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THE BEST DEFENSE IS A GOOD ACCOUNT BALANCE

Cope with delayed jobs through sound financial management

When a severe delay hits a construction project, a contractor's level of financial risk tends to skyrocket. If the owner can pin the slowdown on you, your company could be liable under the job's contract for "liquidated damages." Such clauses typically provide that, for each day of delay beyond the stated completion date, the contractor will pay the owner a "liquidated" sum in lieu of actual damages.

Even if you're not at fault, the owner may withhold payments while the situation is sorted out, directly throttling your cash flow if you're a general contractor or indirectly if you're a subcontractor. Unfortunately, there's no way to completely prevent the possibility of a project delay. The best defense is to strengthen your financial position to the point where you can absorb the risk of a slowed-down job without it threatening your livelihood.

Preparing for common delays

All sorts of unforeseen events can impede a contractor from completing his or her work. Some of the most common include:

Inclement weather. "Mother nature" plays no favorites and cares not for a construction schedule. Document the number of days and the severity of adverse weather conditions. Meanwhile, keep your crew ready to regroup and launch as soon as conditions clear up. Doing so will demonstrate that your company did nothing to exacerbate the delay.

Owner financial issues. As you may have experienced, owners sometimes run out of money midproject and must renegotiate financing or seek new funding sources. Meanwhile, no one gets paid. You can improve your chances of avoiding such situations by fully researching a project before submitting a bid.

Discord or antagonism. You've probably worked on a job or two that wasn't all sunshine and rainbows. Sometimes owners dispute choices of materials or in what order certain tasks should be completed. Other times an owner may not communicate well or simply lack patience. It's for these predicaments that superior communication skills and a thorough knowledge of dispute resolution options are critical.

Defining financial risk

Whatever the cause of the delay, your construction company needs to be able to recognize and quantify its financial risk. Informally, one can define financial risk as the likelihood of negative possibilities — from being unable to meet your short-term

KEEP YOUR CASH RESERVE CLOSE TO THE VEST

Every construction company should establish a cash reserve to guard against delayed projects and slow-paying owners or general contractors. (See main article.) But, as anyone who has ever accumulated a large amount of cash can likely attest, as word gets out about the sizable balance, legal claims may suddenly start to occur.

For example, a disgruntled former employee might decide to file a lawsuit. Or a vendor or subcontractor might begin to invoice you for extra or outlandish charges that you've never seen before. For these reasons, and others, it's important to be discrete about your cash reserve. Restrict access to the account, as well as information about it, to only those who need to know. And ask those parties to keep the details confidential.

obligations (vendor invoices, payroll) to, at its most extreme, failing as a going concern.

Financial risk tends to proportionately increase as a construction company owner panics or succumbs to reactionary measures. For example, if an owner's payment is delayed, some contractors might decide to drag out their performance because they're not getting paid.

However, a smarter move would be to recognize the short-term risk of liquidated damages as well as the longer-term risk of nonrenewal of awarded contracts. These dangers can lead to ongoing and potentially devastating cash flow constrictions.

Protecting yourself

No one can predict the future. If a construction company is always relying on its next payment to stay in business, one delayed project can spell disaster.

Many contractors turn to lines of credit to insure themselves against job delays and slow payments. But a line of credit is like a mortgage that never gets paid off, because interest is charged on the open balance. Even if you keep up with the payments, you're still accruing interest. And interest charges will explode exponentially if you must repeatedly use the line to bail yourself out whenever an owner or general contractor doesn't pay up.

For this reason, among others, you'll be much better served by prudent, proper financial management. This all begins with what can be a big challenge for many contractors: creating and maintaining a cash reserve. A general rule of thumb says every small to midsize business should keep on hand enough cash to cover anywhere from three to six months of operating expenses.

If you're struggling to maintain your cash flow as it is, this may sound like a tall order. Yet a cash reserve is really the only foolproof defense against project delays and slow-paying owners or general contractors. When you have the money to cover payroll, supplies and the like, you also have the peace of mind to exercise patience with owners or general contractors and avoid the temptation of expensive lines of credit.

Precisely how a construction company should go about establishing and maintaining a cash reserve is a topic for another article. In short, your CPA can help you set up an interest-bearing account for this purpose and determine a reasonable way to set aside incoming cash flows from each job without feeling the pinch.

Getting sound advice

In light of the coronavirus (COVID-19) crisis, delayed projects have become commonplace and building up a cash reserve may be out of the question. You might already be using savings to manage expenses or cover payroll. Your CPA can offer sound advice on managing your finances in today's difficult economic environment. ■

DON'T LET ACCOUNTS RECEIVABLE FRAUD TAKE WHAT YOU'VE EARNED

Revenue coming into a business is an obvious temptation for a dishonest person. Picture the stacks of bills in the till of a cash register. "It's right there," the nefarious individual thinks. "All I have to do is take it."

For this reason, accounts receivable fraud is among the most common crimes committed internally against business owners — and contractors are hardly immune. While you're in a preconstruction meeting or out at a jobsite, a disgruntled or desperate staff member could be plotting to take what you've earned.

Common schemes

Put simply, accounts receivable fraud happens when dishonest employees divert customer payments for their personal use. They can accomplish this in various ways, including:

Lapping. This is a frequent form of receivables fraud. It involves the application of receipts from one account to cover misappropriations from another. For example, rather than credit Customer A's account for its payment, a dishonest employee pockets the funds and later posts a payment from Customer B to A's account, Customer C's payment to B's account and so on.

Write-offs and discounts. Instead of crediting a payment to the customer's account, fraudsters might pocket the funds and then record a bad debt write-off or discount to reduce the customer's account. This allows the customer's account to reflect the expected current balance despite the diversion of incoming payments.

> Customer grievances regarding billing can represent a red flag that receivables fraud has occurred.

Additionally, employees may report sales to phony accounts to artificially inflate the company's financial results — or when their compensation is based on sales (rather than collections). Sales to phony customers generate bogus receivables that will never be collected.

Prevention tips

Construction companies can implement different preventive measures to head off accounts receivable fraud, depending on their areas of vulnerability. For example, segregation of duties can eliminate the opportunity for one employee to steal. Assuming your staff is large enough, the employee who handles incoming payments from customers should be separate from the person who handles invoicing.

Larger construction businesses even set up customer service departments to handle complaints. Why? Customer grievances regarding billing can represent a red flag that receivables fraud has occurred — and fraudsters who receive the complaints will likely stifle them.

In addition, your construction company should require mandatory vacation time for employees who handle receivables. These schemes typically require perpetrators to remain vigilant to avoid detection, so time away from the office may offer the necessary distraction to prevent them from committing fraud or to enable you to detect it.

Methods of detection

Receivables fraud schemes are difficult — but not impossible — to detect. The transparent and regular use of detection tools can also deter those contemplating fraud.

If you discover anomalies in your receivables ledger or notice a receivables clerk is acting suspiciously, your CPA may be able to help, or he or she might refer you to a forensic accountant. In either case, the investigation will likely begin by tracing a sample of cash receipts to the sales ledger and deposit slips. The purpose of this exercise is to find discrepancies in dates, payee names and amounts. An investigation may also compare deposit slips against the books and send requests for confirmations to a sample of customers to verify current balances and payment histories.

Another hot spot is any account with bad debt write-offs. Your CPA or a forensic accountant will likely review the account, including the reasons provided for specific write-offs. He or she also will be on the lookout for accounts with unexplained credits, increased customer credit limits and journal entries adjusting the accounts receivable ledger.

Most important, any viable investigation should involve confidential interviews with company personnel. These discussions will seek out potential weaknesses in your internal controls, signs of collusion and other information. After all, tips are a common method of fraud detection.

It happens

With the tragic outbreak of the coronavirus (COVID-19), incidences of fraud may increase. Although you likely employ honest people, fear and uncertainty can affect anyone's judgment. Now is the time to be extra vigilant of accounts receivable fraud and many other forms of financial malfeasance. ■

PLAYING THE NAME GAME WITH A DBA

Contractors often need to retool their branding to better represent their services or reach new customers. Sometimes the best way to do so is to operate all or part of your company under a new name. This is where a "doing business as" (DBA) filing becomes a viable option.

What's that?

Do you introduce yourself to people using the full name on your birth certificate or do you use a shortened version or a nickname? The one you give probably depends on the setting and audience.

The commercial version of this is called a "doing business as" — also known as a "trade name," "assumed name" or, rather misleadingly, "fictitious business name." Filing a DBA allows you to conduct business under a name other than your own or your legally registered company name.

Sole proprietorships and general partnerships whose business names differ from the owners' legal names (what's on their birth certificates)

should be well versed with DBAs. However, there are times when incorporated businesses need — and benefit from — DBAs as well.

Why should I?

You need a DBA to legally operate under any kind of variation from your registered company name. It's also the simplest and least expensive way to operate multiple businesses without having to launch separate corporations or limited liability companies. In addition, a company must file a DBA to transact business under its domain name (website address) if that doesn't match its registered business name.

Filing a DBA ensures your construction business's existing legal protections extend to the new name. For example, if your company is incorporated as "Apples and Oranges Construction," but you have signed contracts under "A&O Contractors," those agreements may not hold up in court should a dispute arise.

There are other reasons to file a DBA. You might want to register multiple website domains to segment your services into different subsets (for instance, use the word "concrete" in one URL and "asphalt" in another), so you can market to customers with specific needs. Also, businesses with names that are long, hard to spell or not search-engine friendly can benefit from using a catchier trade name.

Last, banking institutions sometimes require individuals to make a DBA filing (and obtain an employer identification number, which is assigned when you file) to open a business banking account or apply for a commercial loan.

How's it done?

DBA requirements, fees and payment methods vary by state, county and city. Generally, you must provide a certificate of good standing, which can be requested from the Secretary of State. You also often need to announce your DBA in a local newspaper to notify the public of who's behind the name.

If information in your filing changes, such as your address or business partners, you must either file an amendment or register all over again. You'll likely have to renew the registration periodically anyway, usually every five years.

Filing a DBA ensures your construction business's existing legal protections extend to the new name.

Bear in mind that you can't add "Inc.," "Corp." or "LLC" to the end of your DBA if the business isn't incorporated or a limited liability company. And, in some states, a DBA filing doesn't prevent another business from registering the same name.

Who can help?

A DBA may come in handy under the right circumstances. Consult a qualified attorney to walk you through the process and to help ensure that you're following all legal requirements. ■

7 RED FLAGS OF AN IMPENDING JOBSITE ACCIDENT

An unfortunate fact of life is that accidents can happen, especially in construction. The industry experienced a couple of tragic, high-profile incidents in 2019 — the Miami pedestrian bridge and the New Orleans hotel — that made national headlines and drew increased scrutiny.

Now, as the construction industry deals with the coronavirus (COVID-19) crisis, worker safety has taken on another dimension: protection from infectious disease. While this effort goes on, you've still got to keep workers safe from long-standing risks. Here are seven red flags to watch out for:

1. New faces on the jobsite. From new employees to shift changes, contractors must ensure that their crews — and those of their partners — are properly trained and briefed on the current state of the site. Starting each shift with a safety huddle is one way to ensure everyone understands his or her role in staying safe while working.

2. Poor housekeeping. Are cords all over the place and not taped down? Is the work area full of unnecessary clutter? Keeping a clean, organized jobsite goes hand-in-hand with safety. Your construction company no doubt has rules and procedures for these things, but sometimes rules get bent when a problem develops or the schedule gets tight. Be sure someone is always managing to eliminate these hazards.

3. Communication breakdowns. Convoluted communication channels can lead to dangerous situations. Ensure that systems and processes are in place enabling project team members to easily share project information — and voice concerns — in real time.

4. Bare heads, eyes or hands. These are three relatively easy things to double-check during regular safety reviews. Is every worker and visitor wearing a hard hat and safety glasses? Are the proper gloves being used? Are those working at heights wearing fall-protection gear?

5. Harmful noise levels. Yes, construction sites are noisy. But if you're raising your voice to speak to someone next to you, it's probably in everyone's best interest to wear hearing protection. Also consider whether an elevated noise level is inhibiting communication or being caused by faulty equipment.

6. Missing signage. Warning signs, markings and tags are essential to alert both workers and visitors of site-specific hazards and high-risk areas. Again, your construction company undoubtedly has its own rules about signage, but workers can forget to install them or signs can simply fall down.

7. Time pressure. Deadlines are part of every job but, when a project gets behind schedule, workers may feel compelled to rush. An executive or project manager should reinforce safety checks under these circumstances. Granted, doing so may seem counterproductive to catching up, but the risk of an accident intensifies when the pace of work markedly increases. ■

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About Wouch, Maloney & Co., LLP

Wouch, Maloney & Co., LLP is a regional certified public accounting firm with offices in Horsham and Philadelphia, Pennsylvania and Bonita Springs, Florida. The firm has provided closely held business and individual clients with a wide array of accounting services for over 30 years. Wouch, Maloney & Co.'s domestic, multi-state and international clients reflect a broad range of industries from real estate and construction to manufacturing, wholesale and professional service. The firm offers a comprehensive group of services including tax, audit and accounting, business consulting, estate planning, business valuation, litigation support and forensic accounting.

Serving the Construction Industry

Wouch, Maloney & Co., LLP prides itself on its niche practice in the construction industry. The majority of our clients are involved in construction and we are adept at recognizing and solving problems common to that industry. For over thirty years, we have represented contractors along with commercial and home builders in Pennsylvania, New Jersey and Florida.

- We develop **relationships with lenders and bonding agents** and understand how to present your financial picture in their preferred format.
- We assist you in **keeping a close eye on debt, cash flow, profit margins** and other measures of financial health.
- We prepare **contracts in progress** schedules that management can understand which clearly illustrate gross profit, job costing and over/under billings per job.
- We have highly trained staff with **expertise in construction accounting** who are detail oriented, but who do not lose sight of the larger goal which is to provide our clients with quality services to meet their many financial needs.

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