The good news is that eight out of ten Maryland construction contractors are using mobile technology in their business. The bad news is that two out of ten contractors aren’t.

When we compiled the results of our 2017 Maryland Construction Industry Survey, we were surprised that the number of contractors using mobile technology didn’t increase from last year.

In the survey, we asked construction business owners whether they take advantage of mobile technology for things like electronic timesheet submission and email communication between onsite jobs and the office. Twenty percent said they didn’t. Yet 14% of Maryland contractors reported that their #1 technology concern is field and mobile access to email, project management system, electronic files and timesheets. This points to contractors wanting the benefits of mobile technology, but not necessarily taking the steps to deploy it.

So why aren’t 100% of contractors putting mobile technology to use? We’ve got some thoughts on that based on our experience with construction contractors.

Why some contractors are reluctant to use mobile technology

While many of our construction clients have fully embraced – and seen the benefits of – mobile technology in their businesses, there are some contractors who are leery of it.

In our conversations with contractors who don’t immediately embrace mobile technology, we usually learn it’s for one or more of these reasons:

1. They don’t understand how it works
2. They think it’s overkill for their small business
3. They believe it’s too expensive

Continued On Page 26
Meet & Greet

Our Passion is Bringing Your Project to Reality

From cutting-edge geotechnical solutions, to delivery of senior living, adaptive reuse, higher education and healthcare projects, Wagman serves as a partner to make the vision of your construction project a reality. How can our passion help you to achieve your goals?

General Construction Services:
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- Design-Build
- Special Projects/Renovations
- Site Development

Geotechnical Construction Services:
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- Micropiles
- Soil Nail Walls
- Underpinning
- Injection Grouting
- Excavation Support
- Drilled Shafts & Caissons
- Auger Cast & Conventional Piles
Will The New DOL Rule Impact You?

On June 9th, a major change occurred in the financial services industry. After years of debate and a last-minute delay by the Trump Administration, the Department of Labor’s Fiduciary Rule went into effect.

If you are like most people, you are probably wondering what this means to you.

When people seek advice from their doctor or their attorney, they expect these professionals to put their best interests first. They expect the same from their financial advisor. However, unlike the doctor or attorney, most financial advisors are not required by law to put their clients’ interests first. They are only required to do what is “suitable” for the client, even if that means the recommendations benefit the advisor more than the client. This is changing with the new ruling.

Actually, it is only partially changing with the new ruling (nothing is ever simple). The new rule only applies to retirement plans such as 401(k) plans and IRA accounts. If you hold an investment account outside of a retirement plan, it is still consumer beware.

After June 9th, advisors must act in the best interest of retirement investors. They owe a duty of prudence and loyalty to their clients. They may charge no more than “reasonable compensation”. They must not mislead their clients.

Before the ruling, some financial advisors already held themselves to the higher fiduciary standard. These fiduciary advisors became “Registered Investment Advisors” which legally held them to a higher standard. However, it is hard to tell if your advisor acts as a fiduciary unless you specifically ask. According to a Financial Engines survey, only 21% of respondents could identify the difference between a fiduciary advisor and a non-fiduciary advisor. Most people believe that all advisors are fiduciaries; 53% of the survey’s respondents incorrectly assumed that all advisors are legally required to put their interests first.

While the ruling is a good first step, it is still important to protect yourself. When dealing with an advisor, ask them how long they have been acting as a fiduciary to their clients. Ask if they are a Registered Investment Advisor. Ask about their credentials. If they just started acting as a fiduciary because of the new ruling, this is not a good sign. Doing the right thing should be a way of life.

Donna Gestl, CFP®, AIF®
Senior Vice President
The Prosperity Consulting Group, LLC
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The Contract Documents

When forming construction contracts, one must clarify the terms of the work. A common tactic to clarify the specific work or “scope” being performed, is to attach or reference other documents. The full and comprehensive set of documents that form the terms, conditions, and “scope of work” are often called the “Contract Documents.”

In many construction contracts, the “Contract Documents” are defined as the contract itself, plus references to other documents such as the prime contract, and also additional identified documents such as specifications, drawings, plans, supplemental conditions, general conditions, schedules, and other documents. Generally, shop drawings, submittals, and bids are excluded from the definition of Contract Documents.

But in all instances, the contract can be tailored to define and identify which items are part of the Contract Documents, and which items are excluded. Certain considerations should be made when defining the Contract Documents.

1. Scope of Work. At a fundamental level, it must be clear what work or services are being performed by the contractor/subcontractor. There are various ways to clarify the scope of work, but a common way is to attach or reference documents. Accordingly, if referencing separate documents, whether they be specifications, drawings, plans, bids, or specially prepared “scope sheets,” it is important that those documents be specifically identified in the contract itself. Often, if a contract does not specifically reference the separate document, then that separate document is not part of the contract nor the scope of work.

2. Bid Documents. Bid documents often include additional terms that the contractor/subcontractor intends to be part of the contract. Such terms may address scope, exclusions, assumptions, contingencies, qualifications, or other additional terms that are often meant to protect the bidder from risk. The best practice to ensure that those terms are part of the contract is to make them part of the Contract Documents by specifically referencing and attaching any important bid documents.

3. Status of Design Documents. A common issue that leads to litigation is incomplete design or changes in the design. One way to address these issues is to clearly identify in the Contract Documents which design documents are part of the Contract Documents, and whether there are any contingencies, allowances, special pricing, options, exclusions, assumptions, or other special mechanisms to address incomplete or developing design. Depending on the type of project and the terms and language in the Contract Documents, the risk of incomplete design or changes in the design could be borne by either the owner, the contractor, or some other party. A failure to address these issues upfront often leads to disputes later in the project. It is best to identify which design documents are part of the Contract Documents and any special pricing related to any specific design documents.

Reviewing the Contract Documents and clarifying the terms is an important aspect of contract administration and protecting your legal rights. It is also wise to consider seeking advice from your accountant, insurance broker/agent, and legal advisor when reviewing construction contracts.

The author, Jeffrey Bright, is an attorney licensed in both Maryland and Pennsylvania. He focuses his practice on construction law, commercial litigation, and related fields. He is the Owner of Bright Law Firm, PLLC, (www.bright-lawfirm.com), which is located in Lancaster, Pennsylvania. He can be reached for comment at jbright@bright-lawfirm.com. The content of this article is not legal advice, as legal advice requires an analysis specific to the circumstances.

Before signing any contract, you have to assume that the guy on the other side of the desk is handing you a shifty piece of paper that works to his advantage. I know that sounds cynical, but it’s really that simple.

~ Bun E. Carlos
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Prevailing Wages In Construction Contracts

What Is Prevailing Wage?

Prevailing wage is defined as an hourly wage, which typically includes benefits and overtime, and is paid to the majority of workers, laborers, and mechanics within a particular area and that are typically working through a government contract. Prevailing wages are set-up for each public works trade and occupation, as well as by the State Department of Labor or their equivalent.

Prevailing Wage Law

“The Prevailing Wage law regulates the hours of labor, rates of pay, conditions of employment, obligations of employers and duties of certain public officials under contracts and subcontracts for public works in Maryland,” according to the Maryland Department of Labor, Licensing, and Regulation.

What Services Does Prevailing Wage Law Cover?

The Prevailing Wage law applies to a construction project valued at $500,000 or more if either the government contractor is a part of State Government, and there is State funding for the project; or the government contractor is an entity (such as a county), an agency, person, or political unit, and the State funds 50% or more of the project. The only exception is for school construction. The school construction contract value is $500,000 or greater with state funding of 25% or more.

Payroll Submission

If a construction project is covered by the Prevailing Wage Law, then contractors on state-funded construction projects are required to submit certified payroll statements. These statements indicate that the wage rates, paid for both regular hours and overtime, are not less than the prevailing wage rate established for the class of worker, and should reflect the type of work performed by the worker. Certified payrolls must be submitted electronically within fourteen (14) days after the end of a payroll period to the Commissioner of Labor and Industry. There are penalties for late submission of payrolls, which total $10 for each calendar day the records are late.

Prevailing Wage Determination

A wage determination that is issued for a project specifies the wage and fringe benefit rates for each classification of worker. Wage Determinations are issued for each zone in the State which include 23 counties and Baltimore City. After they are finalized, these determinations are in effect for one year. Employees on a public works contract are required by law to be paid overtime any hours put in that are over 10 hours in a single day, and for work performed on a Sunday or a legal holiday.

Under Payment

This is important. “Anyone found to be paying less than the prevailing wage rate is subject to a fine of $20 per day for each worker paid less than the established rate,” according to the Maryland Department of Labor and Industry. This includes workers who are categorized as “apprentices” or “laborers” and execute the work of a “mechanic”. The individual apprentices must be registered with the Maryland Apprenticeship and Training Program, in order to be paid and classified at the “apprentice” wage rate.

What Records Should I Keep?

Workers should save their pay stubs and keep a record of their hours. If work is being performed in more than one classification, there are two things that the worker should do: first, the worker should identify at what time of the day s/he performed the various jobs; second, the worker should identify the total hours worked in each classification.

In Summary

Prevailing Wage will affect your estimates. When bidding, don’t forget to add at least 10% for profit and 10% for overhead. Do not under pay any worker when dealing with prevailing wage. Keep a record of all your hours, classifications, etc. And finally, submit your
Your AHA Moment

AHA - What Defines Your Company Culture?

Examining and strengthening your company’s culture is a vital part of a leadership position. Part of the strengthening process is to understand the fundamentals of great leadership and then to implement those behaviors within yourself. When your employees see how you behave, they will follow suit.

Begin with understanding your current company culture.

Before you can plot a trajectory for where your company is going, and the kind of leader you want to be, you need to understand where you are. What is the current company culture? What kind of leader are you right now? Observe not only how your employees behave, but your own actions throughout the workday.

Unify your workforce and lead by example to create a healthier company culture.

At the end of the day, the CEO is the defining factor for your company culture. The CEO’s behavior is going to set the tone for all other employee actions from handling mistakes to interacting with clients. As CEO, your job is to show your company the right way to conduct yourself.

For example, you should treat each mistake as a learning opportunity rather than a chance to punish. You should also challenge yourself to think outside the box and encourage your employees to do the same. A good leader not only takes responsibility for their own actions, they take responsibility for the action of their employees. They also listen to their team members and thank them for their work often.

Finally, you need to make sure that you are incorporating all of these qualities into your daily practices, rather than picking and choosing the ones that come easily to you. Being a great leader is challenging, but it is necessary to provide a healthy company culture.

Ready for your AHA! Moment? Call Allan Hirsh Advisors today!

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Tune into AHA! Business Radio Tuesdays from 6-7 pm EST on CBS Sports Radio, 1300 AM to listen to Allan Hirsh and his guests discuss all areas of business. And don’t forget to follow Allan Hirsh Advisors on Facebook and Twitter too!
Empowering employees has been in the business lexicon for a long time. Business executives talk about it. Books and articles have been written about it. But what does it really mean? Start with having the right people in the right jobs doing the right things. Make sure they have the skills, the tools and the collaboration connections with others to do those right things. They need to understand the value that their jobs create for customers and for the business. They need to be accountable for their results, which are measured and reviewed frequently. And they have to have the authority to make suggestions about how the work that gets done can be improved to increase efficiency and customer satisfaction.

Empowering employees also means that the owner must let go of total control of everything and shift from owning the processes of the business to owning the results the business accomplishes. This sounds simple enough but if it were simple, we would not have all the books and TED talks about the importance of delegation. It is really hard to let go of what you have done really well to get the business to a successful level. But there are rewards for doing so and empowering your employees to take ownership of their jobs.

Reward #1: You get freed up from working in your business to work on it and lead it. This takes some getting used to so you have to be patient and acknowledge your backsliding and learn the good feelings from seeing your employees grow in their jobs. (I once had a client who worked his way through this transition. One day he called me from the golf course and literally asked me if it was all right for him to be there. My answer to him was that getting out of the office from time to time was one of the things he had been working for, even playing golf with people who could help his business.)

Reward #2: You get a happier work force filled with people who know their purpose, why their work is important, how they are doing and who has the ability to make things better.

Reward #3: You get a company that is scalable. Dealing with growth is never easy. The expenses always seem to come before the revenue. But you will have created a company that has a replicable culture no matter how many employees and locations you have.

Reward #4: You get happier customers. Happy employees deliver more positive results for customers. If employees are happy it is impossible for them to hide it from customers. (The opposite condition is also true.) Happy customers mean higher customer satisfaction. And higher customer satisfaction has been proven to mean higher profitability.

Think of yourself as a budding successful athletic coach or manager. If you have enjoyed some success at coaching athletic teams, think about all the things you did to empower your kids and athletes to play the game well. Write them down and see how they translate into strategies for running and growing your company. It is highly likely that you accepted the built in “delegation” that goes with coaching: you can’t run out on the field and play for your team. So learn to not take the “bat” out of your employees’ hands.

Empowering Employees Is Not Just A Buzz Phrase; It Can Mean Greater Company Success

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Paul Riecks is a Principal at INSIGHT. At INSIGHT, we believe that every business has the opportunity and the potential to be as successful as its owners want it to be and deserves the chance to reach that potential. One of the best resources available to business owners and CEOs for help in reaching their company’s potential is the deep pool of knowledge shared with other business owners and CEOs. So what we do is form INSIGHT Groups—each with 10-15 owners and CEOs—and facilitate their monthly meetings where they advise each other, share ideas and experiences and gain the clarity they need to achieve the success they seek. www.gaininsight.net.

“Employee loyalty begins with employer loyalty. Your employees should know that if they do the job they were hired to do with a reasonable amount of competence and efficiency, you will support them.”

~ Harvey Mackay
General Liability / Pollution Liability & Environmental Impairment Liability

All contractors carry and are familiar with general liability insurance, however you may also have exposures that cross into pollution (Environmental Impairment Liability) and Errors & Omissions.

Let's look at pollution liability and contracting risks. Here are some examples of exposures:

- Work results in hazardous indoor air quality. If the basis of the claim is a toxic substance, the general liability pollution exclusion will likely apply.

- Mold or microbial growth. This can be a result of plumbing, HVAC, roofing work, and exterior work that results in water infiltration can all result in mold.

- Disturbing existing conditions such as mold or asbestos which exacerbates the condition.

- Pollution resulting from contaminants brought to the site. Exhaust from power equipment, adhesives, glues, solvents, and acids are all examples of potentially toxic substances.

- Sub contractors that are hired to perform any of the above may not have adequate pollution liability insurance.

- Exposures from transportation of toxic substances.

- Exposures resulting from a non owned disposal site.

How are these Polices and Coverages Structured?

- **Contractors Pollution Liability** - Provides coverage for Bodily Injury and Property Damage stemming from operations performed by or on behalf of the Insured (your subcontractors) for others, away from premises the insured owns, occupies or rents (coverage applies at construction sites).

- **Transportation Pollution Liability** - Provides coverage for Bodily Injury and Property Damage arising from transportation of materials. Typical situation would be upset or overturning of a vehicle.

- **Environmental Impairment Liability** – This is a broad coverage category that generally refers to premises owned or operated by the insured. Coverages include Bodily Injury, Property Damage, and Clean Up costs, either on or off site. Both first party (Insured) and third party (public/ others) would be covered.

These policies can be stand alone or combined with traditional general liability coverage. The combination of coverage under a single policy eliminates any question which might arise from a claim regarding if it general liability or environmental / pollution liability. Real life situations rarely fall cleanly into one or the other, which can result in cumbersome claim adjustments where two separate insurance companies are involved.

Some Real Life Examples

- A mechanical contractor removed ductwork from a hospital HVAC system. The ductwork was found to contain a dangerous fungus. It was determined that the contractor’s activities dismantling and storing the ductwork caused the fungus to spread throughout the hospital, causing some patients to become infected. The contractor was found liable and faced claims in excess of $1 million.

- Mold and mildew grew in a new HVAC system installed in a new building resulting in poor air quality throughout the building. Bodily Injury and Property Damage Claims (loss of use) exceeded $500,000. The contractor was also responsible for clean up costs.

- Lead paint was removed from a building using...
Governor Vetoes Maryland’s Paid Sick Leave Bill But Override Likely In Next Session

After several attempts at passage in previous legislative sessions, the Maryland General Assembly passed the Maryland Healthy Working Families Act (HB1 (SB230)). The bill was to take effect on January 1, 2018. However, on May 25, 2017, Governor Larry Hogan vetoed the bill having previously called it “a deeply flawed, job-killing paid leave bill,” that would “cost thousands of jobs and billions of dollars in lost economic activity.” Although the Governor’s veto halts implementation of the bill for the moment, override of the Governor’s veto is likely in the coming legislative session given the fact that a sufficient number of votes to override the veto existed both in the General Assembly and the Senate at the time of the bill’s passage. Further, House Speaker Michael Busch has already indicated that overriding the Governor’s veto will be a priority in January.

The Maryland Healthy Working Families Act would require an employer with more than 14 employees to have a sick and safe leave policy under which an employee earns at least 1 hour of paid sick and safe leave for every 30 hours an employee works. An employer with 14 or fewer employees, based on the average monthly number of employees during the preceding year, would be required to have a sick and safe leave policy that provides an employee with at least 1 hour of unpaid sick and safe leave for every 30 hours an employee works. An employer would not be required to allow an employee to earn more than 40 hours of earned sick and safe leave in a year, use more than 64 hours of earned leave in a year, accrue more than 64 hours at any time, or use earned sick and safe leave during the first 106 calendar days worked.

The bill defines the term “employer” to include the State or local governments and a person who acts directly or indirectly in the interest of another employer with an employee. The bill also excludes certain specific classes of employees from eligibility.

Earned sick and safe leave would begin to accrue the later of January 1, 2018, or the date that an employee begins employment with the employer. An employer would have to allow an employee to use earned sick and safe leave:

- to care for or treat the employee's mental or physical illness, injury, or condition;
- to obtain preventive medical care for the employee or employee's family member;
- to care for a family member with a mental or physical illness, injury, or condition;
- for maternity or paternity leave; and
- for specified circumstances due to domestic violence, sexual assault, or stalking committed against the employee or the employee’s family member.

The bill includes processes and conditions, including notice and verification requirements, under which an employee may accrue and use earned leave.

An employer would have to notify its employees that they are entitled to earned sick and safe leave by providing a specified notice to employees. The Commissioner of Labor and Industry (the “Commissioner”) would have to create and make available a poster and a model notice that may be used by employers, which would include specified information on earned sick and safe leave and the rights of employees.

As to enforcement of the bill’s provisions, the bill would preempt the authority of local jurisdictions to enact a law on or after January 1, 2017, that regulates sick and
It’s Getting Worse!

Just when you thought that construction subcontracts could not get any worse, they did. We just got familiar with the pay-if-paid clause and the unfair indemnification clauses, and now GCs are including terms and conditions that further uneven the playing field. Here is a list of the terms that I have seen emerge in the last year or two that have made that so.

Construction Change Directives. The owner or general contractor may direct the subcontractor to make a change, and even if the subcontractor does not agree to the price of that change, the subcontractor must immediately proceed with the work, or face damages for delay. Some contracts even say that the general contractor, or the owner, will be the final decision-maker with regard to the value of the change.

Cross Backcharges. The subcontract may include a term that if a subcontractor is working for a general contractor on more than one project, if the subcontractor owes the general contractor for money on Job #1, the general contractor can take it out of the payment it owes the subcontractor on Job #2.

Warranties. One general contractor includes a provision in its subcontract that the subcontractor must provide the warranty for any materials, even if it has not been fully paid. Imagine you are the roofing subcontractor, you have not been paid, and they tell you the roof is defective, so you must return to replace it.

Property. The contract may include a provision that, in the event that the subcontractor is terminated, the general contractor has the right to retain the subcontractor’s material and equipment. One subcontract says that the subcontractor agrees to give the general contractor access to its premises so that it may access and transport its equipment back to the jobsite.

The term “boilerplate” is an excuse that some general contractors use to politely tell you that they are not willing to change their documents. Do not work with those general contractors. Work with companies that...
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The Power Of “No”

I find it interesting that so many people seem to be afraid of the word “no.” They think when they hear that word it means everything in the situation – be it a relationship, a business transaction or even just asking a question – is bad and nothing good can come of it. As I’ve written previously, people go to great lengths to avoid having to hear the word “no,” or having to say it to someone else. As a result, they hesitate to ask the tough questions or have the difficult conversations.

As time goes on people make excuses for why they won’t take the chance of hearing “no.” The salesman might say, “Oh, that customer would never buy this product anyway.” The consultant might think, “That company wouldn’t want to talk with me anyway…they wouldn’t want someone with my skill set.” The same thing happens in personal relationships, as people decide, “I know I’m unhappy, but why risk upsetting the other person and ending up alone?”

I’ve come to find “no” is a very useful and essential part of business. I actually reward myself whenever I get one. Why? Well, for one thing, “no’s are hard to come by. If I’m at a point where I got a “no” from a client, it means that I have at least started the process of forming a relationship with this client. Also, I’ve learned from many years of experience that not all “no’s are forever. When you work in a business with as long of a sales cycle as commercial real estate, it pays to realize that a “no” today might turn into a “yes” a few years down the road as long as you give it time and continue to develop the relationship.

At the very least, a “no” saves me additional time and effort. Frankly, I would rather hear “no” upfront if what I’m proposing isn’t going to work for the client, so that I can go in a different direction before I’ve put a ton of work into it. A quick “no” is second only to a quick “yes” in terms of usefulness. Every “no” I hear helps me to better qualify what my client is looking for, which better equips me to find the right prospect for them.

So this week, try rewarding yourself for the “no’s that you get. You’ll be amazed at the difference. The famous sales guru Zig Zigler once said, “If you’re not getting 3 no’s per week, then you’re not trying hard enough.” Take the fear of rejection out of the equation and focus on the positive things that can come from a “no.”

Have a great week,

Ro

Ro Waldron is a commercial real estate broker and author with 28 years of experience in the Washington, D.C. area market.

Through his vast experience in commercial real estate Ro adds value for his clients using his knowledge, connections and successful track record with many of the major players in this market.

Ro’s experiences in commercial real estate and as a player and coach on NCAA college football teams form the basis for his successful blog, “Ro’s Words of Encouragement.”

To learn more about Ro, please visit www.rowaldron.com.
indemnity clause requires a subcontractor to act like an insurance company, paying out for losses for which it was not otherwise responsible.

When presented with a broad-form indemnity clause, it is both fair and prudent to negotiate down to a limited indemnity that allocates risk to the party who actually did something wrong.

No Damages For Delay

Not every construction project ends on time, and project delays regularly cause subcontractors to incur additional, unanticipated costs such as unanticipated general conditions, equipment rental, or labor costs, including demobilization and remobilization costs. In addition to those direct costs, subcontractors can suffer lost opportunities (as their project team cannot work other projects while it waits for the delayed project to continue), and losses to its home office finances (as the delayed job likely was meant to provide partial funding for the subcontractor's home office).

In fairness, the party responsible for a project being delayed should also be responsible for the additional costs caused by the delay. Unfortunately, many modern construction subcontracts contain a “no damages for delay” clause that essentially states that a subcontractor is not entitled to any damages arising out of delay, and instead would only be entitled to an extension of time within which to finish its work. For projects that are significantly delayed, this can turn a subcontractor's finances upside down, as the additional unrecoverable costs can eat into any profit and overhead the subcontractor was to make on the project. The result is that a subcontractor inherits the risk of loss related to any project delay.

A reasonable alternative is requiring a general contractor to be responsible for some damages and some scope of delay. For example, it is fair that a subcontractor be reimbursed for the out-of-pocket costs of delay, which might include demobilization and remobilization costs,
At Huddles Jones Sorteberg & Dachille, we represent both union and non-union contractors. The big difference between the two is the cost of labor. Typically, the cost of union labor for union contractors can be 20% to 40% higher than the cost of labor working for non-union contractors. On government projects, the Davis Bacon Wage Scale Act attempts to even this disparity by requiring any labor used on the project (whether union or nonunion) to be paid prevailing wage rates which are often comparable to union wage rates. But what about non-union projects? Can union contractors still compete if their labor prices are much higher than the labor prices for their non-union counterparts?

With the cut backs in government spending on construction, what affect is this disparity having on union contractors who seek to perform private construction work? Can they be competitive? If they can’t get work, what does their union labor do to remain employed? Does the union labor seek employment with non-union contractors for a wage that is much less than what they would make if they were working for a union contractor? Does such a practice create a “catch-22” for union contractors who cannot compete because of the higher wage rates they must pay?

A big reason for the higher union wage rates are the union fringe benefits a union employer must pay to the union in addition to the wage they must pay the union employee. Conversely, a non-union contractor who has hired a union worker is not required to pay such fringe benefits. Who does this ultimately hurt? If union contractors cannot work because they cannot compete with non-union contractors, then they are not paying

Continued On Page 29
“What Have You Done For Me Lately?”

We hear this often enough these days. I really like the line from the movie Jerry Maguire… “Show me the Money!” Please read on to see how these statements resonate with a local CPA.

What’s new in construction accounting and taxation of businesses like yours? Tax laws change as often as the economy (and often more frequently). Consider enlisting a CPA who has significant experience in construction and real estate development taxation matters. My experience includes not only being a licensed CPA and tax professional, but also many years of experience working for builders and real estate developers. I have also owned a kitchen and bath remodeling business and a granite countertop fabrication business. My unique combination of experience as a contractor and as a CPA has enabled me to help contractors find tax savings and business strategies to streamline their operations, and to find many ways to take home more of their hard-earned revenues.

If you are making money the government wants its’ share (its’ fair share?). Typically if you are making money you are paying income (and other) taxes. Often business owners keep their noses to the grindstone to keep their businesses as profitable as possible. Some things which should be considered often go overlooked. For instance, changing an organization’s business structure... establishing certain types of retirement plans (yes it is still possible to establish discriminatory “key employee” retirement plans), and income averaging (by choosing the optimal depreciation methods etc.) are all available options to reducing taxable income.

Finding tax savings for construction professionals routinely overlooked by the business owners and even their tax preparers or advisors is my goal. I have a simple list of the 5 most often overlooked tax breaks for contractors. This combined with a brief analysis of only 5 pages from your most recent returns, I can quickly determine certain areas where you may be able to reduce your tax liabilities. Many tax professionals will offer free consultations. They should be offering to review your three most recently filed tax returns. I cannot promise tax savings. But I do have the means to quickly assess if there may be overlooked deductions as well as tax and business strategies you can use to improve your earnings.

Typically, deductions missed in the current year can also be reason to amend up to three prior years income tax returns to claim over paid taxes for prior periods. That is why I encourage all potential clients to be prepared to allow me to review their prior years returns… and of course I provide this review process completely free of charge.

There are also huge tax savings to be realized with proper planning before selling a business or passing it down to the kids. I have recently helped a medium sized contractor save a million dollars in income taxes on the sale of his S-Corporation. If you are planning to sell your business or hand it down any time in the near future, you owe it to yourself (and your family) to get expert advice on how to maximize the selling price and minimize the tax bite when you do.

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Find me on LinkedIn

Don’t ever let your business get ahead of the financial side of your business. Accounting, accounting, accounting. Know your numbers.

~ Tilman J. Fertitta
Hot Weather Concrete

In the concrete business, hot weather creates situations that require special procedures for proper mixing, placing, finishing, and curing. Hot weather conditions include high ambient air temperatures, high concrete temperatures, low relative humidity, and/or high winds. Any of these conditions can impair the quality of freshly-mixed or placed concrete. This article discusses the effects of hot weather on successful concrete placement and curing, as well as construction practices that may help lessen their impacts.

Effects Of Hot Weather On Concrete

The most pronounced effects of hot weather on concrete are increased setting rates and rapid water loss. Higher temperatures can cause a lower slump, and a decrease in workability. Shrinkage and cracking of placed and finished concrete is usually associated with hot, windy weather and is most often the result of rapid moisture loss from the concrete's surface. Although initial strength may be accelerated by hot weather curing, the 28-day strength of concrete cured at elevated temperatures may be lower than concrete cured at more moderate temperatures.

Adding water can increase concrete workability. However, adding too much water – in quantities beyond the amount required by the approved mix design – increases the water to cement ratio. This, in turn, can result in decreased compressive strength and an increased likelihood of cracking.

So – What Can You Do?

Detailed planning for hot weather concrete is essential. A pre-placement meeting is recommended to clarify requirements to address the wide range of possible actions and to define responsibilities. The American Concrete Institute's publication ACI 305R is also an excellent reference.

Below are several basic precautions that can reduce the damaging effects of hot weather on concrete:

• Use mix designs that are less susceptible to the effects of hot weather. The use of low-heat-of-hydration cement and certain admixtures (such as hydration retarding and/or water-reducing admixtures) are two common approaches.

• Keep concrete as cool as reasonably possible. ACI 305R does not state a maximum “as-placed” or “as-delivered” concrete temperature, but 90°F is commonly used. Substituting chilled water or shaved or chipped ice for a portion of the required mix water can help.

• Schedule large concrete pours in the early morning or evening when temperatures are cooler.

• Limit the amount of time between loading the concrete at the plant and placement / finishing at the site.

• Limit water addition at the job site, except to adjust slump upon arrival (when permitted by mix design).

• Avoid or limit hydration accelerating admixture use.

• Use temporary wind screens and water misting nozzles to reduce surficial moisture loss.

Once concrete has been placed and finished, efforts must continue to protect the curing concrete. Initial curing is critical for concrete strength and quality. The most effective technique is moist curing - continuously wetting the surface. Moist curing is also effective in developing maximum concrete strength potential and reducing shrinkage cracking. While curing compounds are popular and may be effective, they must be sprayed on evenly and in sufficient quantity to be effective. Curing compounds are typically not used for indoor floors due to potential finished flooring adhesion compatibility issues.

Once again, developing a detailed plan for hot weather concrete is essential, so don’t wait for that hot spell before coming up with a strategy.

Stan Murphy, P.E., is a Principal Engineer with Engineering Consulting Services (ECS). He has more than three decades of experience in construction engineering and construction project management. In recent years he has concentrated on the technical areas of the International Building Code's Special Inspection Program. These functional areas include cast-in-place concrete, post-tensioning, structural steel, sprayed fire-resistive materials, firestopping, and structural masonry.
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Business (Lack Of) Intelligence

Business Intelligence (BI) entered the popular business lexicon in the late 1990s, and has grown to such prominence that there are entire careers and service industries centered around business intelligence, and how it can give any organization with the resources a huge competitive advantage.

With the sheer of amount of data that an organization generates on a daily basis, especially if that organization has implemented an integrated Enterprise Resource Planning (ERP) platform, does BI need to be a central part of the organization's decision making?

The answer, of course, is yes. Knowing how an organization is performing is critical to its decision making process. However, that Yes comes with quite a few caveats which are highly misunderstood. A common mistake about BI is that it is somehow a magic bullet that will shed light on why the organization is making/losing money, how to improve its service offerings to attract more customers, and give it a competitive advantage.

In a nutshell, BI is simply one more tool available to the organization's decision makers. Business Intelligence, by itself, does not answer the “why” to questions regarding past or future performance. It merely provides insight into what has already occurred (the “what”). It can offer a data point, no more or less important than the experience of the decision makers who take it into account.

A common mistake that an organization may make when implementing BI tools and processes is a fundamental misunderstanding of what BI is intended to accomplish. When a resource exists to create the reports and analytics tools against the data an organization is generating, the desire to keep those resources busy can be overwhelming. So overwhelming, in fact, that the focus on BI shifts from quality to quantity.

It is not uncommon in most organizations that the deluge of reporting available can have the reverse of the intended effect. Instead of providing decision makers with quality information to feed decision making, time is spent reviewing reports with little or no value, generated and consumed simply because someone with the authority to commission them thought it would be beneficial.

A good starting point when determining whether to spend resources on a BI deliverable (such as a report, dashboard, etc.) is to ask oneself: how does this fit into our decision making process? What is the fundamental “what” that the deliverable is meant to convey? If the answer is “because I want to see Equipment status” then that is probably not a worthwhile endeavor to spend the resources on if there are other pressing matters. If the answer is “to determine the time equipment is spent idle on a job site over a span of time”, then the organization is on the right track when it comes to utilizing their BI resources effectively.

Issues such as using BI to simply report business data instead of using it to answer specific questions tend to arise frequently when discussing how BI can provide insights for decision making. Simply knowing exactly what occurred does not always equate to know why it happened. Business Intelligence should not be considered an end all solution, and it should not be held to such a high prominence that BI becomes the decision maker, rather than a data point for the decision makers.

Chris Lounsbury is the Director of Professional Services with Business Information Group. He has been working on technology solutions to business problems and opportunities for the last 15 years, helping clients solve complex enterprise data and software problems across multiple industries and business sizes. In addition to his work providing high quality consulting services to his clients, Chris is an avid writer, motorsport fan, and car enthusiast.

“You can have data without information, but you cannot have information without data.”

~ Daniel Keys Moran
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Thoughts On Leading: What I’ve Learned From Studying Leadership

Three years ago I embarked on a journey to study leadership within organizations and how it impacts employees. I spent this time interviewing industry leaders, polling and working with marketing professionals charged with managing and executing the business vision for their firms and reading pretty much anything I could get my hands on from Forbes, the Harvard Business Review and Inc. as well as several popular books on the matter from John Maxwell, Simon Sinek, Jim Collins, the Dalai Lama and Archbishop Desmond Tutu among many others.

The culmination of this research and analysis was used to facilitate two year-long senior leadership roundtables and a full-day leadership workshop for the Society for Marketing Professional Services (SMPS) which focused on six key areas that surfaced over and over again throughout the process.

Before I share what I discovered, it is important to note that the qualities most admired in leaders as well as those least desired in leaders. These appear to be universal across a broad spectrum of employees, types of firms and industries. The top ten qualities most admired in leaders include honesty, delegation, communication, confidence, commitment, positive attitude, creativity, intuition, ability to inspire and approach. The ten most disliked traits in leaders involve their lack of flexibility, being disconnected from the team, micromanaging, taking all the credit and doling out the blame, inability to make decisions, hunger for power, inflated ego, setting double-standards, belligerence and inconsistency.

We have all experienced working with great and no-so-great leaders through the course of our professional careers. Great leaders motivate us to be better and to aim higher while not-so-great leaders tend to suck the life out of everything. Sound familiar? So, back to what I found. Here are six key thoughts on leadership that are vital in today’s business environment.

It’s Not About You

As soon as you can accept that leading has nothing to do about you, the better. Get over yourself. As Simon Sinek writes “you need to place the needs of others above your own.” Leading is about making those around you better at what they do by providing them with the guidance, resources, tools and mentorship that creates a safe environment for them to grow and thrive in the organization. You become a leader by taking care of others and looking out for their best interest and not because you have a certain title.

We All Carry Baggage

Sometimes it is good to remind ourselves that we are human and that we are all facing life’s everyday challenges. We must also acknowledge that our collective life experiences have molded us into the people that we are and that these experiences dictate the way we interact with others, how we react to certain situations, how we communicate, how we disseminate information and how we learn. As the world becomes smaller we are faced with leading an even more diverse workforce with varying cultural perspectives, language barriers, personality traits and varying value systems. Not to mention generational differences between millennials entering the workplace and baby boomers who are not quite ready to exit. Despite these challenges, good leaders acknowledge and accept the differences in those they lead and tailor their approach to bring out the very best in everyone under their charge.

Communication Is Critical

I think most leaders would agree that communication is the biggest challenge in any organization. Effective communication in the workplace is critical because it allows leaders, managers and employees to share vital information which helps companies succeed in their business goals. Effective communication prevents barriers from forming among individuals within companies that might impede progress in striving to reach these goals. The sharing of information across the firm is critical to keep employees informed with the most accurate information.

Our perceptions tend to create expectations and can

Continued On Page 30
Opioids & Workers’ Compensation: What You Should Know

It seems like there is a story everyday about the opioid epidemic that our society faces. The geography really doesn’t make a difference as the story is the same in poor vs. affluent communities or urban vs. rural communities.

The use of prescription opioids has become a major issue with regards to workers’ compensation. Injured workers may be prescribed opioids to address pain from a work-related injury or illness. The insurance industry has been addressing this aggressively, through case management and various legislation.

The main concerns of the use of prescribed opioids for a workers’ compensation claim are as follows:

What is the best pain management for an injury or illness?

Workers compensation insurers can provide case managers to evaluate what treatment methods are available and whether there are viable alternatives to prescribing opioids. Rather than having a doctor just write a script, more evaluation needs to be done to find the best course of managing pain.

When opioids are prescribed, what is the optimal dosage and length of use?

Many states are adopting guidelines for the usage of prescription drugs for workers’ compensation claims. These provide timeframes that are acceptable, based on the injury or illness. Rather than getting a prescription for 100 pills, maybe 20 will be more appropriate.

What support will be provided to an injured employee to wean off of medication when long-term use is required?

A workers’ compensation claim can be negatively impacted by long-term opioid usage. The side effects, coupled with any other existing health issues, can create additional complications on a claim. Having an effective pain management program must include a program, when appropriate, to wean the employee off of any prescribed drugs. For long-term usage, this may include in our out-patient recovery.

Will the prescription of opioids delay or impede recovery from the injury or illness?

Rather than treat an injury or illness with only opioids, a plan involving non-addictive medication and physical therapy must be considered. As with any claim, the quicker an employee can get back to being active and productive, the chance of a satisfactory resolution is much more likely.

What should the employer do when an employee is released to light duty, but still taking prescription drugs?

This is a difficult, but important, discussion to have with the employee. Any activity, including driving to and from work, that could be impeded by prescription drugs has to be monitored. A doctor may provide a release to light-duty to an employee who is still taking prescribed opioids. An employer must be aware of both the physical limitations an employee may have in addition to limitations due to the medication they are taking.

The use of opioids in workers’ compensation cases is actually less than what the usage is by the general public. Because of the awareness of the pitfalls and risk of opioid usage, that trend is expected to continue. Employers need to keep informed, through their insurance carriers and brokers, on this issue.

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.
Play To Win

Profitability tips for today’s construction companies

In the construction business, like most others, the focus is on “being competitive.” But what does this really mean? For many contractors, it means staying in the game — turning a profit when you can but at the very least breaking even. This is particularly the case when jobs are scarce or perhaps you run into a string of bad luck.

Yet being competitive should mean so much more. To be truly successful, you’ve got to play to win. And that means always looking to improve the many aspects of your business that either hurt or help profitability. Here are some tips on keeping those margins strong.

Stick to your price

When it comes to pricing, contractors face a challenge that doesn’t affect many other business owners. Take widget sellers, for example. They can slash the prices of their widgets from time to time in the hope of selling a higher volume and, thus, maintaining or even improving their profit margins. Or they can make a special kind of widget and raise the price to sell to a certain market. And they can do all of this with little impact on overhead.

This isn't the case for construction companies, because you don't produce widgets — or any other specific (and real) product. You complete projects, each of which is slightly or, in some cases, drastically different. Modulating your prices (or artificially increasing or decreasing them in response to customer feedback) will likely only result in the risk of taking a loss on a job (because you underbid) or not getting the job at all (because you overbid).

What’s interesting is that many project owners, particularly homeowners looking to build new, don’t list “price” as their top concern. They tend to put quality, timeliness and, yes, even customer service before dollars and cents. On the flip side, there are many owners in the private sector who do gravitate toward the lowest price — but these are often the ones who can't pay their bills on time or at all. (Public jobs are a different matter because many government agencies do look specifically for the lowest bidder.)

The bottom line is that construction is a cost-based, not price-based, business. Look carefully at your direct and indirect project costs, as well as your overhead, and establish a fair price from there. Although the cost-based dollar amount will probably vary somewhat from project to project, you’ll still likely be within a certain range. That’s your price — stick to it and sell your services based on the aforementioned factors (quality, timeliness, service). If you try to cut prices to beat a competitor, your profitability may very well suffer.

Don’t give away changes (usually)

The randomness and unpredictability that often makes construction projects so difficult can also serve as a means to boost profits. We’re referring, of course, to change orders. Contractors who don’t address this process with owners upfront and early may find themselves losing dollars as the job goes on or concludes.

There are two main factors in play here: communication and rates. First, communicate clearly with the owner what constitutes a change and how it should be handled under the contract. Emphasize that you’ll need written (or digital) authorization before proceeding on a change.

Second, review your change order rates. Have you checked them recently against local benchmarks and considered updates? If you use a rate sheet with your job, ensure it’s up to date and complete — and that the listed prices reflect the current economic environment. Charging inadequate amounts can leave you disappointed when the project is finished and you’re reviewing your financials.

Generally, you should almost never give away anything for free. There are, however, very limited instances when a “no-cost” change order could be to your advantage. For instance, if you’re dealing with a customer whom you could work with again, performing certain tasks at no extra charge could help cement a relationship that...
The building industry is full of great people doing wonderful things for their community. We would like to share with our members one such story.

Dwight Griffith is a father of 5 adopted children who are now ages 18-25. In January of this year, Dwight and his children founded the Griffith Never Give Up Foundation, Inc. GNGUF is a 501c3 charitable foundation providing support and resources to individuals and families in need who have demonstrated a “never give up attitude” while facing adversity.

Founding Principles – Why The Griffiths Do What They Do

Our communities are filled with hard-working men and women who are struggling. Perhaps they experienced a job layoff, or, maybe a medical crisis has set them back. They are good, responsible members of society, often giving back to through active service in community organizations. Most are too proud to ask for help. They are not playing the role of a victim or waiting for others to take care of them. They are out there fighting the fight. These are the types of people the Griffith Never Give Up Foundation wants to help.

The Griffith Never Give Up Foundation was conceived from a lifetime of personal inspiration. The Griffith family was inspired by stories and personal experiences of those who don’t give up. Famous stories like Michael Jordan being cut from his high school basketball team or Walt Disney being fired from his first job for not being creative enough. Abe Lincoln gained the presidency only after losing numerous elections and suffering much family tragedy, and Thomas Edison endured an estimated 10,000 attempts to create a reliable light bulb. These are but a few of the most famous examples of perseverance.

However, Dwight and his family are inspired as much, if not more, by the average person who struggle with what so many of us take for granted – an acceptable quality of life. These strong people continue to get up and go to work every day, contribute to society, maybe even give back through coaching sports or their place of worship. Despite their best efforts, they are struggling. These are the people GNGUF would like to help.

There is yet another source of inspiration leading to the creation of the Griffith Never Give Up Foundation; a very personal one. In 2010 the Griffith family fell on difficult financial times. They had to move from the only home they had known to a small, run down cottage. After contributing to various Adopt-a-Family programs over the previous 30 years, the Griffith family suddenly found themselves being adopted by a local church to help with Christmas presents and food. The generosity of kind-hearted people put a smile on the faces of the family during a time when smiles were hard to come by. It had a profound effect on all their lives.

During this same year, their stove didn’t work so they did all the cooking outside on a gas grill. One night that winter, a scout parent came by to drop off papers and saw the family cooking outside in 15 degree weather. He saw what was going...
on, but didn't say a thing. The next week, he showed up with a brand new stove and crock pot, courtesy of the scout troop leaders. Despite these tough times, the Griffith family continued to be contributing members of the community and that commitment is even stronger today!

The Griffith family will always remember the kindness extended to them during that stressful time and they are determined to work very hard to do the same for others facing adversity!

How you can help:

- If you know someone who needs help, let them know about GNGUF or better yet, submit a nomination form for them.

- Become a corporate sponsor.

- Follow the GNGUF events and fundraising activities on their website - www.griffithnevergiveup.org.

- Make a personal donation.

- Support Dwight's fundraising effort as he works to complete a full Ironman Triathlon this year.

- Become a volunteer.

For more information, check out their website at www.griffithnevergiveup.org or call Dwight direct at 410-937-8320.

Register Now For Maryland’s Best Construction Networking

Thursday, September 28th, 2017
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“5 Technology Trends Construction Contractors Can’t Afford To Ignore”
Presented By Our Event Host - GROSS MENDELSON CPAs AND ADVISORS
4. They are fearful about losing control over information once it leaves their office.

5. They feel like it’s not a secure way to communicate.

Here’s the thing – when contractors who once voiced one or more of these concerns start using mobile technology, they say they’d never go back to “the old way.” It was just a matter of getting an understanding of how mobile technology could make their lives easier and better.

**Benefits of using mobile technology**

You’ve heard it before: there’s a growing divide between contractors who innovate and adapt, and those who don’t. Using mobile technology effectively is one way to put your construction business in the preferred “innovate and adapt” bucket.

Construction companies that successfully use mobile technology in their day-to-day operations do so through tablets, mobile phones, apps and other tools. When mobile technology is deployed the right way, you can rest easy knowing that your data and communication is secure.

**Boost productivity in the field**

There’s an app for that! With the right app, your field workers can submit daily timesheets, send emails and respond to RFIs straight from the job site. When you give field workers the ability to perform critical job tasks from the field, instead of expecting them to drive back and forth to the office or shuffle paper around, you can see a dramatic boost in productivity.

**Communicate more quickly with customers**

Mobile technology helps keep your field workers connected to customers. In this 24/7 world customers expect fast responses to their questions. When you give your team the ability to communicate with customers directly from the field, you’ll have an edge over the competitor who takes a day or two to respond to customer inquiries from the office computer.

**Give office staff access to real-time information**

Remote time and purchase order entry via tablet or mobile phone ensures that your accounting and project management system shows up-to-the-minute costs and committed costs. When your project managers and office staff get real-time information about the status of jobs, they can catch potential issues before they blow the budget.

**End the paper shuffle**

When you do more with technology, you do less with paper. And when you use mobile technology in the field, you can do away with those messy piles of paper in the backseat of your truck. The right apps make it easy to search for electronic documents straight from your mobile phone or tablet.

**Attract and retain younger workers**

In both 2017 and 2016, Maryland construction business owners told us that finding and retaining good employees is their top concern. With a large number of Baby Boomers retiring, it’s more important than ever to attract a younger generation of employees to your workforce. While a 55-year-old might be ok with digging for the bid log in the paper stack in the back of his truck, the 30-year-old will cringe. Younger workers are attracted to companies that use 21st century technology. They’ll expect it, and will be much less likely to stay long-term at a company that doesn’t play the paper shuffle game.

**Integrate with other systems**

There are most likely mobile apps that integrate with your existing systems, including your accounting, payroll and project management software. It’s wonderful when your workers can enter information in one place (especially straight from the job site) and have it automatically flow into other systems.

**Want to get mobile?**

The shift to mobile technology has already occurred, but it’s never too late to adapt. The first step in taking your company mobile is to work with someone who knows the ins and outs of the construction industry AND mobile technology.

*Bill Walter, MCP, MCSE, is the lead network engineer with Gross Mendelsohn’s Technology Solutions Group. Showing clients how technology can be worked into their existing processes to improve efficiency is one of Bill’s passions. Reach Bill at wwalter@gma-cpa.com or 410.685.5512.*
proper procedures to isolate and contain the work areas; however the HVAC system was left functioning. This resulted in dust contaminating the HVAC system’s heating coils. The contractor was liable for replacing the HVAC system and as well as economic loss from business interruption. Claims totals $150,000.

- While repairing leaks in a fuel line, an unknown party opened the valve separating the inactive lines under repair from the active lines. Fuel started flowing through the lines under repair causing soil and groundwater contamination. The ground water and soil clean up costs totaled $500,000.

- While dismantling and replacing laboratory piping, the contractor accidently spilled mercury, resulting in building wide mercury contamination. The clean up costs were in excess of $350,000.

Environmental Exposure Vectors

- Work leads to hazardous indoor air quality.
- Work leads to mold, fungus, or microbial growth and contamination.
- Jobsite operations exacerbate existing conditions at a jobsite.
- Pollution caused by materials brought to the jobsite.
- Operations of sub contractors of the contractor.

More contracts specifications are requiring Pollution / Environmental Impairment coverage, with a limit of $2 million as a typical amount. Contractors may want to consider adding this coverage for their own benefit and making part of their insurance package. The pricing can be relatively inexpensive and is a function of the trade and risks involved.

Bruce Talbot
AGI/Sandy Spring Insurance Corp (SSIC)

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AGI specializes in construction bonding and insurance and is part of Sandy Spring Insurance Corp (SSIC), a Maryland corporation owned by Sandy Spring Bank (SASR). Sandy Spring Bank is listed by Forbes as one of America’s 50 most trustworthy financial companies.
safe leave provided by an employer other than the local jurisdiction.

As to further provisions of an enforcement nature:

- An employer would have to keep relevant records for at least three years, and the Commissioner may inspect an employer's records regarding earned sick and safe leave. Furthermore, it would be presumed that an employer has violated the earned sick and safe leave provisions if the employer fails to either keep records or allow the Commissioner to inspect records.

- If an employee believed that an employer had violated a provision of the bill, the employee would be able to file a written complaint with the Commissioner. The Commissioner would investigate the complaint and attempt to resolve the issue informally through mediation within 90 days of the written complaint.

  - If the Commissioner were unable to resolve the issue through mediation and determined that an employer had violated a provision of the bill, the Commissioner would issue an order, subject to the hearing and notice requirements of the Administrative Procedure Act. The order would describe the violation and direct the payment of the full monetary value of any unpaid earned sick and safe leave and any actual economic damages. The order would, in the Commissioner's discretion, direct the payment of an additional amount of up to three times the value of the employee's hourly wage for each violation and assess a civil penalty of up to $1,000 for each employee for whom the employer is not in compliance with provisions of the bill.

  - If an employer failed to comply with an order within 30 days of its issuance, the Commissioner would be able to request that the Attorney General bring an action – either on behalf of the employee (with the employee's written consent) or to enforce the order for the civil penalty – in the county where the employer is located.

  - In addition, within three years of the order, an employee would be able to bring a civil action to enforce the order in the county where the employer is located. If an employee prevailed in such an action, the court would have the discretion to award up to three times the value of the employee’s unpaid earned sick and safe leave, punitive damages in an amount determined by the court, reasonable legal fees, injunctive relief if appropriate, and any other appropriate relief.

- A person would not be able to interfere with the exercise of, or the attempt to exercise, any right given under the bill.

- An employer would not be allowed to take any adverse action or discriminate against the employee because the employee exercised in good faith the rights granted by the bill.

- An employer would not be able to interfere with, restrain, or deny an employee exercising rights provided under the bill or apply a specified absence control policy that could lead to adverse action.

- An employee who mistakenly, but in good faith, alleges a violation under the bill would be protected.

- However, under the bill, an employee found to have filed a complaint with the Commissioner alleging a violation, brought an action, or testified in an action regarding earned sick and safe leave in bad faith would be guilty of a misdemeanor and on conviction is subject to a maximum $1,000 fine.

Other laws which may impact sick leave in Maryland are Federal Family and Medical Leave Act of 1993, Maryland Flexible Leave Act, and the Maryland Parental Leave Act.

David Burkhouse is a Member with PK Law and is part of the firm’s Education, Labor and Employment Group. As part of Mr. Burkhouse’s employment law practice he counsels and represents employers regarding employment discrimination claims arising under Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967. Mr. Burkhouse also advises employers with regard to non-compete agreements, restrictive covenants, arbitration agreements, trade secrets, confidentiality agreements, and employee hiring and termination procedures. Mr. Burkhouse can be reached at (410) 740-3150 or dburkhouse@pklaw.com.
as well as the cost of fluctuations in the price of labor or materials over time. In addition, if a general contractor “actively interferes” with a subcontractor’s work (such as ordering the subcontractor to stop and start work off-schedule), then the general contractor should be required to pay for all damages caused by that active interference.

**Pay-If-Paid**

A “pay-if-paid” clause typically states that payment by a construction project’s owner is a condition precedent to a general contractor’s obligation to pay a subcontractor for project work. That is, under a pay-if-paid clause, the general contractor has no obligation to pay a subcontractor for work on a construction project unless and until the general contractor receives payment for that work from the project’s owner.

The essential problem with the pay-if-paid clause is that it transfers risk of the owner’s non-payment from the general contractor to a project’s subcontractors. This is inherently unfair, as the general contractor is the entity in the best position to manage payment disputes with the owner. It is even more unfair when you consider that subcontractors are already laying out funds for labor and materials rendered to the project, and are typically required to continue rendering labor and materials regardless of whether payment occurs in a timely fashion.

A reasonable alternative to pay-if-paid is the similarly-named “pay-when-paid” clause. Under Maryland law, for example, the pay-when-paid clause does not give a general contractor license to withhold payment from a subcontractor forever. Instead, the general contractor can only wait a reasonable period of time before paying the subcontractor, regardless of whether the owner has paid. This makes good sense, as it is fair that the general contractor have some time to resolve whatever payment dispute it may have with the owner, but because it has a direct contract and relationship with the owner, it is also fair that the general contractor bear the ultimate risk that the owner fails to pay.

When I draft or review contracts for subcontractors (or general contractors, for that matter), I scrutinize dozens of contract clauses, but I also consider what methods best protect the “bottom line” of finishing a project with a profit. Negotiating fair alternatives to the three clauses discussed goes a long way to protecting that profit from the risk of loss inherent to every construction project.

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union employees and they are not paying corresponding union fringe benefits. In turn, the union trust funds (e.g. health and welfare funds) are not receiving union employer fringe benefit payments.

For years, the unions have argued their labor was worth the higher wage scale because their labor was better trained and more experienced. Does this argument still exist if the union employees are now seeking work with non-union contractors, at a lower wage rate (which does not require employer fringe benefit payments) simply to remain employed?

These issues call into question whether union contractors or subcontractors are still able to compete in today’s competitive market. This is particularly true if non-union contractors or subcontractors are now able to hire skilled union labor at a non-union wage rates.

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spark rumors and impact employee morale. Think of those times in our industry that were especially uncertain—the 2009 recession and subsequent recovery, the raiding of the transportation trust fund in Maryland, the collapse of the housing market or the rise of mergers and acquisitions in our region—employees feared layoffs, buy outs and morale plummeted. Leaders who remained positive and calm and provided constant communication helped to not only guide employees during this difficult time but also provided much needed reassurance (or, sadly for some, reality).

Communication should be a number one priority for all leaders and for the organizations in which they lead. Remember to be mindful of all communication including non-verbal (facial expressions and body language), blocking and building language (using encouragement through open-ended questions) and practicing empathy.

Be Present And Consistent

Put your phone away, turn away from your computer and close the folder on your desk. Make eye contact with your team member when having a discussion and, most importantly, be 100% present for them. They deserve nothing less. There is a great Maya Angelou quote, “People won’t remember what you said but they will remember how you made them feel.” Keep that in mind. It goes a very long way in building trust and loyalty as well as dedication to the execution and success of the firm’s projects and goals. Good leaders commit to giving others the time, focus, care, resources and support to do great things and are passionate and positive even during the most difficult times. They also look for opportunities to learn and grow in others by listening.

Recent research by the American Academy of Management has pinpointed inconsistency—not playing favorites, or leading with fear, or name-calling—as the worst trait of bad leaders. Inconsistency, like when a leader is fair to one group on his team but singles out others or reacts unpredictably puts everyone on edge. Not knowing what to expect from a leader drains the energy, patience and creativity from a team. As a leader, you set the tone. Make sure your team knows where you stand.

Sometimes You Have to Take One For The Team

When the going gets rough you have to take one for the team. You’re there to lead, not to cower—and your behavior when the going gets rough sets the tone for interactions and motivations ahead. It is never ok to point fingers and to engage in the blame game. You are ultimately responsible for the performance and output of the team and good leaders take responsibility for the actions of their team. Failure to support your team at all costs strongly discourages the team from innovating, taking risks or continuously improving. When people feel safe they will innovate more, apply more and perform better. They take pride in what they deliver and they want to deliver the best for the team.

Have a Rallying Cry—Give Purpose

We all crave some type of connection and understanding with others and we all want to be a part of something bigger and purposeful. Remember the ice bucket challenge? The Ice Bucket Challenge was a social media activity involving the dumping of a bucket of ice and water over a person’s head, either by another person or self-administered, to promote awareness of ALS (Lou Gehrig’s disease) and encourage donations to research. Everyone across the nation jumped on board and was excited to be involved and help a cause. They felt connected to others through the challenge. They had purpose. Think about this when you present new challenges and initiatives to those you lead. Create the vision. Set the tone. Give permission. Rally the troops. Accomplish great things.

Ultimately, good leaders put others first, acknowledge and embrace the differences of those they lead, communicate effectively and often, are present and consistent, support their team members above all, and create vision and give purpose. Great leaders commit to and embrace a desire to learn and grow their leadership skills.

As the Chief Marketing Officer for Aria Environmental, Inc., Mindy’s responsibilities include strategic planning and direction of the firm’s business development, corporate communications and marketing initiatives with her primary focus on developing teaming strategies and building partnerships with industry firms and clients. If you would like to know more about preparing a simplified Strategic Marketing Plan, please contact Mindy at mhinsley@ariaenviro.com or at 410-353-1988.
brings additional profitable jobs in the future. Just keep track of these “hidden costs” so you’ll be aware of them as the relationship develops.

Know thyself, contractor

Yes, to succeed in today’s construction business, you’ve got to play to win. But, unlike sports, where scouting the competition is usually a key to victory, contractors can’t get too focused on who else might be bidding on a job. Know your own costs and what it takes to get a job done right — no matter what might change in progress — and you’ll put yourself in a strong position to turn a profit.

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If Networking Is All About The Numbers, Look At These!

183 Attendees At MCN’s January Direct Connect Networking Extravaganza!
202 Attendees At MCN’s March Direct Connect Networking Extravaganza!
154 Attendees At MCN’s May Direct Connect Networking Extravaganza!
240 Attendees At MCN’s July Direct Connect Networking Extravaganza!

Attend The Industry’s Best Networking Event & Cultivate Your Network
MCN’s Direct Connect On September 28th At Hayfields Country Club!

“How To Get Paid In The Construction Industry”
A “Wisdom & Wine” Learning & Networking Event
Sponsored and Presented By:
Kate Lawrence, Esq.

Lawrence Law, LLC
Thursday, September 14th, 2017
Union Jack’s British Pub
10400 Little Patuxent Parkway
Columbia, MD 21044

Join Maryland Construction Network & Kate Lawrence, an experienced construction litigator, as she equips contractors; both primes and subs, with the tools to respond to a threat of non-payment. Kate will discuss collection strategies, such as mechanics liens and bond claims, that will help your firm avoid missed opportunities for payment. She will share tips from her most successful cases.

Topics Include:
• Understanding the critical deadlines for mechanic’s liens and bond claims.
• Learning about the key tools available only to subcontractors in the construction industry
• Educating your team on collection strategies and how to implement them before a payment issue arises.
• Reviewing material contract terms and conditions; relative to preventing collection issues.
• Formal dispute resolution process and procedure.

Registration: 4:00 – 4:30 p.m.
“Wisdom” | Presentation: 4:30 – 5:30 p.m.
“Wine” | Networking: 5:30 – 6:30 p.m.

To Register, Click Here!
Prefer To Register By Mail?
Download A Registration Form.
Coming Soon

**September 14th – “Wisdom & Wine” Business Building Seminar With Networking**  
“How To Get Paid In The Construction Industry”  
**Union Jack’s British Pub - Columbia**  
Host: Lawrence Law, LLC  
4:00 – 6:30 p.m.

**September 28th – Direct Connect Networking & Pre Direct Connect Business-Building Seminar - “Five Technology Trends Construction Contractors Can’t Afford To Ignore”**  
**Hayfields Country Club - Hunt Valley**  
Host: Gross Mendelsohn  
4:30 – 7:30 p.m.

**October 18th – 9th Annual BCPS “Meet The Primes”**  
**Maryland State Fairgrounds - Timonium**  
Host: Baltimore County Public Schools  
8:00 a.m. – Noon

**October 24th – The Blue Book Showcase**  
**M&T Bank Stadium**  
2:00 – 6:00 p.m.

**October 25th – Project Tour With Networking**  
**The Arundel - AA County**  
4:30 – 7:30 p.m.  
More Details Coming Soon

Classified Ads

**Tri-Axle Driver Needed For Small Dump Truck Company That Appreciates Their Drivers:** Must have current CDL and medical card, at least 2 years experience driving a tri-axle dump truck, clean driving record, and a willingness to work. Local hauling area for MD|PA. Pay is hourly at above average rate for area. 40 hours a week plus overtime paid at time and a half. Safety bonuses, vacation | sick time offered after probation period. Call for interview - 410.751.3478.

**Field Service Technician:** Field Service Technician needed to repair, maintain, modify, program, install, train and consult on communications equipment, systems and networks in a Wireless Service Center, field or customer location. CET certification is required. Experience in the configuration and testing of 2-way radio infrastructure and subscriber products. Pay Rate/Range: $21-$35/hour, based on experience. For additional information about this position send email to: Elaine@thehrlady.biz

**Account Manager (Outside Sales):** Primary Purpose: Responsible for interfacing with established & new customers to handle a variety of pre-sales or post sales functions. Emphasis of selling responsibility will be on new account acquisition/development. Meet company established sales goals for assigned territory. Additional requirements include: Must be professional, self motivated and possess strong computer skills. United Site Services is an Equal Opportunity Employer EEO/M/F/D/V. Contact michelle.ricker@unitedsiteservices.com for more information.

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If so, contact Verna Regler to see how MCN can help you achieve your goals!  
443-982-7329

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