



Legislative / Regulatory / Political Update

By Michael T. Oscar

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American Subcontractors Association**

American Subcontractors Association

1004 Duke St., Alexandria, VA 22314

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2024 Election

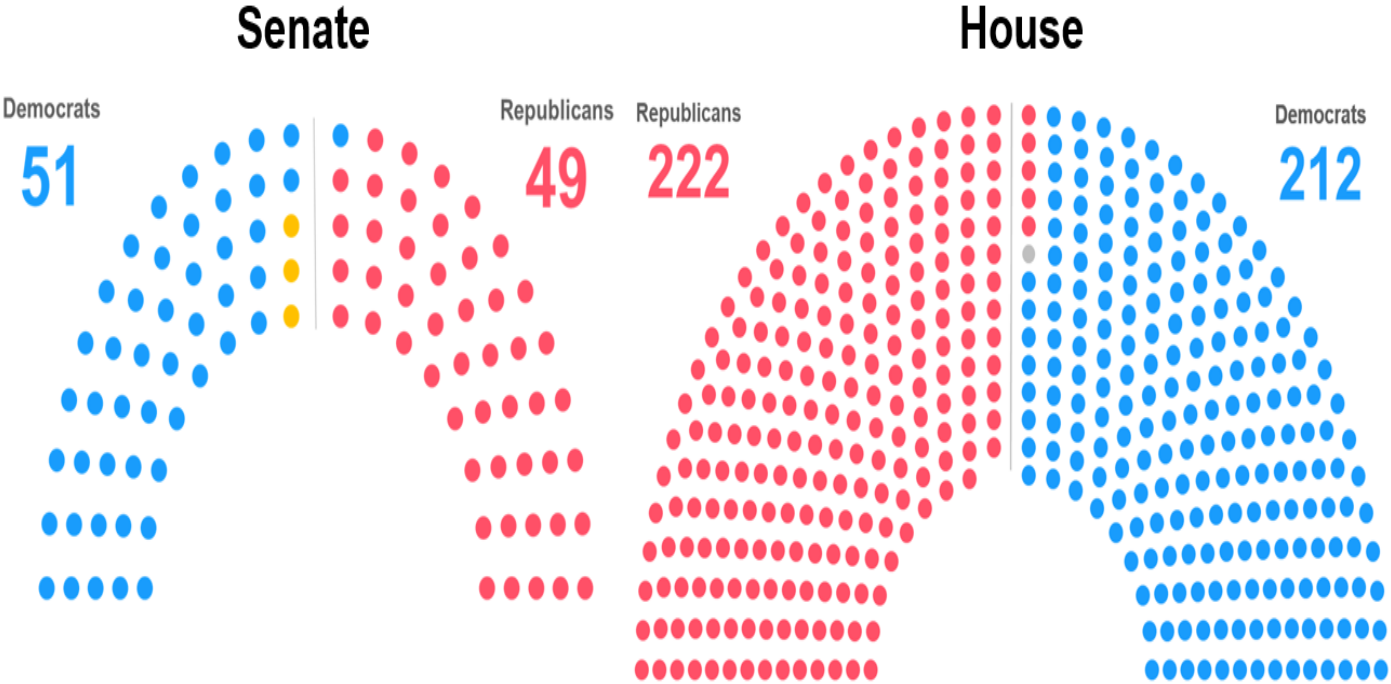


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Balance of Power in the 118th Congress

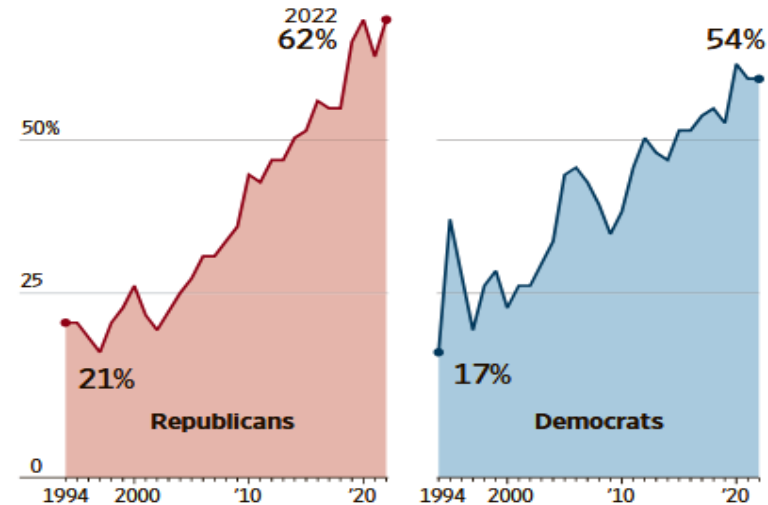


The Big Political Sort

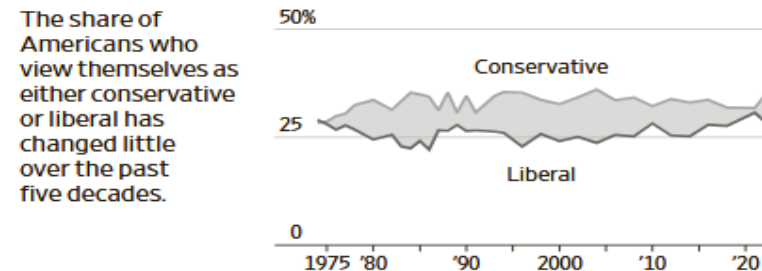
- To explain why the animosity in American politics is greater today than in the past, some researchers have focused on the nation's political "sorting"—the fact that Americans have shifted their allegiances so that the membership of each party is now far more uniform. In the past, each party had a mix of people who leaned conservative and liberal, of rural residents and urbanites, the religiously devout and those less observant.
- Americans in the past were more likely to meet people different than themselves, which created opportunities for reducing group bias and creating conditions for compromise. Today, our partisan identities have come into alignment with the other facets of our identity, which heightens our intolerance of each other even beyond our actual political disagreements.

A6 | Saturday/Sunday, August 26 - 27, 2023

Share of those in each party who view the other party very unfavorably*



Share of Americans who identify as...

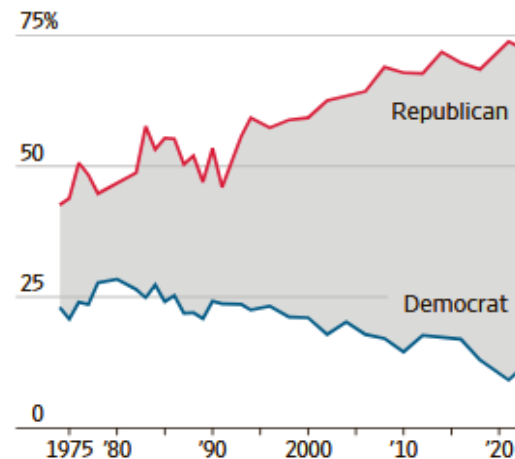


The Big Political Sort

- Decades of social science research shows that our need for collective belonging is forceful enough to reshape how we view facts and affect our voting decisions. When our group is threatened, we rise in defense.
- The split in the electorate has left many Americans fatigued and worried that partisanship is undermining the country's ability to solve its problems.
- More than 60% of Republicans and more than half of Democrats now view the other party "very unfavorably," about three times the shares when Pew Research Center polled on it in the early 1990s.

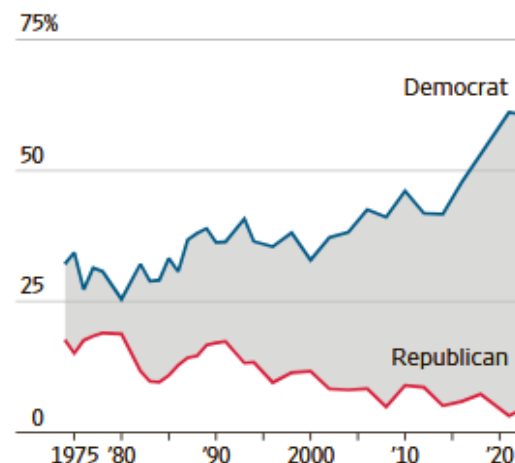
Share of Americans who identify as *conservative*

But in recent years, conservatives have become far more likely to consider themselves Republicans, while conservative Democrats have all but disappeared.



Share of Americans who identify as *liberal*

The nation's liberals, meanwhile, now heavily identify as Democrats, and very few identify as Republicans.

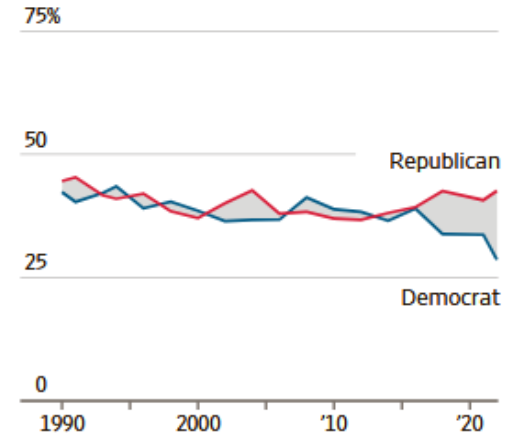


The Big Political Sort

- The differences between the parties are clearer than before. Demographic characteristics are now major indicators of party preference, with noncollege white and more religious Americans increasingly identifying as Republicans, while Democrats now win most nonwhite voters and a majority of white people with a college degree.
- Multiple polls find that more than 70% within each party think the other party's leaders are a danger to democracy or back an agenda that would destroy the country.

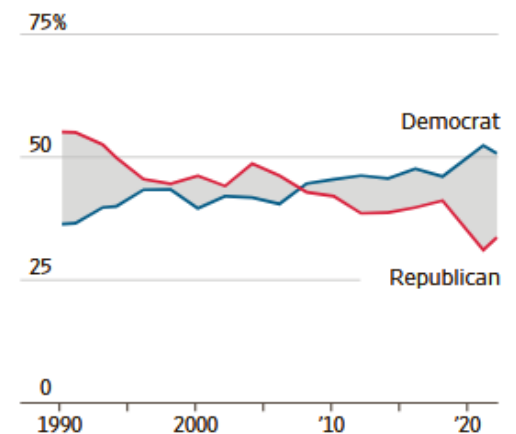
Share of *white* Americans *without* a four-year college degree

Americans have also sorted themselves by education. White Americans who don't have a four-year college degree used to split evenly between the two parties. Now, fewer consider themselves Democrats.



Share of *white* Americans *who have* a four-year college degree

A person's level of education increasingly aligns with his or her political party among white Americans, who make up a substantial majority of the electorate.





118th Congress

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118th Congress

ASA Guiding Principles:

1. Educate
2. Advocate
3. Promote Collaboration
4. Voice Support and/or Opposition to Policies that Impact the Subcontractor Community



118th Congress

- **Workforce Development**
 - Apprenticeship Funding Opportunities
 - Prevent the Misclassification of Employees as Independent Contractors
- **Federal Tax Reform**
 - Make the Pass-Through Deduction Permanent to Ensure Certainty and Predictability
 - Maximize the Value and Integrity of the New Deduction for Pass-Through Businesses
 - Repeal the Estate Tax
 - Repeal the Alternative Minimum Tax Make Remaining Tax Extenders Permanent
- **Contracting Reform**
 - Establish a statute of repose for federal construction projects
 - Ensure payment protections for construction subcontractors and suppliers performing federal construction under Public-Private Partnerships
 - Prohibit the utilization of reverse auctions for the procurement of construction contracts
 - Improve the design-build construction process
 - Ensure responsible contractors are given priority in the bidding process of federal contracts





ASA Task Force on Government Advocacy

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ASA Sponsored Change Order Legislation Becomes FAR Rule

On September 23, the Federal Acquisition (FAR) Council released the final rule implementing an ASA backed reform that will bring unprecedented transparency and accountability to federal agencies' change order processes. ASA, along with the Construction Industry Procurement Coalition (CIPC), successfully led the legislative effort to include these reforms in 2018 in the National Defense Authorization Act responsible for this final rule.

Effective on October 28, this regulation applies to any federal solicitation for small business construction contracts and will require agencies to:

- Publish their policies and procedures for processing change orders (REAs);
- Begin to track the time it takes the agency to definitize change orders; and
- Publish this data on those solicitations and on a public website.

The new regulation will bring transparency to an issue that has long been costing federal contractors time and money. Federal agencies will have to focus on creating coherent policies and procedures for processing change orders.

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2023 Legislative Priorities

- Implementation of infrastructure package
- Price Escalation in federal contracts
- **Introduction of Comprehensive Federal Procurement Legislation:** change order and statute of repose reform, and pre bid transparency in federal contracts
- P3 Bonding Water Transportation Projects
- Federal SBA Bonding Retainage Reform

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ASA 2023 Legislative Fly-In (June 13-14, 2023)

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Regulatory Update

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Regulatory Update

- ~~Vaccine Mandates (OSHA and Federal)~~
- OSHA's Proposed Rules:
 - Healthcare Construction
 - Blood Lead Levels
 - Process Safety Management for Hazardous Chemicals
 - Severe Violator Enforcement
 - Personal Protective Equipment
 - Heat and Injury Illness Prevention
- EPA HBCD Rulemaking
 - Hexabromocyclododecane (HBCD), a flame retardant in expanded polystyrene and extruded polystyrene insulation foam used for construction
- DOL's Proposed Rules:
 - Davis Bacon
 - Project Labor Agreements
 - Independent Contractor
 - Joint Employer
 - Overtime
- SBA Surety Bond Guarantee Program

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State Chapter Engagement

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State Chapter Engagement

GRC Presentations:

- ASA Carolinas Convention
- ASA Central PA
- ASA New Mexico
- ASA Utah
- ASA San Antonio
- ASA Southwest Florida Chapter
- ASA Michigan
- ASA Colorado
- ASA Houston
- ASA Baton Rouge
- ASA Midwest Council (MO)
- ASA Mississippi

State Issues of Concern:

ASA Southwest Florida – Retainage

ASA Colorado – Retainage

ASA Baton Rouge – PACE (Alternative Energy Financing)

ASA Central PA and Western PA – Anti-indemnification

ASA New Mexico – Workers Compensation

ASA DC Metro / Baltimore – P3s Projects and Retainage

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State Chapter Engagement

Voter Voice: Three Campaigns (OK, CO, DC Metro) =
109 ASA Participants sent 1,189 messages

Click on the 'Campaign Name' to view detailed report

From 05/05/2020 to 05/05/2021

Campaign Name	Date Created	Recipients	Senders	Messages
HB 1661 - Support of the Construction Manager's Bonding Requirements	03/30/2021	13	53	689
MD HB0454 Payment Practices Legislation	03/19/2021	24	4	50
CO State Legislation to Cap Private Retainage at 5%	03/10/2021	35	52	450

State Chapter Engagement

Podcasts / Webinars

- NASBP's Annual Meeting Podcast with Courtney Little, the AGC and ABC Chairmen
- Price escalation webinar with Lee Brumitt
- Negotiating Form Subcontracts webinar with Mark Felezzola and Jim Yand
- Project Documentation webinar with Brian Carroll
- SBA Ombudsman's Office Webinar
- Killer Contract Clauses with Bethany Beck
- Podcast with Jordan Howard, AGC's Director of Federal & Heavy Construction
- Podcast with Dalton Defendis, the Surety&Fidelity Association of America's GRC Director



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Just when we all
thought our Congress
was totally useless
and dysfunctional,
they actually passed
something helpful.

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