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THE CONTRACTOR'S



Compass

THE OFFICIAL EDUCATIONAL JOURNAL OF THE AMERICAN SUBCONTRACTORS ASSOCIATION

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DECEMBER 2017

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- 
**Eliminate the Agony of Year-End Tax Preparation**  
 by Scott Applegate, CapitalPlus Financial
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**Transforming Your Organization for the Future**  
 by Stephane McShane, Maxim Consulting Group
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**How Medical Case Management Helps Control Your eMod Score**  
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# THE CONTRACTOR'S Compass

**EDITORIAL PURPOSE**

*The Contractor's Compass* is the monthly educational journal of the Foundation of the American Subcontractors Association, Inc. (FASA) and part of FASA's Contractors' Knowledge Network. The journal is designed to equip construction subcontractors with the ideas, tools and tactics they need to thrive.

The views expressed by contributors to *The Contractor's Compass* do not necessarily represent the opinions of FASA or the American Subcontractors Association, Inc. (ASA).

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Editor-in-Chief, Marc Ramsey

**MISSION**

FASA was established in 1987 as a 501(c)(3) tax-exempt entity to support research, education and public awareness. Through its Contractors' Knowledge Network, FASA is committed to forging and exploring the critical issues shaping subcontractors and specialty trade contractors in the construction industry. FASA provides subcontractors and specialty trade contractors with the tools, techniques, practices, attitude and confidence they need to thrive and excel in the construction industry.

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Contributing authors are encouraged to submit a brief abstract of their article idea before providing a full-length feature article. Feature articles should be no longer than 1,500 words and comply with The Associated Press style guidelines. Article submissions become the property of ASA and FASA. The editor reserves the right to edit all accepted editorial submissions for length, style, clarity, spelling and punctuation. Send abstracts and submissions for *The Contractor's Compass* to [communications@asa-hq.com](mailto:communications@asa-hq.com).

**ABOUT ASA**

ASA is a nonprofit trade association of union and non-union subcontractors and suppliers. Through a nationwide network of local and state ASA associations, members receive information and education on relevant business issues and work together to protect their rights as an integral part of the construction team. For more information about becoming an ASA member, contact ASA at 1004 Duke St., Alexandria, VA 22314-3588, (703) 684-3450, [membership@asa-hq.com](mailto:membership@asa-hq.com), or visit the ASA Web site, [www.asaonline.com](http://www.asaonline.com).

**LAYOUT**

Angela M Roe  
[angelamroe@gmail.com](mailto:angelamroe@gmail.com)

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## 'Miracle on the Hudson' Survivor Dave Sanderson Will Be Keynote Speaker at SUBExcel 2018

US Airways Flight 1549, or "The Miracle on the Hudson," survivor Dave Sanderson, an inspirational speaker and author, has been confirmed as ASA's keynote speaker at SUBExcel 2018! Sanderson's thoughts on leadership have made him an internationally sought-out speaker. When the flight ditched into the Hudson River on Jan. 15, 2009, Sanderson knew he was exactly where he was supposed to be. The last passenger off the back of the plane on that fateful day, he was largely responsible for the well-being and safety of others, risking his own life in frigid water to help other passengers off the plane. Despite the hazards to himself, Sanderson thought only of helping others and emerged from the wreckage with a mission: to encourage others to do the right thing. That experience profoundly changed his life and today he travels the globe sharing his inspirational and motivational leadership

messages to help people make a difference in how they do business and live their lives.

Don't miss this opportunity to hear Sanderson speak! [Register online](#) for SUBExcel 2018 and [make your hotel reservations](#) in the ASA room block at Tempe Mission Palms. SUBExcel 2018 will take place Feb. 28-March 3, 2018, in Tempe, Ariz. The early-bird registration deadline and hotel room block cut-off date is Jan. 31, 2018. To register and for more information, including the [schedule](#), visit ASA's [SUBExcel 2018 Web site](#) or enter via [www.SUBExcel.com](#).

Please note that the final reception, banquet and awards ceremony will take place on Friday, March 2, instead of on Saturday as in past years. The Attorneys' Council meeting will be the only activity scheduled on Saturday, so most registrants can schedule their departure flights on Saturday—or stay the weekend to explore Tempe, the Grand Canyon, the Apache Trail, or Monument Valley! The Attorneys' Council meeting is open, so those who are interested in joining the attorneys for this meeting are welcome to do so.

## Help ASA Fund Precedent-Setting Briefs with Tax-Deductible Contribution

As 2017 draws to a close and you consider how you'll direct your year-end charitable giving, consider how much more you can do to help construction subcontractors by sending a tax-deductible year-end gift to the Subcontractors Legal Research Fund of the Foundation of ASA. ASA finances its "friend-of-the-court" briefs entirely by [voluntary contributions](#) to its Subcontractors Legal Defense Fund and FASA's SLRF. So, as you consider the size of your year-end gift, please think about the magnitude and the importance of the challenges that subcontractors face every day—issues like slow or no final payment, pay-if-paid clauses, retainage, a requirement to keep working even in the face of nonpayment, broad-form indemnity, misleading insurance coverages, and more. As it looks ahead to the many precedent-setting court cases that impact construction subcontractors, ASA has to calculate how much funding is available to fund "friend of the court" briefs on each critical issue. It will help so very much if you can [send your year-end gift](#) by **Dec. 31**. FASA is a 501(c)(3) education foundation; contributions to FASA are tax deductible as a charitable contribution. You can make your contribution through the [ASA online store](#). For more information, visit the ASA SLDF Web site at [www.sldf.net](#).

## OSHA Extends Electronic Reporting Deadline to Dec. 15

To allow affected employers additional time to become familiar with a new electronic reporting system, the Occupational Safety and Health Administration has extended the date by which employers must electronically report injury and illness data through the [Injury Tracking Application \(ITA\)](#) by two weeks to Dec. 15, 2017. OSHA's final rule to Improve Tracking of Workplace Injuries and Illnesses requires certain employers to electronically submit injury and illness information they are already required to keep under

existing OSHA regulations. The following OSHA-approved State Plans have not yet adopted the requirement to submit injury and illness reports electronically: California, Maryland, Minnesota, South Carolina, Utah, Washington and Wyoming. Establishments in these states are not currently required to submit their summary data through the ITA. OSHA is currently reviewing the other provisions of its final rule to Improve Tracking of Workplace Injuries and Illnesses, and intends to publish a notice of proposed rulemaking to reconsider, revise or remove portions of that rule in 2018.

### OSHA Delays Crane Certification for Another Year

On Nov. 9, the Occupational Safety and Health Administration [delayed](#) until Nov. 10, 2018, its regulation requiring crane operators to be certified. At the same time, OSHA extended the employer duty to ensure that crane operators are competent to operate a crane safely. The agency said that the extension is necessary “to provide sufficient time for OSHA to complete a related rulemaking to address issues with its existing Cranes and Derricks in Construction.” These issues include whether operators need to be certified by type and capacity, or just by type; and whether certification is sufficient by itself to deem an operator qualified to operate a crane. ASA had urged OSHA to delay final implementation of the final crane certification rule until it addresses these critical issues.

### FMCSA Expands Its Drug Testing Panel to Address Opioid Epidemic

On Nov. 14, the U.S. Department of Transportation’s Federal Motor Carrier Safety Administration issued a [new rule](#) expanding its drug testing panel to include four synthetic opioid drugs: hydrocodone, hydromorphone, oxycodone and oxymorphone. Under the new rule, FMCSA also adds methylenedioxyamphetamine (MDA) as an initial test analyte or substance subject to

analysis, and removes methylenedioxyamphetamine (MDEA) as a confirmatory test analyte. The addition of the synthetic opioid drugs is intended to address the nationwide epidemic of prescription painkiller abuse. Hydrocodone, hydromorphone, oxycodone and oxymorphone are Schedule II controlled substances and are more commonly known as Vicodin, OxyContin, Lortab, Norco, and Dilaudid, among others. FMCSA still will refer to its drug testing panel as a five-panel, but “opiates” is being changed to “opioids” and now will include these four synthetic substances in addition to heroin, morphine and codeine.

### Suicide in the Construction Industry: What You Need to Know



ASA, in collaboration with the Construction Industry Alliance for Suicide Prevention, is helping employers address the shocking rate of suicide among construction workers. According to a [study](#) by the Centers for Disease Control and Prevention, the construction industry ranks first in the number of suicide deaths and second in the suicide rate. According to a [March 2017 paper by the Brookings Institution](#) concerning mortality and morbidity among white non-Hispanic Americans in midlife since the turn of the century, “Increases in all-cause mortality continued unabated to 2015, with additional increases in drug overdoses, suicides, and alcoholic-related liver mortality, particularly among those with a high-school degree or less.” This is the very population that dominates the U.S. construction workforce. To introduce or expand suicide prevention in your company, begin

by reading [Construction + Suicide Prevention: Why is this an industry imperative? 10 Questions Leaders Must Ask Themselves](#). For a copy of this guide and other resources, visit the [Alliance Web site](#).

### ASA White Paper Discusses Subcontractor Bidding and the Law

ASA’s white paper *Subcontractor Bidding and the Law* explores the ways subcontractors can get in trouble when bidding, from failing to comprehend the scope of work upon which they are bidding to making careless errors. Topics addressed include the bidding process, contract award, bid errors and the legal concept of promissory estoppel. The white paper sets forth the following seven guidelines:

1. Beware of bids that refer to the prime contractor’s standard subcontract which is not furnished with the bidding documents.
2. Avoid acceptance based upon the prime contractor’s standard subcontract.
3. Consider developing and using your own bid proposal that includes those subcontract terms that are the most important to you. ASA includes a model *Subcontract Bid Proposal* as part of its *Subcontract Documents Suite*, which is available to ASA members under “Contracts and Project Management” in the Member Resources section of the ASA Web site.
4. Watch out for acceptances that vary or add to the bid documents upon which your bid is predicated.
5. When bidding via email or telephone, establish that the bid is an estimate only and not a firm price. Advise the prime contractor of any variation to the bid documents.
6. Verify a telephone bid with an email to the appropriate representative of the prime contractor, stating the date, time, place, the nature of conversation, variation to bid documents, and the conditional aspect, if any.

7. Upon discovery of a mistake, take the following actions immediately:

- Notify the prime contractor of the error in writing.
- Take no action that could be construed as an acceptance of the subcontract.
- Offer to meet with the prime contractor's representative and bring your work sheets to explain the basis of the error.
- Demand the return of your bid deposit.
- Offer not to rebid the project if excused from your bid to avoid charges of collusion.

The new white paper is available under "Bidding and Market Development" in the Member Resources section of the ASA Web site.

### **ASA Releases White Paper on Mastering Subcontract Negotiating Strategies**

Subcontractors have a wide range of options available for overcoming unacceptable language in a prime contractor's subcontract document. There is no single right way, because individual circumstances vary so much. Thus, it is important for a subcontractor to become adept at using the proven techniques available to deal most effectively with a prime contractor's subcontract terms. The material contained ASA's new white paper, *Mastering Subcontract Negotiating Strategies*, when used in conjunction with other information published by ASA, gives a subcontractor the guidance needed to negotiate terms in a professional way. From pre-award to post-award, the white paper suggests strategies that a subcontractor can use to persuade a prime contractor to adopt more neutral subcontract terms. In addition, the white paper demonstrates how a subcontractor can respond to typical prime contractor contentions during negotiations. Most prime contractors recognize the value of addressing problem areas before a job begins. In addition, responsible prime contractors

concede that they are only as good as the subcontractors that they use on a project. Everyone benefits in the long run through agreements that foster cooperation instead of confrontation. Proficiency comes with practice. A subcontractor can develop a comfort level by building on successes in dealing with prime contractors. The white paper is available to ASA members as a downloadable PDF document under "[Contracts and Project Management](#)" in the Member Resources section of the ASA Web site.

### **ASA Introduces 'Mastering Hold Harmless Clauses' White Paper**

Subcontractors are vulnerable to paying large amounts of money for the negligence of others—both on contracts directly with owners, as well as those with prime contractors. Almost all construction contracts include indemnity provisions. Some of these terms represent an equitable allocation of responsibility among the members of the construction team for their negligence. Too often, though, the subcontract makes a subcontractor responsible for the costs of job-related injuries or damages over which it has no control. ASA's newest white paper, *Mastering Hold Harmless Clauses*, explains in layman's terms, how a subcontractor can use subcontract language to minimize exposure to losses beyond the extent of its own negligence. Along the way, it reviews the types of indemnity clauses, provides samples of each, and gives tips on how a subcontractor can respond to typical unfair language. The white paper is a no-cost member benefit available under "[Insurance and Risk Management](#)" in the Member Resources section of the ASA Web site.

### **ASA Publishes White Paper on Negotiating Mechanic's Lien Provisions**

ASA's new white paper, *Mastering Negotiations on Mechanic's Liens*, recommends that construction subcontractors and suppliers become thoroughly

familiar with the lien laws of the states in which they operate. This includes procedures for designated notices, filing methods and timing, priorities of claims, etc. One source for this information is the Foundation of ASA's [Lien and Bond Claims in the 50 States](#). ASA's new white paper also provides guidance to subcontractors on prospective lien waivers. ASA recommends that a subcontractor not sign a subcontract on lien waiver forms that could preclude or diminish any lien rights prior to the receipt of payment in full for the work described in a lien release or waiver. The white paper suggests that a subcontractor in a discussion with a prime contractor can maintain:

*"Your subcontract says that I'm waiving my lien rights in advance of any payments. I can agree to partial waivers for the amounts I've been paid, but I can't give an advance waiver. I need to protect my interests, just as you protect your interests with the owner."*

The white paper is available under "[Contracts & Project Management](#)" in the members only area of the ASA Web site by logging-in at "Login/Access Member Resources."

### **Nelson Inducted into National Academy of Construction**

On Oct. 26, ASA Chief Advocacy Officer E. Colette Nelson was inducted as a member of the prestigious [National Academy of Construction](#). NAC recognized Nelson for her work "to insure equal protections, particularly payment for all stakeholders" and to build coalitions "to achieve consensus on construction issues." The NAC recognizes and honors individuals for their distinguished contributions to the construction industry and shares this reservoir of expertise as a service to the nation. The Academy membership represents 250 exceptional industry leaders with a bias for action. The membership represents the entire array of construction industry stakeholders—owners, designers, construction managers, general and specialty contractors, financial



L to R: Xxxxxx, E. Colette Nelson, and Xxxxxx

managers, labor leaders, academicians and researchers, journalists and editors, and professional and trade association executives. Nelson said, "I've had the opportunity to help identify and disseminate best practices with the goals of integrity, productivity and sustainability in construction. I know these are values shared by the members of NAC." Nelson added, "It has been an honor to serve the construction industry during a time of enormous change."

## ASA Answers Your Questions on the Transfer of Casualty Risks

Subcontractors report that one of their biggest challenges is subcontract terms that shift casualty risks—risks of "bodily injury" and "property damage"—to them, whether or not they're equipped to control the risk or avoid the loss. Casualty risks are transferred to subcontractors by three types of subcontract clauses: indemnity clauses (often including a requirement to "defend"), additional insured requirements and waivers of subrogation for workers' compensation and general

liability insurance. These three mechanisms can have harsh consequences for a subcontractor, making its insurance far more expensive than its own claims experience would justify. To help subcontractors deal with such clauses, ASA provides a *Frequently Asked Questions* that reviews the casualty risk transfer clauses that a subcontractor is likely to encounter and to show the way out of the risk transfer dilemma: Accept the risk or lose the work. ASA has a broad range of other educational materials to help subcontractors learn about casualty risk clauses. These include the following documents that are available online to ASA members:

- Subcontractor's Negotiating Tip on Indemnity or Hold Harmless
- Subcontractor's Negotiating Tip on Duty to Defend
- Subcontractor's Negotiating Tip on Additional Insured
- Subcontractor's Negotiating Tip on Owners & Contractors Protective Liability Policy

- Subcontractor's Negotiating Tip on Subrogation of Workers' Compensation
- Anti-Indemnity Statutes in the 50 States
- White Paper and Podcast: Addressing the Additional Insured Problem
- White Paper and Podcast: Defending Yours—Not Others'—Mistakes

ASA also has a robust advocacy effort to address casualty risk transfer. This includes both legislative initiatives and judicial action when appropriate. To find out what you can do to help with ASA's advocacy efforts, contact your local ASA chapter, review ASA's legislative work kit *A Guide to Reforming Risk Transfer: Improving Safety and Quality in Your State*, located under Government Advocacy in the [ASA Chapter Toolbox](#), or contact ASA's [Subcontractors Legal Defense Fund](#).

## OSHA Issues Enforcement Guidance for Now Effective Silica Rule

On Oct. 19, the Occupational Safety and Health Administration issued a [memorandum](#) to OSHA's regional administrators intended to help them enforce the agency's rule on crystalline silica in the construction industry. OSHA has been enforcing the Respirable Crystalline Silica in Construction standard since Sept. 23. However, for the first 30 days, OSHA offered compliance assistance in lieu of enforcement for those employers who were making good faith efforts to comply with the silica standard. Effective Oct. 23, OSHA began fully enforcing the standard with respect to construction. The new memorandum highlights some of the requirements of the OSHA rule, but does not provide guidance on all the standard's provisions. The attachments provide inspection and citation guidance; as well as flow charts to assist with evaluating employers' control methods. The memo also says that OSHA is in the process of developing a final compliance directive.

# Tax Strategies for the Construction Industry

by Cord Armstrong, CPA, CBIZ MHM, LLC

In light of the recent tax bills released by the House and Senate, this article touches on the areas that should be considered when looking at tax strategies for 2017 and beyond. Both bills call for a 20 percent corporate rate (down from 35 percent), as well as a reduction to the effective tax rate on business income from pass-through entities (down from 39.6 percent) and cuts in the individual rates. Whether a bill passes or not, it's safe to say that the time-honored approach of deferring income and accelerating deductions before the end of 2017 makes sense. In the worst case scenario if no tax legislation is passed, the rates will be the same and income is just deferred. This approach, however, will turn out to be even more rewarding if Congress succeeds in reducing rates.

## Choice of Entity

We generally think of a pass-through entity as the best entity to do business in (i.e. LLCs, Partnerships and S corporations), but in light of the proposed lower corporate rates, C corporations may look more attractive.

Even though pass-throughs may be taxed at a lower effective rate—the House bill calls for a 25 percent rate but generally only on 30 percent of the income while the Senate bill calls for a 23 percent overall deduction—they may not be the automatic fall back choice as they have been in the past. There are too many unknowns. An effective lower pass-through rate is unprecedented and the tax writing committees have some issues to resolve first, including the types of businesses that will be eligible for this new low rate. Both bills allude to

the fact that primarily only manufacturing-type businesses will be eligible for this new effective rate as opposed to professional service-type businesses. Presumably, construction will fall into the manufacturing category. However, engineering, architectural and construction management firms may not.

C corporation rates are only one part of the story since there is also another layer of tax to ultimately pay when the corporation either pays a dividend, upon final liquidation or the stockholders sell their stock. The second layer of tax may not need to be considered until several years down the road, while income is currently taxed at a lower rate. With the lower rate, even with this second layer of tax, the overall effective rate may make converting to a C corporation a viable alternative.

## Accounting Methods

The House bill would increase the small contractor exemption threshold from \$10 million of gross receipts to \$25 million. The Senate bill calls for an increase of only \$15 million. Currently contractors with gross receipts of more than \$10 million are required to account for their construction contracts under the percentage of completion method. Small contractors (those with gross receipts under \$10 million) are allowed to use any number of exempt methods (exempt from the percentage of completion method) unless the contract is expected to take more than two years to complete. Exempt methods include the cash, accrual, accrual less retainage or the completed contract method. Under current rules,

however, small contractors must still account for their contracts under the percentage of completion method for alternative minimum tax purposes or AMT and must also compute the AMT look-back calculation. Originally both the House and Senate bills called for the AMT to be eliminated but when the Senate bill was passed the restoration of the AMT was one of the last minute changes. Hopefully AMT will be eliminated when both the House and Senate try to resolve their differences during the conference committee. An increase in the small contractor exemption and the elimination of the AMT would both be a huge benefit to these contractors.

There are a few exceptions to the percentage of completion method that large contractors should use to their advantage. For residential contracts, 70 percent of the contract can be accounted for under the percentage of completion method, and the other 30 percent accounted for under the established exempt method. Home construction contracts are also exempt from the percentage of completion method no matter the size of the contractor and are often accounted for under the completed contract method which defers income until the contract is completed.

Large general contractors, who have retainage payables, may still consider electing accrual less retainage as their overall method. This might help reduce their current costs incurred and, in turn, reduce their income under the percentage of completion method. Large subcontractors with retainage receivables can also take advantage of this method and defer that income on their non-long-term contracts.

## Expensing and Depreciation

Both the House and Senate bills call for 100 percent expensing of equipment over the next five years. For 2017 the bonus depreciation is still 50 percent of eligible property acquired. Bonus depreciation is required unless you elect out of it by attaching a statement to your tax return. For example, if you have a net operating loss carryover from a prior year, or want to increase the DPAD deduction for 2017 you may consider electing out of bonus depreciation based on your particular set of circumstances. [2017 is likely to be the last year for the generous domestic production activities deduction or (DPAD) since it is currently slated under both bills to be one of the “expenditures” to be eliminated.]

Bonus depreciation does not apply to the purchase of any used equipment. However, any new or used equipment purchased during the year can also be expensed under Section 179 which allows an immediate write-off of purchases totaling up to \$510,000 for 2017. This provision generally does not apply to large contractors since the \$510,000 ceiling is completely phased out when total purchases exceed \$2,540,000. The 179 deduction is also limited by the amount of taxable income. The House bill would increase the 179 amount that can be immediately written off to \$5 million with the phase out at \$20 million for the next five years. The Senate version would increase the 179 amount to \$1 million with the phase out at \$2.5 million.

In light of the potential changes for immediate expensing in 2018, contractors who can't take advantage of

the current expensing provisions may consider waiting until 2018. [The five year period under both the House and Senate bills would start for any property acquired after Sept. 27, 2017. This does not give companies a lot of time to plan for 2017 but would be a welcome benefit in case any large purchases need to be made before the end of 2017.]

## Repair Expenses vs. Capitalized Costs

Most taxpayers adopted the new tangible property regulations for tax years beginning after 2013, making it easier to deduct repair and maintenance expense, rather than capitalize and depreciate the cost overtime. However, this was not a one-time exercise and the repairs and maintenance costs should be evaluated at the end of each year to make sure you are taking full advantage of the deductions. This not only applies to building repairs and maintenance costs, but to large equipment costs as well. Generally, any repairs or maintenance cost can be currently deducted as long as they are not considered a betterment, restoration, or adaptation (to a new or different use). There is also the routine maintenance safe harbor election which allows maintenance costs for equipment to be deducted in the year incurred if at the time the property is placed in service, the contractor reasonably expects to perform the maintenance activities more than once during the property's depreciable class life. The annual de minimis safe harbor election allows up to \$2,500 (per invoice or by item) of any tangible property acquired to be currently deducted, as long as a

capitalization policy is in place at the beginning of the year and the same method is used for book purposes. If the contractor has an annual audit done under GAAP, then the amount can be increased up to \$5,000.

## Research and Experimentation Credit

While many deductions and credits are slated to go away under tax reform, one credit that is expected to be preserved under any of the reform proposals is the Research and Experimentation (R&E) credit which has become increasingly popular in the construction and engineering industry. This credit should be considered any time there is some type of experimentation either in the design, process or materials.

## Conclusion

Whether or not a tax reform bill is passed, the best strategy for 2017 for most taxpayers would be to defer income and accelerate deductions. Tax reform may also make C corporations a more favorable choice of entity but that remains to be seen. Be sure you are taking advantage of the optional methods of accounting available, which may also help in deferring taxable income. Additionally, take advantage of the accelerated depreciation methods and new expensing options. If you think the R&E credit may apply to you, now is the time to talk to your tax advisor so they can start gathering the necessary information in time for tax filings.

*Cord Armstrong is a managing tax director at CBIZ MHM, LLC, Phoenix, Ariz. He can be reached at (602) 264-6835 or [carmstrong@cbiz.com](mailto:carmstrong@cbiz.com).*

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## Eliminate the Agony of Year-End Tax Preparation

by Scott Applegate, COO, CapitalPlus Financial

As the old year ends and a new one begins, it is understandable to want to look forward to the future of your small business. However, it is important to first look backward to understand how the year financially impacted your company. For many, this can be an ominous proposition, but it can easily be an opportunity to learn and make your company more efficient. The key is to keep things as simple as possible.

Every month someone should be managing your bookkeeping to ensure your entries are up to date and accurate. This allows you to know how much you owe, what is outstanding and what your business is worth. This keeps you organized and stops you from being blindsided by a debt, which you forgot to pay. So given that, let's first quickly break down the steps that are taken every month to ensure the financial success of your business.

1. Review your company's transactions—reconcile your accounts.
  - a. Print out Income Statement and Balance sheet.
  - b. Run reports to show your per month totals.
    - i. Accounts Receivable Aging report, Accounts Payable Aging report, Bank Account Statements.
    - ii. What stands out? Do you see any amounts that don't seem to trend with other months? If you do, you will need to research the transactions.
2. Did you mistakenly record a transaction to the wrong account/category?
3. Do you need to make any adjusting entries for activities not recorded during the month- did anything not make it on the books that should have been recorded? Do you have good records?
4. Finally, does everything balance? Remember, Assets = Liabilities + Shareholders Equity. If they don't, you have a problem!



With this fresh in our minds, let's now turn to the issue at hand—the agony of compiling information and documents for your business taxes and closing your year-end books. The best way for keeping yourself from being overwhelmed by the seemingly endless amount of commas and figures is to consider the end of the year as simply another month of the year.

Let me put the monthly steps into year-end context:

- Your Balance Sheet is just a snapshot in time—your year-end is just a snapshot of where you are at the end the year.
- The Income Statement is the best view into your bottom line and how you are doing as a company and answers the question: Are you making or losing money? The income statement also determines how much you owe in taxes.
- Understanding your prior year Income Statement allows more effective planning for taxes and growth for the new year.

Tax season does not have to be the tedious and stressful ordeal that it is portrayed to be. The key is to keep your records up to date and to reconcile

each month, so that you aren't scrambling at the end of the year like a college student with a term paper due at 9:00 a.m. One solution would be to outsource both your monthly and year-end bookkeeping duties to a separate partner that can take the stress off your mind entirely, so you can continue to run and grow your business. This solution keeps you from going through the time-consuming hiring process and paying taxes and benefits on another employee. The bottom line: If you spend a little time each month with your bookkeeper or bookkeeping company, you will have a better idea of the financial health of your company, as well as, a much less time consuming and stressful tax deadline.

*Scott Applegate is the chief operating officer for CapitalPlus Financial, a financial services company specializing in helping construction companies with back-office support services, including bookkeeping, compliance and credit, as well as their cash flow needs. For more information, visit [www.capitalplusfinancial.com](http://www.capitalplusfinancial.com) or call (865) 670-2345.*



## Transforming Your Organization for the Future

by Stephane McShane, Maxim Consulting Group

Contracting is a tough business that requires knowledge in a vast array of topics from insurance to contracts to means and methods. How can contractors simplify and standardize what they do? Most are finding a fragmented and broken process that is riddled with waste. Organizations have heard the term “Lean construction” but much like “prefabrication,” there is no consistent definition. General contractors have begun using some lean tools such as pull planning to drive project schedules with mixed success. What is outlined below is a strategic approach to using Lean tools and principles to transform a company and position it for long-term success.

### State of the Industry

Maxim Consulting Group’s view on the construction industry is that it is ever evolving at a faster pace than at virtually any point in history. Customers are demanding that contractors find ways to be better, faster, cheaper and safer, all while providing elevated levels of quality. The reality is the marketplace is changing quickly. Contractors that hang on to old paradigms and old business models will find themselves displaced at best and bankrupt at worst. While global competition is increasing, there are also several industry trends in the United States that are shaping the future of construction—pricing pressure and consolidation. With some owners and general contractors understanding best value over best price, the behavior of buying on price continues to be an ever-present market pressure. And consolidation is taking place in a variety of ways, but the big guys seem to be getting bigger and the small guys are becoming increasingly specialized. The middle market contractor is being pushed to the side. The trends are not going away and will require firms to reinvent themselves to remain relevant and competitive.

### A Vision for the Future and How You Implement

Below is an outline of the necessary infrastructure, systems, process and skillsets to combat and overcome these industry trends.

#### 1. Kitting Work Packages

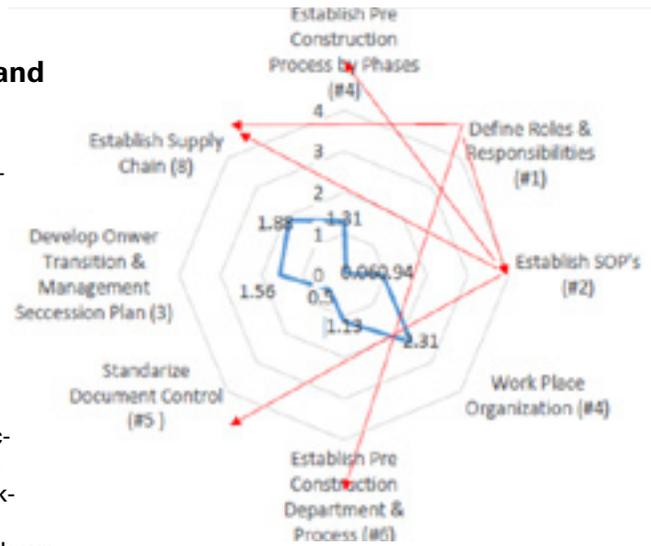
—A kit is an assembly or mixture of items that contain components needed in one package to complete a section of the job or an entire job. They are typically packaged in 5- to 10-day work packages. The approach allows companies to buy materials at the company level vs. the job level, resulting in significant savings that can make contractors more competitive in a price driven business. Productivity increases of 20 percent to 30 percent are not uncommon. Workforce shortages? Companies employing 100 percent kitting strategy can virtually double the available workforce because they can attract women.

#### 2. Value Stream Mapping

—An understanding of how the company currently operates is accomplished through VSM. There are four enterprise level maps in business, regardless of what industry you are in:

- a. Recruit to Retire
- b. Concept to Launch
- c. Buy to Pay
- d. Order to Cash

The purpose of doing this mapping is to fully understand the entire process and how things work “today” in a company. Your results should be to establish a 5-3-1: five things that the company is aware of, three they intend to fix, and one they will start with and finish before anything else. The 5-3-1 is



arrived upon using a radar diagram as shown above.

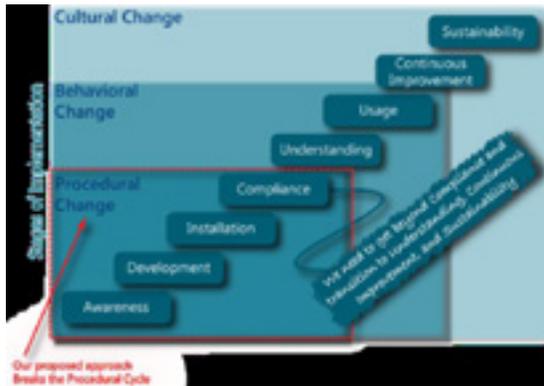
This method is a tool that identifies the many complex issues that need fixing and priorities in order in which to address them.

In order to move to a 100 percent kitting strategy there are several process gaps that must be addressed such as:

- 1) Unclear roles and responsibilities
- 2) Lack of process standardization
- 3) Inadequate enterprise level scheduling
- 4) Limited design and detailing standardization
- 5) Level of detailing requirements
- 6) Lack of manufacturing standards
- 7) Weak supply chain management
- 8) Lack of field installation standards
- 9) Poor facility and equipment planning
- 10) Insufficient training and development

How do you make these changes happen in your organization? It is noted that 73 percent of organizations that undergo any change initiative will fail.

The reason? There is no cultural support to make the change. The diagram below illustrates the issue and shows how the approach breaks the procedural cycle. Employees need to understand why the change is necessary and “own” the change.



### Recommended Governance Structure

A Lean transformation to move to a 100 percent kitting strategy is a massive undertaking and requires a detailed plan and governance structure to execute. The below diagram illustrates the recommended governance structure.



The executive team oversees the process but does not do the work. The core team consists of cross functional staff. The sub teams are launched at the end or near end of completing the VSM process.

### Expected Results

Companies that are bold enough to pursue this strategy should expect to have a long-term, meaningful competitive advantage which is difficult to mimic. The experienced results of companies that have gone down this path have been tremendous.

Here are just a few results:

- Cost Savings
  - Labor productivity improvements of 40 percent to 80 percent
    - Design throughput increased tenfold
    - Manufacture throughput increased
    - Install times reduced dramatically and with less field manpower
  - Material purchasing
    - Procure at company level vs. job level resulting in 10 percent to 18 percent material savings
- Improved safety (EMR) by 40 percent due to relocation of work in controlled facility
- Quality improved as it is built into the process, not inspected for
- Schedule reductions and ability to meet extremely demanding customer schedules
- Customer satisfaction on the rise and viewed as the “go to” contractor
- Scalability of business for growth and opportunity

These experienced results are real. One company has gone from \$10,000 per employee of margin to \$50,000 per employee. Another has increased revenue by \$40,000 per employee using the same number of people to perform substantially more work. The results are real but it takes courage and hard work to get there.

### Conclusion

There is no debating that the construction industry is changing at a rapid pace. Modularization and kitting are the ways of the future. The change will not come without tremendous effort and overcoming some familiar challenges such as:

- Lack of Vision
- Lack of Leadership
- Inappropriate Staffing
- “Old School” Mentality
- Trying to Gain Consensus

But, the companies that share this vision of the future will undoubtedly be positioned for long term success. To date, no other long-term, strategic solution has been presented to the industry that effectively deals with pricing pressure, schedule compression and manpower shortages. Are you ready?

*Stephane McShane is a director at Maxim Consulting Group responsible for the assessment and implementation processes with our clients. McShane works with construction-related firms of all sizes to evaluate business practices and assist with management challenges. With a large depth of experience working in the construction industry from the field to executive leadership, McShane is keenly aware of the business and, most specifically, operational challenges firms’ face. Her areas of expertise include leadership development, organizational assessments, strategic planning, project execution, business development, productivity improvement, and training programs. McShane is an internationally recognized speaker, mentor, author, and teacher. Her ability to motivate, inspire, and create confidence among your work groups is extremely rare and very effective.*

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# How Medical Case Management Helps Control Your e-Mod Score

by Mike Bechtol, Redirect Health

For most subcontractors, workers' compensation is an ongoing source of worry, not to mention a drain on the bottom line. Beyond the cost of insurance and claims, workers' comp can dramatically impact a company's profitability, growth opportunities, and long-term financial solvency. That's because workers' comp claims are directly tied to a business' Experience Modification Factor—or e-Mod—score.

The e-Mod is a numerical expression of a company's accident and injury record compared to other employers of a similar size and in the same industry. Not only does it have the single largest impact on workers' comp premiums, but it's a reference point for general contractors hiring subcontractors for work. The higher the e-Mod, the higher the workers' comp rate—and the lower the odds of winning bids on new jobs.

That said, few subcontractors have tangible strategies for improving their workers' comp claims or e-Mod score. For most, this seems an impossible task, but subcontractors can make a big impact on their rates and scores by taking a few simple actions.

While the e-Mod is made up of variables that can't be changed—like the size of the company and the average industry score—employers with a strategic healthcare plan can take charge of other factors:

- **First aid or workers' comp?** Far too frequently, employees claim workers' comp for accidents or injuries that do not happen at work, driving up costs. Workers who have a healthcare plan designed to provide first dollar benefit on primary care and chiropractic visits will use the health plan instead of workers' comp for treatment. Accidents that do happen at work can be guided to a primary care or chiropractic visit when appropriate, and the claims for those visits are covered and will not go to the workers' comp carrier.

Instead, employees who incur minor injuries in the workplace may be treated by a primary care doctor. The out-of-pocket cost for a primary care visit is significantly less than the cost of urgent care. Moreover, the employer can avoid unnecessary workers' comp claims and the subsequent e-Mod ding. Simply delineating between first aid and injuries that truly require a claim can save significant money.

- **The other 30 percent:** For the 30 percent of injuries that require treatment beyond first aid, it's critical for employers to monitor claims and ensure the proper course of treatment.

Most businesses send an injured employee to an urgent care clinic specializing in workers' comp. It makes sense on the surface—these clinics promise to treat the employee and handle the administrative headache of filing the claim. However, just like every other company, providers that work with workers' comp claims are in the business of making money—and some of them exploit it. They know that workers' comp will cover 100 percent of all services provided—at a rate that's five to 20 times higher than services rendered at a primary care office.

For example, providers will often prescribe a course of treatment far exceeding the patients' needs because they're guaranteed payment. An employee who hurt his back at work may see a chiropractor who recommends 10 visits, even if one or two visits would do the trick. It seems crass, but it's a regular occurrence.

A strategic healthcare plan should include healthcare case management to ensure the employee receives the right treatment at the right place—and for a fair price. In

most cases, the employer should still file a claim for moderate or major injuries to protect the business in the future, but companies may opt to pay cash for the service (at the real cost) rather than billing it through workers' comp.

- **Full-time hours and wages:** Whenever possible, employers should continue paying full-time wages to an employee accessing workers' comp. This might seem counterintuitive—a worker with a broken arm can hardly hammer a nail or hang a door—but claims that include non-medical costs (like wages) have a dramatic impact on a company's e-Mod score.

Companies can continue to pay wages and employees can keep their regular hours by performing light duties in the workplace, watching safety videos at home or even studying another language. The cost to the business is the employee's 40-hour-per-week salary; this is peanuts compared to the jump in workers' comp for non-medical claims.

- **Access to healthcare:** It's common for employees to claim workers' comp for injuries sustained outside the workplace. In most cases, the employee simply doesn't have other healthcare options. He uses workers' comp because he doesn't have health insurance, or can't afford the deductible for a doctor's appointment.

A workers' comp visit is free for the employee, which makes it an attractive option, but the ripple effects are costly for the business. One solution is to offer routine health services free of charge. In addition to safeguarding the e-Mod, this

*(Continued on page 17)*

## 2017 Economic Environment 'Good But Not Great,' Dodge Data & Analytics Economist Says

by American Subcontractors Association

"The economic environment so far in 2017 can be characterized as "good but not great," and it's estimated that real GDP this year will be up 2.2 percent," Dodge Data & Analytics Chief Economist and Vice President Robert A. Murray said during the 79th annual Outlook Executive Conference in Chicago, Ill.

[Dodge Data & Analytics](#), which released its 2018 Dodge Construction Outlook, reported that the U.S. construction industry is now "fully into the mature stage of its expansion, one that's characterized by slower rates of growth as activity approaches a cyclical peak." "After rising 11 percent to 13 percent per year from 2012 through 2015, total construction starts advanced a more subdued 5 percent in 2016," Murray said. "That deceleration has continued into 2017, with construction starts exhibiting an up-and-down pattern on a quarterly basis, often typical of a market that's in the process of either approaching or rounding a peak."

Total construction starts in 2017 are estimated to climb 4 percent to \$746.5 billion, Dodge Data & Analytics reported, and nonresidential building will advance 10 percent, lifted by the strength shown by its institutional segment. Residential building will rise 4 percent in 2017, with moderate growth for single family housing outweighing reduced activity for multifamily housing. Running counter will be nonbuilding construction, sliding 7 percent with another steep decline for electric utilities/gas plants while public works stays essentially flat.

Murray noted that an important question entering 2017 was whether the construction industry had the potential for further expansion. "Several project types," he said, "including multifamily housing and hotels, have pulled back from their 2016 levels, but the current

year has seen continued growth by single family housing, office buildings, and warehouses. In addition, the institutional segment of nonresidential building has been quite strong, led especially by transportation terminal projects in combination with gains for schools and healthcare facilities. As for public works, the specifics of a \$1 trillion infrastructure program by the Trump Administration have yet to materialize, so activity continues to hover around basically the plateau for construction starts reached in 2015. Slower activity has been reported this year for highways and bridges, as well as environmental public works, but new pipeline construction starts are topping even the elevated pace reached in 2016."

Murray added that job growth is not moving quite as fast as last year, but long-term interest rates remain low. "The damage caused by Hurricane Harvey to southeast Texas and Hurricane Irma to Florida was substantial, particularly as it relates to single family housing, but the negative impact at the national level in terms of slower job growth and higher gas prices should be short-lived," he said. "Some of the caution by firms towards investment seems to be easing, and the stock market through October continued to reach new highs. The Trump Administration's tax reform proposal is now being considered by Congress, with its shape and the likelihood of passage still unfolding."

For 2018, Dodge Data reported, it's estimated that economic growth will be 2.6 percent. Dodge Data expects job growth to continue at a moderate pace, and the lowering of the corporate tax rate through tax reform "may provide a near term lift." Long-term interest rates will "see some upward movement, but not substantially." Market fundamentals

for commercial real estate won't be quite as strong as this year, but funding support for construction will continue to come from state and local bond measures.

Dodge Data predicts total construction starts in 2018 to advance 3 percent to \$765.2 billion. Gains are predicted for residential building, up 4 percent; and nonresidential building, up 2 percent; while nonbuilding construction stabilizes after two years of decline. The pattern of construction starts by more specific segments is the following:

- **Single family housing** will rise 9 percent in dollars, corresponding to a 7 percent increase in units to 850,000 (Dodge basis). Continued employment growth has eased some of the caution shown by potential homebuyers, while older Millennials in their 30s are helping to lift demand for single family housing. A modest boost will also come from rebuilding efforts in Texas and Florida after Hurricanes Harvey and Irma.
- **Multifamily housing** will retreat 8 percent in dollars and 11 percent in units to 425,000 (Dodge basis). This project type appears to have peaked in 2016, helped by widespread growth across major metropolitan markets. That strength has begun to wane in 2017, given slight deterioration in market fundamentals (rent growth, occupancies) and a more cautious bank lending stance.
- **Commercial building** will increase 2 percent, following a 3 percent gain in 2017, and continuing to decelerate after the sharp 21 percent hike back in 2016. Office construction should see further growth in 2018, helped by broad development efforts in downtown markets, and warehouse construction is supported by greater

demand arising from e-commerce. However, store construction will remain weak, and hotel construction will continue to pull back from its 2016 peak.

- **Institutional building** will advance 3 percent, maintaining its upward track after this year's 14 percent jump.
- **Educational facilities** should see more substantial growth next year, lifted by the passage of recent school construction bond measures. The robust volume of transportation terminal projects in 2017 may not be repeated in 2018, but activity should stay at a high level.

- **Manufacturing plant construction** will recede 1 percent in dollar terms, after surging 27 percent this year due to the start of several massive petrochemical projects. Next year should still see moderate growth in square footage terms.
- **Public works construction** will improve 3 percent, slightly more than the 1 percent growth in 2017. Highways and bridges should be helped as federal funding rises to the levels called for by the FAST Act, while the environmental categories will partly reflect reconstruction efforts related to Hurricanes Harvey and Irma. Additional benefit

may come from the infrastructure program proposed by the Trump Administration, should it achieve passage in some form.

- **Electric utilities and gas plants** will drop 13 percent, falling for the third year in a row after the exceptional amount reported in 2015. Power plant construction starts will ease back as new generating capacity comes on line.

The 2018 Dodge Construction Outlook can be ordered via the [Dodge Data & Analytics store](#) or by calling (800) 591-4462.

(Continued from page 15)

ensures employees get the care they need through appropriate channels. Companies that offer free basic healthcare will improve productivity, boost morale among their staff and prevent workers' comp fraud. Moreover, free primary care combined with healthcare case management is considerably cheaper than workers' comp.

Of course, implementing a healthcare strategy that improves a business' workers' comp and e-Mod score can be a daunting task. In this case, a partner organization like Redirect Health can help companies create a smart healthcare plan through a self-insurance model and built-in case management. The plan can be customized to meet the needs of the workforce and will make a significant impact on workers' comp.

## What Is Self-Insurance?

Companies that self-insure assume the claims risk of their staff. They create their own plan and pay claims directly or through a third-party administrator. Benefits can be customized and may include medical, dental, vision, prescription medications and workers' comp.

Just like traditional insurance, employers determine how the claims bucket will be funded and how costs will be split between the business and employees. For employees, the plan may look and operate exactly the same.

A smart self-insurance strategy includes the following components:

- **Free routine care:** To bring down workers' comp, companies should consider covering the cost of treatment of common health issues like coughs and colds, flu, sinusitis and minor injuries. Doing so removes barriers to care and ensures employees receive the services they need.
- **Stop-loss insurance:** Most

companies purchase stop-loss insurance to cover the high cost of catastrophic diagnoses, major injuries and specialist care. This insurance limits liability and protects companies from unexpected financial loss.

- **Medical case management:** Companies will benefit by partnering with an organization to manage the care delivery process, direct employees to the right level of care, and ensure fair pricing on all services—like paying \$37 instead of \$350 for an X-ray. In fact, working with a case management partner is key to realizing the full benefits of self-insurance and ensures subcontractors and their staff can stay focused on their work.

*Mike Bechtol is director of membership of Redirect Health, a Scottsdale-based company that makes healthcare easy and affordable for individuals, employers and brokers. For more information, visit [redirecthealth.com](#).*

## Documenting Winning Claims: The Key to Getting Paid

by James T. Yand, Miller Nash Graham & Dunn, LLP

One of the keys to getting paid for equitable adjustments to the contract price is avoiding surprises. The general contractor has to get your change order funded by the owner, and this becomes increasingly hard to do when the budget is set, the contracts have been signed, funding is limited, and the project is nearing completion. Timing is crucial to making this process work. It starts with getting information out early once the adjustment is known, followed up with the necessary documentation that will support why the adjustment is necessary. Most contracts anticipate change orders so long as they fall into expected categories. Once an adjustment is foreseen, send out a placeholder letter or email saying that a change order is expected and the backup documentation will follow as soon as the details are known. In states that strictly enforce clauses regarding timely notice of claims, this early notice will avoid potential forfeitures. For example, in *Mike M. Johnson, Inc. v. County of Spokane*, 150 Wn.2d 375, 78 P.3d 161 (2003), the Washington State Supreme Court held that actual notice of the claim by the owner is not an exception to compliance with mandatory contractual protest and claim provisions. See also Paige Spratt, *Strict Compliance with Construction Contract Notice Provisions: Detrimental to Contractors and Taxpayers*, 40 Pub. Cont. L.J. 911 (2011).

Partnering with the general contractor consistent with the terms of the contract will help expedite the payment process rather than delaying notification and deferring resolution of claims for extra work. Unlike wine, payment disputes rarely get better with age.

### Tell Your Story

We all know that a picture is worth a thousand words. Claim documentation should include photos and graphics whenever possible to illustrate both the need for the adjustment and the cost associated with the change. In this day and age, photos should also include video from drones that may be used in the construction process to track the progress of the project. Arrange for access to these photos and videos well before starting work. If there are discussions about a change in the field, this needs to be followed up in writing as quickly as possible. This documentation should be readily available to add to the change order when the time comes.

Remember, if it is a problem worth complaining about, it is worth documenting properly. The superintendent and project manager in the field must be the front line of correctly documenting changes and directives given on the jobsite as well as providing the narrative as to why a change order is justified. This information should be included in daily and weekly job logs. Use email when necessary, but text messages are typically too informal. Yet getting the general contractor to acknowledge and confirm the content of the message is very important to supporting a claim later. If you cannot agree on what happened, it is even more unlikely that there will be agreement on what extra should be paid.

### Battle of the Best Books

Winning a claim is both an offensive and defensive process. If you receive a letter, email or change order that sets out certain events that do not accurately reflect the truth of events on the job, you need to respond promptly with a corrected version of what happened. This is called “protecting the record,”

which is often the basis for getting paid, either during construction or after the dispute goes into litigation. Contractors have to think like lawyers when it comes to claims and disputes. The single most important factor in driving the successful outcome in a case is documentation of the facts. If your books and records are not complete, not properly organized, and not telling your side of the story, you are already at a big disadvantage and the value of your claim is significantly reduced for settlement purposes and unlikely to be persuasive before the fact-finder.

### Use Tools That Document Impacts

One of the major components to equitable claims is impact to labor caused by delay or disruption of the work. A number of published studies (MCAA and NECA) assist in this process. One of the more recent is from the drywall industry: “Impacts to Labor Productivity in Steel Framing and the Installation and Finishing of Gypsum Wallboard,” published by the Northwest Wall & Ceiling Bureau. See <http://www.nwcb.org/labor-productivity-study.html>. These studies help evaluate impacts to labor productivity by establishing a connection between acts (trauma) and effects (productivity impacts and cost increases). Labor productivity is the single greatest variable affecting the construction contractor’s cost of production and profitability. External impacts to labor productivity have been the subject of numerous books and studies—and litigation—over the years. The key to any of these studies, however, is to provide the necessary documentation to support the damage claims that are developed. The causes of labor overruns include excessive overtime, changes to scope, material crowding, trade-stacking, weather, and site access.

Leading indicators of a job going sideways include schedule revisions, labor-control deviations, multitude of RFIs, and accusations by the general contractor of setting up for a claim.

The key documents that will be developed to prove up claims start with the contract but also include the schedule, daily log, correspondence, manpower loading graph, labor control (measured mile), RFIs, ASIs, CCDs, along with project records.

The accuracy of the submitted claim does not need to be proved with absolute certainty or mathematical exactitude. It is sufficient to furnish a claim that provides a reasonable basis for computation, even though the result is only approximate. It is enough to establish a rough order of magnitude for the negotiation process. If that does not work, it can be handed off to a claims expert to support the more precise damage amount.

Claim avoidance is always the preferred outcome. But that is not the real world of construction. Owners and general contractors know this to be true and should not hold it against the subcontractor if the process is handled correctly. After all, the contract requires you to give notice and provides for the claims process. Moreover, why should others be able to control your ability to perform the work in a timely manner? As soon as it becomes apparent that you may suffer additional cost as a result of impacts to the work, notify the general contractor of the potential impact, describe the impact, and provide a detailed accounting of the projected costs. It is often important to set up a separate cost code to track changes or delays once they are identified. A convincing argument/narrative for the projected costs may result in an approved change order rather than

a claim for equitable compensation, after the fact. If you are unsuccessful early on, the correspondence submitted before the event will increase your chances for recovery if the disputed costs go to claim/arbitration.

General contractors love to say that they “didn’t know.” To anticipate this excuse, attach to the schedule of values or billings an accurate accounting (similar to specific damages analysis method) that clearly indicates the original contract amount, change order log, amount paid to date, outstanding amount owed, and revised contract amount. Request at least monthly meetings with the general contractor to review the change order log, and keep the added costs in the contractor’s face at every opportunity. Getting paid sometimes requires being a persistent pest, so don’t be afraid to be the squeaky wheel that gets paid.

Beware of the typical approaches from general contractors to avoid making any payment. Examples: “We’ll work with you,” so no need to file a formal claim or lien; “I don’t want to see any letter,” with the implied threat that you will be dropped from the approved subcontractor list for making a claim; “We’ve got this great job coming up and we’d like to use you, but ...”; and “We have set aside \_\_\_\_ money that we may be able to send your way.” Finally, “I’m sorry; the owner just won’t go for it.” The common thread in all these approaches is the attempt to get the subcontractor to hold off making a claim in the misguided belief that the problem will just go away. Typically, the general contractor is not waiting around, hoping to be paid by the owner, and is diligent in pursuing its own claims for additional compensation. It should expect nothing different from a subcontractor.

## When to Get Help

If it appears, at any time, that your request for equitable adjustment or claim will have to go through the claims-disputes portion of the contract, you should start seeking legal/professional counsel. A good indicator that trouble is brewing is the general contractor’s refusal to consider reasonable compensation or refusal to advance your request for payment to the owner. You may also discover that proper documentation is lacking in your project file to support the claim being made. Having read this article, you now understand the importance of documentation and what is necessary to achieve a successful outcome. Recreating the wheel is costly and, more often than not, futile. Your attorney should be available for a quick consultation in these circumstances and be part of the construction team. The consultation does not need to necessarily lead to a paid retention until the time is ripe. These early discussions with your trusted legal adviser are critical to not jumping the gun, but also not waiting too long to bring in the big guns you need to get paid.

*James Yand is a partner with Miller Nash Graham & Dunn, LLP, Seattle, Wash. He has more than 20 years of experience resolving disputes for business owners and individuals in construction law, products liability, e-discovery, franchise and commercial law. He can be reached at (206) 622-8484 or [james.yand@millernash.com](mailto:james.yand@millernash.com).*

# ASA/FASA Calendar

## January 2018

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**9** – Webinar “[Indemnity and Hold Harmless](#)” presented by Lee B. Brumitt, Dysart Taylor Cotter McMonigle & Montemore, P.C.

**23** – Webinar “How the Difference Between Extra Work and Additional Work Can Impact Claims for Payment” presented by Stephen Moore and James Morris, Galloway Johnson Tompkins Burr & Smith

## February 2018

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**6** – Complimentary Webinar “[Harrasment Training](#)” presented by Jamie Hasty, SESCO Management Consultants

**13** – Webinar “[Getting Better Subcontracts](#)” presented by Eric Travers, Kegler, Brown, Hill and Ritter

**28-March 3** – [SUBExcel 2018](#), Tempe Mission Palms Hotel, Tempe, Ariz.

## March 2018

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**13** – Webinar “[Technology and Transparency, Part II—Linking Technology to Performance](#)” presented by Stephane McShane, Maxim Consulting Group

## April 2018

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**10** – Webinar “[Lien & Bond Claims](#)” presented by Timothy Woolford, Woolford Law, P.C.

## May 2018

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**8** – Webinar “Change Orders” presented by Joe Katz, Huddles Jones Sorteberg & Dachille, P.C.

## June 2018

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**12** – Webinar “Cash Management” presented by James L. Salmon, Benjamin, Yocum & Heather, LLC

Contact information for ASA/FASA events and programs:  
[www.asaonline.com](http://www.asaonline.com), [education@asa-hq.com](mailto:education@asa-hq.com).

**Coming Up**  
in the January 2018  
Issue of ASA's



## Theme: Negotiating Subcontracts

- Top Changes You Need to Make to Your Subcontract
- Contract Strategies in Challenging Markets
- Riding an Elephant: Harnessing the Dual Challenges Leading for Impact While Managing Complexity
- Conditioning Your Bid
- Negotiating with Leverage
- Legally Speaking—Negotiating Subcontracts

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AmSlab Solutions founder, Arik Mullen, is always finding ways to solidify his concrete business. So when he learned how a simple workbook available through CNA's Motion is Money® program could highlight hundreds of hours of worker inefficiencies, he called his Risk Control Specialist, conducted a worksite audit, and developed a plan to minimize bending, lifting and reaching for tools. Now AmSlab productivity is up 3%, and Arik's enjoying a much healthier bottom line.

When you're looking for programs that help keep workers safe and businesses strong ... we can show you more.®

To learn how CNA's insurance programs for contractors can help your business grow more profitably, contact your independent agent or visit [www.cna.com/construction](http://www.cna.com/construction).

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