach.

STEP is administered in Illinois by the Department of Commerce and Economic Opportunity's (DCEO) Office of Trade and Investment (OTI). In 2011 and 2012, OTI received competitive STEP grant awards from the federal government and has used those funds to assist small and medium-sized businesses in raising the value of their export sales.

More than 120 Illinois companies have utilized STEP funds to help defray their travel costs for group trade missions or individual sales missions to foreign markets. STEP funds can also cover such expenses as trade show booth fees, matchmaking fees, interpreters and briefing materials.

For Wiegel Tool Works, attending the German technology trade show gave it a taste of Europe. "For our company to expand, we must think globally and not regionally," said Martin Wiegel, president.

Beyond just a taste of Europe and financial assistance through STEP, OTI also provided the company valuable skills and advice such as how to make contacts and set meetings with global representatives.

The experience in Germany has spurred changes in the way the company thinks about selling its products. "We have had the opportunity to go back to the states and retune our marketing approach to attract the global customer," said Wiegel.

STEP background

In the 2010 State of the Union address, President Obama issued a challenge to the nation: to double the value of its exports in five years. Governor Pat Quinn has embraced that challenge and actively works alongside Illinois companies to make connections with foreign government officials and business leaders. OTI, through DCEO, coordinates the state's international trade efforts.

STEP is a pilot grant program through the U.S. Small Business Administration (SBA). Part of the Small Business Jobs Act of 2010, STEP offers states up to \$90 million over three years to assist businesses in trade efforts. The Act, which provides numerous resources aimed at economic growth and job creation, was the most significant piece of small business legislation in over a decade.

In the first STEP grant year, Illinois received an award of \$1.26 million. This year, the state was awarded \$1.07 million.

Illinois is the largest inland exporter in the nation. In 2011, Illinois exports totaled over \$64 billion, a growth of nearly 30 percent from 2010. This growth was nearly double the national export growth rate.

The largest single contributor to the state's export growth in 2011 was Canada, with increased exports of \$4 billion. Other notable growth markets include Mexico, China, Australia and Brazil.

DCEO Director David Vaught values the impact exporting has on the state's economic health. "The export economy provides the real competitive standard for Illinois businesses," he said. "When businesses can effectively compete against the best in the world by exporting, our economic growth will be strong."

Programs such as STEP can enable companies to compete globally. "We want to help those businesses make that important transition into international markets," Vaught said.

STEP is doing more than enabling companies to compete — it is also producing results. The participating Illinois companies reported to the state that the pilot program is helping them generate more than \$150 million in sales in the first year.

Landing on water

Illinois' export promotion reaches far beyond Europe. In July, OTI led a trade mission to the Singapore Water Expo. Asia represents a growing market for water technology products and services. The OTI pavilion served as a showcase for eight Illinois-based companies.

The mission was led by Terry LaRocca, an OTI senior international trade specialist for Asia-Pacific. "Our state is eager to take advantage of opportunities for international

growth in the increasingly important water technology sector," he said. "Illinois is striving to lead the nation and the world in clean technology and environmental innovation as it relates to water quality issues."

The STEP-sponsored Singapore mission generated approximately \$3.2 million in projected revenues over the next 12 months for the participating companies from Illinois.

Trade show attendee Bruce Nesvig of Evanston-based Erdco Engineering Corp. said STEP and OTI opened doors for his company by providing "a platform for Erdco to explore a market that [we] would not have been able to consider."

LaRocca received overwhelmingly positive feedback from others who attended the Singapore show — not just for the services provided by OTI and made possible by STEP funds, but for the trade show itself. "All exhibitors indicated that it was the best international water conference and trade show that they had participated in and were impressed by the quality of the attendees that passed through the Illinois pavilion," he said.

2012 STEP programming also included trade missions to Dubai, Tokyo, Mumbai, Sao Paulo, Santiago, Beijing and Shanghai. Additional trade missions are planned for 2013.

Taking the Next Step

Companies interested in the STEP program, the services of OTI or other trade-related information can look to their local International Trade Center (ITC). Part of the vast Small Business Development Center network, the 11 Illinois ITCs specialize in providing counseling and training to existing and new-to-export companies.

ITCs are vital to the goal of growing exports. "ITCs provide a distributed network of business-counseling-for-export support centers throughout the state," said Adam Pollet, deputy director of OTI. "This type of network is an incredibly powerful tool given that many companies need one-on-one counseling to expand their business. And they need to be able to access these services in close geographic proximity."

Vaught understands that encouraging business of all sizes is key to strengthening the export success and a stronger economy. "Many small and medium-sized businesses have successful business plans in place. They are often ready to then reach out to new markets and achieve success at the next level," he said.

To find the nearest ITC, go to www.ilsbdc.biz. For more information about OTI, visit www.exports.illinois.gov. ■

Please join us for the . . .

Illinois Manufacturers' Association Annual Meeting Friday, December 7, 2012

Four Seasons Hotel • Grand Ballroom
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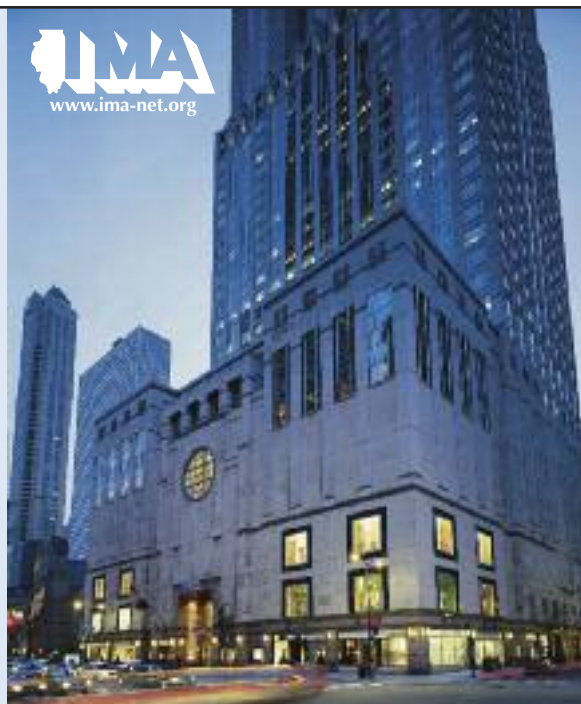
Keynote speaker: Christopher Crane, President & CEO of Exelon Corporation. With over 30 years in the nuclear industry, Mr. Crane will share his opinion on the future of energy policy.

Also included in the day's events will be three breakout sessions and a Networking Reception with Exhibits by IMA Affinity Partners.

REGISTRATION DEADLINE: FRIDAY, NOVEMBER 30, 2012

For details or to register, visit the IMA Calendar of Events at:
<http://www.ima-net.org/calendar-of-events/>

For additional information, contact Kimberly McNamara:
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Introducing the IMA electricity purchasing pool

As the endorsed energy supplier to the Illinois Manufacturers' Association (IMA), Constellation helps members like you develop energy management solutions to protect your bottom line. Our newest energy management solution, the IMA Electricity Purchasing Pool aggregates electricity load from participating members and creates a structured, systematic purchasing strategy to manage energy costs and risk over time.

This program, unique to the IMA, allows members to benefit from the increased purchasing power of member aggregation and will free up time for members to focus on their core businesses. Program participants will receive comprehensive monthly reporting of their purchases and budget performance. Reports start with our forecast of member usage and cost, comparisons of forecast-to-actual, and variance analysis.

A fixed electricity price will be established over a defined purchasing period for 100 percent of members' anticipated electricity load. The fixed electricity price will be established using Constellation's Minimize Volatile Pricing (MVP) solution which utilizes a diversified and proprietary methodology to reduce energy market timing risk while locking in fixed prices. The objective is to provide a high degree of budget predictability using an intelligent purchasing approach.

Here we've compiled answers to some of our most frequently asked questions about the IMA Electricity Purchasing Pool.

Will large IMA members subsidize smaller ones?

No. IMA members' prices are based on how and when they use power. Prices will reflect the purchasing power of buying in aggregate.

In addition to the value of buying in aggregate, what are some other program benefits?

Through systematic purchases over time, IMA members mitigate the timing risk faced when taking a single position. This systematic approach frees members from trying to time the highs and lows of the market.

How does this differ from dollar cost averaging?

Target purchases made on the IMA members' behalf are based on sophisticated modeling that aims to lock-in higher percentages of load when prices are lower in comparison to historical prices, as opposed to basic cost averaging approaches that lock-in a fixed percentage of load at regular intervals regardless of market conditions.

Is it possible that a lower price is available at some point in time?

Yes. This is possible with any risk management program.

Can IMA members leave the program?

Yes. The participating IMA member can always leave the program but must remain with Constellation through the end of their contract. Any purchases made on behalf of IMA member accounts will carry over to a standard term deal.

Can IMA members fix remaining load on index at any time?

Yes, IMA members can fix the remaining index load at any time. The price of fixing the remaining load will be provided in the monthly budget report.

When can IMA members enroll in the program?

The program began in July, 2012. The key is to have at least six months of power flow to optimize purchasing. The member has the ability to define the date by which 100 percent of load has to be locked-in.

How will the contract process work?

IMA members must finish any existing contract with Constellation (or another RES) before starting service on this program.

What information can IMA members find in their budget reports?

Program participants will receive comprehensive monthly reports of purchases and budget performance. Reports start with our forecast of IMA member usage and cost, comparisons of forecast-to-actual, and variance analysis. Participating members may set a budget so they can track it to actual and budget variance reporting.

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TRADEMARK OWNERS

Cont. from page 11

identical to a trademark listed in the TMCH, the TMCH will notify that entity of the potential conflict. In order to proceed, the notified applicant must acknowledge the notification to the TMCH and state its belief conflict is not likely. The TMCH will then notify the trademark owner about the application. Registration with the TMCH is also required for trademark owners to take advantage of sunrise SLD registration periods which ICANN requires all new gTLDs to offer.

Finally, ICANN is establishing an expedited Uniform Rapid Suspension (URS) challenge procedure, designed to provide more rapid determination of claims against applied-for second level domain names where the evidence of confusing similarity and lack of rights is clear and convincing.

In order to take advantage of these programs, trademark owners should take the following steps now:

1. Register your trademarks.

Registration is more important now than ever before. In order to be listed with the Trademark Clearinghouse, a trademark must be registered. Legal and other challenges for infringement, cybersquatting, and trafficking in counterfeit goods also require or are substantially aided by registration.

2. Establish use of your trademarks. In order to participate in new TLD sunrise periods, a trademark must be used. Although the procedures for recording trademarks in the TMCH are not yet established, companies should gather specimens and evidence of use now so they can apply as soon as the TMCH opens.

3. Establish industry domain name use committees. One of the most important opportunities of the new TLD program is the ability to register generic or descriptive terms as TLDs. Many generic terms, however, may have a particular significance to, or affect the rights of industries, groups of companies or individuals such as local or national manufacturing associations, stan-

dards bodies, and trade organizations. The new TLD program gives priority to the rights of communities (defined by ICANN as any clearly defined group of people or organizations) in established terms, both in the application and challenge stages. Companies operating in particular industries should therefore consider organizing committees within their industry organizations or associations to monitor and assert rights in community terms.

4. Monitor the announcement of new TLDs. On or about June 13, ICANN will publish a complete list of TLDs for which applications have been filed, along with the names of their applicants. Trademark owners and others whose rights would be violated by registration of a TLD will have 60 days to submit a public comment and seven months from the date of publication to file formal objections to registration of the domain name. Objections, based on string confusion (if the objector has also applied for a new TLD); legal rights (if the domain name violates any rights of the objector, including dilution, trademark infringement, slander, etc.); limited community interest (if the domain name violates community standards of decency or interest); or community rights violations (if the domain would adversely affect an established community's rights).

5. Subscribe to monitoring and watch services. The task of monitoring SLDs in the more than 2,000 new registries is beyond the means or abilities of even the largest companies. A number of reputable, experienced domain name monitoring services presently exist, and most of these will be offering monitoring and watch services in the new TLDs. Attorneys who have experience in the domain name space can provide useful insight and advice regarding watch services.

6. Keep up with the new TLD timelines. Companies need to keep abreast of the schedules being followed in the roll-out of new gTLDs so they can act within the scheduled times. As the recent "application glitch" delay demonstrates, these schedules can change unexpectedly, so knowing them is not enough. Companies should retain counsel who are familiar with and keep cur-

rent with these changing schedules and will keep them advised.

7. Establish an Online Presence Policy Team. Companies should establish Online Presence Teams in order to review and develop policies regarding domain names, websites, online marketing, email and social network use, trademark and content policing and protection, and online privacy policies. Companies should view their use of the internet and domain names with the same comprehensive planning and policy development as they do new products, engaging representatives from product development, marketing, finance, legal, and Board levels, and retain employees, legal counsel, and service providers to assist them in carrying out these policies.

8. Establish a protection and enforcement plan and carry it out. In order to coordinate and govern all these efforts, companies need to establish online and domain name protection plans. These should be developed by the company's Online Presence Policy Team to address monitoring; registration of TLDs and SLDs; challenging third party registration and use of domain names and trademarks; policies regarding litigation and payment for domain name transfer; and enforcement responsibilities.

The internet and domain name space is an increasingly important marketplace of products, innovation, and communication, the primary conduit for transmitting and locating information, marketing and selling products and information, and developing new goods and services. The role of domain names and trademarks will therefore increase dramatically over the next few years. Companies should prepare for this change, and incorporate domain name considerations and online strategies into their product development and marketing planning.

9. Keep abreast of developments in ICANN's new gTLD program. Changes in the online marketplace and domain name space occur quickly. ICANN is a unique internet governance organization which embodies a bottom-up multi-stakeholder model of policy making. The

see **TRADEMARK OWNERS** page 22

Sale of mercury seals for well pump applications banned due to environmental concerns

Mercury is a very toxic element that can cause severe neurological health problems. Mercury can enter the human body through inhalation, ingestion and/or skin absorption. Over the years there has been a growing concern over the use of mercury and many environmentalists believe that the use of mercury in every day products may have led to cardiovascular disease, autism, seizures, mental retardation, hyperactivity, dyslexia and many other nervous system conditions in the United States. Many states have enacted legislation that has reduced or eliminated the amount of mercury that a product can contain.

Recently, in an Act concerning public safety, the Governor Quinn signed new legislation (SB 1213), which was approved by the Illinois House of Representatives and the State Senate, banning the sale and distribution of "mercury seals" for water well pumping equipment. Due to the environmental and public health concerns, the Illinois Environmental Protection Agency, Division of Pollution Protection, decided to add submersible motors to the mercury ban list after several mercury spills were reported throughout the country.

The mercury ban referenced in the new law prevents the installation of a mercury seal commonly found in the Flowserve Corporation's Bryon Jackson Type "H" Submersible motor, installed in many water wells throughout the State of Illinois. The Byron Jackson motors were unique in that they were the only submersible motor manufacturer to offer a mercury seal option in a submersible motor. This design utilized mercury's unique character-

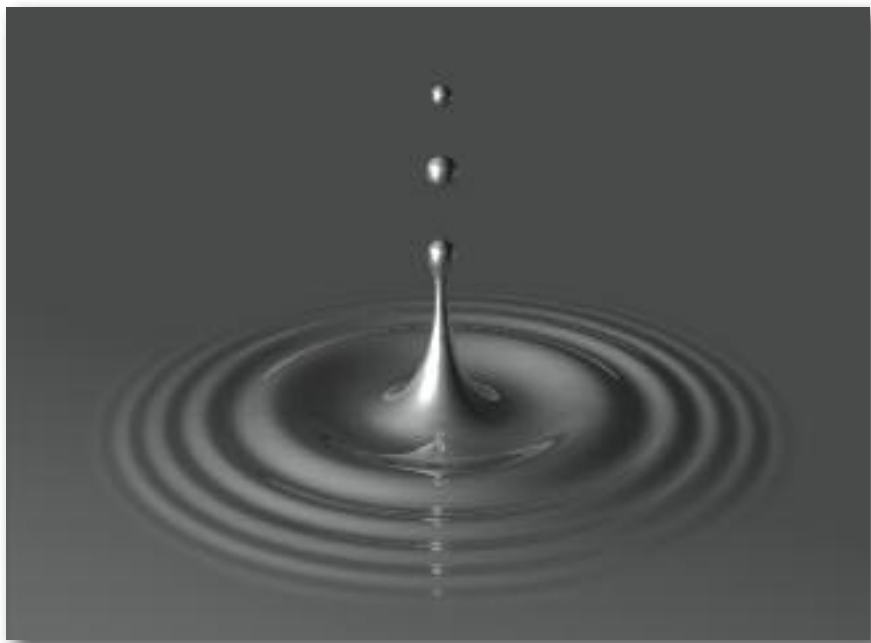
istics to create a seal around the rotating shaft to inhibit the intrusion of the well water into the oil filled electric motor housing to prevent a catastrophic motor failure. The Type "H" motors are known to have upwards of 8.25 to 17.25 lbs. mercury located within the seal. Seals on a standard water filled motor are not as critical, as well water can enter a water filled motor without risk of immediate motor failure as is the case on an oil filled motor.

The mercury ban went into effect July 1, 2012. With the approval of the new legislation, owners of water systems are required to install alternative seals such as the industry standard mechanical seal found in all other submersible motors. According to the IEPA, owners will no longer be allowed to purchase, repair or re-install the type "H" motor with a mercury seal. According to the law, if a submersible motor is pulled for

servicing, the seal cannot be altered or repaired. If repairs to the motor are necessary the IEPA will require that the mercury seal be replaced. In response to the new legislation, the Flowserve Corporation decided to discontinue production and repairs to the Type "H" motor with mercury seals beginning in July, 2012 and will require conversion to a double mechanical seal to be mandatory.

Owners will not be required by the IEPA to pull existing pumping equipment with mercury seals preemptively in order to become compliant. Owners of water systems will be required to become compliant with the law only when installing new systems or when required repairs become necessary. There are several options available to become compliant with the new law once a system requires submersible motor repairs. When the pumping equip-

see **MERCURY SEALS** page 22



Todd Kerry is a Senior Project Manager at Water Well Solutions Service Group, Inc whose business specializes in the groundwater industry for water well pump Service, water well rehabilitation and well drilling throughout the entire Midwest. Todd can be reached at 630-201-0749 or email at todd@wwssg.com

ELECTRICITY

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When do I get my budget reports?

Once the IMA member has enrolled, they will begin receiving monthly reports. These reports not only cover the program term, but will include the balance of any other existing contract.

Will IMA members need to sign anything to be on the program?

Yes. All IMA members participating in this program will need to sign an agreement that specifies how the program works and what they get for their participation.

How do Constellation and the IMA work together on this?

IMA and Constellation have jointly developed this program to create additional value for members

through our existing energy program. Constellation will administer the program. ■

For more information, contact Brad Rosset at 312-704-9213, brad.rosset@constellation.com, or visit constellation.com/IMA.

TRADEMARK OWNERS

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issues considered by constituencies which make up ICANN are complex, and their decisions have far-reaching effects. Registry operators, registrars, intellectual property owners, non-profit corporations, internet users, and government representatives are all governing members of ICANN and, through it, the domain name

space, with drastically different, and often competing, interests in the internet and domain name space. Companies with a financial and business stake in the business of the internet and the use of the internet for business should be members and participate in governing this space.

The internet is here to stay and is ever-changing the sales, marketing, and distribution of manufacturing-related goods and services. Manufacturing-related organizations that invest the time and energy into

promoting and protecting themselves today will reap rewards tomorrow. Those that do not may not be able to compete in the new internet. ■

This article is intended to be informative and should not be interpreted as legal counsel for any specific fact situation. Views expressed are those of the author and not necessarily the opinions of Marshall, Gerstein & Borun LLP or any of its clients. Readers should not act upon the information presented without consulting professional legal counsel.

MERCURY SEALS

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ment is removed from the well for service, the Byron Jackson Type "H" motor can be retrofitted with a double mechanical seal. Another option is to adapt the pump to a water filled submersible motor with a stan-

dard mechanical seal, which is often viewed as more environmentally friendly. Water filled motors have been around for decades and due to their reliability and availability, they are the most commonly utilized submersible motors in the world and account for over 90 percent of all motors installed.

There are some important considerations when determining the best

approach for either converting the Byron Jackson to a double mechanical seal or replacing the motor altogether. When evaluating the cost between repairs and conversion of a used 100Hp Byron Jackson Type "H" motor to a new replacement 100Hp water filled motor, the prices are very comparative. The decision between repairing the old motor or simply replacing it with new becomes very compelling once you factor in the timeframe to repair the existing Byron Jackson motor which can be upwards of 7-16 weeks. Typically, water filled motors are readily available for immediate installation.

Our goal is to assure all water operators are fully informed regarding the impact of this new law and to provide assistance to develop cost effective solutions to achieve compliance. How do you know if you'll be affected by this legislation? Questions regarding the new legislation can be directed to Becky Jayne with the IEPA. You may also contact us directly to speak with someone who can address your concerns (see bottom of page 21). A simple site visit by a qualified service technician may aid in determining if you'll be affected by the law. ■

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Trade Adjustment Assistance for Firms Grant

There is a Federal Grant available to manufacturers and service providers that you may not be aware of that could significantly improve your business. The Trade Adjustment Assistance for Firms (TAAF) grant is sponsored by the U.S. Economic Development Administration (EDA) and designed to cost share a portion of consultants or industry-specific experts' expenses for projects designed to improve a firm's competitiveness. Funding up to \$75,000 is available for companies that qualify. Applied Strategies International, Ltd (ASI) is a private not-for-profit corporation which is contracted by the EDA and administers the program in Illinois, Iowa, Minnesota and Wisconsin. ASI acts as a liaison between manufacturers/service firms and the U.S. EDA and remains the company's advocate throughout the program. As a long-standing IMA member, we have worked with several IMA clients in the past. By way of this article, we would like to introduce this program to other IMA members who may not be aware of the program.

First of all, you are probably wondering what types of projects a company can utilize grant funding to cost share. The simple answer is the firm chooses the projects. There are restrictions on what can be funded, but the grant covers projects ranging from product development, certifications, export development, information system upgrades, manufacturing process improvements, website upgrades, employee training, and market research, among several other areas. The four rules the grant must adhere to are:

1. The grant cannot fund hard assets.

2. The projects must be completed by an outside vendor.
3. The grant cannot reimburse for projects or work completed before approval.
4. Funding cannot be used for payroll, advertising space, or other regular costs of doing business.

If the project fits inside of the four rules, it can be cost shared through the grant.

Eligibility is determined by a review of a company's monthly sales and headcount over a certain time frame. The review can be as short as six months over the prior year's six

months or as long as the past three years compared to the most recent twelve months. The next piece required for qualification is to demonstrate that the firm's decline in sales is partially due to foreign competition. This is done by a review of import statistics related to your product and consultation with industry experts. Proving eligibility may sound time-consuming and cumbersome at first glance, but it is not. ASI gathers the information required from the company for eligi-

see **TAAF GRANT** page 26



Jack Dye is a Senior Project Manager with Applied Strategies International, Ltd. He can be reached at 312-368-4600 or jd@appliedstrategiesintl.com. Visit www.appliedstrategiesintl.com or www.taacenters.org for more information.

Constellation — Over 10 years as the IMA's endorsed energy supplier

PUNITIVE DAMAGES

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the defendant.

The jury will be asked to consider if the manufacturer engaged in conduct that was intentional, fraudulent, or willful. The jury will be instructed, by the court, that if it believes the public good requires a punitive damages award, it is to award the plaintiff an amount of money that will punish the defendant and discourage the defendant, and others, from engaging in that same conduct. The court will also instruct the jury to consider, in addition to the defendant's specific conduct, for how long the wrongful conduct lasted, the manufacturer's motivation behind its conduct, how frequently the defendant engaged in the wrongful conduct, and whether the corporation attempted to hide its conduct. Evidence relevant to these issues will be made public during the trial.

At trial, a plaintiff may also attempt to introduce evidence of similar accidents or occurrences in order to demonstrate that a manufacturer acted with disregard for the safety or rights of others. However, the mere existence of other, similar accidents or complaints is not, itself, sufficient to justify an award for punitive damages. The jury must also consider the number of prior accidents or complaints within the context of the total number of products sold or in use, as well as whether or not the product is inher-

ently dangerous (for example, the law considers a gun to be inherently dangerous). The existence of only a few prior, similar accidents involving the same machine or product, or evidence of other, similar accidents occurring with only a very small percentage of the total number of products sold will not likely, in and of itself, constitute evidence sufficient to support an award for punitive damages. However, a defendant who knows of a risk, conceals its knowledge, and promotes the product despite knowledge of a certain risk may be found to have engaged in conduct which is considered willful under Illinois law.

If a jury decides to award punitive damages, it must then determine the amount of money that is necessary to punish the corporation as well as to discourage others from engaging in similar conduct. Of course, the number of prior, similar accidents about which the manufacturer was aware may be the most significant piece of evidence that the jury considers. The jury is also allowed to consider a corporation's net worth.

Because the jury is entitled to consider a broad range of circumstances when evaluating a possible award of punitive damages, there is a risk that the jury may impose an award that is improperly excessive. Illinois law does allow a court to reduce an excessive punitive damages award, which is one that is "so large that it outruns the justification for exacting punishment." In the event of an excessive award, the court has the discretion to either reduce that award or order a new trial regarding the amount of damages. Courts have indicated that the level of compensatory damages, or a small multiplier of such damages, may be an appropriate method for measuring punitive damages.

Best practices for avoiding punitive damages

The key to minimizing the possibility of a punitive damages award is to avoid the type of conduct that a jury may consider outrageous or indifferent towards public safety. It is critical to reinforce these values and practices throughout your organization. While a business owner or its managers may be sensi-

tive to these issues, punitive damages liability can arise from the conduct of any employee, given the right circumstances. In order to minimize the risk of a punitive damages award you must:

- Comply with all laws, rules and regulations which govern the safety aspect or use of your product. The failure to do so may be considered conduct that is evidence of indifference towards public safety.
- Take reasonable steps to research and test your product prior to sale and, if necessary, consult with the appropriate experts about what testing or research may be necessary. It is important to ensure that you act as a reasonably prudent manufacturer.
- Pay close attention to all complaints and accidents involving your product. Be sure to regularly evaluate any such reports, and be prepared to take action when necessary. For example, do you need to update your warnings manual or issue a new warning to existing customers?
- If you learn of a significant number of personal injuries involving your product, be sure to take the appropriate action.
- If you learn that an employee has engaged in outrageous or improper conduct, take immediate action and do not approve of the conduct.
- Document all of your efforts and follow up as may be necessary.
- Ensure that all employees are aware of these policies and procedures and periodically provide employees with reminders.

Conclusion

The potential for a punitive damages award is a concept that every product manufacturer must take seriously, today, and long before a lawsuit is ever filed. The focus of a punitive damages award is not so much on the specific tort committed by the defendant (such as product liability, negligence or fraud), but, rather, on the defendant's conduct and motive in committing that tort. Fortunately, a manufacturer and employer who engages in the sound business practices described in this article can maximize the likelihood of avoiding such a serious claim. ■

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IMA Education Foundation has new life . . . focused goal

The IMA Education Foundation (IMA-EF) is up and running with a focused mission leading Illinois' Manufacturing STEM Learning Exchange and implementing the Manufacturers Education Initiative (MEI).

The IMA-EF was recently reenergized by the IMA Board of Directors who named a 10-member group to lead the efforts designed to create and sustain a pipeline of qualified and skilled workers to assume roles in today's advanced manufacturing environment. The members are Ronald Bullock, Chairman of Bison Gear and Engineering, St. Charles, who was elected chair of the Foundation; Blouke Carus, Chairman of Carus Corporation, Peru, who was elected Vice Chair; Michael Holewinski, President of ACE Industries of Chicago and current Chairman of the IMA Board of Directors; Andy Faville, President/ CEO of Falex Corporation of Sugar Grove and current Vice Chair of the IMA Board of Directors; Janice Christiansen, President of JC Schultz Enterprises, Inc. of Batavia and immediate past Chair of the IMA Board of Directors; Dean Clark, President of Graphic Chemical & Ink Co. of Villa Park; Barry MacLean, President & CEO of MacLean-Fogg Company of Mundelein; Patrick Ormsby, President of BIMBA Manufacturing Company of Monee; and Marsha Serlin, President & CEO of United Scrap Metal, Inc. of Cicero. IMA Vice President for External Affairs, Jim Nelson, will staff the group.

The mission of the IMA-EF is to influence education policies and programs to train, certify and employ workers for Illinois' advanced manufacturing environment. The Foundation does this by providing both financial support to school districts, community colleges, vocational schools and Illinois' four-year institutions and by encouraging member companies of the IMA to provide internships at their manufacturing facilities for students, externships for educators to observe trends in technology and processes and to maintain ongoing relationships to assure the needs of manufacturers in their area are met.

The IMA has been involved in a

two-year long creation of a "Pathway of Study" promoting the linkage between STEM (Science, Technology, Engineering and Math) education in Illinois schools and the great career opportunities in manufacturing. The initiative also resulted in the creation of a specific curriculum that can be easily implemented in Illinois high schools and acts as a vehicle to bring STEM subject matter to life through a "hands-on" approach. Popular programs like Project Lead the Way and their components — Gateway to Technology, Pathway to Engineering and Biomedical Sciences Program — plus Lego Education and a host of others, allows students to begin learning about manufacturing as early as grade school.

Studies have shown there is a critical need for programs like those supported by manufacturers. According to the National Center for Public Policy and Higher Education, for every 100 students entering the ninth grade, only 68 will obtain their high school diploma. Moreover, just 18 will earn an Associates Degree within three years of high school graduation or a Bachelor's Degree within six years. These alarming statistics point out the very real need and opportunity the IMA-EF and manufacturers have to step up efforts and help students realize their potential through programs that stimulate critical thinking and enhance problem solving abilities.

In September, the State of Illinois announced its recognition of the IMA-EF as the lead entity for the state's Manufacturing STEM Learning Exchange, a coalition of manufacturers, educators, policy-makers and others who will implement the MEI. The Manufacturing Exchange is one of nine such exchanges being launched in Illinois as a result of the state's P-20 Council work and recommendations.

The Illinois P-20 Council was established in 2009 to foster collaboration among state agencies, education institutions, local schools, community groups, employers, taxpayers and families, to collectively identify needed reforms to develop a seam-

less, sustainable statewide system of quality education and support.

The mission of the P-20 Council is to make recommendations to the Governor, Illinois General Assembly and state agencies for developing this statewide system of quality education and support to maximize students' educational attainment, opportunities for success in the workforce, and contributions to their local communities. The Council's ambitious goal: to assure that 60 percent of all Illinois adults have either a degree or occupational certificate by 2025. While the number of adults in Illinois with either a degree or certificate currently stands at 43 percent (above the national average of 40 percent) there is still work to do to achieve this goal.

Since January, the IMA has met with nearly two-dozen state community colleges to introduce the MEI to educators and local manufacturers, and encourage creation of local coalitions to implement the MEI.

A key component to the success of the MEI is the willingness of educators to help prepare workers who:

- Possess the skills necessary for advanced manufacturing technology;
- Possess the skills necessary for personal success; and
- Are able to pass a drug screen and answer truthfully about past arrests and/or convictions.

In return, educators are asking manufacturers to help by:

- Providing internships that allow students to practice what they learn;
- Providing externships to keep faculty abreast of technological advances;
- Providing assistance in obtaining up-to-date equipment for the classroom;
- Guaranteeing certified students hiring preference; and
- Maintaining an on going dialogue to assure continuous improvements.

Implementation of the MEI and creation of a sustained pipeline of qualified workers will not happen overnight. However, the IMA and the IMA-EF are determined to make the MEI successful.

For more information, contact IMA VP of External Affairs Jim Nelson, 217-718-4211, jnelson@ima-net.org. ■

CREATE

Cont. from page 15

nation. To ensure that CREATE and other critical freight projects are completed, a national freight policy needs to be developed, and funding for freight projects of national and regional significance must be identified.

The CREATE partners include the U.S. Department of Transportation, Illinois Department of Transportation, Chicago Department of Transportation, and the Association of American Railroads (AAR), representing BNSF, CN, Canadian Pacific, CSX, Norfolk Southern, Union Pacific, the switching railroads Belt Railway Company of Chicago and Indiana Harbor Belt Railroad, as well as Amtrak and Metra.

TIGER-funded CREATE project completed — reduces rail congestion and improves reliability

The Blue Island-Riverdale-Dolton Signal Modernization Project (CREATE Project B15) allows for increased train speed in the project area from 15 mph to 30 mph. With the improvements trains are expected to pass through in as little as six minutes. Trains used to experience 15 to 30 minutes of delay for every hand-operated switch they navigated as well as when waiting for other trains to navigate the project limits with manual switches. Most trains spent up to one hour to traverse the limits of this project. Increased freight speeds and improved fluidity on the IHB will allow trains to clear Dolton Interlocking more quickly, reducing the potential for freight

conflict with Amtrak trains to and from Indianapolis and improving passenger and freight travel time, speed, and reliability.

The project installed a new bi-directional computerized Traffic Control System (TCS) on a three-mile segment of Indiana Harbor Belt mainline track along the northside of Blue Island Yard. This project provides two new control points, which included installation of a series of crossovers at CP School Street and a turnout at CP Ashland. Additional crossovers were added to CP Harvey. The project also includes the installation of electric lock switches and the replacement of approximately five hand-thrown switches with power operated switches. For more information on CREATE, please visit www.createprogram.org. ■

TAAF GRANT

Cont. from page 23

bility and completes the application (petition) on the firm's behalf at no charge. The petition is then sent to the EDA for review and approval.

Once accepted into the program, ASI works with each company to develop a plan analyzing the business and identifying projects to improve the company's competitive position. Upon approval of the plan, implementation of projects may begin.

Advantages of the program are abundant, and you may be wondering why you have not heard of this grant program previously. ASI maximizes funding to cost sharing projects with firms in the program which leaves little budgeted to advertise the program. Instead, relationships with current firms in the program along with associations such as the IMA are crucial to identifying firms for the program. In the prior grant year, ASI spent over \$1 million on projects with firms and looks to increase the spending this grant year. A recent study completed by the U.S. Government Accountability Office (GAO) found that 73 percent of firms reported that the program helped them with prof-

itability, 71 percent that it helped them retain employees, and 57 percent that it helped them hire new employees. More than 90 percent of the firms reported that they were very or generally satisfied with the services received from the TAAF program.

Other benefits of the grant display further advantages of qualifying for cost sharing through the program. The TAAF program funding does not affect funding you may be receiving or look to receive from any other federal, state, or local source. Once accepted into the grant, you have up to two years to move forward with the development of the adjustment proposal and up to five years to utilize the funding. The grant is not a reimbursement program and it pays the program's cost sharing funds directly to the vendor upon invoicing after the work is completed. This helps with company cash flow and does not have any tax related implications. The program does not limit you to a list of consultants other than that they must be a legitimate contractor able to do business with the government and that the cost must be in line with scope of work. ASI can assist your firm in selecting a consultant to complete the approved implementation project by preparing and coordinating a request for pro-

posal from multiple bidders, evaluating consultants or negotiating contracts. A firm has a single point of contact throughout the entire lifecycle of the grant from eligibility and application, development of the adjustment proposal, to implementation of the projects cost shared through the grant.

TAA for Firms has helped manufacturing and related service companies identify the most critical areas for improvement, design projects and outside services to strengthen these areas and build upon existing strengths. The results of the TAA for Firms program have shown not only survival of import-impacted companies, but the consistent ability to turn that decline around into growth in sales and productivity. The low costs, high success and critical focus of this program provide a strong example of a successful collaboration between a federal initiative and the manufacturing sector.

If you would like to learn more about the TAAF grant or if you would like to see if your company is eligible for the program at this time, feel free to contact Jack Dye, ASI's Senior Project Manager (see bottom of page 23), or visit www.appliedstrategiesintl.com or www.taacenters.org for more information. ■

2013 IMA Holiday Report

Illinois Manufacturers' Association

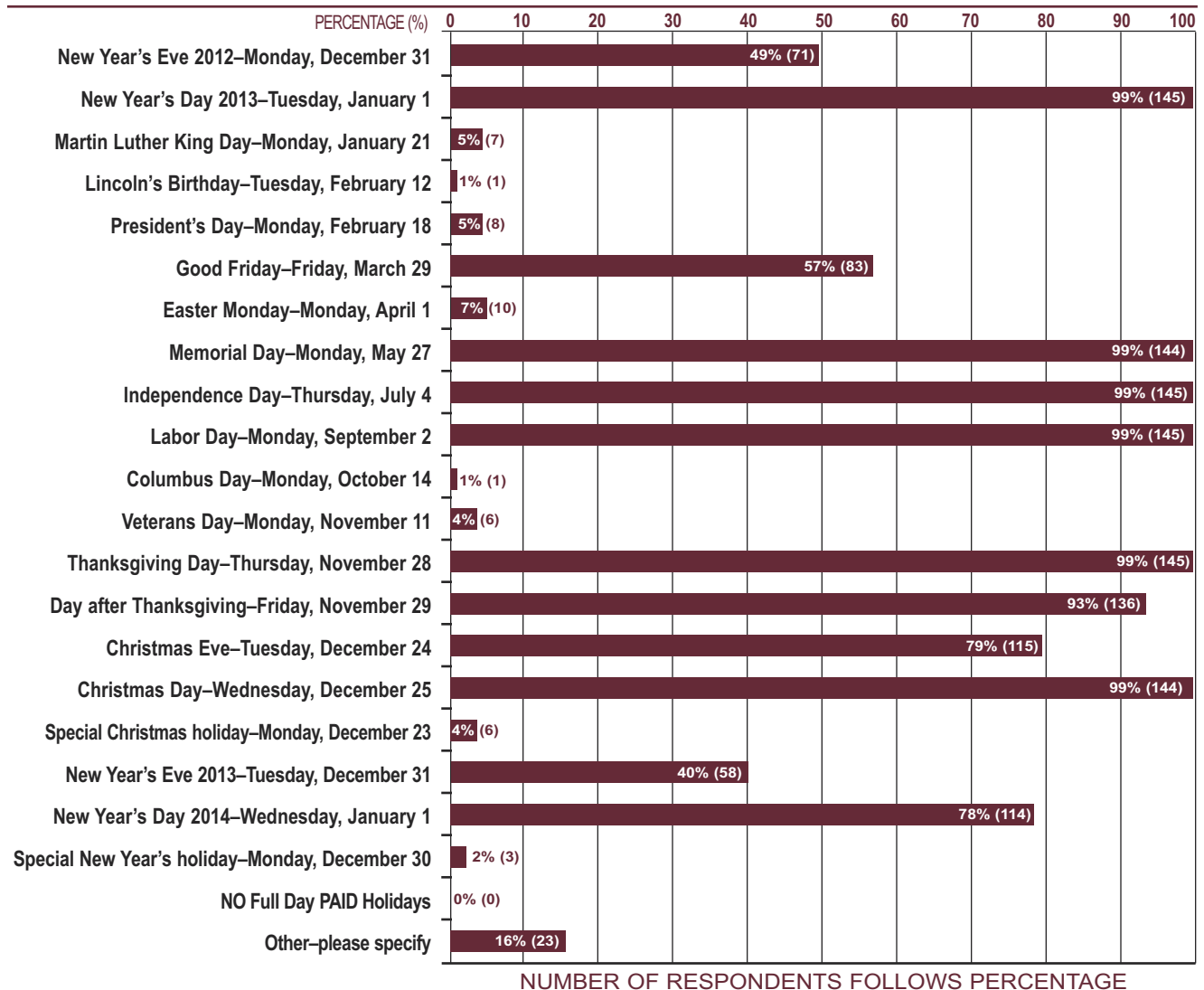
The IMA's Annual Holiday Report highlights employers' plans on select holidays throughout the year. This year's survey was conducted in August, 2012 and applied to the 2013 calendar year. Four questions were asked ranging from total number of paid days off to a breakdown of full or half day paid holidays, and on which days the member company is actually closed throughout the year. More than 140 IMA members responded. These are the results.

The majority of respondents provide at least 10 full day paid holidays per year, including New Year's Eve, New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and the day after Thanksgiving, Christmas Eve, and Christmas Day.

How many paid holidays do you provide your employees (not including personal days)?

6 or fewer days	5	3%
7 days	13	9%
8 days	20	13%
9 days	41	28%
10 days	42	29%
11 days	15	10%
12 or more days	11	8%
Total	147	100%

FULL DAY PAID HOLIDAYS



2012 IMA Holiday Report published by the Illinois Manufacturers' Association

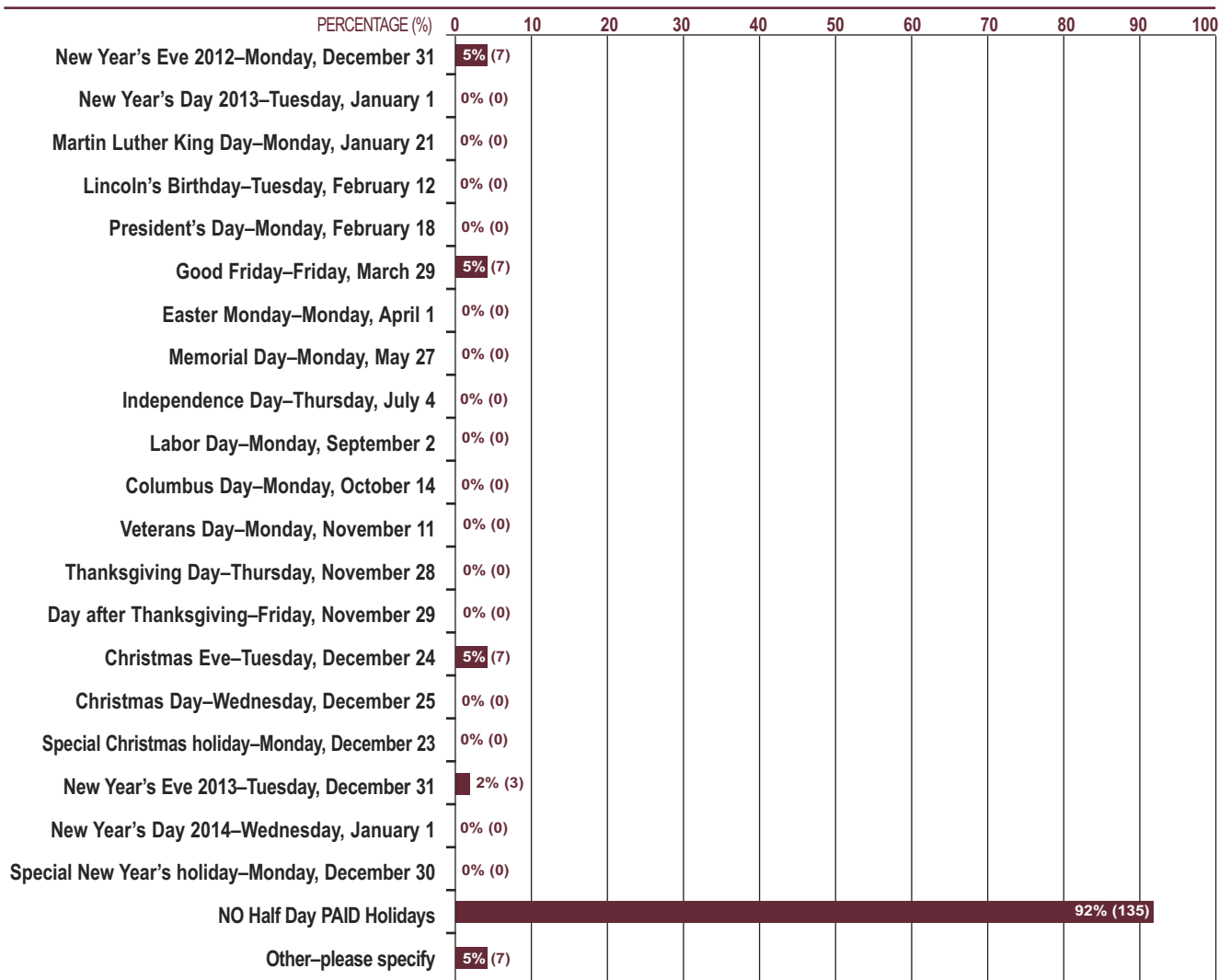
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HALF DAY PAID HOLIDAYS

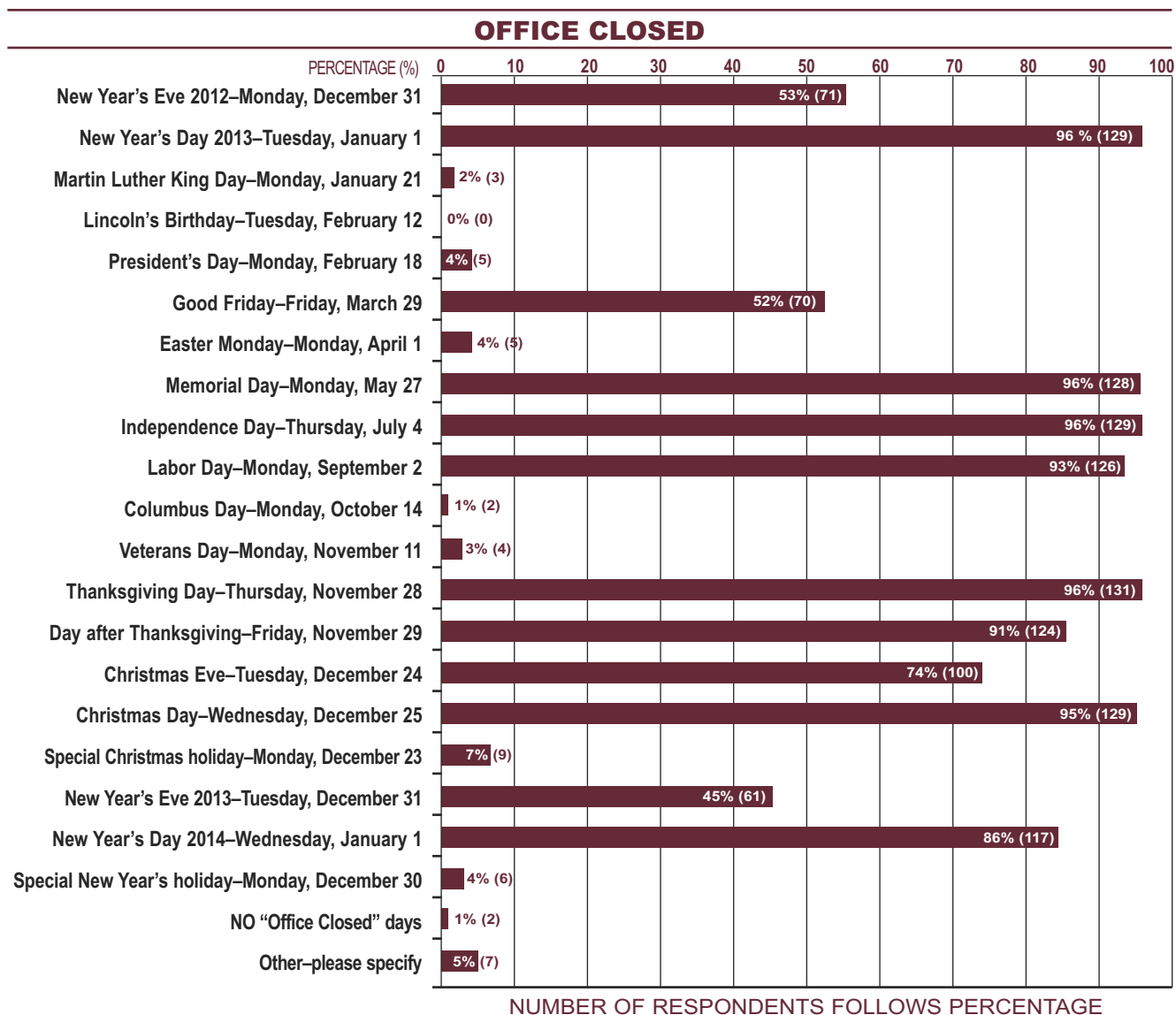


NUMBER OF RESPONDENTS FOLLOWS PERCENTAGE

Historically many manufacturing plants continue to operate with skeleton crews or reduced shifts on paid holidays. However, this does not always represent the majority. The percentage of respondents who actually close down operations completely on certain holidays is shown at right.

Five percent or less of respondents close down on non-traditional holidays such as Martin Luther King Day, Lincoln's Birthday, Columbus Day and Veterans Day.

New Year's Day	96%
Good Friday	52%
Memorial Day	96%
Labor Day	93%
Thanksgiving Day	96%
Day after Thanksgiving	91%
Christmas Eve	74%
Christmas Day	95%
New Year's Eve	45%



Thanks to all those who responded for making this report possible. If you have any feedback regarding additional information you might like to see in next year's report, or have questions, please contact Janie Stanley, Revenue and Grant Administrator, at 217-718-4214, email jstanley@ima-net.org.



Order the IMA's 2012-2013 Annual Compensation Report today!

Conducted with the assistance of Verisight, Inc., the IMA's 2012-2013 Compensation Report contains actual wage rates for 180 job descriptions related to manufacturing.

To order your copy of the IMA's 2012-2013 Compensation Report, visit <http://www.ima-net.org/2012-13-comp-report/>

2013 IMA Holiday Report published by the **Illinois Manufacturers' Association**

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New IMA members

AMERICA'S NATURAL GAS ALLIANCE
Washington, DC

ARROW PNEUMATICS, INC.
Broadview, IL

THE BENEFIT SOURCE, INC.
Elmhurst, IL

BONBRUTOM
Edwardsville, IL

BUSINESS LAW NETWORK, LLC
Chicago, IL

BWAY CORPORATION
Oak Brook, IL

D & W MANUFACTURING COMPANY
Chicago, IL

ENBRIDGE ENERGY COMPANY, INC.
Houston, TX

FIRST MIDWEST BANK
Westmont, IL

KP DEVELOPMENT
St. Louis, MO

R C M INDUSTRIES
Franklin Park, IL

RBS CITIZENS
Chicago, IL

THE OVERTURE GROUP
Lisle, IL

**WASTE MANAGEMENT, INC. —
MIDWEST**
Danville, IN

2012-2013 Calendar of events

November 1, 2012

IMA's Annual Sales & Use Tax Seminar
A seminar just for manufacturers!

NIU- Naperville, 1120 E. Diehl Road, Naperville, 8:30 am-12:30 pm. JoAnna Fu, CPA, Tax Manager with Wolf & Company, will discuss how manufacturers are impacted by sales and use taxes, provide an update on recent tax law changes and how they affect you; she'll review exemptions, deductions and exclusions, manufacturers' purchase credit and multi-state issues. If you are an accounting professional, CFO, controller, tax manager, this seminar is for you. CPE credits are also available. CPE credits are available through Wolf & Company. For additional information, contact Kimberly McNamara, kmcnamara@ima-net.org, 630-368-5300.

November 5, 2012

IMA-MIT Event: Customer Service Skills & Excellence

November 9, 2012

IMA Small Manufacturers Council Meeting
Marriott Naperville, 1801 Naper Blvd., Naperville
8:00 am-12:00 noon, CST

November 14, 2012

IMA-MIT Event: Effective Presentation Skills

November 27, 2012

IMA-MIT EVENT: Consultative Selling Skills for Sales Professionals

December 3, 2012

IMA-MIT EVENT: Leading & Managing through Change

December 7, 2012

IMA Annual Luncheon

**Four Seasons Hotel, Grand Ballroom
120 East Delaware Street, Chicago**

Keynote speaker: Christopher Crane, President & CEO of Exelon Corporation. With over 30 years in the nuclear industry, Mr. Crane will share his opinion on the future of energy policy. Also included in the day's events will be three breakout sessions and a Networking Reception with Exhibits by IMA Affinity Partners. Registration deadline is Friday, November 30, 2012. For additional information, contact Kimberly McNamara, kmcnamara@ima-net.org, 630-368-5300.

January 17, 2013

IMA Breakfast Briefing:

What's New at OSHA and What's Ahead

Ditka's Restaurant, Two MidAmerica Plaza, Oakbrook Terrace, 8:00 am -10:30 am CST
It's a new year and OSHA is as active as ever. Eric Hobbs, attorney at Michael Best & Friedrich, will discuss developments of the last year at the Agency and in the law and will also look ahead to a new calendar year and presidential term. Break out the crystal ball! Eric E. Hobbs is a partner in the Milwaukee office of Michael Best & Friedrich LLP. His practice centers on labor and employment law, with an emphasis on occupational safety and health matters, among others. In such matters, he

represents employers of all sizes in a variety of industries, from service to heavy manufacturing, and including pulp and paper, foundry, bakery, temporary staffing, and others. He appears regularly before the United States Occupational Safety and Health Review Commission and before equivalent state-plan tribunals from coast to coast. For additional information, contact Kimberly McNamara, kmcnamara@ima-net.org, 630-368-5300.

March 20, 2013

**IMA Breakfast Briefing:
The Obama Labor Board**

Mon Ami Gabi Restaurant, Oak Brook Center Mall Oak Brook, 8:00 am to 10:30 am CDT
The Obama Labor Board is bringing employee-management-labor relations to the forefront by engaging in a fundamental re-examination of the legal framework of employee and labor relations in the U.S. Manufacturers and all private sector employers are being impacted in both the union and non-union workplaces. Join us on March 20th and learn about the evolving new direction of the National Labor Relations Board and its Obama majority at our interactive program. Presenters from Chicago-based Vedder Price PC will discuss these important issues and answer your questions. For additional information, contact Kimberly McNamara, kmcnamara@ima-net.org, 630-368-5300.

Visit <http://www.ima-net.org/calendar-of-events> for information, pricing, registration, etc., related to all IMA special events and IMA-MIT training events

Quarterly Economic Update

Commercial Bank



Growth appears to be on a 1 1/2% track in the second half, a shade below an already subpar trend that has characterized recovery so far. A severe drought has undercut farm output and the combination of increased business uncertainty and slowing abroad has held back investment. Most of this should correct post-election and with an expected return of normal growing conditions next year. Meanwhile, consumer finances are improving and housing markets are bottoming. Fiscal drag is likely to remain a headwind, with serious downside risks in the event scheduled tax increases and spending restraint cannot be recast over year-end. Our projections assume that the US will avoid the 'fiscal cliff' in 2013 but drag in the range of 1% from the public sector is still likely.

The Federal Reserve has upstaged debate about prospective monetary policy with the launch of a new, open-ended bond-buying program focused on MBS. Policymakers' patience with gradual labor market improvement has run out and the outlook that inflation is likely to remain low has elevated a bias to continue supporting financial conditions through QE or other means until there is substantial strengthening in labor markets. We expect that unsterilized Treasury purchases will follow the end of Operation Twist, especially if there is no resolution to the fiscal policy stand-off by January.

Despite near-term bumps in food and gasoline prices, more persistent inflation trends are expected to remain relatively muted. Wage and compensation measures have been range bound near 2% and surveys of longer-term inflation expectations have been stable, providing an element of monetary policy flexibility.

To discuss how this data can impact your business please call:

Peter Molrano
VP Commercial Banking
312-627-3358
peter.molrano@citi.com

United States — Economic Forecasts, 2011-2013F

		2011				2012				2013			
		2011	2012F	2013F		1QF	2QF	3QF	4QF	1QF	2QF	3QF	4QF
GDP	SAAR				2.0%	1.7%	1.9%	1.3%	1.8%	1.6%	1.9%	2.9%	3.2%
	YoY	1.6%	2.2%	1.9%	2.4	2.3	2.4	1.7	1.6	1.7	1.9	2.4	2.4
Domestic Demand	SAAR				2.2	1.6	1.7	1.7	1.1	2.2	3.0	3.2	
	YoY	1.8	2.0	1.9	2.1	2.0	1.9	1.8	1.5	1.7	2.0	2.4	
Consumption	SAAR				2.4	1.7	1.7	1.8	1.2	2.1	3.0	3.2	
	YoY	2.5	1.8	1.9	1.8	2.0	2.0	1.8	1.6	1.7	2.0	2.4	
Business Investment	SAAR				7.5	4.2	3.5	3.1	4.2	5.5	6.5	7.3	
	YoY	8.6	8.2	4.7	12.5	9.9	8.2	4.6	3.8	4.1	4.8	5.9	
Housing Investment	SAAR				20.5	8.9	10.3	11.9	18.8	19.8	20.0	19.0	
	YoY	-1.4	11.4	18.2	9.3	10.5	12.9	12.8	12.4	15.1	17.6	19.4	
Government	SAAR				-3.0	-0.9	-0.4	-1.0	-2.8	-1.8	-1.2	-1.2	
	YoY	-3.1	-1.9	-1.6	-2.2	-2.3	-1.6	-1.3	-1.3	-1.5	-1.7	-1.8	
Exports	SAAR				4.4	6.0	2.0	3.2	4.2	5.3	6.0	7.0	
	YoY	6.7	3.9	4.5	4.0	4.5	3.4	3.8	3.9	3.7	4.7	5.6	
Imports	SAAR				3.1	2.9	2.6	2.2	3.5	5.8	6.0	5.9	
	YoY	4.8	3.3	4.0	3.2	3.9	3.4	2.7	2.8	3.5	4.4	5.3	
PCE Deflator	YoY	2.4	1.9	1.9	2.4	1.7	1.6	1.9	1.8	2.0	2.1	1.9	
Core PCE Deflator	YoY	1.4	1.8	1.8	1.9	1.8	1.7	1.7	1.6	1.6	1.7	1.7	
Unemployment Rate	%	9.0	8.2	7.8	8.3	8.2	8.2	8.1	7.9	7.9	7.8	7.6	
Federal Gov't Balance (Fiscal Year)	\$Bn	-1287	-1175	-875									
	% of GDP	-8.7	-7.3	-5.5									
General Gov't Balance (Cal Year)	% of GDP	-9.4	-7.5	-5.9									
Federal Debt	% of GDP	68	74	78									
General Gov't Debt	% of GDP	103	107	110									
Current Account	US\$bn	-466	-488	-496	-549	-470	-465	-466	-454	-405	-486	-518	
	% of GDP	-3.1	-3.1	-3.0	-3.5	-3.0	-3.0	-2.9	-2.8	-3.0	-3.0	-3.1	
S&P 500 Profits (US\$ Per Share)	YoY	14.7	5.3	4.9	8.9	6.5	1.0	5.1	2.7	5.3	4.6	6.8	

Notes: F Citi forecast, E Citi Estimate YoY Year-to-year percent change SAAR Seasonally adjusted annual rate

Sources: Bureau of Economic Analysis, Bureau of Labor Statistics, BBEIS, Treasury Department, Wall Street Journal and Citi Research

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*It's not easy
being green...
or is it?*

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