



March is ASA's Make a Friend Month

No, I am not speaking about finding a new golf partner or joining a book club. I only ask ASA members to take an hour out of your schedule this week and make your local elected officials your new friends.

Now that the elections are over, these are the officials that will be making decisions on the laws in the state of Maryland for the foreseeable future. Get to know them now! They will be the same ones we are working with next year. Building a rapport with them will not only benefit you and ASA this session, it can do so for many years to come.

ASA has worked to have SB 695 and HB 342 (identical bills) introduced in Annapolis this year to reduce the maximum retainage held on private contracts to 5% when the contract exceeds \$250,000. In the House, HB 342 is reviewed by the House Economic Matters Committee. This committee has voted favorably on our previous attempts with this legislation. The Senate Judicial Proceedings Committee will hear SB 695. This has been where our previous efforts have been met with resistance. The initial hurdle is to have the bills passed by both committees.

Therefore, the first point of order is to contact the officials serving on these committees. You can call them, email them, and/or invite them to go to lunch with you whether or not they are from your district, but make certain you tell them how retainage hurts your company. Explain to them why retainage is not necessary, how there is ample time and opportunity to ensure that your work is properly performed and that reputable companies complete their work regardless of whether or not retainage is held. Make them aware of the ways that retainage is used to unjustly manipulate subcontractors.

For your convenience, copies of the contact information for all of the committee members hearing this bill have been

included in this newsletter mailing. Please encourage all of your employees, business acquaintances and friends to contact these legislators as well.

You especially want to contact the elected representatives from your legislative district regardless of whether they serve on one of the committees. If you are not sure who your representatives are, there is an easy way to find out. Go to <http://yahoo.capwiz.com/y/dbq/officials/>. Then you only need to enter in your zip code and you will see the listing of both your federal and state elected officials. You can even send an email to those officials right from that website.

You can never have enough friends. Spend some time and make your elected officials your friends. Help them learn what is good for you and the people of Maryland. If ASA members do this, everyone will benefit.

Robert W. Bertazon
ASA Executive Director

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Our President



A CALL TO ARMS

For the third time in as many years, ASA is introducing legislation in Annapolis to reduce retainage on private work to 5%. House Bill 342 is set for a hearing on

March 15th. While we have had continued success with this bill in the House, we need your help in the Senate.

Senate Bill 695 is set for a hearing on March 13th. The committee hearing this legislation is the Judicial Proceedings Committee. This committee is chaired by Sen. Brian Frosh (D) from Montgomery County. Other committee members include Sen. Lisa Gladden (D) from Baltimore City, Sen. Jim Brochin (D) from Baltimore County, Sen. Jennie Forehand (D) from Montgomery County, Sen. Larry Haines (R) from Carroll County, Sen. Nancy Jacobs (R) from Harford County, Sen. Alex Mooney (R) from Washington County, Sen. Anthony Muse (D) from Prince Georges County, Sen. Jamie Raskin (D) from Montgomery County, Sen. Bryan Simonaire (R) from Anne Arundel County and Sen. Norman Stone (D) from Baltimore County.

This is the way it works. Simply pick up the phone and call your Senator who represents you at your home or office location. Ask them to support Senate Bill 695. We at ASA will testify in front of the committee and present our arguments for the reduction in retainage. But the most effective way to influence their decision is if they hear from their constituents.

Please take ten minutes, go to the Maryland Legislature website, look up their phone number, call and leave your address (in their district) and phone number where they can reach you. They will call you back because they need your vote. If they hear from enough voters in favor of a piece of legislation, they will vote that way.

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Attorney's Corner

CONTRACTOR IS OUT \$2.9 MILLION BECAUSE IT IGNORED AVAILABLE BORING LOG

In a recent case, a contractor on a project for the U.S. Army Corps of Engineers failed to obtain valuable information about subsurface conditions before bidding a project. The Corps invited bids to place several million cubic yards of beach fill to restore a turtle habitat. The information for bidders stated that boring logs of the project site's location, although not provided as part of the contract documents, were available for inspection upon request.

The low bidder which was awarded the contract failed to look at the logs in advance. It turned out that the subsurface conditions were far different than the bidder anticipated and the bidder submitted a \$2.9 million claim for equitable adjustment based on differing site conditions. The government refused to allow the claim contending that the contractor should have inspected the available boring information even though they may not have been listed as a contract document.

The government was able to prove that had the bidder requested and received the data, it would have seen that all subsurface material below was made known and his bid would have reflected the actual subsurface conditions. The Contract Appeals Board held in favor of the government stating that in order for a contractor to recover an equitable adjustment for unanticipated subsurface conditions, he must show that (1) the conditions in the contract documentation differed materially from those actually encountered during performance, (2) the conditions that were encountered were reasonably unforeseeable based on the information made available to the bidder, (3) the bidder reasonably relied on its interpretation of the contract and other available documents, and (4) the contractor was damaged thereby. The Board found that the bidder did not reasonably rely on the contract because it failed to look at the boring information which was made available to it even though it was not part of the contract documents.

It should be noted that the bidder, had he inspected the logs and had the logs been wrong, the bidder would have been able to recover extra compensation resulting from reliance on the logs even though the logs were not officially a part of the contract documents.

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Safety Corner

Hazard Communication - Written Program for Construction

Many OSHA regulations require a written program. Hazard Communication regulations, 29 CFR 1926.59; require one, *even if you only use one hazardous chemical onsite*. Specifically, employers must develop, implement, and maintain at each work place, a written hazard communication program which at least describes the following:

Program element:	Describes the following:
Container labeling and other forms of warnings	A description of how the criteria in 29 CFR 1910.1200(f) will be met at your worksite. This includes what type of labeling system is being used, if any.
MSDSs	A description of how the criteria in 29 CFR 1910.1200(g) will be met at your worksite.
Employee information and training	A description of how the criteria of 29 CFR 1910.1200(h) will be met at your worksite, including methods for communicating hazards and protective measures to employees and others.
Chemical list	A list of the hazardous chemicals known to be present at the worksite using an identity that is referenced on the appropriate material safety data sheet, also called MSDS (the list may be compiled for the workplace as a whole or for individual work areas).
Multi-employer workplaces— Methods for providing information to other employer's employees, such as contract workers	Employers who produce, use, or store hazardous chemicals at a workplace in such a way that the employees of other employer(s) may be exposed (for example, employees of a construction contractor working onsite) must additionally ensure that the hazard communication programs developed and implemented include: <ul style="list-style-type: none"> • Methods you will use to provide the other employer(s) onsite access to MSDSs for each hazardous chemical the other employer(s)' employees may be exposed to while working; • Methods you will use to inform the other employer(s) of any precautionary measures that need to be taken to protect employees during the workplace's normal operating conditions and in foreseeable emergencies; and • Methods you will use to inform the other employer(s) of the labeling system used in the workplace.
Non-routine task and unlabeled pipe hazard notification	The methods the employer will use to inform employees of the hazards of non-routine tasks (for example, the cleaning of reactor vessels), and the hazards associated with chemicals contained in unlabeled pipes in their work areas.

Preparation of a plan is not just a paper exercise—all the elements must be implemented at the worksite in order to be in compliance with the rule. The only work operations which do not have to comply with the written plan requirements are work operations where employees only handle chemicals in sealed containers. However, these operations still must comply with other hazard communication requirements as specified in 29 CFR 1910.1200(b).

If you use a generic written program, you must adapt it to address each specific worksite. For example, the written plan must list the chemicals present at the site, indicate who is to be responsible for the various aspects of the program at your worksite, and indicate where written materials will be made available to employees. Appendix E, Guidelines for Employer Compliance, provides the type of information compliance officers will be looking for to decide whether the elements of the hazard communication program have been properly addressed.

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Tech Corner

Domain Versus Workgroup



It is often asked, what are the benefits of a domain versus a workgroup? A domain is a group of computers and devices on a network that are administered as a unit with common rules and procedures. The first and most obvious benefit is the ability to centrally manage most functions on your network. In a domain, all the machines have domain-level administrative accounts on the local administrator group. This means that you can effectively manage any and all of the computers on the domain as long as your user account is a member of the Domain Admin group. Another benefit is the added security. In a domain environment, the administrator can grant or deny user's access to resources, such as files, e-mail boxes, desktops, printers, websites, and the ability to install and uninstall programs. The control is nearly limitless. There is, however, a downside to the domain configuration. A domain is much more costly because it requires expensive hardware, software, and expertise to set up and operate properly.

Workgroup computing occurs when all the individuals have computers connected to a network (a group of two or more computer systems linked together) that allows them to send e-mail to one another, share data files, and other resources, such as printers. Normally, a workgroup is limited to 10 network devices/computers. I believe that the few benefits of having a workgroup at your office is the low cost and ease of setup. Most computers are shipped ready to function on a workgroup. The downside of a workgroup is its limited security, since each individual machine has local user accounts that have to be managed. There is no central management so it is possible that each machine has a different username and password for the administrative account. The biggest downside is that valuable data reside on the individual machines, thus increasing vulnerability to hardware failure or accidental loss.

Workgroup computing occurs when all the individuals have computers connected to a network (a group of two or more computer systems linked together) that allows them to send e-mail to one another, share data files, and other resources, such as printers. Normally, a workgroup is limited to 10 network devices/computers. I believe that the few benefits of having a workgroup at your office is the low cost and ease of setup. Most computers are shipped ready to function on a workgroup. The downside of a workgroup is its limited security, since each individual machine has local user accounts that have to be managed. There is no central management so it is possible that each machine has a different username and password for the administrative account. The biggest downside is that valuable data reside on the individual machines, thus increasing vulnerability to hardware failure or accidental loss.

A domain is usually recommended over a workgroup for its increased security, ease of management, and disaster recovery ability. This usually leads to a much more productive staff and a secure network.

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MARCH 15TH - 8:30 AM

**CONTRACT NEGOTIATION,
FORMATION AND DUE DILIGENCE**

**PRESENTED BY: DOUG SEITZ, ESQ. - OFFIT
KURMAN, P.A.**

APRIL 5TH - 8:30 AM

**INDEMNITY & INSURANCE: YOU DON'T
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**PRESENTED BY: TRACY STEEDMAN, ESQ. -
GALLAGHER, EVELIUS & JONES LLP &
RICHARD SHAW - ATLANTIC RISK
MANAGEMENT**

APRIL 19TH - 8:30 AM

**STAYING OUT OF TROUBLE:
WHAT EMPLOYERS CAN DO
TO LIMIT THEIR LIABILITY**

**PRESENTED BY: DON WALSH, ESQ. - OFFIT
KURMAN, P.A. & JOE GILLIAN - I.W.I.F.**

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How do you ask for information about applicants on the application and authorization form?

Some, among many, items to consider as follows:

DATE OF BIRTH

Many companies have a perception that it is illegal to ask for date of birth. Under the Federal Age Discrimination Act there is NOT an absolute prohibition against asking for date of birth. It is legal to ask for date of birth when there is a valid business reason. And doing criminal conviction searches, in accord with a firm's stated policy, is a valid business reason.

A white paper from the Society of Human Resources Managers (SHRM) provides the following advice in regards to asking for date of birth: "There is no law that prohibits an employer from asking for date of birth. It is how the employer uses that information that is important." The article attests that the date of birth is required to facilitate the most effective background check. SHRM goes on to state:

1. "The background check authorization form, and the request for date of birth on it, should be separate from the employment application. The response to the request for date of birth should never be forwarded with the application to the hiring manager or anyone who does not need to know the date of birth.

The Equal Employment Opportunity Commission web site for "best practices" specifically states that the Anti Discrimination in Employment Act does not prohibit asking for date of birth. It does caution that the date of birth information be requested consistently and for a good business reason. Email me if you would like the web site address.

Author Lester S. Rosen, in his book the Safe Hiring Manual states "Special problems are faced when an applicant's date of birth is not available. When researching court records, the date of birth is probably the most important factor needed to identify an individual."

HOW TO ASK THE CRIMINAL CONVICTION QUESTION

An employer should carefully consider "how" the question regarding the existence of prior criminal convictions is worded. For example, the phrase "Have you ever been convicted of a

felony or misdemeanor" does not allow for actions against the individual that are other than a conviction. And, even more restrictive, is the phrase "Have you ever been convicted of a felony" which does not allow consideration of a misdemeanor conviction in a person's background in addition to actions against an individual other than a conviction. The question might be asked in such a manner that allows for decisions of a court other than a conviction.

One alternative way to ask might be "Have you been convicted or received any verdict other than not guilty or been placed on probation/deferred adjudication or paid a fine for any crime?" And, a financial institution adds the question, have you engaged in any activities that would prevent you from being bonded?

Another alternative way is where you define the word conviction e.g. "Have you been convicted of a felony or misdemeanor"? Conviction includes any guilty or no-contest plea or verdict, or finding of guilt, regardless of what sentence is imposed.

THE PERIOD OF TIME THE APPLICANT GIVES YOU AUTHORITY TO REQUEST REPORTS

Another item is a statement that affirms the applicant's authorization for the employer to request consumer reports, including criminal conviction searches, on a pre-employment basis AND at any time during their employment. If the authorization form does not specifically state this, the assumption by a court may be that the authorization from the individual only applied to pre-employment consumer investigation reports.

The information in this newsletter is not intended to be legal advice. Competent employment law legal counsel should be obtained before any policies are implemented.

James P. Randisi
Randisi & Associates, Inc.
 410.494.0232
jim@preemploymentscreen.com

Bring the Benefit of ASA to All Your Co-Workers

Last year, ASA of Baltimore implemented an integrated association management software system that provides us the ability to bring the benefits of ASA of Baltimore to all the employees of your company. With your assistance, we can use this system to notify each individual when ASA has news or an upcoming event that is of particular interest to that person.

Included in this newsletter is a form to collect the required information. You may make as many copies of the form as needed and then fax the forms to (410) 636-9892, mail them to ASA of Baltimore, Inc.; 704 C Nursery Rd; Linthicum, MD 21090 or email the information to rob@asa-baltimore.com.

Help ASA spread the valuable information that we bring to you by encouraging everyone at your company to participate. You and your company will reap the rewards of a better trained and more knowledgeable staff.



ASA of Baltimore invites you and your guests to join us for a great day of golf, fun and prizes at the beautiful Wakefield Valley Golf Club! Register early - Space is limited! See flyer for more details!

Is it time to outsource your bookkeeping?

Do you spend more time than you like interviewing, hiring, training and firing bookkeepers?
Do you get the financial reports you need to see if a job is coming in over/under billed and what your current cash-flow is?

Unfortunately contractors already know the deck is stacked against them from retainage issues, one-sided contracts, etc... The last thing you need is to jeopardize your business because of poorly kept or out-of-date records.

We can help.

For less than the cost of hiring an employee, we can handle the bookkeeping or controller functions for your company. Some advantages include:

- Up-to-date financial reporting
- Monthly bank reconciliations
- Accounts Receivable/payable management
- Payroll processing
- Accounting for industry specific transactions
(i.e job costing, real estate settlement (HUD 1) analysis, etc...)

To see if N/L Outsource would be a viable option for your business, contact Bruce Caulk, CPA at bcaulk@nlgroup.com or (410) 453-5500 Ext. 1419 or Teresa Sowder at tsowder@nlgroup.com (410) 453-5500 Ext. 1440.

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This advertisement describes coverage offered by Metropolitan Life Insurance Company (MetLife). Depending upon state availability, coverage may be offered by the following MetLife policies: LTC2-VAL, LTC2-IDEAL, LTC2-PREM, LTC2-FAC. In some states, coverage may be offered by the above-referenced policy numbers followed by the state's 2-letter abbreviation; the state's 2-letter abbreviation plus "ML" for Multi-Life policies; or the state's 2-letter abbreviation plus "P" for Partnership policies.

MetLife Long-Term Care Insurance policies are guaranteed renewable. This means that once a policy is issued, it cannot be cancelled due to an increase in your age or a change in your health. Premium rates can only be raised as the result of a rate increase made on a class-wide basis in the state where the policy is issued and approved by the Department of Insurance.

Like most long-term care insurance policies, MetLife's policies contain certain exclusions, limitations, elimination periods, reductions of benefits and terms for keeping them in-force. For complete costs and details, please contact your MetLife Representative/Insurance Agent/Producer.

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Spring Cleaning for Your Vehicle

While the winter weather conditions vary in different parts of the nation, it is still a good idea to “tidy up” your vehicles before summer gets into full swing. Having a qualified automotive technician provide your vehicle with a spring or summer cleaning to get it ready for warmer months and, often, increased mileage, is an important task to ensure that your vehicle continues to run smoothly.

Here are a couple of tips to make sure your vehicle is ready for the changing seasons:

- Tires should be examined for wear and damage to the tread and sidewalls or signs of cracking due to dry rot. Proper inflation is very important, not only does this effect wear, but also fuel economy. If your vehicle is heavily loaded, major tire manufacturers recommend increasing air pressure as much as 4 PSI to compensate for the extra weight. Properly inflated tires run cooler than under-inflated ones, and will decrease the possibility of a heat-related failure.
- The cooling system should be checked for leaks and the condition of hoses examined. If the antifreeze has reached its recommended maximum age, it should be changed at this time. Even with extended life coolants, it is recommended to check their condition in the spring, fall and service when needed. Rust inhibitors and anti-foaming agents lose their strength over time and cooling efficiency is reduced in old antifreeze. Any signs of leakage or deterioration of hoses should be taken care of at this time, as well.
- The transmission should be checked for proper maintenance and operation. Fluid and filter changes should be performed at 30,000-mile intervals.

Other systems to check include brakes, suspension and steering, engine drive belts and filters. Keep in mind that it is a good idea while the vehicle is on the hoist to check for fluid leaks and suspension and brake issues.

The bottom line is that taking a few moments to follow some of these preventative maintenance tips at least once a year will help extend your vehicle's life and ensure that you have fewer headaches on the road.

By Mark Powell
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Each month a list of professional service members will be listed in the Hard Hat News as the Professional Council on call for the month. *They will be more than happy to address a question from ASA members.*

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Did You Know?



Soon after building started in 1173, the foundation of the Tower of Pisa (the bell tower of the Cathedral) began to settle unevenly. It became clearly visible that the Tower was leaning! Construction was stopped. The situation was examined and then construction resumed. However, the unstable soil actually made the tower wobble in it's

infancy. The soils would shift one direction and then the other. As a result, the process of stopping and starting happened many times and caused the construction process to last approximately 200 years.

As hard as the workers tried to keep the building straight (albeit out of plumb), the shifting soils actually resulted in a building that is shaped slightly like that of a banana.

Since regular measuring of the tower began in 1911, the top of the tower has moved 1.2 millimeters (0.05 inch) per year. Today the Tower of Pisa is some 17.4 feet out of plumb.

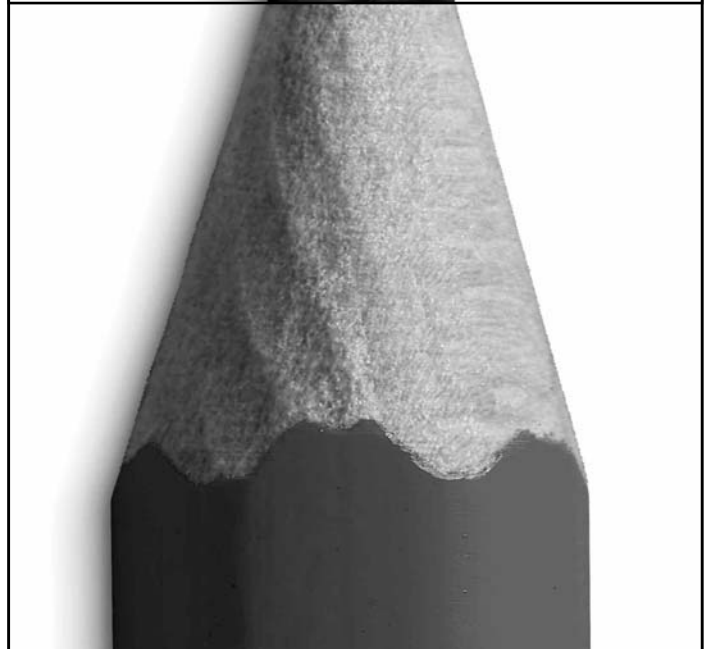
After the bell tower of the Cathedral of Pavia collapsed in 1989, the Consorzio Progetto Torre di Pisa (Tower of Pisa Project Consortium) commissioned engineers to stabilise the Tower. Engineers are working on the footing of the Tower rather than the structure, hoping to ease the top back about 20 cm (about 8 inches). But it means that the 800-year old tower will remain leaning.

More - Did You Know?

The correct response to the Irish greeting, "Top of the morning to you," is "and the rest of the day to yourself."

The cruise liner, Queen Elizabeth II, moves only six inches for each gallon of diesel that it burns.

The term "the whole 9 yards" came from WWII fighter pilots in the South Pacific. When arming their airplanes on the ground, the .50 caliber machine gun ammo belts measured exactly 27 feet, before being loaded into the fuselage. If the pilots fired all their ammo at a target, it got "the whole 9 yards."



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Member News

Hertzbach & Company, P.A. Announces Promotions

Baltimore, MD... Hertzbach & Company, P.A, one of the leading business consulting and certified public accounting firms in the Mid-Atlantic region, is pleased to announce the following promotions.



Michael D. Price, CPA, has become a principal of the firm. Mike earned his accounting degree from the University of Baltimore, Cum Laude. His area of concentration is in small business including such industries as health care, retail, real estate and service industries. Mike is an active member of both the AICPA and

MACPA.

Deborah L. Norris, CPA, has become a principal of the firm. Debbie is a graduate of Towson University with a B.S. in Accounting, Summa Cum Laude. She is an active member of the National Association of Women in Construction, Housing Association for Nonprofit Developers, AICPA, and the MACPA.



Hertzbach & Company, P.A. is one of the leading business consulting and certified public accounting firms in the Mid-Atlantic region. As trusted advisors, we are dedicated to providing the highest quality financial and consulting advice. With over 55 years of service, we are a valued advisor to our clients, finding creative ways to maximize their profitability, cash flow, and competitiveness in the marketplace.

Clifton Gunderson Expands Timonium Office

Timonium, MD — Clifton Gunderson just acquired 6,800 square feet of additional space in its Timonium, Maryland office, located in the Timonium Corporate Center at 9515 Deereco Road. This expansion brings the firm’s Timonium office to 48,000 square feet, which more than doubles the space the firm occupied when it moved its former Towson office to Timonium in 1996.

“The additional space was needed to accommodate our rapidly-growing staff and practice,” explains Terry Hancock, CPA, managing partner of Clifton Gunderson’s Mid-Atlantic region. “Since moving into the Timonium Corporate Center a little more than 10 years ago, we’ve doubled our staff and our office space. Once the current expansion is complete, our Timonium office will have the capacity to house nearly 170 employees.”

Clifton Gunderson LIP is the 13th largest CPA and consulting firm in the nation. Since 1960, Clifton Gunderson has provided clients with a variety of services. The firm specializes in serving the construction, real estate, manufacturing, distribution, and nonprofit sectors, as well as federal, state and local government agencies and financial institutions. Clifton Gunderson has offices in 15 states and Washington, DC. Locally, the firm has offices in Timonium, Maryland; Bel Air, Maryland; Harrisburg, Pennsylvania; Raleigh, North Carolina; Richmond, Virginia; and Washington, DC. For more information, visit Clifton Gunderson’s Web site at www.cliftoncpa.com.

In last month’s New Member Section the telephone number for Bore-It, Inc. was incorrectly listed. The correct number is (866) 316-1555. We apologize for the error.

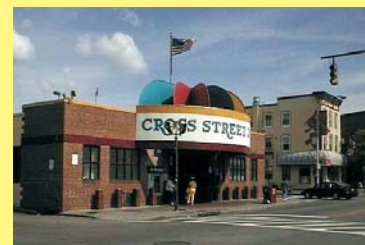
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Winning the Numbers Game: 4 Smart Accounting Practices for Contractors

If you're like most contractors, accounting isn't one of your favorite pastimes. But an accurate set of books, coupled with smart money-management practices, can help you better handle cash flow, run projects more profitably, and more easily qualify for bonding and loans. Here are four ways to win the numbers game.

1. Automate your accounting

If you haven't done so already, invest in today's sophisticated, versatile accounting software to track your business income and expenses. Smaller general contractors or subcontractors may get by comfortably with an off-the-shelf program, such as Quickbooks, Simply Accounting, MYOB or Master Builder. Larger or more specialized construction businesses, however, may need niche-specific or even customized applications.

2. Control your checkbook

You should always be involved, at least at some level, in your construction company's check-writing process. If you're not the sole signer of your company's checks, limit what one person can do. For instance, you may not need to sign off on every \$25 your business spends. But you could set a policy whereby you review and sign checks exceeding \$100, \$500 or \$1,000. Carefully monitoring your cash outflow in this manner will help you control expenses and lower the risk of employee mismanagement — or even fraud.

3. Read your bank statements

Among the best ways to keep track of your money is to take the time to read your monthly bank statements, carefully reviewing deposits, canceled checks and balances. Doing so will familiarize you with the financial goings-on at your company and alert you to problems, mistakes or misconduct.

4. Track tax-deductible expenses

Many contractors who forget to follow good accounting practices not only inadvertently hinder their cash flows, but also miss out on tax deductions. Sadly, they often have little trouble remembering their tax bills, which cut deep swaths into their bottom lines. Tracking tax-deductible expenses is relatively easy. One way to simplify your record keeping: Open a business-only credit card. It will provide you with an automatic record of payments that you can bring to and discuss with

your CPA. You may also wish to maintain a petty cash fund for small purchases.

In addition, make sure you maintain records of company expenses such as business meals and entertainment, vehicle mileage, and other items. Doing so can help you obtain significant savings come tax time.

Follow the path to profitability

Remember, the path to profitability is paved with vigilance. And no one knows your construction business better than you, which is why you'll always be the best person to ultimately oversee its accounting practices. But you needn't undertake this responsibility alone — visit your CPA or financial advisor periodically (at least quarterly) to review your operations and ensure all's well.

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