The Fundamentals Of Change Orders & Change Order Management

Change orders can take many shapes and forms, can range from simplistic to intricate, and can cause disruption, resequencing, and eat away at profits. In its most basic form, a change order is a contractor’s right to additional time and/or compensation for work performed that is not within the scope of the project’s original contract. Change orders are typically inevitable in any construction process given the various trades involved, complexities of plans and specifications, and external factors such as weather, strikes and owner financing. Accordingly, it is integral that contractors have a basic understanding of change order concepts and management.

Most change orders fall into three categories. The first and most basic category is owner acknowledged changes. Simply put, these are changes initiated or approved by the project owner. These types of change orders are the most desirable for a contractor since the likelihood of payment on these types of changes is much greater than other types of changes.

The second category is constructive changes. Constructive changes are those items that are not initiated by the owner, but an action or inaction by the owner caused additional work for the contractor. Examples include additional work caused by defects in specifications and plans provided by the owner, rejection of conforming work as a result of unreasonable inspection, and acceleration as a result of the owner not acknowledging the contractor’s legitimate request for time extension.

The last major category of change orders is consequential changes. Consequential changes are difficult to quantify since they are generally caused by other impacts on the project. While at first glance a constructive change and a consequential change may appear to be the same, consequential changes are the result of another change. Assume a heavy highway subcontractor anticipated their work to be performed from the spring to the fall. However, due to a change event that occurred earlier in the project, the work was shifted into the winter months thereby causing additional costs attributable to harsh weather conditions. This type of cause and effect is a good indication that a consequential change occurred.

Continued On Page 24
Wagman is a fourth-generation, family-owned construction firm headquartered in York, PA.

Wagman provides pre-construction and construction services, including design-build, general construction and construction management throughout PA, MD, and VA.

Wagman delivers award-winning projects to senior living, healthcare, higher education, commercial and industrial clients.
Aging in place: Some 40 percent of suburban residents today are age 45 or older, according to U.S. census figures. Luring these pre-seniors out of suburbia, where the upkeep of homes and yards can grow taxing, and the distance between amenities requires a car to get around, and into a vibrant urban center with cultural attractions and nearby amenities could hold one key to pumping up population growth in U.S. city centers.

And of course, the importance of the millennials, ages 18-34, cannot be overstated. More than 1 in 3 American workers today fall into this age group, making them the largest share of the workforce, according to the Pew Research Center. Since jobs remain central to urban areas, it seems only logical that many millennials would want to live near where they work.

Their choice of housing makes them ideal candidates for urban living: Millennials prefer to rent rather than buy homes (the current age for first-time homeowners has jumped to 35-39), and the diverse array of rental housing options in most cities holds broad potential appeal for this group.

The bigger picture

The effort to beef up Baltimore's population is not bucking a trend.

Across the U.S., growth in the nation's urban population is outpacing growth in non-urban areas. Today, some four-fifths of the U.S. population (80.7 percent) resides in an urban area, according to figures compiled by the U.S. Census Bureau in 2012.

This growth comes at a time when Americans are buying fewer single-family homes. During the five years since the recession, though the nation's financial picture has brightened considerably, “single-family homebuilding has remained lower than it has been for decades,” according to an April report in TIME. In March, the rate of single-family home sales was 13.3 percent lower than the previous year, TIME reports.

In contrast, construction of residences with five or more

Continued On Page 25
Personal & Business Goal Setting

“If one advances confidently in the direction of his dreams and endeavors to live the life he has imagined, he will meet with a success unexpected in common hours”
~ Henry David Thoreau

Whether in your business or personal life, everyone should have goals: How much in sales will our company do next year and at what profit margin? I want to have enough money to retire in comfort. I want to lose weight. I want a better relationship with my spouse. No matter the goal, you improve your chances of meeting or exceeding your goals by having a clear vision of what you want, writing down your goals and reviewing them on a regular basis.

In Mark McCormack’s best-selling book, “What They Don’t Teach You at Harvard Business School” he tells of a study of graduating seniors. They were asked if they had clear written goals for their future. Three percent had written goals, 13 percent had goals and 84 had no goals at all. In a follow-up survey ten years later, it was found the 13 percent that had goals were making twice as much as the graduates that had no goals; and, the three percent that had written goals were making 10 times as much as the other 97 percent.

Although this study has been used by many authors, including McCormack and best-selling business author Brian Tracy, nobody has been able to produce any evidence this study ever happened. Therefore, Gail Matthews, Ph.D., from Dominican University conducted a similar study that came to similar conclusions: The control groups that were asked to write their goals accomplished significantly more than the group that merely thought about their goals.

Writing down your goals is only one step; you must first have a clear vision of what you truly want to accomplish. In Napoleon Hill’s timeless classic, “Success Through a Positive Mental Attitude” he wrote, “Definiteness of purpose is the starting point of all achievement. Definiteness of purpose combined with a positive mental attitude, is the start of all worthwhile achievement”. So really think about what you want to achieve. Where do you want to be in 5, 10 years? Whether in a strategic planning meeting with your top managers or setting personal goals, have a clear idea of what you want.

When you have this clear vision and your written goals, develop an action plan. If you decide you want to double your net income in 5 years, determine what steps you will need to take. And then start today. Goals without an action plan are just words on paper. You must develop specific tasks with hard deadlines and then review your status on a regular basis. What do we need to do to increase efficiency and reduce costs? What steps does business development need to take to increase sales? Create an action plan and review progress on a regular basis. Remember what Peter Drucker said, “What gets measured, gets done”.

When you constantly review and rewrite your goals, you release your subconscious mind. Brian Tracy describes this as the Law of Subconscious Activity. “Whatever thought or goal you accept in your conscious mind will be accepted by your subconscious mind as a command or instruction.” When you engage your subconscious mind, it is always working. If you review your goals before your go to sleep, your subconscious mind will be working on your goals as you sleep. Napoleon Hill wrote an entire book on this in “Think and Grow Rich”.

Determine your goals, document them, create an action plan, review them constantly and you will release your subconscious mind and before you know it, you will meet and many times, exceed your goals.

J. Scott LeVora, CPA, CRIS has been a partner with B2B CFO Partners, LLC since 2011. He works with owners of construction companies to help them achieve their goals through better financial management and strategic planning; and, helps owners with transition planning. B2B CFO is the nation’s largest CFO and Exit Strategies firm and has been on Inc. Magazine’s 5000 list for 4 consecutive years and was recently awarded the Blue Ribbon Award from the U.S. Chamber of Commerce.

Scott holds a BS in accounting and finance from The Ohio State University, has worked in the construction industry for over 30 years and is an active member of the Greater Washington Chapter of the Construction Financial Management Association.
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“T he grass is always greener,” goes the old saying. This can certainly ring true to contractors when they peer across state lines and envision vast, profitable fields of green. But, without proper preparation, you could find yourself on shaky ground because of sales and use taxes.

Sales taxes, of course, apply to the retail sale of certain tangible personal property and services. Use taxes, meanwhile, may apply if you buy tangible personal property and services outside a given state and use it within the state in question. Put them together and they can trip up your efforts to work profitably in another state.

Do your research

Among the first things to do when considering an out-of-state job is to conduct research into sales and use taxes. You’ll likely find that most states treat contractors as the ultimate consumers of the building materials they later use for their construction projects.

In other words, the contractor pays sales or use taxes on its material purchases and treats those taxes as a cost of doing business. The costs are reflected in your bids and passed on to customers. Typically, it’s the supplier’s responsibility to collect the tax and remit it to the state. The contractor doesn’t have to charge, collect or remit sales or use taxes on the sale of the finished construction.

Be ready for anything

In some states, however, the rules are different. And this is where you must be prepared for how sales and use taxes might affect your contract. For example, a few states treat contractors as retailers of the materials they install. The contractor buys the materials tax-free (usually by presenting a resale certificate to the supplier) and then collects sales tax from the customer, who’s treated as the ultimate consumer of the materials.

In some of these states, the tax treatment differs depending on whether the installation is in residential or nonresidential property. Other states make a distinction between “capital improvements” and “repair, maintenance or installation,” requiring the contractor to collect sales tax from the customer for the latter, but not for the former.

In still other states, tax treatment depends on the contract. For instance, a contractor might be required to collect sales tax from its customers if materials are separately itemized and priced in the contract, but would be treated as the consumer of materials under a lump sum contract. In these states, there may be an opportunity to “shape” the tax treatment by using a certain type of contract.

And what if your construction company buys materials in its home state and takes them to an out-of-state job? Conceivably, your business could be charged sales tax in its home state and be required to pay use tax or collect sales tax in the other state. Some states allow contractors to buy materials on a tax-exempt basis by certifying that the materials will be used out of state. And many states offer a credit against sales or use taxes for taxes paid in another state.

Approach public jobs carefully

When it comes to projects involving nonprofit organizations or government entities, the sales and use tax treatment also varies from state to state. The federal government is generally exempt from sales and use taxes, as are many state and local government entities and nonprofits.

Some states allow contractors to use a customer’s exemption to buy materials tax-free for a job. In other states, materials are exempt from sales and use taxes only if the tax-exempt entity purchases them directly. In those states, contractors have an opportunity to avoid sales and use taxes altogether by having the customer procure the materials for the job.

Roll with the changes

For ambitious contractors, sales and use taxes demand flexibility. You must be willing to roll with the changes as you truck across state lines. Work with your tax advisor not only to research the sales and use tax rules in your region of the country, but also to plan specific measures for mitigating their impact.

Rivka Bier, CPA, MST is a Manager at Hertzbach & Company, P.A. in Owings Mills, Maryland; Rockville, Maryland and Arlington, Virginia. She can be reached at (410) 363-3200 or by emailing rbier@hertzbach.com.
If your construction company uses a check-cashing business, then you might soon find yourself in the crosshairs of Uncle Sam. The Internal Revenue Service ("IRS") and federal prosecutors are cracking down on construction companies that attempt to conceal the true amount of their gross receipts and payroll through the use of check-cashing businesses. Not only could businesses face IRS audits, tax collection action, and the imposition of substantial interest and penalties, individuals who own or operate these construction businesses could face federal or state criminal prosecution and substantial prison time.

On June 5, 2015, Eric Anderson, the owner of three construction companies in Dix Hills, New York, learned this the hard way when he was sentenced to serve eighteen months in federal prison and ordered to pay $1,080,222 in restitution to the IRS after being caught using a commercial check-cashing service to conceal the true gross receipts of his construction business and his practice of paying employees under the table. Over the course of three years, Anderson used a check-cashing service to pay more than $10.5 million in checks payable to his construction companies which represented revenues of the business. Anderson concealed his check-cashing activities from his tax return preparer so that the income was not included on the companies’ tax returns. Anderson then used a portion of that cash to pay his employees under the table, thereby failing to collect or pay over to the IRS quarterly employment taxes due on his employees’ cash wages. Even worse, after learning of the criminal investigation, Anderson shredded business records and lied to IRS investigators about his use of the check-cashing service. In addition to federal prison time and restitution, Anderson was ordered to serve three years of supervised release following his release from prison.

Anderson is not alone. That same day, Tariq Tahir, the owner and operator of DNS Construction Corporation in Yonkers, New York was sentenced in connection with his own fraudulent schemes involving multiple check-cashing businesses. From 2006 through 2008, Tahir carried out two schemes to avoid paying taxes. First, in an attempt to conceal his company’s true revenue from federal and state tax authorities, he cashed checks at multiple check-cashing businesses in Manhattan and Brooklyn, rather than depositing those checks into company bank accounts. The IRS, however, uncovered Tahir’s behavior. Tahir also paid his employees primarily in cash and did not report these salary payments on his company’s employment tax returns in hopes that this practice would escape detection. It did not. On June 5, 2015, 67 year-old Tahir was ordered to pay more than $800,000 in restitution to the IRS and the New York State Department of Taxation and Finance.

Anderson and Tahir are just a few examples of steadily increasing efforts by federal and state tax authorities to audit and prosecute construction companies and check-cashing businesses, considered by many in the tax profession to be low-hanging fruit ripe for the picking by tax authorities. Further, not only construction company owners and operators place themselves at risk of prosecution. In August 2010, the owner of a Sorrento, Florida grocery store was sentenced to two years in prison for her involvement in cashing over $4 million in checks for a construction company that was attempting to evade payroll taxes.

There are many ways for construction company owners and operators to get caught in the IRS crosshairs when using check-cashing companies in an attempt to underreport revenues or conceal the payment of wages, therefore avoiding the payment of employment taxes. Under federal law, a business owner could be charged with tax evasion, which carries a maximum penalty of five years in jail and a $250,000 fine. To establish the crime of tax evasion, the government must prove that the business owner engaged in an act to evade or defeat tax. This would include cashing checks rather than depositing them into a business account and paying employees in cash. The government would also have to prove that the conduct resulted in tax due and owing to
the government and that the defendant acted willfully, in that his actions were illegal and he proceeded anyway.

Individuals operating construction companies in this manner could also be targeted by prosecutors for failing to collect, account for, or pay over employment taxes, which is also a felony which carries a maximum penalty of five years in federal prison and a fine of $250,000. Federal prosecutors are encouraged to consider mail and wire fraud charges where the defendant embezzles or fails to pay over the employee withholding portion of the employment taxes. These charges each carry a substantially larger maximum penalty of 20 years in federal prison and a fine of $250,000.

Another weapon in the federal government’s arsenal is the so-called “tax perjury or fraud statute.” Federal prosecutors can use this statute to charge criminal violations based on the filing of false or fraudulent tax returns. This offense carries a maximum penalty of three years in prison and a $250,000 fine. Tahir was convicted of filing false corporate income tax returns on behalf of his construction company.

The implications of such actions are not limited to federal prosecution. Maryland has demonstrated increased interest recently in prosecuting individuals for tax offenses. Further, construction companies and the individuals owning and operating them could face severe financial consequences if such behavior is uncovered as part of an IRS or state audit, including the assessment of additional taxes, substantial penalties and large amounts of interest, which is charged at a usurious 13% by the Comptroller of Maryland. If a construction company has underreported revenues or wages, it may be a good idea to speak with a tax professional about Maryland’s newly announced Tax Amnesty Program to avoid penalties and reduce interest.

The exposure for underreporting gross receipts and payroll taxes is broad and the criminal and civil consequences can be severe. The IRS and Department of Justice have increased their investigations and prosecutions of construction companies and their owners/operators. Authorities are paying particular attention to the use of check-cashing companies to conceal revenues and the payment of wages in cash.

Leigh Kessler, Esq. &
Giovanni V. Alberotanza, Esq., LL.M., M.B.A.
Rosenberg Martin Greenberg, LLC

If you would like to discuss the IRS’s focus on underreporting of revenue and payroll taxes, or other tax issues related to the construction industry, or would like to have your current practices reviewed for potential exposure, please contact Leigh Kessler at 410.649.4991 or lkessler@rosenbergmartin.com or Giovanni V. Alberotanza at 410.649.4990 or galberotanza@rosenbergmartin.com.
Whether we like it or not, the web and Social Media can have a dramatic impact on your company’s reputation. The impact is measured in speed and in volume. On-line technology has enabled everyone who has access to a computer and the Internet to express an opinion—right or wrong, positive or negative, fair or unfair.

The old adage was “do something right and the customer will tell 5 people; do something wrong and they will tell 10.” Today you can put a lot more zeros after each of those numbers, especially the 10. An organization’s reputation has always been based on its integrity, its ability to deliver what it promises and the consistency with which it deals with the world. Large companies have had public relations professionals whose job it was to protect the firm’s reputation and to try to shape the way it was reported on in the media.

Today the time between an event, especially a negative one, and opinions expressed publicly about it can be as little as nanoseconds. So, on one hand the skills needed to protect a company’s reputation are different than those needed in the past. Websites and Social media have opened new pathways for companies to reach out to customers and prospects to inform them, reinforce relationships, and to deliver goods and services. They enable companies to quickly gather information on how they are doing in customer satisfaction, to rectify problems and to improve processes.

But here we reach the proverbial two-horned dilemma: in many companies, the speed of the arrival of information on which action must be taken and the volume of that information creates work that cannot necessarily be added to people who are responsible for other things. A whole new class of careers and jobs is being created under our noses. Call the job On-Line Reputation Manager or Chief Digital Communications Executive; the job needs to be filled. Here’s the second part of the dilemma: in many cases the people who understand the need for the job to be done are often not very proficient in the use of the technological tools to do it. And, the people who have the technological skills to use the tools may not be experienced enough in the business to do it properly.

So what is the solution? One idea is to pair a seasoned executive with a whiz with the tools and have them learn from each other what must go into the overall tasks. Each “twin” will have to accept the other and what set of strengths each brings to the pairing. The “twin” could be another employee or an outsourced resource like a “webologist—someone with the technological and business background to have experience in using the tools successfully.

Principles that have always worked in good messaging still carry into this new world—good clear writing, language pertinent to the understanding of the audience, the right message in the right media. And finally the really scary part is how fast things change in this new world: how different is your website strategy from what it was 2 years ago? How different is Google from what it was a year ago or even last week? How can the active management of all this change drive your business to where you want it to be?

And one final point that has to be carried from the past: embrace bad news and deal with it. Ignore it at your peril. Face it head on and respond to your customer when they complain and make it right if you can. You know the old saying about converts: “People whose beliefs that are changed or corrected are passionate about their new belief.” So correct the mistakes that made your customers complain and turn them into raving fans.

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“Where’s The Work” Economic Forecast Featuring Harford & Cecil Counties

With a commitment to provide Maryland’s construction community affordable and relevant industry-related education and information, as well as premier construction industry networking, MCN is pleased to present a “Where’s The Work” Economic Forecast featuring Harford and Cecil Counties.

Join MCN on Thursday, November 5th at Harford Community College’s Darlington Hall where Delegate Teresa Reilly, a Delegate to Harford and Cecil Counties, will make opening remarks; sharing accomplishments, and short and long term goals and objectives, as they relate to the both counties.

Harford County Executive Barry Glassman and Director of Economic Development Karen Holt, and Cecil County Executive Tari Moore and Director of Economic Development Lisa Webb, will provide an overview of their counties’ on-going growth, “where’s the work” currently in their counties, and what’s on the horizon for Harford & Cecil Counties; specific to economic growth, projections, and forecasts within the real estate and construction communities.

In addition, Harford and Cecil County Public School officials will:

- Provide an overview of current projects.
- Detail projected growth within the public school sector.
- Share current and upcoming projects within their counties.
- Present bid and prequalification requirements to work within the Harford and Cecil County Public School Systems.

Mirroring the format of MCN’s extremely well attended and well received “Where’s The Work” Economic Forecast in Frederick County on March 26th (197 attendees), and our June 25th Developer – Builder Forum in Howard County (190 attendees); MCN expects to enlist private developers to discuss economic growth, forecasts, and work “in the pipeline” within the private sector in both counties.

The itinerary for MCN’s third “Where’s The Work” Economic Forecast & Direct Connect Networking Extravaganza in 2015 is as follows:

Registration: 2:30 – 3:00 p.m.
Presentation With Q&A: 3:00 – 5:00 p.m.
Direct Connect Networking: 5:00 – 7:00 p.m.

Registration information will soon be available. In the interim; mark your calendars and save the date!

MCN is Maryland’s fastest growing construction association, in-step and in-touch with needs of the construction industry. Membership plans are affordable and custom-built; designed to enhance and support your firm’s existing marketing strategy. Membership plans start at $160 a year for the entire firm. In twenty-eight months, over 325 firms have joined MCN. For additional information, contact Verna Regler or Rob Bertazon at 443.982.7329 or visit our website - mdconstructionnet.net. MCN is independently owned and operated; committed to service and excellence.
According to the Association of Certified Fraud Examiners (ACFE) Report to the Nations on Occupational Fraud and Abuse, 2014 Global Fraud Study, the median loss per fraud scheme in the construction industry is a staggering $245,000. For most small and mid-size companies, a loss of this magnitude can be devastating. These fraud schemes can be carried out by employees, owners, subcontractors, vendors, and joint venture partners. The construction industry is even more vulnerable to fraud than other industries, because companies often have widely dispersed spending authority across numerous project managers and field supervisors. Implementing controls can also be difficult when operations are spread out geographically.

Successfully mitigating fraud risk entails understanding the motivations of fraudsters, recognizing behavioral red flags, identifying the areas of risk, and implementing controls to mitigate risk.

Motivations to commit fraud

The well-known fraud triangle theory states that those who commit occupational fraud tend to have a perceived financial need. Financial pressures often come from personal problems such as addictions, divorce, debt, spousal job loss, or health issues. But they may also stem from poor financial decisions or living beyond one's means. In any case, life situations often provide the motivation that is the first step toward fraud.

Rationalization

Fraudsters frequently do not have criminal records. They may rationalize their actions by convincing themselves that the fraud is acceptable; the money is just a loan; that they’ll pay it back. Or they may persuade themselves that the company doesn't need or won't miss the assets. Some rationalize fraud because they feel they aren't compensated fairly or they have been slighted by a supervisor. But even with rationalization and motivation present, the third necessary ingredient is the opportunity to commit fraud.

Fraud opportunities in construction

It can be difficult for management to influence an employee's motivations or rationalizations, but by limiting opportunities for fraud, the organization can reduce risk. The ACFE notes the construction industry’s most common fraud schemes include the following:

- Corruption — In the construction industry, this category includes conflicts of interest, bribery, illegal gratuities, and economic extortion.
- Billing — Invoices are submitted for fictitious goods or services or from fictitious vendors. Invoices may also be inflated or for personal purchases.
- Expense Reimbursements — Employees make claims for fictitious or inflated business expenses.
- Check Tampering — Fraudster may intercept, forge, or alter checks drawn on one of the organization's bank accounts in order to divert assets.
- Bidding — Personnel may gain unauthorized access to confidential bidding information and share bids with contractors.

A lack of formalized policies and procedures and poor segregation of duties are common control weaknesses that provide these opportunities. Therefore, organizations should periodically perform formal risk assessments and internal control reviews to identify areas of risk.

Red flags

Often times, employees will exhibit certain behavioral clues that should prompt a closer investigation of their work. By recognizing these clues we may identify fraud early and minimize its costs. Some of these behaviors include:

- Close relationship with vendors — Strong relationships are important in the construction business, but close relationships between contractors, subcontractors, employees, and owners can lead to inadequate review processes and informal agreements outside of established controls.
- "Wheeler-dealer" attitude — Field supervisors and...
Challenges For Construction Companies Resulting From Your Employee’s Illegal Or Legal Drug Use

In addition to the regular day-to-day challenges in having an adequate and productive workforce, construction companies also have to deal with the legal and illegal use of narcotics by their employees.

In an industry with a higher risk of accident and injury, any impairment is unacceptable, but the reality is that there are workers who are taking narcotics, whether illegal or through a legitimate prescription, that are working on jobsites today. It may be very difficult to determine whether an employee is impaired until it is too late and someone gets hurt.

Use Of Prescription Drugs:

CNA Insurance recently published claim data which shows that 20% of total prescription drug spending for construction industry claims is for painkillers. That is a higher percentage than other industries. If you have an employee injured at work it is important to find out what restrictions are in place as a result of any prescriptions. A truck driver who was given a narcotic for a back injury should not be driving while taking medication that causes impairment.

You need to have a program in-place to manage any employee using prescription narcotics as a result of a workplace injury. You don’t want an employee to further injure themselves or someone else because they are taking a prescribed drug for an injury they sustained at work. Return-To-Work programs need to include limitations due to use of prescribed drugs.

The other challenge is when an employee is being treated for a non-workplace injury and is taking prescribed pain medication. The same exposures exist, except whether the employer has knowledge of it. A requirement for employees to inform their employer of side effects or impairment from prescription drugs should be included in your employee handbook and/or drug free workplace program.

Use Of Illegal Drugs:

An effective drug free workplace program is a great way to combat illegal drug use by your employees. The policy should include pre-employment testing, post accident testing, random testing, and testing for cause. You have to enforce the program the same for EVERYONE in the company, including owners and key personnel.

Any impairment increases the risk of injury or damage to property. Any employee injury could impact your experience modification factor, premiums, and ability to get workers’ compensation coverage. An effective drug free workplace is a risk management tool to prevent accidents. Your risks are big enough already without having an employee under the influence.

Education And Employee Assistance:

Part of your safety program and employee hiring process should include education on drug impairment and the risks of dependency. Addiction to prescribed drugs has become a big problem for our society. You want to educate all of your employees to the risks of dependency and what can be done to prevent it.

An employee assistance plan is also an integral part of an effective drug free workplace policy so that employees have a way to get help for an addiction. This also provides the employee with a structure so that they will feel comfortable in addressing their problems, rather than a system of punishment that would make them unlikely to come forward.

The cost of setting up and maintaining an employee education and assistance program is well worth it versus the cost of a preventable claim.

It is important for all construction companies to have a plan in place to deal with employees’ drug use and the potential implications on your business.

Richard Shaw is a Senior Client Executive with RCM&D with over 25 years of experience working with clients to help them manage their risk. You can contact Richard at rshaw@rcmd.com.
Biz Basics Q & A

Question: What are important contract clauses that I should look out for before I sign a contract?

Answer: Before signing on the dotted line, a business owner needs to be aware of the terms of the contract that they are agreeing to and what are their obligations and responsibilities. In too many instances, a company will execute a contract but not fully understand their rights or responsibilities. The follow are some of the top contract clauses that any contractor should consider before entering into an agreement. While this is not an exhaustive list of every single consideration a company should consider, it does provide a guideline before you sign your name to a contract.

1. Scope - Before agreeing to the scope of work, make sure that there has been a review of both the drawings and specifications incorporated in the contract. Contractors should also be on the lookout for any additional documents that are incorporated by reference.

2. Payment - In Maryland, a difference exists between “pay when paid” clauses and “paid if paid” clauses. “Paid when paid” does not excuse the obligation to pay for work properly performed after a reasonable time has passed, whereas “paid if paid” clauses require payment to the higher tiered contractor.

3. Default/Termination - Contractors should also look at the default provisions, which will outline any notice provisions and opportunity to cure a default, as well as the rights upon default of the parties to the contract. The same analysis governs a termination provision in the contract, as a proper clause should outline terminations for conveniences versus termination for cause.

4. Indemnification - An important clause to consider is the indemnification provision in a contract. Parties entering into a contract should consider what circumstances a party will indemnify another, who gets to participate in the defense of a claim, and whether there are any limits on liability for indemnification.

5. Remedies/Damages - Remedies and damages contract clauses are interrelated, where a business owner needs to first consider their remedies. This provision lays out what a contractor would be entitled to, which may include damages or an extension of time. If the remedies allow for damages, then the damages provision should outline the type of damages a party is entitled to, including actual damages, consequential damages, or liquidated damages.

Michael W. Siri is a partner in the litigation department at Bowie & Jensen, LLC, a law firm in Towson, Maryland representing business owners, contractors, owners, and developers with their legal needs. Michael represents construction clients during all phases of a project, from negotiation of the contract, through the construction, and through final payment. For additional information, contact Michael at 410-583-2400 or via email at siri@bowie-jensen.com.
The Port of Baltimore

The Port of Baltimore is an important economic engine for the State of Maryland. In 2013, The Port of Baltimore’s imported commerce totaled 30 million tons with a value of $52.6 billion. Baltimore is one of the top ports in the United States for cargo tonnage and overall dollar value. Additionally, The Port of Baltimore features six public marine terminals which include autos, roll on/roll off, containers, forest products, and project cargo.

A recent report conducted by the Journal of Commerce (JOC) ranked The Port of Baltimore number one among U.S. ports for container berth productivity. “Based on 2014 data, the Port of Baltimore averaged a U.S. port-leading 84 container moves per hour per berth, ahead of all major U.S. ports.” Furthermore, “the JOC port productivity numbers are compiled by international shipping lines not by individual ports or marine terminals.”

Newly elected Governor Larry Hogan is pleased with the reports findings, “Being recognized as the most productive port in the nation clearly puts us in a very good position for continued growth and success”. The Governor was also quoted stating, “The international shipping industry has taken notice with the Port now home to the four largest container shipping companies in the world – Maersk, MSC, CMA-CGM and Evergreen. When the Port of Baltimore succeeds, Maryland succeeds.”

The port efficiency rankings factored in elements such as a ship’s arrival time at a berth, the number of container moves per hour at that berth and a ship’s departure time from that berth. The Seagirt Marine Terminal, the Port of Baltimore’s primary container facility, includes 11 cranes, four of which are super Post-Panamax cranes capable of reaching 22 containers across a ship. Baltimore is one of eight US ports that is Post-Panamax ready.

Combining both the public and private marine terminals, the Port of Baltimore had a record year in 2014 and saw 29.5 million tons of international cargo cross its docks last year at a value of nearly $53 billion. Baltimore is ranked as the top port among all U.S. ports for handling autos and light trucks, farm and construction machinery, imported forest products, imported sugar and imported aluminum. Overall, Baltimore is ranked ninth for the total dollar value of cargo and 13th for cargo tonnage for all U.S. ports.

Business at the Port of Baltimore generates about 14,630 direct jobs, while about 108,000 jobs in Maryland are linked to Port activities. The Port is responsible for $3 billion in personal wages and salary and more than $300 million in state and local taxes.

U.S. Exports

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<thead>
<tr>
<th>Rank</th>
<th>Port/State</th>
<th>Dollars</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Houston, TX</td>
<td>$94,050</td>
</tr>
<tr>
<td>2</td>
<td>New York/New Jersey</td>
<td>$52,420</td>
</tr>
<tr>
<td>3</td>
<td>Los Angeles, CA</td>
<td>$40,933</td>
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<td>4</td>
<td>Long Beach, CA</td>
<td>$39,553</td>
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<td>5</td>
<td>New Orleans, LA</td>
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<tr>
<td>6</td>
<td>Hampton Roads (VA)</td>
<td>$29,566</td>
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<td>7</td>
<td>Savannah, GA</td>
<td>$27,706</td>
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<td>8</td>
<td>Charleston, SC</td>
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<td>9</td>
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<td>10</td>
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</table>

The above article was co-authored by Lee & Associates’ Allan Riorda and Marley Welsh. Allan and Marley can be reached at 443-741-4040 or 443-741-4050 respectively. Learn more about Lee & Associates

Sources:


http://www.aapa-ports.org/Industry/content.cfm?ItemNumber=900

As summer is in full swing, it allows for some of our favorite traditions: eating Maryland tomatoes and sweet corn, watching beautiful sunsets, enjoying the Chesapeake Bay and the annual family vacation. For many of us, this annual reprieve is dreamt about all year long. Once the SUV is packed to the brim (and for those of you with little ones, like me, the portable DVD player is rolling with an occupying movie through lifesaving headphones), we turn on our music and begin the journey to rest and relaxation.

On the drive to sandy beaches, the music of Jimmy Buffett, naturally flows through the speakers. For me, the worries begin to fade away with a favorite song, “Changes in Latitude, Changes in Attitude.” While I normally mindlessly sing along (and I know you do too…) a verse in the song happens to catch my attention. Jimmy sings: “I took off for a weekend last month, just to try and recall the whole year.” This verse caused me to take pause, as I realized that I could actually relate. If you think about it, I am sure you can too. We are all so busy with work, family, friends, volunteer initiatives, sports, etc. We are often required to remove ourselves from daily traditions, tasks and roles to reflect upon past events and give thought to our future and what we desire and require for our lives.

As your worries begin to fade away on your vacation and this reflection and future planning process occurs, you’re bound to remember the reasons you have worked so hard in the preceding months. It may be to provide for your smiling children, to save for a vacation home or to fund your retirement dreams. Whatever the reasons are, I encourage you to do two small things.

First, take a notebook to the beach or pool with you. When these thoughts pop into your mind, write them down. These thoughts, after all, are your financial goals and objectives. As you “try to recall the whole year,” this takes the shape of your own personal review. Be honest with yourself and give it a grade. Are you on track for what you want and demand for your life? Secondly, once your vacation is over and the real world roars back, open up that notebook every quarter. And even more importantly, share that notebook with your financial planner so they are aware of your goals and can work with you to track toward them.

While your monthly investment statements are viewed in dollars and cents, we must remember what we are working for and the actions we are taking throughout the year to accomplish our goal. Examples of such actions include: paying off debts, taking advantage of the company match in a 401(k), maxing out 401(k) contributions (if that is not feasible, increase your contribution by at least 1% this year), finalizing your Wills and Power of Attorney documents, purchasing life insurance to give your spouse peace of mind, building up an emergency fund and finally, meeting with a Financial Planner to determine how much you need to save for a comfortable and fulfilling retirement. Just as Jimmy Buffett had to “take off for a weekend to recall the whole year,” I do not want for you to wait until it is too late to recall what you want out of life and what you are working so hard for. I would much rather hear about you having an amazing “cheeseburger in paradise…”

Lauren M. Rebbel
CERTIFIED FINANCIAL PLANNER™
The Prosperity Consulting Group, LLC
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Do You Need An Audit, Review Or Compilation?

You can save money by questioning the level of assurance your business needs.

Since the Great Recession began in 2008 the annual GDP has shown modest growth at best. With most economists predicting no significant change for the better in the near future, more business owners than ever are looking closely at the expense side of the ledger in an effort to right-size the ship and make a profit.

This closer look at costs prompts many business owners to consider -- often for the first time ever -- the level of service their CPA firms provides. Regardless of economic conditions, it just makes good business sense to get the most out of your accounting investment.

Compliance vs. Consulting Services

CPA firms provide services in two basic areas: compliance services and business consulting services. If your entire accounting budget is being absorbed by compliance work, it leaves little room for the typically higher-value consulting services from which you can benefit, such as succession planning, profitability analysis and technology planning.

Compliance services consist of preparation of tax returns and financial statements. Unfortunately, not much can be done to reduce the level of tax compliance you receive from your CPA firm. If anything, it gets more complex each year.

However, when it comes to the level of financial statement reporting you are getting, there is some real opportunity to lower costs.

There is often significant confusion about what accountants “provide” when they prepare financial statements. Often, for example, accountants are referred to as auditors when in fact they are not providing audit services at all.

Under current accounting rules accountants are allowed to prepare compiled, reviewed and audited financial statements for privately-held businesses. Each service provides a different level of assurance. As you move up the level of assurance the cost to the business owner increases, with the highest jump being between a review and audit.

Compiled Financial Statements

Compiled financial statements offer the lowest level of assurance. They can be prepared without footnotes, unlike reviews and audits. In a compilation the accountant gives no assurance that the statements are materially correct (i.e., in accordance with generally accepted accounting principles or some other accounting basis such as the income tax basis). This does not mean the financial statements are wrong, or that the accountant can prepare a financial statement that obviously has errors. It only means that certain analytical or independent third-party verification (which you see in reviews and audit opinions) was not done.

Reviewed Financial Statements

A reviewed financial statement provides what I describe as “negative” assurance. In other words, nothing came to the accountant’s attention that suggested the statements were not materially correct. This assurance is accomplished primarily from applying analytical procedures to the financial statements.

Audited Financial Statements

An audit provides a “positive” assurance that the statements are materially correct. This involves applying both analytical procedures and significant inquiries and third-party verification of the numbers.

What Level of Service Is Right for You?

Continued On Page 28
Cash Is King

Cash is King. Think about all the times you’ve heard this phrase. What does it mean to you? Why does “cash” deserve such royal standing? Cash is the lifeblood of every company. Nothing causes more business failures than a lack of cash management and cash flow. You cannot pay your bills with receivables and inventory.

Have A Cash Management Plan
It is necessary for business owners to have a cash management plan in place. Some business owners may never create a plan because they think it’s too difficult or believe there isn’t enough time. Or, others may think that a profit and loss statement is a cash management plan. It’s not. That doesn’t determine if you can afford payroll or pay your bills.

Your plan doesn’t need to be complicated. You just need a plan. Period. It can be as simple as an Excel spreadsheet outlining money coming in and going out over a designated period.

Start with your revenue cycle. Look at the income coming in and what you can do to speed the pace. What are your payment terms? Are you still in the dark ages of having checks mailed to you? Are your clients paying you within 30 days?

A cloud based invoicing system can put your money in the bank days faster. A couple days can make a world of difference in cash flow. This is especially the case if you have larger companies that have payment structures in place of 60 or even 90 days.

Control Your Inventory
Plan purchases and payments. Turn excess inventory into cash as soon as possible.

Then look at your regular, fixed expenses and payment terms. Is there any room for savings? With today’s rapidly changing technology, you may find ways to shave some costs. For example, a (VoIP) voice over Internet phone system is often less expensive. Prioritize your accounts payable.

There is a major disconnect if your clients pay you in 60 or 90 days and your bills are due in 30. If that is the case, you need to have a strategy of how to make it work.

Accelerate Cash Inflow
To speed up the rate of cash inflow, consider offering clients a small discount if they pay you within 10 or 15 days. The expedited cash flow is well worth it. What are you doing to collect from late clients or ones who never pay? Don’t let those accounts sit dormant.

Build Up A Safety Buffer
Build relationships with your bankers. Share your plan and show your success. That way, if you hit a rut and need a loan or need to increase your loan, your transparency just may make the difference in getting approved or not.

I had a client once who had a number of government contracts. When he learned of the likelihood of the federal government sequestering, he was able to work with his bank, because following my advice, he had met with the bank regularly to keep them updated on his business and his plans. He was able to enlarge his line of credit in case it was needed. He was able to successfully get through the financial crisis by demonstrating to his banker that he had a working plan.

People that bury their heads in the sand like an ostrich during tough times will never be successful.

Remember, “Cash Is King.” If you do not manage your cash, it will manage you.

Allan Hirsh is an Executive Coach at Allan Hirsh Advisors and the host of AHA Business Radio on CBS Sports Radio 1300AM Tuesdays at 6-7 pm. In addition, Allan leads Maryland Construction Network’s Executive Forum. For additional information about the Executive Forum, contact Allan at allan@allanhirshadvisors.com or at 443.977.4500.
Release of Lien Bonds: 
Underlying Effects on GCs

A mechanics lien can be an effective tool for a subcontractor. The policy protects subcontractors and suppliers when they have a dispute with the general contractor over payment and/or work performed. Executing the lien muddles the property title and can stop payments from the owner to the general contractor.

Remediing the situation with a Release of Lien Bond harbors many considerations for both the general contractor and the surety. The underwriting of a Release of Lien Bond is viewed much differently than standard Performance and Payment Bonds. The underwriting process could require additional terms and conditions for the general contractor, which has both short and long-term implications.

Probable Maximum Loss (PML)

One underwriting consideration is the higher PML associated with ROL Bonds. A PML is an actuarial based figure developed to estimate the amount of loss a surety would have if the principal defaults on their obligation. Performance and Payment Bonds are viewed as standard business for sureties. Typically sureties assign a PML to performance and payment bonds between 30-40%. This means that for every dollar the surety guarantees on behalf of the principle, they expect to realize a loss of 30-40% of that amount if the principal defaults.

Release of Lien Bonds are viewed as a much riskier class of bond and assigned a PML equal to 100% of the bond amount. This can have an effect on the contractor's ability to secure additional bonds with the surety because the make-up of the business underwritten for the contractor is viewed differently and with greater care.

Bond Amount

The general contractor must also understand the variance in state laws. Some states, like Maryland and Virginia, require a bond equal to 100% of the amount liened. However, there are some states, like California, which require an amount equal to 125% of the lien. This is particularly important for two reasons. First, due to the risky nature of the bond, the surety might require collateral equal to the amount of the bond. This is a frequent request of the surety to mitigate their risk. The sureties feel there is a strong likelihood of an immediate claim on the release of lien bond from the subcontractor. The surety then has statutory requirements to respond timely and accurately to the claimant, which could ultimately result in a claim payment.

Second, the general contractor must understand the premium is an annual charge. The bond renews annually, thus the general contractor is responsible for renewal billings based on the amount of the bond until the lien has been discharged.

Notice

There are two considerations for the general contractor with regard to notifications. First, the general contractor is responsible for giving notice to the claimant that a release of lien bond has been filed; the statute of limitations doesn’t start until claimant receives notice. If notice isn’t provided concurrent to the issuance of the release of the lien bond, the general contractor is extending the rights of the subcontractor to submit a claim on the bond.

Second, the general contractor and their surety agent are responsible for providing the surety with notice from the county recorder that the lien has been removed. Otherwise, the contractor will be assessed a premium for the renewal of the bond. The terms and conditions for premium payments can be negotiated on pro-rata basis.

David Saul
Vice President, 
Construction Services Group
Alliant Insurance Services, Inc.

Alliant Insurance Services is one of the nation’s leading distributors of diversified insurance products and services. For information on our insurance, benefits and surety services, contact David Saul in Columbia, MD at 443-283-7889.
Making The Tax Code Work For You: Take Advantage Of Opportunities To Reduce Your Tax Liability Today

I represent many businesses – some large businesses with revenues in excess of $1 billion and some small businesses with revenues barely approaching $1 million. Whether the business is large or small, the families that own these businesses are focused on generating as much cash as possible (over time) to provide for themselves and their families. Yet, it is very common that these same business owners are not taking advantage of the inconsistencies of the tax code to pay less to the IRS and more to themselves. Just as common is that the business owners believe they are getting “tax advice” when they are really being told how much they need to pay instead of getting advice on how to pay less.

I know that discussing tax issues falls somewhere between “painful” and “excruciating” on the list of possible conversation topics. If nothing else, a business owner (or CFO) should determine whether they are at least asking the right questions:

1. Choice of Entity. Is your business structured as a C corporation, S Corporation or Partnership (for tax purposes)? The reason this is a big deal is that the answer to this question may be one of the largest financial decisions you ever make.

   • C Corporations. Most people know that C corporations pay “double tax”. This rarely comes into play in family-held businesses because earnings are typically paid out as compensation. The issue arises when the business is being sold and the buyer insists on an asset sale (which is common). The gain in Maryland on the sale of assets by a C corporation is taxed at 58% - the sale of a business for $10 million will leave net cash to the owners of $4.2 million. Had the same business been structured differently, the net proceeds would be approximately $7 million. That is a life changing difference for many families.

   • S Corporations. If your company is structured as an S corporation, somebody probably gave you tax advice at some point. It may have been good advice or may have been bad advice. If you are not paying out all of your earnings as wages and you have never heard the term “distributions in excess of basis”, this structure is likely working for you. On the other hand, if you hear rumblings about your distributions or that you “can’t use losses”, this approach is costing you money. We had a contractor structured as an S corporation that financed heavy equipment purchases of $1 million/year over 10 years but the equipment was depreciated over 5 years. They did not even realize that they were paying over $60K per year in additional tax (for excess distributions) in an attempt to save $11,400 per year (on self-employment tax) – I think we can call that bad advice.

2. Accounting Methods. I am definitely not going to go into detail on the available accounting methods. What is important for business owners to know is that there are many accounting methods available that may improve short term cash flow. A contractor or developer must have someone periodically examining their accounting method to determine how to account for retainages, indirect costs, common area costs, production period interest and other fun topics like these to make sure that you are not voluntarily prepaying your taxes.

3. Tax Credits/Special Deductions. Tax credits and special deductions are literally designed to enhance businesses’ economic return. Tax credits offer a true savings – not just a deferral. Any company involved in construction or rehabilitation of a building should understand Section 179D deductions. We have clients that had moderate-size contracts for public projects and were able to apply for and receive 179D deductions that wiped out their taxable income for many years. Likewise, companies that did not
consider themselves involved in technology were able to use research and development credits to save thousands of dollars.

There are dozens of tax-related issues that are not addressed in this article. The biggest one for family businesses is estate and succession planning – the IRS plans to issue regulations in the coming months that could have tremendous (negative) impact on wealthy families if they do not act quickly. Similarly, planning to obtain capital gains and reduce ordinary income requires a proactive approach since waiting until you file your tax return is often too late.

For many families, tax is their biggest expense – and like any large expense, any proactive action often results in material savings.

David S. Rosen, Esq., CPA is Director of Tax at Rosen, Sapperstein & Friedlander, Chartered (RS&F, Chartered). RS&F is a business consulting and CPA firm serving middle market businesses and high net worth individuals and families. RS&F is experienced in assessing sophisticated real estate transaction tax implications, as well as financing and timing issues. Questions may be directed to info@rsfchart.com or 410.581.0800.
Once the fundamentals of change orders are understood, a contractor can establish policies and procedures to manage change orders and improve their chances of collecting on the change orders. The first step in managing change orders is to have a comprehensive understanding of the contract and plans. This is critical because a contractor may unknowingly perform additional work as a result of design errors or conflicting items in the contract. If the contractor has a thorough understanding of the contract and plans, the contractor has a better chance of recognizing a change event and will minimize any incorrect assumptions that the work was within scope of the original contract.

The next step in managing change orders is to establish an effective change order file. This file should include items such as the date the change was discovered, emails, minutes from owners/project meetings, photos, plans and specifications; as well as change notice letters provided to the owner. The change notice letter is integral to provide to the owner since contracts typically have dispute clauses that require the contractor to notify an owner of a change in a timely manner. A change notice letter will typically include the cause of the change, whether or not the contractor is seeking an extension of time and/or equitable adjustment, and communicates that the contractor will prepare a formal change order in a timely manner with the anticipated costs and/or time.

Pricing out the change order is the next step in the change order management process. The change order can be priced out under time and materials for the obvious direct and indirect costs, with indirect costs generally including home office overhead and profit. In regards to consequential costs, these are more difficult to calculate and include on the change order since the cost of these items are not obvious. There are various methods to price the consequential costs, such as forensic estimating, delay analysis, measured mile calculations and various inefficiency calculations, all of which can include a multitude of complexities.

Once the change order is priced, the contractor would commence with the work and track job costs. While all costs are important to track, indirect costs and consequential costs are more important to track since they tend to rely on calculations as opposed to the hard costs seen in direct costs. The contractor’s calculations should be highly accurate since any errors in indirect and consequential costs will cause the owner to question the contractor’s overall credibility.

The impact of change orders can be significant to a contractor, be it as a result of few large dollar changes or many small dollar changes. As can be noted, change orders are dynamic and can have significant complexities involved. A contractor that understands the basics of change orders are better equipped to identify changes that are eligible for time extensions and/or equitable adjustments. Furthermore, with effective change order management, the contractor will improve its ability to properly present changes to the owner, price the change orders and be properly compensated for the extra work performed outside the scope of their contract.

For more information on accounting for change orders and change order management, please reach out to Christopher Vasquez, CPA, Senior Manager in Aronson LLC’s Construction and Real Estate Group at cvasquez@aronsonllc.com or at 301.231.6244.
units (such as condominiums and high rises) has soared, reaching their highest share of overall construction since 1973 (aside from one outlier year), according to TIME. “These days the market is driven much more by people who are either choosing to live in the city or in the near-in suburbs, particularly people who are just getting their first job or don’t have confidence that their job is going to last long enough to warrant buying a home,” notes Ken Simonson, chief economist for the Associated General Contractors of America.

Why choose Baltimore?

So, at a time when more people than ever are looking to live the urban life, what makes Baltimore an attractive choice?

First off, the city is home to some of the country’s premiere higher education institutions and professional schools. The Johns Hopkins University and School of Medicine; University of Maryland’s schools of law, medicine, dentistry, and social work; and University of Baltimore’s law school are just some of the top-ranked graduate institutions that make their home here. These centers draw well-educated adult students and researchers who are passionate about what they do — and often eager to be active members of their communities.

There’s an added bonus to having such a bountiful array of colleges and universities: Baltimore’s higher education institutions offer a rich array of concerts, lectures, and courses that appeal widely to today’s lifelong learners, of any age. Renowned cultural institutions — such as the Walters Art Museum, Peabody Conservatory, Center Stage, and the Baltimore Symphony Orchestra — are also civic mainstays that delight visitors and audience goers with their rich programming.

For many people, access to good health care is a prime consideration when deciding on a place to settle. Here again, Baltimore shines. The Johns Hopkins Hospital has ranked among the very top hospitals in the nation for more than two decades, and the University of Maryland Medical Center is widely regarded for its state-of-the-art cancer care, among other specialties. Doctors and scientists come from all over the world to work at these healthcare centers, further bolstering the city’s cultural capital.

And those who are socially conscious can feel good about making their home in Baltimore, where a wide variety of non-profit organizations — including Lutheran Center, Catholic Charities, and Associated Jewish Charities — have their headquarters. These groups not only provide jobs, they are dedicated to building affordable housing in disadvantaged neighborhoods and to improving the lives of the poor.

Compared to Washington, D.C., Baltimore’s housing options are much more affordable. That’s why many young professionals who work in D.C. opt to live here and commute to work. Baltimore’s proximity to Philadelphia (90 minutes by train) and New York City (three hours) offers further advantages.

When searching around the city for a place to settle, new transplants can’t help but be impressed by the attractive housing options — such as the Ritz Carlton Condominium Residences and Pier Homes at Harborview — that ring the Inner Harbor, a popular recreational hub.

Baltimore: a hopeful future

From Baltimore’s vibrant cultural institutions to its affordable housing options and top-ranked hospitals and universities, there are many factors that make the city a great place to live — particularly for millennials and those moving to the U.S. from international locales.

I have confidence that Baltimore will emerge from its recent challenges and setbacks with fresh solutions — and the resolve to make the city a place where everyone can thrive. As that happens, I’m confident that the city will once again begin to see steady growth in its population.

Faith Nevins Hawks is a Principal and Owner of Marks, Thomas Architects, a mid-size, WBE architecture and interior design firm established in the Baltimore area since 1967.
project managers that intentionally work outside of prescribed control procedures are, at very least, ignoring your business practices.

- Control issues — Employees who are over-protective of data or documents, who never take vacations, or refuse to let others help them may need to control their environment to keep their schemes hidden.

Mitigating risk with internal controls

After identifying risks and watching for red flags, the next step is to implement controls where the risk of fraud is greatest or where the consequences of fraud would be most damaging. The following are crucial elements of a successful fraud prevention program:

- Tone at the top — Strong values trickle down; employees reflect the behavior of their bosses.
- Formal procedures for receipts, payments, payroll, inventory, vehicles, and equipment
- Tools such as segregation of duties, lockboxes, dual check signatures, direct deposit, and the automated fraud detection tool Positive Pay
- Consistent policies and procedures across the organization
- Whistleblower hotline or a secure means for people to communicate concerns
- Disclosing and monitoring conflicts of interest
- Right-to-audit clauses and surprise audits
- Formal review and approval of vendors and subcontractors, including monitoring of policies requiring multiple bids and on-going vendor management, and new vendor set up
- Data analysis to assess effectiveness of controls and compliance with procedures, and to identify questionable transactions

How we can help

CliftonLarsonAllen can help you understand fraud. Whether you are responding to a fraud allegation or simply need a better sense of the risks your company faces, CLA’s industry-specialized team can perform risk assessments, recommend controls, and help you explore best practices. Our forensic data analysis practice can extract, interrogate, and analyze your data for anomalies indicative of fraud and other types of misconduct as part of internal investigations or external litigation. We can help you understand your risks and take specific steps toward mitigation.

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Michelle Wittig
Vice President, MEC²

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Habitat for Humanity ReStores are nonprofit home improvement stores that sell building materials, furniture, appliances—and much more—at discounted prices. To accomplish the mission, Habitat Chesapeake ReStores accept donated items then resell them to the public at discounted prices. 100% of the profits generated by the sale of these items are invested back into Habitat Chesapeake. With these contributions, the ReStores help to cover the costs of land acquisition, construction and other affiliate operations.

In addition to supporting affordable homeownership opportunities, ReStores also support a healthier planet. By recycling used items, Habitat Chesapeake ReStores provide an outlet through which the community can donate items to be reused, thus diverting millions of pounds of material from local landfills.

By DONATING, it begins a cycle of support that benefits our community. Store inventory is primarily comprised of donated items, which are quickly prepped for sale and displayed on the showroom floor at deeply discounted rates for our customers. Once sold, 100% of the profits are donated to Habitat Chesapeake to cover the costs associated with providing decent, affordable homeownership opportunities to hardworking family partners in need. Call 410-633-0506 to schedule your FREE pickup!

By SHOPPING, you benefit from significantly discounted prices, and show a commitment to your community. Best of all, you can avoid buyer’s remorse, knowing that you found a great deal on quality items and that your dollars will be directly invested in supporting your neighbors and local communities through Habitat Chesapeake.

By VOLUNTEERING, Habitat Chesapeake ReStores can effectively support Habitat Chesapeake. Relying on volunteers to accomplish our work helps keep the cost of store operations down, helping to drive up profits. Keeping in mind that 100% of these profits are donated to Habitat Chesapeake to help build decent, affordable homes throughout Central Maryland, your volunteer efforts help build community.

With five locations throughout Central Maryland (Columbia, Dundalk, Halethorpe, Glen Burnie and Sandtown), the ReStores are vital to the continued success of Habitat Chesapeake. Check out www.chesapeakerestore.org for more information about our Grand Opening, our locations, and our free Do It Yourself monthly workshops!
With each increased level of assurance comes increased costs, especially when jumping from a review to an audit.

I remember taking on a new construction client a few years ago. They received an audit and when I asked them who requests the audited financial statements, they told me their bonding company required it and that is what they’ve always done. I don’t believe the contractor had a clear understanding between the different levels of assurance. I quickly made some inquiries to the bonding company and surety and was able to get the required level of service lowered to a review. This significantly lowered the contractor’s accounting costs.

To determine which level of assurance is right for your business, you have to first figure out who wants your financial statements. If no third party is asking for them, and you still want something beyond an internally prepared statement, then a compilation probably makes the most sense and comes with the lowest cost.

If a third party such as a bank requires an independent report, you will likely need a review or audit. Banks often require reviewed or audited financial statements to support a line of credit. If your banker or surety requests an audit, I still suggest questioning whether a review would suffice given the general confusion on levels of reporting. If your bank or another third party agrees to a review instead of an audit, you will save your business a lot of money.

While I generally believe in going with the lowest level of assurance, there are times when it might make sense to go with a higher level of service in anticipation of future events. For instance, if you are looking to potentially sell the business in the next several years, it makes sense to have either reviewed or audited statements for several years as opposed to internally prepared or compiled statements.

As you look to get the most from your relationship with your CPA firm, make sure the level of compliance services you receive makes sense in terms of costs and benefits. By doing this you can often significantly lower costs and be in a better position to invest in services to help your business succeed.

Steve Ball, CPA, CVA, CCFIP, is director of Gross Mendelsohn’s Construction & Real Estate Group. He is passionate about helping contractors succeed in all facets of business. Steve provides audit, review, compilation, tax, business valuation, succession planning and consulting services for contractors. Contact Steve at 410.685.5512 or sball@gma-cpa.com.

Imagine How Successful You Could Be With A Dozen On Your Shoulders?

Explore the possibilities by participating in MCN’s Executive Forum Introductory Meeting.

Register Now! Limited To 30 Registrants!

The latest addition to MCN’s arsenal of tools to help you succeed kicks-off on September 22nd! The presentation is scheduled to begin at 8:30 a.m. at The Offices of PSA Insurance & Financial Services Suite 500, Hunt Valley, MD 21031. Your registration includes a wonderful breakfast buffet!
Join MCN and NAWIC
For a Summer Social
All About Networking
Tuesday, August 18, 2015
Parker’s
(Formerly The Williamsburg Inn)

Do You Know “How” to Network?
Are You Sure?

Join NAWIC & MCN As Our
Dale Carnegie “Top Trainer”
Shares The “Why” & “How”
Of Effective & Efficient Networking

Program Registration: 4:30-5:00 pm
Presentation: 5:00 - 6:00 pm
Networking: 6:00 - 8:00 pm

Beer | Wine | Soda
Heavy Hors D’oeuvres
$45 Members/$55 Non Members: Early Registration

Get More Information Here
Click Here To Register NOW!

Everyone sits in the prison of his own ideas; he must burst it open."
~ Albert Einstein
Upcoming Events

August 18th, 2015 - Summer Social All About Networking
MCN & NAWIC Joint Association Event
Parker’s (Formerly The Williamsburg Inn)
Networking Seminar: 4:30 – 6:00 p.m.
Networking: 6:00 – 8:00 p.m.

September 17th, 2015 - Direct Connect Networking & Mechanic’s Liens | Lien Waiver Panel Discussion
Ober|Kaler Law Offices (With Across The Street Parking)
Mechanic’s Lien Panel Seminar: 3:30 – 5:30 p.m.
Networking: 5:30 – 7:30 p.m.

September 22nd, 2015 - Executive Forum Introductory Meeting
PSA Insurance & Financial Services Suite - Hunt Valley
Registration With Breakfast: 8:30 – 9:15 a.m.
Presentation: 9:15 – 10:30 a.m.

September 24th, 2015 - Darlington Hall Project Tour - Harford Community College
MCN | AIABaltimore | USGBC Maryland Joint Association Event
Registration Reception: 5:30 – 6:15 p.m.
Program & Tours: 6:15 – 7:30 p.m.
Networking: 7:30 – 8:00 p.m.

October 14th, 2015 - Meet The Primes
Baltimore County & Baltimore Metro Council
MD State Fairgrounds
8:00 a.m - 12:00 p.m.

October 20th, 2015 - Promenade In The Park - A Walking Project Tour
Patterson Park
Registration & Networking: 9:45 – 10:15 a.m.
Walking Tour: 10:15 – 1:30 p.m.
Includes Breakfast & Lunch

October 21st, 2015 - Learn To Know – Learn To Grow Business Enhancement Breakfast Seminar “Operating A Family Owned Business”
Eggspectations Columbia
Registration With Breakfast: 8:30 – 9:15 a.m.
Presentation: 9:15 – 10:30 a.m.
Q&A: 10:30 – 10:45 a.m.

November 5th, 2015 - Direct Connect Networking & “Where’s The Work” Economic Forecast
Darlington Hall - Harford Community College
Registration Reception: 2:30 – 3:00 p.m.
Program: 3:00 – 5:00 p.m.
Networking 5:00 – 7:00 p.m.

November 12th, 2015 - Learn To Know – Learn To Grow Business Enhancement Breakfast Seminar
“From Pain To Profit: How To Make Your Taxes Work For You”
Location: To Be Confirmed
Registration With Breakfast: 8:30 – 9:15 a.m.
Presentation: 9:15 – 10:45 a.m.
Q&A: 10:45 – 11:00 a.m.

Visit:
http://www.mdconstructionnet.net/opportunities/job-ops/help-wanted/ for a listing of Help Wanted ads!

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