With today's technology and the many ways we can transmit information to other people quickly and efficiently it comes as no surprise that communication by phone is fast becoming obsolete.

Ok, call me old school or a dinosaur, but I still believe that speaking directly with someone on the phone, or in person, can accomplish a whole lot more than endlessly trading e-mails.

One of the most important skills in my business is being able to clearly understand the client's needs and how they feel about developments in the deal. It's often a lot easier to gain an understanding of how someone feels about an issue when you can hear the inflections in their voice, or see their body language, than it is when you are reading a carefully-phrased, vague e-mail.

Talking on the phone also allows you to develop a much more personal relationship with the individual. As the conversation flows to subjects outside of business it will allow you to learn about that individual as a person. You can start to connect the dots and see what you have in common, potentially leading to mutually beneficial business deals – or even just a solid friendship.

As you establish a rapport with the person they will become more comfortable sharing valuable insights and information with you. This could be a tip on a building that may come on the market, or a hint about what their company likes to see in the vendors it hires.

Last, but not least, people like dealing with people they know and like. What better way to separate yourself from your computer-driven competitors than by picking up the phone and really getting to know the clients?

The same goes for personal relationships. Recently my mother made a pact with herself to pick up the phone and call one old friend each week. She has become adept at using the Internet and services like Facebook, but she realized that wasn't enough. Now she is taking some initiative to reconnect on a more personal level with her old friends. It's worked out well for her so far – so well, in fact, that I've vowed to start doing the same thing.

Continued On Page 24
Catapult Effect For Boom Lifts

My mission is to prevent injuries in the workplace. All work-related fatalities are tragic. In 2016 there was an especially tragic 100% preventable double fatality involving a boom lift. Each employee in the platform wore a proper full body harness. However, the lanyards of their personal fall arrest systems were not hooked to the anchor points inside the platform. While the lift was being operated, it catapulted both employees out of the lift and they died.

Boom lifts are at every major worksite because they are incredibly effective machines and increase the productivity of the job. But never, never mistake easier for safer. Boom lifts must be operated by highly trained and highly self-disciplined operators who understand the dangers that are always present even with all of the safeties and alarms on the lift.

Catapulting is one of the more difficult concepts for inexperienced operators to understand because it doesn’t seem possible in this age of “idiot-proof” design. Generally, inexperienced operators do not fully appreciate the significance of absolutely no suspension on the axles. With no suspension to absorb the minor bumps, dips, or drop offs, every obstacle in the travel path directly affects the operator platform. This is NOT similar to live, solid axle Jeeps or work trucks where you can feel every bump in the road – those passenger vehicles actually have suspension systems. Boom lifts by design, have no suspension. Combine the lack of suspension with the horizontal distance of the axle to where the operator platform is located and what you have is a machine that looks a lot like a catapult. And guess what….it is a catapult!

Explaining the scenarios of all the variations is too much to cover in an article. The illustration shows the concept, how it applies to your specific machine, direction of travel, and your specific worksite conditions must be covered by your training program. By the way, your training program must include more than just the familiarization training provided by the rental rep from United, Sunbelt, Alban, and other reputable rental equipment companies. The illustration shows a telescoping boom lift going over a small drop, as the front axle drops down it sends the operator platform up. But not just the drop distance, it is a multiplied distance which is proportional to the length from the front axle to the operator platform. A 4” drop at the front axle could result in an 8”, 12”, or greater upward jump at the operator platform. While some would argue that they could hold on and absorb an upward push, another component is speed and the resulting force, how much upward force is pushing the operator? In some cases, enough to catapult the operator completely out of the platform.

Here’s what you can do to help prevent catapulting. First properly train operators in safe operation of the specific boom lift on your specific job site. Avoid drop offs, instead travel on ramps and areas inspected and authorized for boom lift use. Speed and boom length are also factors. Secondly when training people on personal fall arrest systems (PFAS), provide them with an easy way to double check that they are hooked into an anchor point. A human performance approach involves training operators to keep their lanyard hook snapped into the appropriate designated grab (opposite of dominate hand) on their chest strap when not attached to an anchor point. Then to hook the lanyard to the anchor point once inside the platform. Then as a double check, once they are ready to operate the lift, perform a chest tap with the dominate hand before touching the controls. The photos demonstrate the principle for a right-handed operator. While it seems odd at first, look at the rituals or routines professional baseball players go through as they prepare to get ready to hit a ball – the chest tap double check is simple in comparison. After a few times of intentionally doing the chest tap double check it becomes second nature. You’ll be surprised by

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4 Ways To Protect Your Construction Site From Fires

Construction workers, and those required to visit construction sites, are familiar with the many ways project managers strive to keep everyone safe on site. Precautions like protective gear, emergency exit routes and communication procedures are common ways workers stay safe on construction sites. Safety is a top priority and concern in the industry and construction site fire prevention is a big part of that. But how can construction workers and managers stay protected when something terrible, like a fire, strikes?

Construction Site Fire Prevention

Massachusetts is one of many states that has recently experienced this kind of tragedy at a construction site. Wood-framed apartment complexes in cities like Dorchester and Waltham have shown the state that there are huge gaps in the state’s approach to fire prevention at these kinds of projects. But regardless of what materials are being used, there’s simply too much new construction for local building and fire inspectors to keep up, and keep the construction site safe from fires. With building supplies like wood and insulation, debris from building materials and a fast-paced environment, construction sites are usually not equipped to recover from a fire. Here are 4 ways to protect your construction site from being susceptible to fire.

1. Keep a Log of the Location of your Materials.

In a typical high-school chemistry class you may do experiments, pouring chemicals together to see what kind of reaction you get. In fact, a common science project is to make a volcano, complete with the exploding ‘lava’ on top. Obviously, the lava isn’t real. But what is real is the effect when two explosive elements get together and cause a disruption. Whether that’s lava flowing out of a fake volcano or a fire at your construction site.

Some of the more common ways fires start at construction sites are electricity, chemicals, flammable liquids and compressed gases. If these elements get near the building materials, it creates an unsafe work environment for any worker on the site. That’s why it’s important to keep a log or a project plan of where all of building materials are located, and to make sure nothing that will make ‘lava’ — or in this case, fire — is located in an unsafe location. This is another reason why planning is such an important part of a successful construction project.

2. Make Sure the Site Rules are Foolproof.

It’s not anyone’s fault on a construction site if a storm comes along and lightning strikes causing a fire. It’s unfortunate, but it can’t be helped. But what if you arrive at work the next morning to find some of your site was destroyed not by happenstance, but accidentally by someone at the site. It could happen if a worker is welding in the wrong spot, cutting materials in an unsafe location or worse, smoking a cigarette (all common ways that fires can start). Luckily, all of this can be avoided with proper rules in place that ensure the safety of your site from fires.

As a construction manager, it’s your duty to set your team up for success. Establish a no smoking on-site rule, as well as rules prohibiting personal flammable liquids (like hair spray) and mandated flame-resistant gear. Other rules should be in place that are for the benefit of

Continued On Page 25
Aboveground Storage Tanks

Aboveground storage tanks (ASTs) are prevalent throughout the state of Maryland. As a contractor, you may have one or more at your facilities, may have been involved with projects that involved their installation and/or removal, and/or may be looking at engineering specifications and building plans that include the installation of AST systems. This article provides a brief overview of regulations pertaining to the design, installation, and operation and maintenance (O&M) of AST systems in the state of Maryland.

AST Regulations

The primary objective of AST regulations is to minimize the occurrence of fire, explosion, and/or unintentional discharges. The following is a list of applicable regulations:

- Code of Federal Regulations (40 CFR 112)
  - Spill Prevention, Control, and Countermeasure (SPCC) Plan
- Code of Maryland Regulations (COMAR 26.10.01.12)
- Local Fire Codes
  - Authority Having Jurisdiction (AHJ)
- National Fire Protection Association (NFPA) 30 and 30A

Federal and State regulations expand the typical definition of oil (i.e., petroleum distillates) to include fats, oil, or grease of animal, fish, or marine mammal origin; vegetable, synthetic, and mineral oils; as well as sludge, oil refuse, and oil mixed with wastes. It is important to note that portable containers and oil-filled operational equipment (transformers and pumps) are both subject to environmental regulations, as long as they have capacities of 55 gallons or greater.

The following typical pitfalls may be encountered while trying to comply with fire codes:

- Insufficient protection for vehicular traffic
- Improper grounding and/or bonding
- Lack of emergency vent, venting indoors, vent not sized correctly, vents shared by two tanks
- Tank not properly anchored
- Inadequate tank support structure
- Pipes not properly supported
- Tanks located too close to each other and/or structure/lot line/public way
- Combustible materials in the containment area

Tank Construction

There are both single- and double-wall tanks currently in use and continuing to be installed throughout the state of Maryland. Today, most engineering designs will specify shop-fabricated double-walled ASTs. When properly installed with overfill prevention measures and monitored product transfers, the probability of unintentional discharges is reduced.

Continued On Page 26
Meet & Greet

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KEYNOTE SPEAKER:
Frank Abagnale
Cybersecurity & Fraud Prevention Expert,
Bestselling Author & Subject of
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The event is free, but advanced registration is required. Registration closes May 17th.

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When you first hear the word “pollution,” what comes to mind? Do you think of billowing dark smog clouds hovering over Beijing, noxious exhaust fumes pouring out from the car in front of you at the light, or possibly an oil spill seeping out into the ocean?

According to Dictionary.com, the technical definition of pollution can be defined as “the presence in or introduction into the environment of a substance or thing that has harmful or poisonous effects.” Unfortunately, this broad definition leaves plenty of room for interpretation and subsequent liability.

Pollution Liability For Contractors

In the context of construction and contracting, pollution becomes an inherent risk with most jobs. Virtually anything that can affect the air, soil, and environment can open your business up to risk. Since a standard general liability policy typically has pollution-specific exclusions built in, it is important to consider investing in pollution coverage. Depending on the level of coverage needed, adding endorsements to your General Liability and/or Auto policies may be sufficient. However, obtaining a standalone policy is usually the better option since it will provide the most comprehensive coverage available.

From gas or oil leaks into the soil to an accidental spill into the waterway or mold, the risk is real. Furthermore, the unfortunate reality is that pollution -- particularly soil damage, mold, and residual health effects from exposure to elements such as silica-- are not discovered until after a project is completed. This can make determining blame difficult and often requires all contractors involved with a project to defend themselves in court. The legal defense fees alone quickly surpass the typical pollution policy premium cost.

What Does Pollution Insurance Cover?

Pollution insurance helps financially safeguard your company from the following situations:

Legal Defense Fees: As stated above, legal defense fees can quickly add up — costing you not only money but also lost time. By having Pollution Insurance, you can rest assured that defending yourself in court won’t bankrupt you in the process.

Clean-Up Costs: From oil spills to gasoline leaks, the cost to clean up any accidental spill of hazardous material can be significant. A Pollution Insurance policy will cover the cost of clean-up and help minimize the hit your company takes as a result of the accident. Remember, fuel spills are incredibly common.

Coverage for Injuries and Medical Costs: Not only is pollution hazardous to the environment — it can be hazardous for humans as well. Even a simple error such as using equipment that emits carbon monoxide but not providing enough ventilation can wreak havoc on the human body. Another example is silica exposure, which is once again becoming a hot topic in court regarding long-term exposure and the subsequent effects on employees’ health. In both of these situations, having pollution insurance provides contractors with an added layer of financial coverage against claims of bodily harm or injuries.

Cost Of Pollution Insurance

The cost of Pollution Insurance will vary based on each individual company. Factors that go into policy pricing include the type of business, industry, types of chemical/hazardous material that the company deals with, and disposal methods.

It’s always best to consult with your insurance agent to determine the best route to obtaining pollution insurance and to ensure that there are no unexpected exclusions. Some policies will even retroactively cover prior projects since claims often arise months or even years after a project is completed.

Continued On Page 26
One of the smartest and most successful people I ever met said to his business owner peer group that he was going to make his business so valuable that he would be indifferent to whether he continued to own it or sell it. He was passionate about the company he started and grew but he knew that he wasn’t going to live forever. He also suspected that he wanted to do more with his life than run the company until he fell over or at least was no longer capable of running it.

So one of his fellow group members asked him what was he going to do and how long did he think it would take to get the company in that position. Without hesitation he said, “I’m going to take four weeks vacation and make it nearly impossible to reach me and I think the whole process will take me about 5-6 years.” Of course the next question was “When are you going to take that vacation?” His answer was, “When I have the management team in place that I know can run the company without me for that length of time.”

So he set about thinking through the kind of people he needed to hire and the jobs they would have to fill and took the right time and steps to get the right people to put in the right jobs doing the right things. One critical step here was for him to define in great detail the attributes needed by each person to be hired for each management job. He also knew that he had to find people that shared the same values that drove the company and would fit its culture. The effort in this step actually uncovered two people already working in the company that filled two management positions. It took about 18 months to fill out the team and that is when he took that first four-week vacation.

The next step was to better align his sales force with the customer base. Customers wanted to talk with people who knew their language and issues. This is a topic you almost never hear about in sales recruiting and training. Not everyone is open to learning a new “language,” but every industry has one. In many cases its just jargon. But language is the basic underpinning of culture. So if the sales candidate you are interviewing does not have experience in your industry, ask him and her what foreign languages they had in school and how well did they do with them.

The final step he took was to productize his service. He had invented a proprietary technology that enabled him to compete with his very large competitors. He knew his company was never going to be big like them, but he could sell them products that his company used in the service they provided. It may not have generated a lot of market share, but the increase in company revenue was spectacular.

At about the 6-year mark of the effort, a large international company that had a gap in its product and service mix that exactly matched what his company could provide them made him an offer he could not refuse. The premium he received was substantial and the life he was able support and live was what he wanted. The management team and sales force he built went with the new company.

So, as the owner of a company, you have the same ability to structure your business in a way that optimizes its value so if you decide to sell it and stay involved, pass it on to your kids and not stay involved, sell it to your employees or merge it with a competitor, do it on your terms and in a way that will support your life the way you want to live afterwards. It can be done.

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
21 Must-Know Revelations From The 2018 Maryland Construction Industry Survey

Over the past few months, we’ve been gathering and analyzing data from those working in Maryland’s construction industry as part of the 2018 Maryland Construction Industry Survey, hosted in conjunction with Maryland Construction Network (MCN).

On Wednesday, May 2 at 3:30 pm, we’ll present the results of the survey at the newest brewery in town – B.C. Brewery in Hunt Valley, MD.

Here’s a sneak peek at just some of the data we gathered and will discuss at the seminar:

1. 70% of contractors said they thought the construction industry’s outlook was better for 2018 compared to last year.

2. Finding and retaining good employees has ranked #1 on contractors’ list of top concerns for the past three years, but jumped from 64% in 2016 to 75% in 2018.

3. Six out of ten construction contractors say they aren’t satisfied with what’s being done to recruit younger generations to the construction industry.

As an attendee at the seminar, which we’re jointly hosting with MCN, you’ll be one of the first and only to get a copy of the survey result report. Plus, you’ll be there as industry veteran Steve Ball, CPA, offers recommendations on how to use the survey data to grow and better your business.

Questions? Contact Gross Mendelsohn online or call 410.685.5512.

Click here to reserve your spot at this exclusive event at B.C. Brewery!

In his presentation, Steve will focus on the following:

1. Outlook and trends for 2018

2. Human resources and personnel development issues
Understanding Maryland’s Mechanic’s Lien Law

If you are a builder, subcontractor, supplier or design professional who does work in Maryland, it is critical that you understand Maryland’s mechanic’s lien law. With certain exceptions such as government property, Maryland’s mechanic’s lien statute gives persons who supply labor and materials to a construction project the right to establish liens on the property and, if necessary, to force a sale of the property if payment is not received. However, the law has very specific notice deadlines and filing requirements. If those deadlines are missed, your ability to establish a lien may be jeopardized.

In Maryland, a mechanic’s lien may be established against newly constructed buildings or houses, and also against any project involving an existing building that is repaired, rebuilt, or improved by 15 percent or more of its value. This 15 percent ratio applies to the total improvement (not simply your scope of work). Thus, a contractor who supplies $100,000.00 worth of labor or materials to a $1 million renovation of a $5 million building is able to file a mechanic’s lien because the total scope of the renovation is more than 15 percent of the value of the existing building, even though the value of the subcontract is not. Likewise, a contractor who supplies labor or materials for new construction may file a lien without regard to the value of the contract because the project involves new construction.

The notice requirements of Maryland’s mechanic’s lien statute are controlled by the nature of the relationship between the party asserting the lien and the title owner of the property. Filing a mechanic’s lien claim involves two phases, and each phase has specific time requirements. The first phase involves giving the owner of the property notice of your intention to file a petition to establish and enforce a mechanic’s lien. The second phase involves actually filing the petition in court. Parties who contract directly with the property owner can skip the first phase. Parties who do not contract directly with the property owner cannot.

Parties who do not have a direct contract with the property owner must deliver a specific written notice of intention to file a petition to establish a mechanic’s lien to the owner of the property within 120 days after completing their work or furnishing their materials which are the subject of the lien. In the case of a single family dwelling, notice must also be given to the owner before the owner makes final payment to the general contractor. The rationale behind this notice requirement is that an owner may be unaware that there are unpaid subcontractors or suppliers on the project. The notice gives the owner the opportunity to investigate and withhold payment to the general contractor until assurances are provided that the subcontractors and suppliers have been paid. The required notice must be in writing, and the mechanic’s lien statute provides a format which identifies the information which must be included. Critical information includes:

- the names of the petitioner and the party who contracted for the work or materials;
- a description and time the work was completed or materials furnished;
- a simple description of the building;
- the total amount earned; e) the amount due;
- a statement affirming veracity of the notice; and
- signature of the petitioner.

Written notice is effective if given by registered or certified mail, return receipt requested, or personally delivered to the property owner.

Because the owner should know whether it has or has not paid the general contractor, a party who has a direct contract with the property owner does not need to provide the 120-day notice and may skip to phase two — filing the Petition.

Regardless of whether the party seeking to establish a lien contracted directly with the owner (or whether the party is a subcontractor or supplier with no direct contract with the owner) any party wishing to establish a mechanic’s lien must file a petition to establish a lien in the appropriate court.
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Not all construction apps are created equal. Are you truly gaining all the benefits you can out of construction software? Powered by the right technology, your teams could be working more productively, saving multiple hours a week and reducing the need for expensive rework. Whether you’re new to construction software or considering changing to a different platform, it’s critical to understand not all software out there is on the same playing field. Options of technology solutions can range from bad to great – and everything in between. So how can you know if you’re choosing the best platform for your needs, and maximizing a return from your construction technology investment?

If you own a construction or contracting business, you’re most likely constantly on the receiving end of sales pitches or cold calls from someone who has never worn a pair of construction boots in his or her life – but we have. To make it easier for you, we’ve highlighted the top features your construction software should have.

1. Usability

There’s a big secret in construction: to gain the promised benefits of software, your workers need to be using it. While some field or project management apps might look nice at first glance, they’re simple not user-friendly. If employees find the technology too difficult to figure out, inconvenient to their daily tasks or irrelevant to their job roles, they won’t waste their time. This means you could be wasting your time in trying to roll the solution out to field, as well as potentially losing thousands of dollars (or more!) in license and implementation costs.

Construction software should be easy enough for any team member – whether it’s a boot on the ground or a strategic project manager – to pick up, immediately share information with others and get the insights they need within minutes. When choosing or switching to new field software, look for an option that’s easy to use, prioritizes a mobile platform (which is relied on the most) and adequately understands the complexities of the building industry.

2. Collaborative Document Control

Old-school clipboards and pens were replaced by punch lists and cell phones – and then later on, Excel sheets, email and texting. While each technology evolution allowed workers and managers to interact more effectively, problems remained. For example, since multiple team members could text at the same time, there was no way to gather data in one place and quickly disseminate it to everyone who needed it. Delays and miscommunications frequently ensued.

Today, construction productivity software can drastically improve communication by digitally storing documents and blueprints in one central online location and then allowing real-time collaboration between project managers and the litany of those actually performing the work. With instant access to documents and the ability to collaboratively edit plans, everyone will have access to the most up-to-date information about any given project – reducing the chance of incorrect design implementation and rework.

3. Automation

Historically, many procedures in construction have been manual, time-consuming and ripe for error. No wonder productivity in the industry hasn’t drastically improved over the last 60 years.

Now, with the right construction software, certain processes and workflows can be automated. For instance, by automating tedious administrative tasks such as generating submittal logs through machine learning, historically slow processes can be dramatically condensed from weeks to minutes. Additionally, software paired with automation enhances project closeout and handoff. Once construction is complete, owners and other stakeholders can instantly access a complete history of the project to empower operations for the life of the building.

The right choice for your business should automate your most time consuming processes.
Banks vs. Private Lenders: The Basics Of Financing Options For Small Businesses

Most small business owners will, at some point in the lifespan of their businesses, need to obtain financing in order to get their business off the ground or expand. This article summarizes the basics of obtaining financing through both loans and investors. There are many different options available to get financing for a small business, and what makes the most sense for any one business will depend on a variety of factors. In determining what makes sense, a small business owner should carefully consider the business's anticipated needs and get advice from financial advisors, attorneys, accountants, and other experienced industry professionals.

Financing Through Loans

In order to obtain a loan from a bank or a private lender, a small business will need to ensure its entity formation is in good order. This means the entity (usually a limited liability company or a corporation) must be duly formed and in good standing with the State Department of Assessments and Taxation. The entity should also have bylaws (for corporations) or an operating agreement (for a limited liability company) drafted by an attorney. The lender will want to review these prior to issuing the loan, and the documents can provide important liability protections for the owner. The lender will likely require that the owners of the business sign a personal guaranty that guarantees the small business's obligations under the loan. The main difference between getting a loan from a bank versus a private lender is that the private lender will generally accept riskier loan customers than a bank. However, the interest rates from private lenders tend to be higher than interest rates from banks.

Before signing any document with a bank or private lender, a small business owner should seek the advice of an attorney. It is particularly important to do so before agreeing to a term sheet, because once the term sheet is signed, it is difficult to renegotiate those terms. In addition to describing the loan and the payment schedule, loan documents contain covenants with respect to the business's finances, operations, and assets that the small business must follow. If they fail to do so, such failure can constitute a breach of the loan documents, which would permit the lender to accelerate the maturity of the loan or require a higher interest rate. Typical covenants include financial covenants, which require that the business provide the lender with audited financial statements and maintain certain financial ratios; operating covenants, which require the business to comply with all applicable laws and regulations and prohibit the business from making material changes to the business without the lender's consent; reporting and disclosure covenants, which require keeping the bank updated; covenants relating to what the business can do with the collateral securing the loan; and cash payout covenants, which govern how the business can distribute out cash.

Depending on the strength of the small business, an attorney can help seek more favorable terms, such as a requirement that the lender provide the business with notice of a breach of the agreement and an opportunity to cure it prior to seeking the remedies available to the lender under the loan documents. Attorneys can also try to strike provisions that are particularly onerous to the small business, including, for example, cross-default provisions that would otherwise permit the lender to declare the loan in question in default if the borrower defaults on another debt obligation; or insecurity clauses, which permit the lender to accelerate payment, demand additional collateral, or halt future advances if the lender in good faith thinks the borrower will not be able to repay the debt in accordance with the agreement's terms. Even if the attorney is unable to negotiate more favorable terms, he or she can ensure that the small business owner fully understands the loan documents to avoid accidentally triggering a default.

Financing Through Investors

In some instances, it may make more sense for a small business to seek financing by getting investors to invest cash into the business in exchange for equity in the business. If done correctly, this will limit the business owner's personal liability and allow him or her to operate...
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Insurance Coverage Disputes

All contractors/subcontractors know that insurance is necessary and important. Nearly all projects require specific insurance coverage and certificates of insurance prior to commencing work. Construction companies also appreciate that incidents can occur and, without insurance, the company is exposed to a significant amount of out-of-pocket risk.

Construction companies are less knowledgeable, however, about the process and legal rights when a coverage dispute arises. Let’s examine that in further detail.

When the incident or loss occurs on a project, the contractor/subcontractor should immediately notify its insurer of the event. Sometimes the point of contact is an insurance agent or broker. Under all circumstances, the contractor/subcontractor must ensure that the insurer has been notified of the event.

After receiving notice of the incident, the insurance company will usually act to investigate the incident. To cover the loss, the insurance company needs to know the facts. At this point, the insurer often sends a “Reservation of Rights Letter.” These Reservation of Rights Letters set forth various details regarding (a) coverage and (b) limitations on coverage.

Just because a Reservation of Rights Letter was sent does not mean that the insurer is laying the foundation to deny coverage. But that can happen. Sometimes an insurer will immediately respond to an incident by denying coverage due to either an exclusion or perhaps the policy does not cover the incident.

Other times, however, the insurer sends the Reservation of Rights Letter and still continues with its investigation and defense of the claim. If the loss is significant, it is possible that a lawsuit will be filed—often by the injured party. In those instances, the insurer may continue to defend the contractor/subcontractor’s interests in the litigation, with an insurance appointed counsel, but know that the Reservation of Rights Letter might still be in effect.

Some contractors/subcontractors think that if the insurance company has entered a defense on the litigation docket, then the issue of coverage is concluded. But that is not always the case. Insurers have the right to file a

Declaratory Judgment Action (“DJA”). Usually these are separate lawsuits filed by the insurer against the insured. The insurer is seeking a separate adjudication by a judge regarding whether insurance coverage is required.

To put it bluntly: The DJA is an attempt by the insurer to back-out of coverage. If the insurer files a DJA, it is often filed in Federal Court. At that point, the contractor/subcontractor (insured) is still being sued in one court, arising from the incident, and the contractor/subcontractor is now being sued by its own insurance carrier in a separate court. Obviously, at this point, the contractor/subcontractor should consult its own private counsel to perhaps litigate against the insurer.

When an incident occurs on a construction site, the contractor/subcontractor must be prepared to handle the fallout. It should notify its insurer of the event, and it should also contact its private counsel to prepare for any potential coverage issues or aspects that are not covered by insurance. It is also wise to consult with your insurance agent/broker on an annual basis to ensure that proper endorsements and coverages are in place prior to the incident occurring.

The author, Jeffrey Bright, is an attorney licensed in both Maryland and Pennsylvania. He focuses his practice on construction law, commercial litigation, employment law, 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.
Focus Four Initiative

OSHA’s Focus Four Campaign addresses the four leading causes of fatal injuries in construction. For the past seven years (May 2011) OSHA has mandated that as a part of all OSHA 10 and 30-hour class the Focus Four topics are allotted a minimum of 4 hours for the 10-hour class and 6 hours for the 30-hour class. The leading causes of worker deaths on construction sites were falls, followed by struck-by, electrocution, and caught-in/between. As this is the second campaign set out by OSHA we have seen some of the numbers decrease however we need to keep these killers in front of us at all times. Below is an excerpt from a letter sent out by OSHA giving us some updated information and statistics on the Focus Four Hazards.

OSHA

https://www.osha.gov/dte/outreach/construction/focus_four/

(excerpted from a letter directly from OSHA)

Dear Stakeholder:

OSHA and our construction industry partners have initiated a “Focus Four Hazards” campaign throughout OSHA’s Region III’s jurisdiction. We are reaching out to entities to assist us in promoting this campaign and to encourage your leadership to participate in this four-month cooperative initiative being launched in February 2017. The goal of this campaign is to raise awareness in the recognition, evaluation, and control of these hazards. As noted below, the Focus Four Hazards account for the vast majority of injuries and fatalities in the construction industry.

Construction’s “Fatal Four”

Out of 4,836* worker fatalities in private industry in calendar year 2015, 937 or 19% were in construction that is, one in five worker deaths last year were in construction.

The leading causes of worker deaths on construction sites were falls, followed by struck-by, electrocution, and caught-in/between. These “Fatal Four” hazards were responsible for well over half (65.1%) of the construction worker deaths in 2015*, according to BLS reports. Eliminating the Fatal Four would save 602 workers’ lives in America every year.

- Falls — 364 out of 937 total deaths in construction in CY 2015 (38.8%)
- Electrocutations - 81 (8.6%)
- Struck by Object - 90 (9.6%)
- Caught-in/between* - 67 (7.2%) (*This category includes construction workers killed when caught-in or compressed by equipment or objects, and struck, caught, or crushed in collapsing structure, equipment, or material)

Maryland Occupational Safety and Health (MOSH) has provided the link below with additional information relevant to the Focus Four Hazards as well as providing several tool box talks per topic.

https://www.dllr.state.md.us/labor/mosh/moshfftb.shtml

(excerpted from MOSH website)

Did you know:

“Electrocutions from equipment installation or tool use jumped to the second leading fatal cause for the 3rd quarter in 2016. This is an increase of 400% over the previous quarter and more than double the total events for the year to date.”

I strongly recommend utilizing both the OSHA and MOSH websites for information and training materials pertaining to the Focus Four Campaign.

Stay Safe,

Terry L. Foy
President/CEO
Foy Safety Consulting, Inc.
www.foysafety.com
410-446-3995

ONLY MCN WAS SELECTED!

For the first time, the OSHA Focus 4 Toolbox Talks are available in a traditional flyer format as well as a newly released recorded audio format exclusively available on the Maryland Construction Network website. Future Toolbox Talks will be added as recorded.

Get OSHA’s 2018 Focus 4 Toolbox Talks HERE!
The Evolution Of Commissioning – Continuing Education

The commission service sector has certainly seen evolution over the past decade plus. Originally commissioning was essentially a through backcheck or comprehensive punchout. In 2005, ASHRAE Guideline-0 “The Commissioning Process” was issued defining much of the process and lending creditability to the industry.

GREEN PATHWAYS AND REQUIREMENTS

Then the LEED Certification program arrived with fundamental commissioning prerequisites, enhanced commissioning options and the criteria for independent 3rd party commissioning. The green industry became more establishment with the introductions local codes such as the BCGCC (Baltimore City Green Construction Code) and eventually the national code IGCC (International Green Construction Code), which all require commissioning. The local jurisdictions quickly adopted IGCC as a local path code option in additional to the LEED pathway.

CERTIFICATION ORGANIZATIONS & CERTIFICATIONS

The industry was elevated again with the advent of “Certified” commissioning personnel, the existing TAB industry and stepped in with independent certification exams and other criteria.

<table>
<thead>
<tr>
<th>COMMISSIONING ORGANIZATIONS &amp; CERTIFICATIONS</th>
<th>Guideline</th>
<th>Certification</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACG</td>
<td>ACG Commissioning Guideline</td>
<td>ACG Certified Commissioning Authority</td>
</tr>
<tr>
<td>NEBB</td>
<td>Procedural Standard for Building Commissioning Systems</td>
<td>NEBB Qualified Commissioning Administrator</td>
</tr>
<tr>
<td>TABB</td>
<td>SMANCA HVAC Commissioning Guideline</td>
<td>TABB Certified Commissioning Supervisor</td>
</tr>
</tbody>
</table>

The federal and military sectors then began to require “Certified” personnel on their projects. Approved organizations/ certifications are ACG, AABC & TABB

With commissioning certifications now in place and required by major industry sectors, it was only a matter of time before “Continuing Education” would be on the horizon. Well, if you have not heard continuing education requirements have arrived, and the clock is running!

COMMISSIONING NATIONAL CONVENTION

The industry now assembles for large national conventions. Here training is offered and industry personnel can network and re-group. It should be noted, the CxEnergy Conference is coming to Las Vegas, Nevada in April 23-26, 2018.

CERTIFICATION CONSOLIDATION - ANSI

The industry had grown quickly without regulation or national oversite. As a result, the established certifications including ACG (AABC Commissioning Group), NEBB and TABB are unique and independent in content.

In 2016, ANSI stepped in to consolidate the certification process. They modified the testing process and required existing certified personal to either re-take the new test or take a “Gap” test as a supplement to the original certification exam. In 2017 at the Cx Energy Conference, the Gap class was introduced to the public. This Gap test seemed to focus on commissioning of existing buildings, retro-commissioning and re-commissioning.

CONTINUING EDUCATION

Along with the new ANSI oversight, continuing education will be required to maintain all certifications. This would require 50 CEUs every three years and participation in (1) CxA project every three years. The 50 credits would be from (2) main sources:

- CxA Continuing Education: Min 25 points
- CxA Participation (non-residential): 10 points/ project, Max 25 points

Deadline: If you were certified before June 30, 2016 the

Continued On Page 27
Ten Ways To Protect Your Workers (And Save You Money In The Process!)

The following are ten items for your consideration. Implementation of any, or all, of the following programs can increase safety, improve morale, and save your company money.

Driver Qualification Program

Driving a company vehicle is a privilege, not a right. By establishing qualification for drivers you are taking the first step in managing your fleet risk. Auto accidents that injure employees create both auto and workers’ compensation claims. Work with your insurance broker and carrier to develop fair standards that must be met by all drivers. Why risk your vehicle and the safety of others and your workers to someone who has exhibited poor driving habits in the past.

Use Of GPS In Vehicles

When GPS systems began to be introduced, employees reacted negatively (big brother was watching). As the use of these systems has become more prevalent, the benefits to companies and their employees have emerged as well. Risk indicators such as speeding and hard braking can be identified and addressed with any employee in a non-punitive way. Driver behavior, and their personal safety, can be addressed before an accident occurs.

Provide & Maintain PPE

Companies that invest in personal protective equipment for their employees provide a safer work environment. An inexpensive pair of safety glasses that prevents an eye injury is a great benefit to both the employer and employee. Use of PPE, and making sure it is in good condition, helps eliminate preventable claims.

Drug Testing Program

Implementing and managing a qualified and approved drug testing program can provide immediate cost savings through a workers’ compensation credit as well as weeding out employees or prospective employees that have an impairment. Not only are you protecting your company, but also you’re other employees, subcontractors, and the general public. Would you want someone impaired driving your company vehicle or working on your job site?

Return To Work Program

Bringing an injured employee back to work as soon as possible is a huge benefit for your company and the employee. Even in a reduced role, the employee has value to your company and the cost benefit is significant. Having a return to work program also shows your employees that you care and want them involved in your business (even in a limited duty role).

Vehicle Maintenance Program

Every day your company vehicles hit the road, you have some degree of risk. If vehicles are not properly inspected and maintained on an ongoing basis, you increase the risk exponentially. Construction vehicles can be beat up and dirty, but vehicle is in a regular maintenance program you will help prevent accidents and protect your employees.

Employee Orientation

Even Construction companies need to have an employee orientation program in-place. In addition to human resource issues, make sure you provide adequate instruction in the company safety program and any specialized training needed for operation of a vehicle or piece of equipment. Don’t assume that a veteran operator or driver does it the safe way. So many accidents and injuries involve new employees that have been with a company a short time and are put right into the field. Make sure, for your sake and theirs, that they are qualified and properly trained to do their job safely.

Ongoing Training

You spend money on PPE, orientation, drug testing, vehicle maintenance, etc. but it should not stop there. Make sure your safety program includes ongoing training that includes basic safety topics as well site or job specific training when working on a new project.

Continued On Page 29
In December 2017, Congress signed the Tax Cuts and Jobs Act. There are many changes in the new tax bill that will cause varying effects on businesses and individuals. As the dust starts to settle on the new tax bill, most businesses expect their income tax expense to decrease. However, a general understanding of the new tax law is necessary to effectively make tax planning decisions for your business. Business owners can start strategizing their plan by reviewing the five most significant changes that are expected to affect construction contractors.

1. Reduced Individual and Corporate Tax Rates

The first major change from the recent tax bill is the reduction in individual and corporate income tax rates for tax years beginning after December 31, 2017. The new individual tax brackets have been reduced to 10, 12, 22, 24, 32, 35, and 37 percent and are applicable to tax years 2018 through 2025. All tax rates for years following 2025 may be subject to subsequent legislation.

<table>
<thead>
<tr>
<th>Rate</th>
<th>2018-2025 Income Tax Brackets</th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>$0 to $9,525</td>
</tr>
<tr>
<td>12%</td>
<td>$9,526 to $19,050</td>
</tr>
<tr>
<td>22%</td>
<td>$19,051 to $38,700</td>
</tr>
<tr>
<td>24%</td>
<td>$38,701 to $82,500</td>
</tr>
<tr>
<td>32%</td>
<td>$82,501 to $157,500</td>
</tr>
<tr>
<td>35%</td>
<td>$157,501 to $200,000</td>
</tr>
<tr>
<td>37%</td>
<td>$200,001 to over $500,000</td>
</tr>
</tbody>
</table>

The corporate tax rate has been reduced to a flat 21% rate for tax years beginning after December 31, 2017. Businesses should be evaluating their current tax structure in response to the reduced corporate tax rates.

It is imperative that businesses conduct a complete analysis of the tax law to determine if a change in entity type is beneficial. Making the change from a pass-through entity (S-Corporation, Partnership or Sole Proprietors) to a C-Corporation is an alternative to consider. Typically, C-Corporations are being taxed at a lower rate than pass-through entities. Keep in mind that C-Corporations are still subject to potential double taxation of dividends paid to shareholders. A cost-benefit analysis should be completed before deciding to make the switch.

2. Pass-Through Entity Income Deduction

A lot of business owners may have a knee-jerk reaction to the reduced corporate tax rate and decide to convert their business to a C-Corporation. However, not all hope is lost for pass-through entities. A second key change in the tax bill is the new Section 199A pass-through entity deduction. For tax years starting after December 31, 2017, a 20% deduction will be allowed for taxpayers who have qualified business income from an S-Corporation, Partnership or Sole Proprietor, subject to limitations.

The 20% pass-through deduction is limited to the lesser of 20% of their pass-through business income or the greater of the following two options - Option A is 50% of his/her share of W-2 Wages paid with respect to qualified business income and Option B is the sum of 25% of his/her share of W-2 Wages plus 2.5% of the unadjusted basis of qualified property. The wages or wages plus capital limitation do not apply to taxpayers with taxable incomes below $315,000 (joint filers) or $157,500 (other filers). Taxpayers eligible to claim the full 20% deduction on qualified business income will incur a maximum effective tax rate of 29.6% on qualified business income.

3. Small Contractor Exemption

Another currently active change is an increase in the exempt amount for small contractors. Previously, companies with gross receipts under $10 million were exempt from using the percentage of completion method for recognizing taxable income on long-term construction contracts. Starting 2018, this exemption amount has been increased to $25 million. Also note that long-term construction contracts that started prior to December 31, 2017 and all commercial contracts regardless of start date are required to apply the percentage of completion method for alternative minimum tax purposes. Although the alternative minimum tax was repealed for C-Corporations, it was not repealed for pass-through entities that flowed down to the individual levels.

4. Accelerated Depreciation Changes

The new tax bill also includes changes to bonus depreciation and Section 179 expensing. Taxpayers are now allowed 100% bonus depreciation on qualifying...
Social Engineering & Cyber Threats

The first consideration for information systems in any company is how to keep your data secure. The threats to get company data are always present and it is up to the Information Security team to minimize these risks. Social engineering is a great threat to a company. Most social engineering attacks are targeted to a single person. These attacks focus on a single person's willingness to help, greed, need for connection, fear tactics, or sense of responsibility. These manipulated attacks can be used to get employees to release company information if the employee isn't properly trained to be on the lookout for these threats.

Every company has something hackers want. Whether it is employee information, account information, or company clients, it is valuable to someone. Social engineering is a way to obtain this information. Social engineering is a way to get employees to provide sensitive information for the purposes of fraud, system access, or gaining information. There are several types of social engineering attacks such as pretexting, phishing, baiting, tailgating, or quid pro quo. Phishing is probably one of the more recognized attacks.

Phishing is a more generalized attack as opposed to spear phishing which involves more time as it is a targeted attack (hence the term spear phishing). Phishing is a generalized attack through email or phone probing to get an employee to give out information about employees, accounts, clients, and other sensitive information. Phishing emails are getting more sophisticated as hackers develop their skills to mimic other companies, invoices, email aliases and web addresses. The differences are usually subtle but are visible if you know what to look for.

Phishing scams can come via phone or email. These probing attempts prey on a person's feelings of urgency, importance, threat, fear, or obligation. The differences are minimal as well but with security training, the company work force can mitigate the risk associated with these scams. Phone calls may be used to appear as a threat or a reference inquisition. The person in charge of the primary incoming line should have a clear definition of what information can be provided over the phone, and what is not.

Incoming phishing emails may appear more sophisticated. These attacks are meant to look official with logos, even recognized names. However, there will be differences. A time stamp may be off, an email address has transposed letters, a questionable link that goes to an unrecognized web page. It is important to always be suspicious of incoming attachments and websites, even if it is coming from a trusted source. It will never be unacceptable to ask and confirm the request before submitting to the request. In most cases the source didn't know their information was compromised. If the source was not aware of the threat made in their name, encourage password changes, and a malware or antivirus scan on the systems they use. In information security it is always security.

Information System and Security professionals are always looking for the newest way to safeguard their company information. As a professional, you should. Server patches should be up-to-date, security policies in place and email filtering on mail services and firewalls at a minimum. However, focusing on the customer and working to serve them is another way to safeguard company information. An IT professional's customer service skills will allow any user, no matter how simple the question, to seek guidance when finding a possibly malicious attack. If the employees feel safe it creates an environment where an employee is more likely to ask then to answer quickly in fear to a social engineering attack.

Andrea Millan has been working in the Information Systems field for approximately five years now. She started as technical support for Sun Microsystems providing storage support for failures, setups, backups, and disaster recovery on enterprise level systems and then took a brief break to raise her daughter and to go to college. She finished her bachelor's degree in Information Systems Networking while working full time for Amazon. At Amazon, her role was Operations Technical Support, but had many different responsibilities during her time there. Andrea supported a variety of computers, servers, printers, and operating systems as well as participated in multiple projects including being part of the process improvement team and the Fusion team where she would remotely assist people all over the world with IT concerns and questions. Her role at Business Information Group to provide internal Information Systems support as well as help to create document process, procedures and standards to improve business process.
Mobile Technology In The Workforce

The construction industry is changing—between a shortage of skilled labor, increasing material costs, and increasingly complex projects, firms are squeezing costs in a way that many have never experienced before. The most competitive firms are the ones that find innovative ways to save time and reduce costs and mobile technology is a great way to start.

There are many different ways to begin implementing more efficient ways to work through technology. For example, many companies are now utilizing software like ShareFile, which allows users to share documents quickly and safely so that they can be sure they’re using the most updated version of the file. The software’s automatic encryption ensures that all files are protected against malicious threats when being shared. In layman’s terms, this means that by using this software your staff in the field are able to use their laptop or tablet to edit a document while on site and the office staff will have access to the updates immediately. Gone are the days of waiting for an email to come through or wondering if you’re accessing the most updated version of a file you are working with.

Technology such as this means fewer errors, and fewer errors mean less cost. Reworks are the biggest source of unexpected additional expenses for most construction firms. The best way to avoid reworks is to avoid errors. This can be done by simply implementing a way for staff to access real-time data.

Integration of mobile technology in the construction industry has seen proven results in efficiency and cost-reduction, however we are only in the beginning stages of technological advancement in our field.

Malia Chapman does business development for Decision Data Systems. She received a Bachelor's degree from University of Maryland University College in 2013 and is currently working on her Master’s at Mercy College. She is a Community Service Team member at BOMA.

Continued From Page 1

As with many challenges in our lives; it can seem daunting. However, if you push yourself you will find a big payoff in the end. It’s like when I force myself to wake up and go to work out at the gym in the morning. I go in with a feeling of dread and a frown on my face but leave empowered with a great big smile.

Ro Waldron

Hi, I’m Ro Waldron. I’m a commercial real estate broker in Suburban Maryland. With more than 30 years in the industry, I’ve got the knowledge and experience to help you buy, sell or lease any kind of commercial space. I also write the Ro’s Words of Encouragement blog to share stories and insight from my careers in real estate and college football. I hope you enjoy! Contact me at 301.417.1092 or at ronayne.waldron@avisonyoung.com.

Continued From Page 2

how many times the double check resulted in the person remembering to connect to the anchor point.

About the author: Joseph Xavier is the CEO and Senior Consultant at Summit Sustainability Solutions. It’s mission is to help companies strive for zero harm to their workforce. His specialty is safety culture and enjoys working with people to train them on how to think like a risk manager. Call or text Joe at 443-910-7874 or by email: jxavier@hpx-factor.com.

Tom Gavin’s DJ Delights
Delivering Fun, Creating Memories
everyone on-site. And the rules may need to change as the project goes on. For example, it may not be safe for children during certain periods of your construction. Don’t hesitate to communicate the rules to your team and change them if necessary for everyone’s protection.


Even if you’re not in the construction routine business, you probably have your own morning routine that you follow. It could include checking your emails or asking your team to catch you up on any new topics. Or maybe it’s settling in with a cup of coffee to visit morning news sites. As a construction manager, you can make preventing fires part of your very own daily routine.

The Laborers’ Health and Safety Fund of North America suggests daily as well as spot checks for unsafe conditions, prompt removal of debris, and checking the number and efficacy of fire extinguishers on-site, which can all help prevent future fires. Making these ‘to-do’s part of the routine of people who can help you stay safe is of the utmost importance. As a construction manager, the responsibility ultimately falls on you. You should use your team as your extended eyes and ears when it comes to keeping your construction site fire-proof.


Advances in video surveillance technology are happening at a fast pace. Thermal surveillance cameras are being used by fire departments, search and rescue teams, farmers, and even builders. A fairly new service being offered to contractors is security through the use of portable mobile surveillance units. This service reduces the cost of overnight site security by 50-70% and is more effective than traditional security guards. When choosing a company to perform your sites live monitored video surveillance needs, choose one that has the ability to add thermal cameras with thermal radiometry technology. These cameras can detect the slightest temperature changes on site. They then send an alert to the project manager as well as the company’s monitoring center. Once an alert has been received the fire department can be contacted to respond to the site and investigate further.

The safety of all persons who work or visit a construction site is a top concern and priority of those who are running the job. There are a lot of safety precautions people can take to protect their person. Although materials laying around and half-finished structures could potentially also cause harm if not planned and handled properly. Construction managers can prevent a potentially devastating fire on site with the following. Accurate location logs of all materials, clear rules that keep fires at bay, routine checks into your fire safety gear, and thermal detection cameras.

Have you considered thermal cameras as part of your fire safety program? Click here to learn more about thermal surveillance.

Shawn Scarlata
CEO, SMART Security Pros

Providing professional Video Surveillance Services & Armed Security throughout Baltimore and the Washington, D.C. Metropolitan Area, SMART Security Pros utilizes only off duty, retired, and prior police officers for our armed security assignments. SMART’s founder, Shawn Scarlata, was an active duty law enforcement officer for 22 years in the Washington, D.C. Metropolitan Area. SMART specializes in utilizing our Mobile Video Guard to protect construction sites and other outdoor venues at over 65% less than hiring traditional security guards. Call 301.955.9782 or submit a detailed quote online to get the right security solution.
While some industries are higher risk than others, obtaining pollution insurance should really be a best practice for all contractors. The risk simply isn’t worth it.

Patti Maluchnik, CIC, CBIA

Patti joined Georgetown Insurance Service in 1993. She earned a Bachelor of Science degree in Business from West Virginia Wesleyan College in 1984 and earned her Certified Insurance Counselor designation in 2003. Her expertise is with accounts in the construction, manufacturing and technology fields. Patti is active in the Rotary Club of Frederick, CREW of Suburban Maryland, Frederick County Chamber of Commerce and Accelerent.
within 180 days after the work has been completed or the materials have been furnished. Maryland's mechanic's lien statute sets out in detail the specific contents which must be included in the petition.

The procedure following the filing of a Petition is essentially a four-step process. During the first step the court will review the petition and supporting documents and will make a determination of whether the Petitioner has presented sufficient evidence in the petition to establish that a mechanic's lien can be attached. If this is the case, the court will issue an order requiring the owner to show cause as to why the mechanic's lien should not attach. The order will also set a preliminary hearing date within 45 days. After the order has been issued by the court, the second step requires the owner to file an Answer to the Petition. The answer must include an affidavit refuting the petitioner's lien claim. After the owner's answer is filed, the third step involves a preliminary hearing which is designed to provide the lien claimant with an interim lien until a full trial can be held. This interim lien is called an “interlocutory mechanic's lien,” and is designed to keep the status quo and prevent the owner from selling or encumbering the property before the trial. If the court finds probable cause that the claimant is entitled to a mechanic's lien, the court will issue this interim lien. The fourth and final stage of the lien process is a full trial. At the trial, the parties will present witness testimony and evidence, and the court will determine whether a final mechanic's lien should be entered against the owner’s property. Once a final lien is entered, the lien claimant has the ability to force the sale of the owner’s property to satisfy the lien if payment is not made.

While the mechanic's lien laws of Maryland provide a valuable tool for assisting parties involved in the construction process when payment is not received, it is important to understand that there are very specific deadlines and requirements imposed by the statute which must be followed or your ability to establish a lien will be foreclosed.

David B. Applefeld, Esquire

David Applefeld is a partner at the Law Firm Shapiro Sher Guinot & Sandler, P.A. He focuses his practice on business litigation and construction law. For more information, contact (410) 385-4267 or dba@shapirosher.com.

WHERE TO OBTAIN COMMISSIONING CREDITS

The big question is where can CxA commissioning credits be obtained? As the program is in its infancy, there are limited resources. The largest source of credits is the upcoming CxEnergy Conference, where there are several days of sessions available, this is highly encouraged. There are webinars throughout the year as well, but the local resources are limited. As local societies such as ASHRAE and ASPE identify the increased demand, they will begin to offer a “commissioning” night or two. These sessions tend to increase meeting attendance.

THE FUTURE OF COMMISSIONING

Commissioning comes in many forms today: Fundamental Commissioning, Enhanced Commissioning, Retro Commissioning, Re-commissioning and more recently continuous commissioning. The NFMT convention in Baltimore last month offered a class entitled “Automated Commissioning: Getting the HVAC Controls Software Right.” The industry continues to specialize as time moves forward.

The dynamic commissioning service industry has come a long way in a short period of time. Hold on tight, as we all move down the evolution road together at a high rate of speed.

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Principal | Mechanical Engineer
Design Solutions LLC – Consulting Engineers
MEP Design | Commissioning | Building Assessment
info@ds-engrs.com | www.ds-engrs.com

Steve provides business development, mechanical & plumbing design, commissioning & building assessment services for Design Solutions LLC.
4. Standardization

According to the 2017 JB Knowledge Report, 30% of companies report that none of the applications they use integrate with each other. This means unreliable data, communication problems and inefficiency could be plaguing your project simply due to fragmented processes and software.

For construction companies, it’s not just about using technology on projects – it’s about using the right technology that simplifies and standardizes processes and workflows. For instance, when a company adopts a standardized approach to preparing construction documents, architects, engineers and contractors are aligned to meet critical project deliverables. With technology that fosters project standardization, workflow naturally becomes more streamlined and efficient, helping to contribute to an improved return on investment with the time saved.

5. The Cloud

Don’t go mobile without the cloud. This means your mobile construction software needs to be accessible anywhere and at any time for optimal ROI gains. A mobile cloud computing system provides both online and offline access making it easy for teams in different locations to collaborate securely.

Specific to construction, mobile cloud-based software provides your team the ability to double-check from any location blueprints, change orders, RFIs and other documents, giving everyone immediate access to the data needed to finish a task. Cloud-based mobile technology also prevents long trips to and from the office simply to deliver a photo or check a measurement on a schematic. Those details are simply and easily confirmed on a mobile device from wherever a worker may be on the jobsite.

How To Calculate Your ROI

In short, there’s no better time than now to take a second look at your construction technology. Don’t get left behind. Adopt the software that is best for improving jobsite collaboration, mobility, workflow and standards. By doing so, you’ll see dramatic productivity results that will positively affect your bottom line.
the business without some of the restrictions created by the covenants discussed above. However, investors into the business will want some degree of control over significant operating decisions. They will also be entitled to distributions and a portion of the proceeds from any sale of the business as long as they own equity in the entity, which can last long after a loan would have been repaid. Furthermore, investors often demand fixed distributions at a preferential rate of return, leaving less cash available to the small business and its owner.

There are strict federal and state laws governing the process of obtaining financing through investors. Small business owners should seek the advice of experienced counsel to ensure they are in full compliance with the law and are not exposing themselves to undue liability. As a federal matter, generally securities that are sold to the public must be registered with in compliance with federal securities law. However, there are certain exemptions, including exemptions for private placement offerings to accredited investors (persons or entities that satisfy certain requirements regarding income, net worth, asset size, governance status, or professional experience). These offerings are conducted through a private placement memorandum and are not offered to the market at large. Each state also has requirements regarding the registration of securities offerings. An experienced attorney can help a small business owner ensure that the proper filings are made and that each investor is a duly qualified accredited investor.

The small business offering securities must provide potential investors with a private placement memorandum. This is a document that contains everything the investor needs to know about the business that is necessary to make an informed investment decision. A private placement memorandum contains information about the business and its financial prospectus, organizational structure, market, and most importantly, potential risks associated with the business. If the business makes a material misstatement in its communications with potential investors or omits information that is material (information that would affect an investor’s decision whether or not to invest), the investor can sue the person offering the securities (the small business owner) personally. A thorough private placement memorandum that describes any and all potential risks of investment reduces the chance that an investor’s claim will succeed. It is important to get the assistance of qualified legal counsel to draft the private placement memorandum to protect the small business owner from potential liability from investors.

Diva Bole, Esquire

Diva Bole is an associate in PK Law’s Corporate and Real Estate Group. She focuses her practice area on business formation, mergers and acquisitions, joint ventures, commercial lending, financing and leasing, complex contracts, and corporate restructuring. Diva can be reached at 410-938-2645 or dbole@pklaw.com.

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Tool box talks and safety walk-thru’s on sites can be done in a few minutes but provide significant benefits. People forget or they try short-cuts to get things done quicker. Keep reinforcing the basics to your team.

Advanced Training

Programs such as OSHA 10 and OSHA 30 provide your employees with additional tools to perform and manage safe jobs. They are great benefit to your employees as well. Carrying and OSHA card offers some prestige to their job.

Accident Investigation Program

Finally, when and accident or incident occurs you must have a thorough and mandatory investigation policy in place. Documentation can be critical to properly defending your company in a claim. Even where no injuries or damage occur, “near misses” can be addressed with your employees and through additional training to prevent injury or loss in the future. Successful safety training can be built both claims scenarios and “near misses” so the same mistakes are not repeated.

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.
business assets placed in service after September 27, 2017 through December 31, 2022. Previously, this rule was limited to bonus depreciations of 50%. With 100% bonus depreciation in effect for assets after September 27, 2017 and Section 179 expense being limited to $510,000 for the 2017 tax year, it may be most advantageous to Section 179 expense fixed assets. Under this circumstance, assets purchased after September 27, 2017 can be bonus depreciated 100% to maximize depreciation expenses for the year. Nevertheless, it is recommended that business owners perform a full review of their assets and discuss with their trusted advisor before taking advantage of Section 179 expensing or bonus depreciation.

Following tax year 2022, 100% bonus depreciation will be phased down and will decrease to the following:

- 80% in 2023
- 60% in 2024
- 40% in 2025
- 20% in 2026

Additionally, starting 2018 the new tax bill increases Section 179 expensing limit to $1,000,000 with the phase out limitation starting when total asset purchases exceed $2,500,000. Also note that the new tax bill now limits like-kind exchanges of real property that is not primarily held for sale. This may have an impact on contractors that typically exchanged equipment or trucks in prior years.

5. Net Operating Losses

One change in the new tax bill that could have an adverse effect on construction contractors is the treatment of net operating losses. Prior to the new tax bill, taxpayers were allowed to carryback net operating losses for two years and carryforward losses for twenty years. The new tax bill now disallows the carryback of net operating losses. It however allows for indefinite carryforward of those net operating losses. Effectively managing cash flow is very important in the construction industry. The inability to carryback current year losses against prior year taxable income could prove costly to cash management.

These are just a few of the many changes in the tax bill that will have an effect on construction contractors. It is time for contractors to assess the effects and strategize how to incorporate a new tax plan for their businesses.

Peter Ryan, CPA, MBA
and Jason Dudas, CPA
both specialize in the construction industry. For questions regarding the Tax Cuts and Jobs Act please visit us online at www.ryanandwetmore.com or contact Peter and Jason directly.

Ryan & Wetmore, P.C. is a Washington D.C. metro area firm with offices in Bethesda, Maryland, Frederick, Maryland, and Tysons’ Corner, Virginia specializing in construction contracting. We are members of the BDO Alliance's Construction Accounting Network, Construction Financial Management Association, and Rainmaker Companies Real Estate & Construction CPAs.

*Any accounting, business or tax advice contained in this communication, including attachments and enclosures, is not intended as a thorough, in-depth analysis of specific issues, nor a substitute for a formal opinion, nor is it sufficient to avoid tax-related penalties. If desired, Ryan & Wetmore, PC would be pleased to perform the requisite research and provide you with a detailed written analysis. Such an engagement may be the subject of a separate engagement letter that would define the scope and limits of the desired consultation services.

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Call Dwight at 410-937-8320
“Wisdom & Wine”
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Our Featured Presentation:

“Secure Your Email Environment In Today’s Ever-Changing Threat Landscape”

Hosted By:

Thursday, April 12th, 2018
Embassy Suites Hunt Valley
213 International Circle
Hunt Valley, MD  21030

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

Ample Free Parking!

Ransomware and Spear Phishing are becoming very large cyber threats to end users and are expected to reach >$1 billion in profits this year alone. Without a comprehensive security strategy in place, resource-limited small to mid-sized businesses are the ones who are more likely to (literally) pay the price.

Join Maryland Construction Network, Business Information Group & Barracuda Networks, Inc, for an affordable and informative presentation designed to give you the tools and information needed to prevent your business from becoming victim to ever-increasing business crippling cyber threats.

In this session you will learn:

- The different types of attacks and their anatomies.
- Why traditional tools and approaches are no longer effective.
- How to implement a layered approach to defense.

Don’t miss this unique and affordable opportunity to learn about ever-changing cyber threats which can impact your business plus, experience the premier industry networking that follows our “Wisdom & Wine” presentation.
Opportunities

Moving Sale:
Office furniture, equipment & supplies. Tools, ladders, scaffolding. Construction materials including framing and trim lumber, LVLs, doors, windows, marble, hardware, exterior siding & trim. Plus much more! Call Dwight at 410-937-8320

Bids Wanted:
Lend Lease (US) Construction, Inc., is seeking bidders for two (2) projects.
1. Marriott International Headquarters - OFFICE The project is a new 21 story Class A Core and Shell Office building (approx. 780,000 GSF) and 5 levels below grade garage (approx. 354,000 GSF with 805 Parking Spaces). Project is LEED Gold.
2. Marriott International Headquarters – HOTEL The project is a new 13 story (approx. 200,000 GSF) Full Service 244 key Marriott Hotel.

Please follow this link for more information about the projects and bidding information.

Help Wanted:
Construction Marketing Manager
Job Description: Plano-Coudon is looking for a skilled and ambitious construction marketing manager to boost brand recognition, craft standout proposals and influence growth strategies at a dynamic, best-in-class construction firm.

Qualifications Needed for this Position: B.S. in Marketing preferred. 5 Years demonstrated Marketing Experience in the Construction Industry.

Pay Rate/Range: To be determined.

Please contact: Kyle Polasko @ kpolasko@plano-coudon.com about this position.

Contact Verna Regler to find out how you can get your information listed in MCN’s exceptionally well-read newsletter “Networked & Connected”

Coming Soon

April 12th, 2018 – “Secure Your Email Environment In Today’s Ever-Changing Threat Landscape”
Embassy Suites - Hunt Valley
4:30 - 6:30 p.m.

April 26th, 2018 – Blue Book Showcase
FedEx Field - Landover, MD
1:00 – 5:00 p.m.

May 2nd, 2018 – Direct Connect Networking & 21 Must-Know Revelations From The 2018 Maryland Construction Industry Survey Presentation
B.C. Brewery - Hunt Valley, MD
4:00 - 7:00 p.m.

May 9th, 2018 – Blue Book Showcase
Richmond Raceway - Richmond, VA
1:00 – 5:00 p.m.

May 10th, 2018 - KatzAbosch Construction Symposium
Hayfields Country Club - Cockeysville, MD
3:00 - 7:00 p.m.

May 24th, 2018 - BIG University
York College of Pennsylvania - York, PA
11:00 a.m. - 6:00 p.m.

June 13th, 2018 – MCN & Whiting-Turner Project Tour
The Fox Building - Baltimore, MD
4:00 - 7:00 p.m.

July 26th, 2018 – Direct Connect Networking
The Crazy Tuna - Details Coming Soon!

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