November 2019

CONSTRUCTION EXECUTIVE

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# TABLE OF CONTENTS

**CONSTRUCTION EXECUTIVE**  
**NOVEMBER 2019**

## DEPARTMENTS

<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Industry Insider</td>
</tr>
<tr>
<td>6</td>
<td>In Brief</td>
</tr>
<tr>
<td>8</td>
<td>Washington Update</td>
</tr>
<tr>
<td>12</td>
<td>Workforce</td>
</tr>
<tr>
<td>98</td>
<td>Equipment</td>
</tr>
<tr>
<td>100</td>
<td>Risk</td>
</tr>
<tr>
<td>104</td>
<td>Viewpoints</td>
</tr>
</tbody>
</table>

## FEATURES

### 26

**Boots on the Ground: A Primer on Military Construction**

How do you bid? What are the challenges? Is it worth it? Read on to get a look into this unique market.

### 35

**Special Section: Contractors’ Guide To Surety Bonding**

Published in association with ABC, SFAA and NASBP.

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**COVER STORY**

16 **PUBLIC GOODS**

Building and preserving the nation’s courthouses and correctional facilities.

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Everything you need to know about editorial coverage planned for this year, plus print and digital advertising opportunities.

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Cover Photo: Rutherford County Judicial Center, Murfreesboro, Tennessee.  
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TOP STORIES

• Improve Office and Field Operations by Leveraging IoT
• Unlocking Digital Maturity in Construction: The Stairway to Success
• Two Techniques to Connect the Next Generation to the Trades
• Poor Hiring Practices Can Lead to Contractor Failure
• Eight Ways to Protect a Construction Company Before a Claim Is Filed
• Enhance Modular Building With ERP Software
• Six Tips for Maintaining Heavy Equipment

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Thinking Big

As we near the end of another record-setting spending year in the construction industry, we take a look at what has happened—and what could happen—in the public contracting sector. Since 2009, ABC members have been directly contracted to deliver 62% of federally funded projects valued at more than $25 million—totaling $45.42 billion worth of work. Many of these projects are Excellence in Construction® Award winners, and several contractors that deliver this work are on ABC’s Top Performers™ list (which will be released again this coming March).

In this issue, we recognize several contractors that build state-of-the-art courthouses, prisons and military facilities that not only provide an essential public service, but also serve as icons within their communities. Read “Public Goods” and “Boots on the Ground” for tales from the field on how specialized teams are addressing airtight security measures, aging buildings and detailed credentials, not to mention red tape.

As always, we highlight and celebrate the incredible work our contractors do to provide life-changing career opportunities. On p. 22, read how ABC chapters and local contractors are leading prison workforce development programs that help to prevent recidivism and create second chances for formerly incarcerated individuals. And in the Workforce Development column on p. 12, a TDIndustries intern shares her story of how she found inspiration in an industry that encourages her to “think bigger.”

On p. 8, the Washington Update column speaks to the critical need for Congress to support a federal infrastructure package, without relying on states and local governments alone to do all the heavy lifting.

Any construction company that wishes to perform work in the public sector will most likely be required to hold a payment and performance bond. The 17th Annual Contractors Guide to Surety Bonding provides tips on how to find qualified, professional surety bonding agents and producers, and how to prevent potentially devastating risks to a company’s reputation and pocketbook.

Looking ahead: Get ready for our December issue’s annual Industry Forecast by ABC Chief Economist Anirban Basu, which will be paired with a live webinar on Wednesday, Dec. 18. Register today at webinars.constructionexec.com.

Michael D. Bellaman
Publisher
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IN BRIEF

EPA and U.S. Army Corps Rescind 2015 WOTUS Rule

ON SEPT. 12, the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers signed a final rule to repeal the 2015 Clean Water Rule: Definition of “Waters of the United States,” aka the WOTUS final rule.

The WOTUS final rule came under review due to President Trump’s Executive Order 13778, citing that American waterways should be protected from pollutants in the most economical way.

This final repeal will allow the agencies to re-install regulations present prior to the 2015 rule and is the first in a two-step effort to define the scope of “waters of the United States.” As part of the second step, a December 2018 proposal provides a clear definition of the difference between federally regulated waterways versus waterways under state authority.

ABC has opposed the Obama-era WOTUS rule since it was first proposed in April 2014 and has filed comments at every stage of rulemaking. Additionally, ABC filed comments as a member of the Waters Advocacy Coalition. ABC CEO and President Michael Bellaman attended the signing ceremony for the rulemaking.

Nation’s Highways Deteriorating, Says Annual Report

THE NATION’S PAVEMENT conditions are worsening in general, and fatalities are increasing overall, says the Reason Foundation’s 24th Annual Highway Report.

Based on a system that ranks each state according to 13 categories, the report has collated state-submitted data from 2016 (the most recent year with complete figures available) in tandem with traffic congestion and bridge statistics from 2017. North Dakota, Virginia and Missouri have the best-performing, most cost-effective state highway systems, while New Jersey, Alaska and Rhode Island ranked last in the study.

“The overall condition of the highway system has now worsened,” states Baruch Feigenbaum, lead author of the report and assistant director of transportation at Reason Foundation. Read the whole report at reason.org.

Guide to Universal Design Provides Access in the Built Environment

THE AMERICAN SOCIETY of Landscape Architects’ new Guide to Universal Design provides suggestions for designing to include the needs of all underserved communities, including autistic, blind, deaf, intellectually disabled, as well as mobility disabled adults and children, and others.

These universal design principals ensure that public spaces are available to everyone—including the 15% of the population who experience some form of disability. The guide is available at asla.org/universaldesign.aspx.

U.S. Workforce Drug Positivity Rises; Construction Sector Among Those Affected

ONE-THIRD OF THE entire U.S. workforce experienced double-digit increases in drug positivity, year-over-year, according to a multi-year data analysis by Quest Diagnostics. Between 2015 and 2018, the construction industry experienced a 13.2% increase in overall drug use, as well as saw heightened positivity for specific drug use.

Of all workforce industries monitored, construction had the highest rate of cocaine use, ranking 40% higher than the national rate in 2018 (0.40% vs. 0.28%). Additionally, methamphetamine had consistent increases of use, year-over-year, within the industry (20% total from 2015 to 2018).

ABC is a founding member of the Construction Coalition for a Drug- and Alcohol-Free Workplace. Visit drugfreeconstruction.org to take the pledge.
INDUSTRY EVENTS CALENDAR

Nov. 19-22
Greenbuild International Conference and Expo
Atlanta

Jan. 14-17
Association of Equipment Distributors Summit
Chicago

Feb. 4-7
World of Concrete
Las Vegas

March 3-6
Work Truck Show
Indianapolis

March 23-27
ABC Convention
Nashville

Apr. 22-24
Design-Build for Transportation and Aviation Conference
Dallas

Send event notices and national, state and local news to editor@constructionexec.com

For a weekly analysis of news impacting the merit shop construction community, visit abc.org/newsline

New York to Prohibit Salary History Inquiries as of 2020

EARLIER THIS YEAR, New York Governor Andrew Cuomo signed a bill prohibiting employers from seeking job applicants’ salary history information.

The statewide ban will go into effect in January 2020 and disallows employers from using an applicant’s wage history either to determine whether to offer a position to, or to decide what salary to offer the candidate once they have been selected. In addition, wage history may not serve as a condition of being interviewed or as a prerequisite for employment. Companies will also not be able to request this information from candidates’ current or former employers.

Associated Builders and Contractors opposes the rule. “This overreach by the State of New York will frustrate the employer community and ultimately hurt the workforce,” says ABC Empire State Chapter President Brian Sampson. “Our members strive to hire the best people and expect to pay workers the wages they deserve and have earned. Yet, without understanding and having the ability to verify past salary, employers will be left with uncertainty and confusion that could ultimately hurt employees.”

NCCER Releases Updated Training Curricula

NEW AND IMPROVED curricula from NCCER has been released in the following categories: project management, pipefitting levels 1-4, maritime electrical levels 1-4, maritime welding levels 1-3, and maritime welding aluminum welding. Each category provides ADA-compliant presentations; both project management and pipefitting also offer downloadable lesson plans for convenience.

In the spirit of earning industry-recognized credentials, the authoring committee for these updated sources was comprised of 43 subject matter experts. Visit nccer.org/curricula to learn more.

Global Infrastructure Construction Forecast to Increase Growth

AS A RESULT of projects in both the public and private sectors, global infrastructure is set to grow by 4.8% through 2023, according to GlobalData. While President Donald Trump’s $2 trillion infrastructure plan is partly supplementing that growth, the incoming swell will largely be from Asia (7% per year), Sub-Saharan Africa (7.3% per year), and the Middle East and Africa (6.6% per year).

So far, the data and analytics firm has noted more than 14,000 large-scale projects worldwide, totaling a value of more than $14.8 million.
Democrats and Republicans don’t see eye-to-eye on much, but they agree on this: America’s infrastructure is crumbling, and it needs to be addressed. In 2017, the nation’s infrastructure received an average grade of D+ from the American Society of Civil Engineers based on capacity, condition, funding, operation, safety and other factors.

Recognizing this, the White House released a 2018 infrastructure plan that outlined four goals:
1. Generate $1.5 trillion for infrastructure proposals around the country;
2. Cap the permit process at two years;
3. Invest specifically in rural projects; and
4. Support workforce development programs in order to help secure the skilled workers needed to continuously build and rebuild the United States.

The plan called for $200 billion in federal funding, while the remaining monies would have been generated via public-private partnerships with private sector companies and contributions from state and local governments.

Despite the 2018 midterm elections, which left Congress divided, there was revived bipartisan agreement in one of the few legislative initiatives politically palatable to both parties: improving America’s infrastructure. At the beginning of 2019, President Donald Trump and top congressional Democrats agreed to work together on a $2 trillion infrastructure plan.

Regardless, this plan stalled due to renewed disagreements over funding. Democrats generally believed the funding should come from public financing and suggested money could be freed up by rolling back some of the corporate breaks in the 2017 Tax Cuts and Jobs Act. Republicans, on the other hand, argued that using incentives to get businesses involved through public-private partnerships, as was proposed in Trump’s original plan, was more economically viable.

While smaller federal proposals relating to infrastructure may ultimately pass during this Congressional session, the large-scale federal package that both sides were optimistic for at the beginning of the year appears unlikely to gain traction.

States Act for Infrastructure
Due to the inaction in Washington, red and blue states alike have taken it upon themselves to pass bills addressing the infrastructure goals laid out by the Trump administration in 2018. For example, Alabama and Illinois both received an average grade of C- for infrastructure from ASCE. Though Democrats have control of all three branches of state government in Illinois and Republicans have a trifecta in Alabama, these states both passed massive infrastructure packages in 2019 in a testament to the bipartisan appeal of such projects.

The Rebuild Alabama Act, signed into law this year, will invest $310 million per year in state infrastructure projects. These improvements will be financed through an increase in the gasoline tax and new annual registration fees for electric vehicles. While funds have not been finitely
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allocated in the state’s plan, all capital is designated toward improving roads and ports (which received D+ and B-ratings from ASCE, respectively).

The Rebuild Illinois Plan made history as the most robust capital plan in state history and the first comprehensive capital spending plan in the state since 2009. It allows for $45 billion of infrastructure spending through 2025, with $33.2 billion allocated for transportation improvements and maintenance, while the remainder will go toward projects ranging from educational buildings to state facilities improvements. The revenue for these projects will come from an increase in the state’s gasoline tax and transportation-related fees; expansion, legalization and taxation of casinos and gambling; and other various taxes, including a per-pack cigarette tax. Though not specifically in the bill, Gov. J.B. Pritzker noted “opportunities for us to do some public-private partnerships.”

States have also taken up President Trump’s recognition of the need to invest in rural projects in their infrastructure packages. The Rebuild Illinois Plan pledges $420 million for broadband deployment and $1.2 billion for community and economic development. In a separate bill, the legislature authorized a Rural Development Task Force to study the needs and issues of rural Illinois.

In Alabama, lawmakers improved the Broadband Accessibility Act to expand eligibility for funds and make it easier for broadband infrastructure to be installed. Access to broadband is an important component to determining the future success of business and innovation in America, which is why more than half of states have passed legislation aimed at the expansion of broadband internet services in rural or underserved areas.

These plans, along with smaller, more targeted infrastructure plans in other states, demonstrate America’s appetite for infrastructure improvements in the wake of inaction from the federal government.

Changes in State Procurement Policies
Some states have acted to guarantee that money allocated for state infrastructure projects is maximized and stretched as far as possible. Just this year, Kentucky and Texas lawmakers passed legislation ensuring government agencies cannot mandate project labor agreements that will apply to nearly every publicly financed construction project. Legislators in Indiana removed language from state law that allowed PLAs to be utilized on construction projects managed by the Capital Improvements Board, which oversees multibillion-dollar projects in the Indianapolis area. Some states, however, have gone in the opposite direction and either repealed or passed procurement measures that will make the cost of publicly financed construction prohibitively more expensive. Earlier this year, Illinois Gov. Pritzker signed an executive order requiring all state agencies to comply with the state’s Project Labor Agreements Act, which could increase the cost of each construction project under the newly passed infrastructure package by 12%-18%, according to the Beacon Hill Institute. Maine lawmakers have taken similar steps, passing a bill that allows state agencies to utilize PLAs if they choose to do so. And in Nevada, lawmakers eliminated procurement laws that prohibited government-mandated PLAs, which annually protected more than $2 billion worth of publicly funded projects since the law was enacted in 2015.

Through both large-scale funding packages and incremental changes, states are making significant infrastructure investments that will be key to their future economic success. The most recent available data from the U.S. Census Bureau indicates that more than $250 billion was spent on infrastructure at the state and local level in 2017, funding that largely maintained the infrastructure status quo.

Unfortunately, the feat of improving America’s infrastructural standings cannot be fiscally accomplished by states alone. If this gap in infrastructure investment continues, the United States may risk $3.9 trillion in losses to the U.S. gross domestic product, $7 trillion in lost business sales and $2.5 million in lost American jobs by 2025, according to the ASCE, which could be avoided by an estimated investment of $4.59 trillion over just a 10-year period.

While some states are doing their part to close the infrastructure gap, large-scale investment is going to have to come from the federal government if America wants to maintain and improve its critical infrastructure network.

Maureen Mahoney worked as an intern for ABC National in Washington, D.C., and is currently a student at University of Michigan. For more information, visit abc.org or infrastructurereportcard.org.
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Switching Gears: How an Internship Program Put One Student on Track—for Life

BY KAITLYN CAVALLIN

Cavallin is an incoming freshman at Kansas State University studying mechanical engineering and finishing her second internship at TDIndustries. She shares her first-person experience of growing into a promising career in the commercial construction industry.

“I’ll be honest—when I first started my internship with TDIndustries, I didn’t have a clue what I was going to do with it, but the experience helped me to guide my future career path.

I attended Construction Careers Academy, a San Antonio magnet high school that prepares students for entry-level craft professional apprenticeships and long-term careers in the construction industry.

In May 2018, TD gave me a call after a mock interview. I was already studying construction management for residential construction. I knew TD as a commercial facilities, maintenance and mechanical construction company; regardless, I thought I would try the commercial side. I did what every teenager does when considering a new job, i.e. zero research, relying only on word-of-mouth about the company. Little did I know, I would soon come to love not only the work, but the world of commercial mechanical and plumbing construction.

The summer after my junior year, I worked in the field as a plumbing, sheet-metal and welding helper. As a 17-year-old girl who knew nothing about mechanical or plumbing systems, it was an intimidating start, to say the least. I had only known one other female on my same track and very few other women who had experience in the industry.

According to the National Association of Women in Construction, only 9% of the construction industry is female, and the majority of that 9% is in either sales or support; so, I certainly felt like an explorer.

In a span of three months, my initial nerves and worries turned into a passion to learn. Everyone, from apprentices to the production team, spent days graciously teaching me not only their trade, but about their lives. I worked my way into the office from the field, ultimately leaving jobsites for what TD is well known for: air conditioning.

This is where the real change took place for me. I found excitement in the gears of the construction machine. Being a part of everything from takeoffs to BIM coordination to production review and manpower meetings showed me the fundamentals of construction, the unseen hand that makes each step fall into place, and it ignited a fire inside me.

This fall will be my first year of college. I thought I wanted a general construction science major; however, after this summer, I have decided to study mechanical engineering. Rather than general oversight of all trades, I will focus on the mechanical systems aspect because I am fascinated with the delicacies of how systems function. Earning my engineering degree and joining a seldom-chosen industry will be a marked success for myself. The determining factor came from conducting personal consultations with...
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project managers and engineers, as well as some family who work for general contractors. Working with professionals both in the field and in the office completely changed my trajectory.

I never thought I would study, coordinate and manage commercial construction. Due to the mentoring and knowledge gained over the past year, I say, “I will excel at it.” By nature, I’m aggressive and competitive when it comes to my goals and I have been fortunate enough to find a career that encourages me to think bigger. I am sold on this career path—a conviction I would not hold if it weren’t for that internship one year ago.

I have been endlessly grateful for the flexibility and opportunity that my internship program has provided. The program at TD has been full of constant learning and growth thanks to both my curiosity and professionals willing to help me along my journey.

Anyone interested in the construction industry should consider an internship, and companies should be open to them! It’s healthy and productive for both parties: the intern gets experience, and the company not only temporarily expands its workforce, but also trains its next potential team member.

“Interns are essential to the future of our industry,” San Antonio Operations Manager Justin Beard says. “It’s important that young people find a career that fits their skills and offers the career growth potential they desire. Finding something that you were made to do at a young age and growing while you’re doing it is the ideal outcome of an internship. When this happens, not only do the young people win, so does the company.”

I know that I fully intend to stay in this profession because without my experience, I may never have considered a commercial construction career.

Residential construction is still a great option (as is any career in the trades), but not for me any longer. Thank you to Construction Careers Academy, TDIndustries and my family for helping to put my confusing pile of puzzle pieces together into a more coherent career map.

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Bell & Associates was construction manager at-risk for the 200,000-square-foot, six-story Rutherford County Judicial Center, which opened in 2018 to provide 12 courtrooms, 12 judge’s chambers, eight jury rooms, jury assembly and grand jury assembly spaces, holding cells, clerks’ and attorneys’ offices, plus an evidence vault and armory in Murfreesboro, Tennessee.
The American criminal justice system encompasses a wide array of court facilities, jails, prisons and other sites at all levels of government. For every judge, clerk, prosecutor, inmate, corrections officer, family member and other stakeholder, corresponding facilities are needed to support legal and correctional operations.

A growing population in what is sometimes called our “incarceration nation” is sending a signal for more infrastructure to support the trend. According to the nonprofit, nonpartisan Prison Policy Initiative, the American criminal justice system holds almost 2.3 million people in 1,719 state prisons, 109 federal prisons, 1,772 juvenile correctional facilities, 3,163 local jails and 80 Indian Country jails. Add to this list military prisons, immigration detention facilities, civil commitment centers, state psychiatric hospitals and prisons in the U.S. territories.

Despite efforts at the state, local and federal levels to implement criminal justice reform measures, the overall number of facilities is likely to increase rather than decrease as overcrowding and other problems caused by correctional facilities bursting at the seams take their toll.

Public sector contractors are engaging specialized teams to deliver state-of-the-art modernizations throughout the country to meet both structural and human demands.
MODERNIZING AV AND SECURITY
Technology always has been and will continue to be a key requirement for almost any courthouse, prison or correctional facility project. High-quality installation of security components is paramount in this sector.

"Courthouses are looking for enhanced security while still being welcoming to the public," states Brent Helmandollar, regional director of planning for the eastern division of Hensel Phelps in Tysons Corner, Virginia. "Some features we’ve been implementing include blast resistance, access control and greater separation between detainees and the general public. In the courtrooms, they want clear sightlines and the latest in audiovisual technology (monitors) in jury boxes."

In addition to the physical security of access, municipalities and government agencies are investing more in technology for communications and data storage.

“We’re seeing an increased need for technology in courtrooms: electronic files and audiovisual systems, as well as enhanced wireless communication. We hire specialty contractors early in the process to assist during the design phase with security electronics and AV," explains Rebecca Ozols, vice president of growth and strategy for Bell & Associates Construction, headquartered in Brentwood, Tennessee.

Courts often hold preliminary hearings via video conferencing. Visitation for high-risk and

ARCHITECTURAL WORKS THAT SERVE THE COMMUNITY
In addition to a surge of work on correctional facilities, the industry faces the dual challenge for courthouses and other justice centers to serve not only as public facilities, but also as symbolic architectural works. Besides their practical necessities, these structures send a message of "authority with justice" to all who enter them.

The legacy of courthouses as a hallmark of fine architecture within an established and well-governed society is being preserved as new facilities are built with the latest technology and old ones are restored.

In a 2016 guide, “Creating a User-Friendly Court Structure and Environment,” commissioned by the National Association for Court Management, the authors pay particular attention to the role of the courthouse building and how its presence allows "structure to convey experience." Courthouse architecture provides an infrastructure that is not just physical and real, but a metaphor for the rule of law that proceeds within it.

Builders and other stakeholders are strategically partnering to not only provide contemporary services and technology to aging courthouse infrastructure, but also to preserve the historical significance, venerable charm and iconic presence that a court facility maintains in its community.

A good example of this is the recent restoration of the Byron White U.S. Courthouse in Denver. Originally constructed between 1910 and 1916, the striking neoclassical building takes up an entire city block in the federal district of downtown Denver, making it among the most widely recognized assets in the region.

Nearly 100 years after its original construction, Milender White, Arvada, Colorado, was awarded a General Services Administration contract to rehabilitate and upgrade the 270,000-square-foot building, which includes four floors, an attic space beneath a pitched roof, a full basement and a sub-basement level for mechanical equipment.

Named after Supreme Court Justice Byron White, a native of Fort Collins, Colorado, the landmark courthouse was dulled by a century of wear and tear. Details had worn away. Historic marble needed restoration. Fragile, hand-carved stones required careful replacement to match existing carvings.

Milender White’s scope of work encompassed improvements throughout the building, including
high-security defendants is likewise trending toward remote communications.

In prisons, technology helps to control access and egress as well as monitor visitors. “Prisons are increasing the use of video visitation to reduce the flow of the public in secure areas,” Ozols says. “This lowers the demand of monitoring duties for officers and facility staff. Many prisons are also adding wireless access points to immediately transmit data from police vehicles upon their arrival to reduce intake time.”

For court and justice facilities, integrating technology into a project can be challenging. “With courthouses, one of the biggest challenges we face is systems integration,” says Tony Gallivan, senior vice president for Clark Construction, Tampa, Florida. “A courthouse has numerous systems, including fire alarm, smoke control, AV, lighting and security. Getting these systems to talk to one another can be difficult—especially when each system has its own programming requirements.

“We have found that having offsite programmers come to the jobsite to interact with one another and solve problems collaboratively, rather than working remotely, is an effective solution,” Gallivan says.

However, because surveillance technology requires frequent upgrades, current installations may be short-lived. Architects and contractors will need to balance efficiency with affordability when it comes to accommodating

“A courthouse experiences daily tension between two roles—the first, inspiring awe at the role justice plays in our lives, and the second, facilitating infinite tiny steps that govern process. A well-designed courthouse gives equal attention to both facets of its existence. The result is a strong relationship between the design of a courthouse and how it functions.”

- NATIONAL ASSOCIATION FOR COURT MANAGEMENT

courtrooms and judges’ chambers. In addition to the historic window, masonry, stone and terrazzo floor restoration, mechanical and fire protection systems were upgraded, roof access stairs and platform were replaced, elevators were modernized and historic light fixtures were upgraded.

Restoration also included exterior repair and replacement of the historic Colorado Yule marble (the same material used for the exterior of the Lincoln Memorial and the Tomb of the Unknown Soldier in Washington, D.C., and Arlington, Virginia, respectively), crack repairs, tuck-pointing and structural stabilization. A whopping 455 of the courthouse’s 100-year-old wood windows required restoration; that project alone took more than a year to complete.

With the building fully occupied during construction, all work had to be closely coordinated and sequenced to prevent any interruption of U.S. Tenth Circuit Court or marshal activities. Construction was suspended while appellate courts were in session—approximately five weeks of the year.

Milender White received an ABC Excellence in Construction® Award for its highly skilled masonry, terrazzo flooring and window restoration plus fire safety and security modernization work on this historical icon.
new technology. Government officials don’t want the daily drumbeat of justice operations and procedures to be disrupted by renovation and construction activity, so systems will need to be designed for seamless changeouts.

**MEDICAL CENTERS WITHIN JAILS**

State-of-the-art healthcare is another major component of today’s correctional centers. Incorporating dental, medical and mental health facilities within the corrections compound creates self-sufficiency and removes the need for corrections officers to transport inmates and detainees in a secure vehicle to public hospitals and medical centers nearby.

Bell & Associates, for example, is currently serving as design-builder for the Downtown Detention Center and Behavioral Care Center, a new high-rise facility in Nashville, Tennessee. The facility will include an 810-bed housing unit (including 60 medical beds), a medical unit, kitchen and laundry facilities, as well as various Davidson County Sheriff Office program components (intake and processing facilities, an administrative space and a visitation area). To reduce the overall project schedule, the new facility is utilizing fully finished prefabricated steel inmate cells.

“We’ve recently had government owners request improved medical service offerings, such as better dental, dialysis, imaging and mental healthcare options,” Ozols says. “By increasing access to these services, owners hope to reduce recidivism and improve inmate care.”
BELL also served as the construction manager at-risk for Nashville’s Metro Detention Facility expansion to create a 256-bed housing unit that is divided into four pods, each of which includes a dayroom, showers and secure recreation areas. The project provided staff offices and program rooms in addition to dental exam and treatment rooms. It was designed and constructed to achieve LEED Silver Certification.

BELL has completed 29 prisons and justice facilities, and it is currently working on three others. In July, it completed the Bedford County Justice Complex in Shelbyville, Tennessee, which consists of a justice center, sheriff’s office and 415-bed jail.

Another contractor meeting healthcare demands in this sector is Hensel Phelps, which recently completed a $136 million design-build project at the DeWitt Nelson Correctional Annex in Stockton, California. Its scope of work included converting an existing facility into space for worker housing, programming, healthcare and other services for inmates who have the most severe and long-term needs.

In addition to medical facilities, contractors and subcontractors must be ready to perform significant concrete work to build and reinforce cells, install or repair flooring and roofing, and construct support facilities such as kitchens, chapels, lobbies and office spaces. Construction of youth detention wings is another growing requirement on prison campuses.

Utilizing a design-build delivery method and focusing on relationships enables Hensel Phelps
FORMER OFFENDERS FIND PURPOSE AND AVOID RECIDIVISM VIA TARGETED RE-ENTRY PROGRAMS

BY RACHEL E. O’CONNELL & JIM ROMEO

Recidivism is a longstanding, difficult problem with often intractable resolutions. Upon re-entry, previously incarcerated individuals statistically have less education and employment experience, according to the Department of Justice, which can make getting back on their feet and becoming productive members of society an insurmountable task.

To provide professional opportunities and support potential employers, Associated Builders and Contractors chapters nationwide are supporting contractors’ re-entry efforts that incorporate industry-recognized curricula and offer entry-level job skills training and counseling. While program details vary state-to-state, successes are inspiring.

Take a deeper look into three of these humanitarian, skills-based programs.

Bell & Associates Construction

For two years, Bell & Associates Construction has been involved in a prison workforce development program that employs incarcerated individuals to work on construction sites while simultaneously affording them opportunities to build skills and interact with non-incarcerated construction professionals.

The program enables incarcerated individuals in the state of Tennessee to gain marketable trade skills while earning money to help them successfully transition back into the workforce once released. BELL provides incarcerated workers with relevant classes and on-site job and safety training. Unlike other programs, these workers are paid a wage equal to what their counterparts earn from local employers. The program has graduated four classes of 12 to 15 trainees, totaling 54 participants. Twenty have since left prison, and half are still working in construction.

The program emphasizes dignity. Each incarcerated worker is allowed to change out of his prison jumpsuit for the day, buy lunch and eat with other non-incarcerated workers using a pre-paid credit card. As a result of their natural integration into a real-world setting, and by interacting with full-time construction workers, the program participants report an increase in confidence, hope for the future and a sense of accomplishment at a time when they need it most.

A special ceremony is held when the participants graduate from the course. For many incarcerated individuals and their families, it’s the first and only time they’ve worn a cap and gown. BELL often hires the graduates to continue working for them.

Louisiana State Penitentiary at Angola

Home to almost 6,000 incarcerated men, Louisiana’s Angola prison has been gradually losing its violent

National Success Stories

- Through Project JumpStart, a 14-week construction-training program for Baltimore City residents with either a high school diploma or a GED, in collaboration with ABC’s Baltimore Chapter, more than 80% of program graduates have been placed on construction jobs since 2006.
- ABC’s Cornhusker Chapter was the recipient of the Nebraska Department of Corrections Vocational Life Skills Grant in 2016, allowing the chapter to work with the Nebraska State Penitentiary on an ABC construction technology vocational/life skills course.
- ABC’s New Mexico Chapter partners with Fathers Building Futures, the chapter’s Accredited Training Unit and a local high school that also houses incarcerated youth.
- Due to ABC’s South Texas Chapter’s re-entry program, 87% of graduates gained employment and retained their jobs for one year, with only a 12% recidivism rate.
- At the ABC Illinois Chapter, 23 formerly incarcerated people graduated in 2018 with NCCER credentials.
reputation (and its reputation as the nation’s leader in imprisonment, according to The Pew Charitable Trusts) as the state makes efforts to reduce mandatory life sentences, decrease recidivism and supply inmates with the tools—both mental and emotional—to cope once released.

The prison’s re-entry system is unique, in that candidates are chosen by judges during sentencing and monitored throughout their incarceration. Provided they have not committed a violent or sexual offense, these mentees are entered into a two-year minimum structured training course and paired with mentors who themselves have been trained in construction coursework. All mentors are incarcerated men with life sentences and are certified in 14 crafts, including masonry, drywall, electrical, automotive, plumbing, welding, HVAC and carpentry.

The program teaches both practical skills and interpersonal skills—allowing the men to utilize and enhance their abilities. If the prison HVAC breaks down, the HVAC students mobilize to fix the problem; if a section of hallway goes dark, the electrical students troubleshoot until lighting returns. Those selected for the program must also accept responsibility for their actions and are required to attend drug rehabilitation, anger management or Alcoholics Anonymous—whichever applies.

The program is running so smoothly that it now acts as a model system. Mentors use NCCER’s standard Industry Recognized Credential curriculum and consult with NCCER to update and modify the coursework. Incarcerated individuals are required to pass exams sequentially, just like any other professional would.

ABC has worked with this program to ensure that standards of safety and curriculum are maintained at the highest level, acting as a mentor to the program and providing guidance whenever needed. It is the belief of ABC that this program can only supply a win-win—win—for Angola, newly-credentialed participants, as well as the association and its members.

Miller and Long
A concrete construction company based in Maryland, Miller & Long was started by two partners in 1947 and now employs more than 1,500 workers. Over the years, those workers have included hundreds of formerly incarcerated construction professionals.

One of Miller & Long’s core philosophies, along with a dedication to safety and training, is an unflinching commitment to consider the “whole person” during the hiring process. The goal is not only to ensure that returning citizens have access to a breadth of career tracks (e.g. crane operator, carpenter foreman or human resources professional), but that they have the support they need to succeed and reduce recidivism.

In order to improve those social outcomes, Miller & Long backs peer-to-peer forums and sponsors support groups dedicated to the hardships associated with re-entry. Their positive attitude and progressive hiring practices positions their company for success while offering solutions to an overlooked, unmined employment demographic.

“We are proud to be known in our community as a good employer, willing and able to provide a second chance,” says Brett McMahon, chief executive officer at Miller and Long. “We are proud they are members of our team.”
to better deliver on owners’ requests. “We create a formal partnering charter and process to ensure a strong partnership with the owner, end-users and stakeholders, as well as our design-build partners,” Helmandollar explains.

“The challenges for corrections and courthouses include ensuring the safety of the employees while meeting budget constraints,” he says. “Often there are competing priorities. Engineering the security and blast resistance, as well as incorporating modern AV and IT integration, can also be challenging.”

In some cases, the facility construction plays a role in preparing inmates for re-entry to society. “Some correctional facilities now have large kitchens, which are equipped with commercial ovens, stoves—even a bakery,” Gallivan says. “The kitchens aren’t just used to feed inmates, but to provide a training facility to improve skills in the culinary arts. Some facilities will partner with a local community college or culinary school to provide skills-based training that inmates can leverage to gain employment once out of prison.”

For contractors, the criminal justice market sector continues to create demand for construction projects of all types. Their challenge will be sifting through requests for proposals and cutting through governmental red tape. It will mean preserving façades and historical architecture; constructing new, expansive prisons with enhanced security; incorporating comprehensive onsite health care; and installing new, sophisticated technology that often evolves faster than the progress of construction.

This nuanced type of construction requires smart firms dedicated to creating and preserving public icons that not only bring justice but help enforce it.  

Jim Romeo is a freelance writer for the construction industry. For more information, visit constructionexec.com.
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How do you bid? What are the challenges? Is it worth it? Read on to get a look into this unique market.

BY RACHEL E. O’CONNELL

In 2017 alone, the Department of Defense—the largest contracting agency in the federal government—shelled out about $320 billion for contracted work to plan, program, design and build runways, piers, warehouses, barracks, schools, hospitals, child development centers and other facilities needed to support U.S. military forces at home and overseas.

Military construction is a vital, significant field, comprising an expanse of contracts. With such a breadth of coverage, not to mention the maintenance required after these structures are built, contractors must cater, quite meticulously, to this niche market.
The 207,000-square-foot design-build Wallace Creek North Bachelor Enlisted Quarters complex at Camp Lejune, North Carolina, consists of three five-story buildings connected by a central multipurpose common space. Each wing contains 134 double-occupancy living modules to house 804 Marines.
Military construction projects differ from commercial and institutional construction projects in several key ways.

- Requirements involving the documentation process are very stringent.
- Funds allocated are often withheld for lengthy amounts of time.
- Federal codification is involved to a minute degree, deciding how bids are solicited and when construction can start.

Title 40 of the United States Code (§ 1101 et seq.) requires that federal building projects go through a three-step “design-bid-build” process in which an initial design phase is followed by competitive bids from construction firms and the actual construction. And each of these phases is governed by a specific contract.

DoD contractors may use the shorter design-build process, via Section 2305a of Title 10, if it is determined that:

- three or more offers are anticipated for the contract;  
- design work must be performed prior development of a proposal by any of the offerors; and 
- a substantial amount of expense will be incurred by the offeror while preparing the offer.

And that’s just to get started. Once a contractor is approved, a project scope must be drawn that meets tight government regulations, and contracts are never finalized until the associated funding is authorized—which can take years, depending on the project and Congressional budgetary decisions.

Christopher Gray, project executive for Roy Anderson Corp., says that an additional complication is that, while each branch of the military has standard documentation and submittal procedures, “they do vary from each managing service of the military to the next. You, as a contractor, have to understand those requirements associated with your contract.” The kicker? “There are no shortcuts and the submissions have to be exactly as required.”

This is why, with all of those hoops to jump through, even though military projects comprise just 15%-25% of RAC’s annual revenue, the general contractor created a position to oversee all of the appended paperwork with a keen eye. With 26 years in the business—and 12 of them spent in the military sector—Gray is confident that his mentee, Leonard Ash, project executive of federal works, has the experience to keep the proverbial ball rolling. Together with a federal proposal writer, Ash ensures that RAC’s federal packages not only adhere to standard operating procedure, but also present the “best value,” Gray says.

Bureaucracy can be a positive flipside for the company as a whole. From Gray’s perspective, “It may seem like overkill, but you learn a lot about how to document projects.” Of course, there will be a learning curve and inspections will seem difficult because, as Gray puts it, “you’re not going to skip the guy in the middle,” but it’s that very check-the-box attitude that can set your whole organization up for success if you choose to adopt it elsewhere. “Once you become proficient with [the process], you are sure to have safe projects with the quality end users expect,” Gray confirms.

Another benefit? A record of your work. Unnerving or not, Uncle Sam is keeping tabs, and government work is one of the few market sectors that consistently requires reviews mid-project. Over the course of a single contracted job, a federal client will conduct multiple interim reviews, citing both pros and cons. Once the work has been completed, a contractor will receive these reviews in a performance report.

“That’s valuable to have and share with the next client,” Gray says. “I also think there’s some sharing of your score, rank and review within the federal agencies,” which assists contractors with acquiring more work. It has certainly been a boon for RAC, which has become a go-to for federal contracts, including disaster relief work in Texas and Louisiana.

An overset of paperwork isn’t the only trait setting this sector apart. Jason Hard, vice president and division manager at Brasfield & Gorrie, explains that “every military project is unique and presents unique opportunities.” Keeping in mind that the same issues present at
commercial and institutional jobsites, such as damaging weather and delayed materials, are additional obstacles. Gray and Hard mention these standouts particular to military projects:

- ensuring subcontracted trade partners understand the nuances of federal requirements;
- agencies might change entire programs in the middle of a project;
- restricted access to skilled trade workers due to the propensity for military projects to build in small or remote population centers; and
- locating subcontractors and workers who value the high quality and safety requirements of military work.

Although military projects also see a high rate of cancelation and delay, neither RAC nor Brasfield & Gorrie have been particularly affected by this state of play. “RAC has a diverse project portfolio,” Gray comments. “Certainly a lack of military projects affects our pursuits, but when the projects we would generally pursue are lacking, delayed or cut, we shift focus to other sectors in order to meet our goals.”

Similarly, Hard confirms that, regardless of a recent cancellation of a project due to cut funding, Brasfield & Gorrie is “not significantly affected by these changes.” He also encourages other contractors to maintain a diversified mix of projects and adds that they should

MILITARY CONSTRUCTION PROJECTS CANCELED

Nearly seven months after President Trump announced a national emergency to use roughly $8 billion to fund a wall along the southern U.S. border, the Pentagon announced plans to put some 127 military construction projects on hold, diverting $3.6 billion toward that effort.

A senior Defense Department official released the information on Sept. 4, adding that the money for the defunded projects may never be backfilled. “I don’t think there are any guarantees,” the official told a reporter from Military.com, speaking on grounds of anonymity.

Although no family housing projects, barracks or dormitories have been affected, the order from Trump puts on hold projects including school buildings, maintenance facilities, weapons shops and more. Here are just some of the stalled commissions:

- A fire and rescue station for Tyndall Air Force Base in Florida, worth $17 million
- Several repair projects at Camp Lejeune in North Carolina following Hurricane Florence, worth $40 million
- A machine gun range on Guam, worth $50 million
- A weapons maintenance ship at Anniston Army Depot in Alabama, worth $5.2 million
- Repair and restoration projects for Puerto Rico following Hurricane Maria, totaling $400 million
- An engineering center at the U.S. Military Academy at West Point, worth $95 million
- The Fort Campbell middle school in Kentucky, worth $62.6 million
- A pier and maintenance facility in Washington, worth $89 million
- A storage facility at Royal Air Force Fairford, United Kingdom, worth $87 million
- Spangdahlem Elementary School at Spangdahlem Air Base, Germany, worth approximately $79 million

A partial list of the 127 canceled projects provided by the Pentagon includes 34 in 23 states, totaling $1.07 billion; 21 in Puerto Rico, Guam and the Virgin Islands, totaling $687 million; and 39 in 20 foreign countries, totaling $1.8 billion.

“We’ve got an emergency on the southwest border we’ve got to address,” the senior official said to Military.com. “All these projects are important to us, but we also have to respond to an emergency.”

As of press time, construction on the border wall using these funds had already begun in several locations; however, on Oct. 11, a federal judge ruled that the president had violated federal law when he declared a national emergency in order to obtain the Pentagon’s construction budget.

Federal Court District Judge David Briones stated that the president’s order violates a provision of Congressional budget law, making way for El Paso County, in conjunction with the Border Network for Human Rights, to file a proposed injunction. In short, if the ruling is not overturned (and the administration is expected to appeal), military construction funds will not be able to be used for construction of the southern border wall, putting those monies in limbo until further notice.
follow the DoD’s budget in order to forecast military construction spending and adjust accordingly. “There is always a level of uncertainty in our nation’s budgeting process,” he says. (See sidebar on p. 29.)

‘SAFE’ IS THE WORD
The military possesses an exacting reputation for safety, and the construction industry must meet its very high standards.

In 2018, the U.S. Government Accountability Office reviewed 192 companies with DoD contracts, and of those sampled, 106 had been inspected by the Department of Labor, OSHA or the state occupational safety and health administration during FY 2013-17. Eighty percent were found to have committed at least one violation, and 83 companies were cited for at least one violation, including 52 with at least one serious violation.

At Roy Anderson Corp., those statistics are taken seriously. Federal projects are just as stringent about safety as they are about documentation—a Site Safety Health Officer who plans work, detects and corrects hazards on the jobsite, and provides necessary safety and health training is required, full-time, at each jobsite—but RAC has paralleled the government’s rigor across the majority of its private projects, too. “Our safety program is the same, whether it is a federal/military project or a private project,” Gray says.

Brasfield & Gorrie, number eight on ABC’s Top Performers™ list of 2019, takes a similar approach on health and safety. “We also use the EM 385-1-1 Safety and Health Manual, as required by the U.S. Army Corp of Engineers and the Naval Facilities Engineering Command,” Hard says. In addition to staffing an SSCHO on every project and employing a consistent strategy brand-wide, the contractor uses a specialized safety, health and environmental management system to provide consistent guidance to each employee on its projects. Tools include daily pre-task planning, regular safety walks by superintendents and/or project managers and routine site-wide safety meetings.

MASTER IN THE FIELD
A repeat winner of ABC’s Excellence in Construction® Awards, Brasfield & Gorrie’s military projects set the company apart from the crowd. Two of its projects won the National Excellence Award and a third snagged the Pyramid Award—all design-build projects, meaning that the contractor had sole responsibility for the entire deliverable, soup to nuts. “Our strategy was to offer the best-value solution to the government’s request for proposals,” Hard says. “We included betterments and solutions that enhanced each project’s mission: improving functional use.”

Hard has a point. Military-style buildings are often stereotyped as stark and utilitarian, lacking in creativity. A modern contractor responsible for these builds not only has to combat those stereotypes, but also must work within a budget and model that tends to conform to those stereotypes. What’s a contractor to
Meeting the infrastructure needs of the military is no small feat. Whether it’s a training facility, office space, housing for soldiers or storage for valuable equipment, constant construction is needed to keep an organization of this stature functioning.

When addressing this demand, contractors turn to either traditional construction methods, such as stick-built structures, or ready-made mobile structures, such as mobile trailers. These methods have proven to be viable over time, but certain projects require contractors to seek out alternative methods to meet mission objectives. Deviations from common methods occur when projects require quick deadlines and need assets to be relocatable or reconfigurable.

The military has used shipping containers—often referred to as Conex boxes—since the Korean War. Today, shipping container-based structures offer a viable alternative to traditional military building methods when mobility, durability and reconfigurability are important.

Offsite manufacturing accelerates the delivery process and minimizes the need for onsite labor, reducing cost and putting fewer people in harm’s way. Production can scale quickly, too. To meet a U.S. Air Force requirement, an entire Military Operations in Urban Terrain (MOUT) training facility was manufactured in 2013 using 700 shipping containers modified with moveable internal walls, breach doors and windows to resemble a city. These structures were completed in a fraction of the time and cost it would have taken to build conventionally, with the added benefit of flexibility for reconfiguration to meet changing mission requirements.

Mobility is an inherent benefit of shipping containers. Standardized sizes and connection points, such as corner castings and forklift pockets, make transportation and relocation easy. In most cases, containers don’t require foundations, so they’re easy to relocate and stack into larger buildings. Recently, a U.S. Air Force training range needed a check-in facility large enough for groups, with the mobility to accommodate changes in the entry point. Within a day of placement, the containers were pushed together, sealed and connected to power. When the time comes for relocation, the containers can be pulled apart, loaded onto a truck and driven to the new location. Elements such as desks and countertops get to go along for the ride.

Conex boxes were created to withstand the harsh conditions of transportation, making them incredibly durable and secure. Mobile workforce housing structures are developed with relocation, safety and comfort in mind. Traditional travel trailers quickly fall out of repair with frequent relocation, but containers create a durable and comfortable living space for deployed personnel. Climate-controlled units can be manufactured as housing units, kitchens, living spaces or restrooms.

Shipping containers have a special place within the spectrum of military operations, both for training and deployed forces. With the benefits of offsite manufacturing, shipping containers provide a mobile, durable and reconfigurable option.

Stephen Shang is the CEO and cofounder of Falcon Structures, Austin, Texas. For more information, visit falconstructures.com.
do? Focus on “providing them with the highest-quality living environment and experience possible while exceeding the government’s energy efficiency goals,” Hard says, referencing the company’s project at the Camp Lejeune Wallace Creek Bachelors Enlisted Quarters in North Carolina.

In the case of the Fort Bragg Kimberly Hampton School, also based in North Carolina, Brasfield & Gorrie paired with educators and planners during the design phase so that they could tailor that critical “functionality” element to the resource needs of teachers at the facility. Another prime example, the MCAS Cherry Point Marine Air Support Squadron (MASS-1), located in Havelock, North Carolina, involved engaging with the Marine Corps to understand operational capabilities and logistical requirements so that the design of supply and maintenance elements would be able to better support the project owner’s mission.

This collaborative, nuanced technique has allowed each project to result in its users’ success. Brasfield & Gorrie always aims, Hard says, to “maximize value to the end user,” which, given their substantial trophy case, has been a realization for the company thus far.

**PRACTICED PERFECTION**

Another winner of several EIC Awards, including an Eagle Award in 2018 and a Pyramid Award in 2017, RAC is no stranger to challenge or success. In fact, its work on the VA Medical Center Laundry-Dietetics Building in Biloxi, Mississippi, earned the company a Pyramid Award in the Federal Government $10-100 Million Category in 2016.

Utilizing both electricity and green power, the 81,000-square-foot building operates using smart technology and automation. The space contains a “steamless” laundry facility (one of only a half-dozen in the country at the time of completion), a dietetics facility, an office space and additional storage.

This project is significant due to its status as the first of its kind to be constructed for the Department of Veterans Affairs, and it is an illustration of what can be achieved in a perfectly understood market.

The challenges of military construction—whether process, funding, access, etc.—do not need to bind a contractor to lack of ingenuity. For both RAC and Brasfield & Gorrie, neither of which depend on military contracts for all their revenue, the answer is to integrate these requirements into company culture and statement of purpose rather than reinvent the wheel each time a bid is accepted. While the outline of military construction can be intimidating, if regulations are adhered to and challenges become routine, building within this sector is infinitely rewarding.  

Rachel O’Connell is assistant editor of Construction Executive. For more information, email oconnell@abc.org, visit constructionexec.com or follow @ConstructionMag.
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To develop the editorial content of this year’s supplement, CE editors worked closely with the two leading surety bonding associations, The Surety & Fidelity Association of America and The National Association of Surety Bond Producers. CE would like to thank both SFAA and NASBP for their editorial contributions to this year’s edition, and their continued support of this important annual publication.

We would also like to acknowledge the dozens of surety industry underwriters, producers and allied professionals that supported this year’s edition with advertising, as well as the experts who shared their knowledge and expertise to help CE readers stay abreast of the latest trends in surety bonding. We hope to see you all again next year!

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Offering a wide range of surety solutions.

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Crum & Forster Surety can support all your bond needs from your smallest commercial to your largest contracts.

Crum & Forster Surety thanks their NASBP agents for their loyalty and continued support.

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Euler Hermes Surety Expertise Expands to North America

Euler Hermes is one of the most experienced surety providers in the world. Now we are bringing this unmatched experience to the North American market. Building on our global network, Euler Hermes’ North American team of surety professionals possesses a high level of surety expertise to provide you with a reliable and knowledgeable surety partner.

COMPANY HIGHLIGHTS

• Experienced surety professionals
• National and global network
• Global capabilities
• Financial strength

A SOLID GUARANTEE:

Our investment grade rating is accepted by corporations and banks across the globe.
AA Standard & Poor’s
A+ AM Best

WHY EH SURETY?

• Experienced surety professionals: Our experienced and knowledgeable construction and surety specialists provide you with responsive service and solutions, making it easy to do business. Our surety experts have knowledge of the North American surety market and the surety expertise to tailor solutions which meet your unique needs and local market requirements.

• National and global network: Euler Hermes has surety underwriters located throughout the United States and Canada. Our surety team is close to our customers and brokers and understands the local market environment in order to serve them better.

• Global capabilities: With a presence in 70 countries across the world, Euler Hermes is uniquely capable of providing true integrated international surety programs. Euler Hermes can draw on its international network to serve our surety customers around the world. Whether you need a bond in the United States, Canada, Latin America or Europe, Euler Hermes can deliver.

• Financial strength: Our investment grade rating (AA S&P, A+ AM Best) is accepted by corporations and banks across the globe. Our market position is further backed by the financial stability of Allianz, a global leader in financial services.

• Capabilities and capacity: Euler Hermes has the capacity to handle surety customers of all sizes, from commercial bonds for medium-sized companies to contract performance bonds for large, international contractors.
BUILD WITH CONFIDENCE
WHEN YOU HAVE A GLOBAL SURETY PROVIDER.

Find out if Euler Hermes is the right partner for your surety needs.
www.eulerhermes.us/surety
Hudson Insurance Group is a specialty insurer that writes business on an admitted basis through Hudson Insurance Company and on a non-admitted basis through both Hudson Specialty Insurance Company and Hudson Excess Insurance Company.

Hudson Surety is comprised of an experienced group of underwriters with deep industry knowledge, enabling us to offer creative, personalized solutions to clients. We work closely with select agents throughout the United States to provide superior service. Hudson Surety has the expertise to work with all types of contractors and the financial strength to grow with our valued principals. Products include:

**CONTRACT SURETY**
Regional knowledge of the construction marketplace has been an important element of our underwriting approach. Our contract underwriters work closely with agency partners to understand our customers’ needs in order to develop a surety program that supports their plans. Our client base consists of general and many specialty trade contractors.

**TRANSACTIONAL COMMERCIAL SURETY**
Exceptional customer service and a broad appetite for both standard and non-standard risks have driven the success of our transactional commercial surety business. We offer all types of bonds, including license and permit, custom, public official, court and miscellaneous commercial bonds.

**SPECIALTY CONTRACT BONDS**
For contractors that may not fit the underwriting criteria of the standard surety market, we offer an alternative solution utilizing tools such as collateral and funds control. We support the bonding needs of the contractor until they qualify for our standard surety program and participate in the Small Business Association Surety Bond Guarantee Program.

**ACCOUNT COMMERCIAL SURETY**
Our team offers a wide variety of commercial bonds for publicly traded and privately held companies nationwide. We work with surety producers to properly understand client business and bonding needs in order to build long-term, responsive surety relationships.
Think again. Our Surety team works closely with agency partners to understand our customer’s needs and develop a surety program that supports their plans. Hudson is licensed in all 50 states and the District of Columbia and has a Treasury listing of $44,149,000. Offering an array of products from license and permit bonds, to custom bonds, to court and miscellaneous bonds, to payment and performance bonds for contract and commercial accounts, we have your needs covered.

When you need a bond to support your business, THINK HUDSON.

Rated A by A.M. Best, FSC XV

HudsonInsGroup.com
Liberty Mutual Insurance, a Fortune 100 company, offers a complete suite of property and casualty, surety and specialty products for construction companies. When you work with Liberty Mutual and Ironshore, you receive the benefit of flexible, comprehensive insurance and surety programs developed by a committed team of construction and specialty underwriters. Additionally, you’ll have access to industry-leading risk control resources and services. In-house teams of construction attorneys and risk management/pre-claims services provide construction companies with thought leadership and guidance from the underwriter’s perspective. And, in the event of a claim, you’ll receive unparalleled claims handling across the coverage spectrum, from liability, workers’ compensation and defect claims, to complex construction insurance and surety claims. These qualities are why construction customers stay with us—some for more than 80 years.

Liberty Mutual Surety, a business unit of Liberty Mutual Insurance, is the 2nd largest surety in the United States¹ and a leading surety globally. We are continually expanding our global presence by establishing offices and issuing bonds worldwide. With underwriting facilities in more than 15 countries and the ability to issue bonds in more than 60 countries, we have the capacity, capabilities and professionals to underwrite all types and sizes of contractors and corporations.

When you choose Liberty Mutual Surety, you receive financial strength, stability, innovation and extensive knowledge of contract and commercial surety. Our incomparable suite of client services helps customers and agencies win in the marketplace.

**GOING ABOVE AND BEYOND**

**Enhanced service offerings:** We offer a variety of programs to benefit both agents and customers: agent training opportunities, a dedicated contracting risk solutions group, custom industry-related insights, bond issuance platforms and more! We’re continually evolving to meet the needs of our agents and customers, providing innovative solutions to help their businesses prosper.

**Global product offerings:** Liberty Mutual Surety underwrites all types of regional, national, multinational and global contractors.

- Our U.S. operations provide program capacity for all-sized contractors, and for well-capitalized construction, manufacturing and supply risks. Programs are customized to meet and grow with your bonding needs.
- Our global risk team provides capacity for international and U.S. multinational customers. In collaboration with other Liberty Mutual units, we can also provide you with comprehensive property and casualty coverage, ensuring all aspects of your projects are protected.

**Superior claims handling:** Every project begins with the best intentions, but sometimes unexpected problems arise. In the event that complications occur, you can rest easily knowing Liberty Mutual Surety has a dedicated team of in-house claims and legal employees with extensive experience addressing construction claims.

When you choose Liberty Mutual, you’ll work with one company to cover construction risks from start to finish. Choose a company you can trust.

For more information, contact your independent agent or broker, or visit liberrymutualsurety.com.

¹Based on 2018 Direct Written Premium as per SFAA Statistical Data
Liberty Mutual Surety provides you with the construction insights you need to succeed. Through knowledgeable underwriters, customized data-driven reports, and specialized engineers and accountants, Liberty Mutual Surety's suite of client services can help you optimize your business and win in the marketplace.

Learn more about our enhanced service offerings by talking to your agent or visiting www.libertymutualsurety.com.
Nationwide® Surety and Fidelity

Nationwide represents a wealth of experience in surety. Our surety operation specializes in both commercial and contract surety bonds to support national and international customers with operations in the United States. We pride ourselves on developing a close, working relationship with our agents, brokers and principals in order to ensure a consistent underwriting approach.

Our expertise allows us to be innovative. Our relationships allow us to understand the needs of your business. The result: tailored surety solutions with a customized approach. We have countrywide capacity and have the capabilities to support our U.S. customers’ international bonding needs through established fronting partners in major markets like Canada, Mexico and Europe; we continue to add capabilities each year.

When you work with us, you are partnering with a strong, stable surety. Nationwide is a Fortune 100 company with one of the largest U.S. Treasury listings in the industry and is approved in excess of $1.1 billion.* Add to that an AM Best Rating of A+ (Superior), FSC XV and an S&P A+ rating, and you can be sure you’re working with one of the most financially stable companies in the industry.

* Nationwide Mutual Insurance Company, July 2018, https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm#N
Strength. Stability. Solutions.

Essential to projects — and partnerships.

We’re professional. We’re experienced. With our extensive underwriting knowledge, we are skilled in tailoring unique surety solutions as well as forging strong and lasting surety relationships. Let us create the bond solution that will work for you.
Old Republic Surety's ultimate goal is your success. We've been in the surety industry long enough to know that it’s the human element of underwriting that you need—not an algorithm. Our relationships aim for successful, profitable outcomes for both our appointed agents and their contractor clients. The bench strength we have is an open door for you. Our president will visit with you on a jobsite as well, and our business development and marketing departments can share strategies to help you grow. That’s in addition to the incredible underwriting talent we have throughout the country. We are here to help agents and contractors succeed.

**CAPACITY**
Old Republic Surety is well positioned to assist large- and middle-market contractors with bond programs based on flexible, common-sense underwriting. We write contract bonds, bid bonds, performance and payment bonds, and maintenance bonds in all 50 states. Your business’ strengths are unique to you and deserve the consideration we’ve been trained to provide—your success will never be determined by a computer program with Old Republic Surety as your surety partner.

**STANDARD BOND PROGRAMS**
Need help setting up a standard bond program? Having a standard bond program in place offers contractors a more nimble approach to bidding on projects and turning them into profitable outcomes. Prequalification can give contractors the opportunity to expedite the bond portion of the bid process. Understanding the bonding process is an essential element of a contractor’s growth. Old Republic Surety will work to position each contractor with the right process.

**CONTRACT BONDS FOR GROWING CONTRACTORS**
FastBond is Old Republic Surety’s bonding option for smaller, growing contractor. Based mostly on credit score, the FastBond not only offers a quick, flexible answer for a smaller bond, it opens the door for small contractors wanting to grow. Old Republic Surety can help you do that.
Conquer your Challenges
Guide your Growth
See your Success

Coaching your contractors through the tough stuff so everyone finishes a winner. We are right there in the thick of it with you. Let’s do this!

www.orsurety.com
UFG Insurance is a trusted insurance carrier with almost 75 years in business, offering a robust variety of surety bonds and commercial, personal and specialty insurance coverages. Our growth and success are built on the foundation of strong agency and contractor relationships. At UFG, we are proud to be represented by professional independent agents located throughout the country. Our nationwide independent agency force assists with providing the high-quality customer service our clients have come to expect from UFG.

From small, one-time commercial bonds to the multiple bond needs of a contractor, UFG Surety is ready. Our professional staff of industry experts provide a heightened level of service.

NATIONAL FOOTPRINT, REGIONAL EXPERTISE
Combining a national presence with the flexibility of a hands-on carrier, our regional autonomy allows UFG to make decisions that make sense for our customers and their business needs. Regional knowledge is a cornerstone of our underwriting approach, and our underwriters work closely with our independent agents, providing a holistic approach.

A VARIETY OF OPTIONS FOR YOUR BUSINESS NEEDS
UFG Surety offers a variety of flexible options for your commercial and contract surety needs, starting with our credit-based program for new or infrequent bond users, to a highly customizable program for growing contractors, to our traditional program for established contractors. Consistent underwriting and relationship management are the foundation of UFG Surety.

PROVEN EXCELLENCE WITH PROFESSIONAL AFFILIATIONS
UFG Surety is proud to support and be involved in a number of professional affiliations, including Surety & Fidelity Association of America, National Association of Independent Sureties, National Association of Surety Bond Producers, Construction Financial Management Association, The Associated General Contractors of America and the National Association of Women in Construction.
WHAT MATTERS: getting the job done

Surety is a relationship business. When response times are crucial, a dedicated team of surety professionals who know you and your clients matters.


Learn more by finding an independent agent at ufginsurance.com/surety.

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As one of the largest privately-owned surety providers, International Fidelity Insurance Company (IFIC)—a member of IAT Insurance Group—offers products to construction and non-construction companies and individuals. We are recognized for our commitment to underwriting a broad range of surety risks and for loyalty to our customers through unpredictable business cycles. With deep expertise, we have the flexibility to underwrite based on both the tangible and intangible qualities of our clients. We focus the underwriting of each account or bond request based on its own individual merits. Through close partnerships with our network of independent agents, our regional offices have the resources to make quick, informed underwriting decisions.

Today, we operate out of 20 regional office locations throughout the United States, servicing four major business lines: contract, commercial, subdivision and specialty. Our primary focus includes small- to mid-sized contractor (e.g. general contractor, subcontractor, engineering and heavy highway) performance and payment bond obligations. In addition, we offer a comprehensive commercial surety suite of products, such as: compliance, probates, financial guarantees, customs, contracts and many other obligations.

Partnering with an experienced surety agent and surety provider is a best practice for successful contractors. We can help with that.

*Surety & Fidelity Association of America – Top 50 Writers of Surety Bonds 2018
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2020 MEDIA KIT IS NOW AVAILABLE

CONEXEC.US/2020

PLAN TO DO MORE BUSINESS IN 2020

MAGAZINE WEBSITE NEWSLETTER eBLASTS WEBINARS SOCIAL

CONEXEC.US/2020
YOU NEED AN ARBITRATOR WHO UNDERSTANDS CONSTRUCTION.
WE HAVE THE EXPERTISE.

The AAA® Construction Industry Panel of Arbitrators and Mediators is composed of highly-qualified, diverse, and experienced construction attorneys and industry professionals. Our Construction Mega Project Panel of top construction arbitrators—rated by counsel for mega projects—based on their credentials and experience provides for disputes arising out of significant construction and infrastructure projects. When resolving your dispute requires construction industry expertise, trust the American Arbitration Association® and the International Centre for Dispute Resolution®.
During economic downturns, construction firms may be tempted to bid on projects outside their niche/region. What are the risks?

The question the contractor must consider is whether they are getting quality work such that they have a competitive advantage.

KEN CHAPMAN
EXECUTIVE VICE PRESIDENT, SURETY
IFIC Surety,
a member of IAT Insurance Group

Mitigate risk with a well-considered business plan addressing money, machines, materials, manpower and methodology—remember: proper prior planning prevents poor performance.

CARL CASTELLANO
VICE PRESIDENT, CONTRACT SURETY
Philadelphia Insurance Companies

Construction firms expanding into new niches often meet some unforeseen challenges in areas such as self performance of work, cash flow financing dynamics and organized labor obligations.

ANTHONY J. UELAND
TERRITORIAL UNDERWRITING OFFICER
CNA Surety

Expanding the typical scale and scope of work poses similar risks that could leave you worse off.

BRADY MAYER
ASSISTANT VICE PRESIDENT - UNDERWRITING
Old Republic Surety Company

Successful contractors adequately price risk, and the increased risks of performing work in a new geographic area are high.

JOSH PENWELL
SENIOR VICE PRESIDENT
CONTRACT UNDERWRITING
Merchants Bonding Company

When considering a new territory, the bottom line is to be deliberate and thorough in your analysis.

BRUCE BERGSTROM
AVP – HEAD OF CONTRACT SURETY
Nationwide

When branching out to geographies or niches outside of your core discipline, proceeding with caution is the best approach.

ANDREW THOME
PRESIDENT, ST. LOUIS OFFICE
Marsh & McLennan Agency

Read all the insights these industry leaders have to share at ConstructionExec.com/ExecutiveInsights
Contractor Surety Bonds
No Collateral Required

• For single payment and performance bonds up to $350,000
• Acceptable credit score required
• No liens, judgments or bankruptcies
• No financials needed
• ACSTAR application required
• Approval of contract documents required before bond is issued

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860-415-8400
Hank Nozko, Jr. Email: nozkojr@acstarins.com
Henry Nozko III Email: nozko3@acstarins.com

Rated A VI by A.M. Best Company - Licensed in all 50 states - On the Treasury Department’s list of Approved Sureties
Fraudulent surety bonds have become more commonplace. What steps should a contractor take to verify a bond is legitimate?

Nothing replaces a company’s own due diligence. Verifying the legitimacy of a bond is a critical but relatively easy process.

**JOHN BUSTARD**
President
National Association of Surety Bond Producers

Even if you recognize the surety company name, it does not mean the bond is real. Make sure you contact them and vet the surety company to verify the legitimacy of the bond.

**DENNIS RICHMANN**
Vice President & Director of Surety
UFG Insurance

While most surety bonds are issued properly, contractors can help avoid becoming a victim of fraud by consistently following some best practices prior to paying for bonds.

**FRANCIS J. McGRATH**
Senior Vice President & Chief Credit Officer – Contract
Liberty Mutual Surety

How can contract surety bonds help contractors secure more private sector work even when a bond is not a requirement?

A letter from the surety firm indicating its willingness to provide surety support in connection with the private contract under certain terms and conditions may provide contractors with an advantage.

**KEVIN M. WALDRON**
Senior Vice President & Director, Surety
Chubb Surety

The surety firm is looking for contractors that understand the risks they face ... and have implemented a plan to avoid, eliminate, reduce or accept those risks.

**MICHAEL P. CIFONE**
Senior Vice President, Surety
Hudson Insurance Group

What advice do you have for contractors considering making a claim on a surety bond?

Anyone making a claim under a surety bond must understand that the bond is a separate agreement from the contract the claimant signed to perform work on the project.

**MICHAEL B. BOMBA, ESQ.**
Director and Counsel,
AIA Contract Documents
The American Institute of Architects

What should contractors know about purchasing surety bonding online?

I would look to the best surety company that meets your needs, not the surety that provides the bond the quickest.

**MIKE BOND**
Head of Surety, North America
Euler Hermes North America

A few thoughts for contractors performing only private work that are considering federal government work.

Having a root canal is more fun. The federal stream of red tape can slow down the pace of work and adversely affect production and the ultimate project cost.

**HENRY W. NOZKO, JR.**
President
ACSTAR Insurance Company

Read all the insights these industry leaders have to share at ConstructionExec.com/ExecutiveInsights
Without the right support, your project will go nowhere fast.

Every project needs design, balance, and support. To bring projects the surety support they need, turn to Philadelphia Insurance Companies. PHLY has recognized expertise in contract and commercial surety bonds, from performance and payment bonds to subdivision, service contract, license and permit, court, probate, and more. PHLY’s value is measured by the strength of relationships with its partners. When you’re ready to move your project forward, you need to be sure. Be PHLYSure.

Be PHLYSure. Visit PHLy.com/Surety or call 1.888.321.4713.

A.M.Best A++ Rating • Ward’s Top 50 2001-2018 • 100+ Niche Industries
Construction spending in the United States remains high, despite private construction decreasing by 1% year-to-date versus a 4.8% increase for public construction, according to the latest U.S. Census Bureau data.

The largest private spending increases occurred in the power sector (6.2%) and private office construction (7.7%). The largest public spending increases occurred in highway and street construction (10.8%) and other transportation projects (9.3%).

As a result of continued strong construction trends, the surety industry has seen corresponding growth in the value of covered projects. The surety industry issued bonds totaling over $6 trillion in contract surety exposure over the last 20 years, including $650 billion in 2018 alone.

While sureties paid more than $75 billion in connection with covered projects over the past two decades, the good news is that the construction industry has been strong and project success rates have been high, resulting in low losses for the surety industry. Strong, well-managed construction companies, coupled with robust surety underwriting criteria and prequalification, have produced exceptional project success rates.

As contractors and sureties partner on future work, a few trends are notable and will impact surety underwriting considerations.

**Megaprojects on the Rise**
According to a recent report from FMI, a management consulting company focused on contractors and construction, more than 670 megaprojects costing over $1 billion are in the planning stages, equaling a future investment value of $2 trillion. In addition to the sheer size, these projects are made even more complex by the involvement of multiple public and private stakeholders.

In the last six years, the annual value of megaprojects rose to 33% of all construction starts in the U.S. The FMI report also estimates that megaproject spending will equal 20% of all construction spending in the next decade, up from 1.8% in 2012-2018.

This has led to signs of stress due to contractors’ potential limited capacity to deliver such large, complex jobs.

While the megaproject sector is strong from a surety perspective, underwriting conditions continue to tighten, according to surety industry leaders.

**Skilled Labor Shortage**
The construction industry lost 600,000 jobs after the recession in 2008, and many of those workers never came back, despite an abundance of opportunity. The Department of Labor reports 434,000 construction jobs were vacant this past spring, with many construction managers seeing and feeling the shortage on their job sites every day.

This reality has caused construction projects to slow and contributed to the 6.2% rise in the cost of construction in 2018.

The construction industry added 7,000 net new jobs in September, putting its unemployment rate at 3.2%, according to an Associated Builders and Contractors analysis of U.S. Bureau of Labor Statistics data. Unemployment across all industries was 3.5% in September—the lowest recorded in 50 years.

“The current U.S. economic expansion will persist for the foreseeable future, as ongoing job growth propels consumer spending and as surprisingly modest inflationary pressures keep interest rate increases at bay,” says ABC Chief Economist Anirban Basu.

“Nonresidential construction employment continues to expand—a reflection of a segment that remains flush with work,” Basu says. “The ongoing declines in various measures of unemployment are consistent with the notion that the average contractor, including subcontractors, will continue to face enormous difficulty recruiting new employees. Many contractors continue to pay for substantial...
overtime, translating into flat profit margins or worse in the context of still plentiful bidding opportunities.”

**Slow Payment Concerns**

Contractors are also being challenged by slow payments.

According to a recent study of 184 firms by Rabbet and Procore Technologies, slow payment cost general contractors, contractors and subcontractors $64 billion in the last year. This was a $24 billion increase from the previous year’s study that only surveyed contractors and subcontractors. The report found that the average turnaround time for payment was 51 days, with 63% of contractors saying they passed on bidding on projects if the owner or general contractor had a reputation for slow payment. More ominously, only 39% of subcontractors said they had enough cash on hand to cover late payments.

Due to these trends and the resulting increase in project complexity and risk, it is essential that contractors have a strong partnership with their surety.

“The surety industry is proud to support our construction partners with advisory services to manage risk and grow their businesses,” says Lee Covington, president of The Surety & Fidelity Association of America.

Seth Johnson is communications associate for SFAA. For more information, email sjohnson@surety.org or visit surety.org.

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**By the Numbers**

- **$6 Trillion**: Total of bonds issued by the surety industry over the last 20 years
- **$650 Billion**: Total of bonds issued by the surety industry in 2018 alone
- **670**: Costing over $1 billion megaprojects in the planning stages
- **$64 Billion**: Total cost of slow payment to contractors from 2018-2019
- **6.2%**: Overall rise in the cost of construction in 2018
- **3.2%**: Construction unemployment rate, as of September 2019
Surety bonds play a vital role in the construction industry. They guarantee that contractors perform on jobs in compliance with contractual conditions and legal requirements. They protect project owners, other contractors and the public by playing the role of a financial security mechanism. However, they also provide contractors with legitimacy and help build up their capacity and industry reputation.

Yet, for many contractors, especially those new to the industry, surety bonds and their purpose remain somewhat unclear.

Surety bonds for contractors are legally binding agreements between three entities:
- project owners, known as the bond obligee;
- contractors, known as the bond principal; and
- the surety company that issues and backs the bond.

Depending on the specific type of bond, these agreements have different conditions, though they all serve the same purpose of securing protections and guarantees for bond obligees.

Construction bonds are equally requested by public obligees, such as federal and state governments, as well as private obligees; i.e., private project owners. Bonds on public projects are requested under certain legally defined circumstances, whereas on private projects this is up to the project owner to determine.

Under the Miller Act, construction bonds are required for contractors performing on federal projects over $150,000. Similarly,
Our Goal is to be Your Strategic Consultant in Surety.

With Marsh & McLennan Agency, you get more than a transactional representative.

There is an enormous amount of risk in construction. At Marsh & McLennan Agency (MMA), our surety brokers build and maintain a strategic partnership with their clients. Our mission is to create a surety relationship that will enable our clients to be competitive, meet business plan objectives, and take advantage of opportunities for growth and profit.

Learn more about MMA’s surety bonding program at MarshMMA.com/surety.
Special Section: Contractors’ Guide to Surety Bonding

Every state has its own “Little Miller Act” which specifies the contract amount above which construction bonds are required.

How Do Construction Bonds Function?
These bonds function as financial security for obligees, guaranteeing compensation if the contractor violates the conditions of the agreement. Every construction bond is issued in a specific amount. This is the amount of maximum compensation that the surety may extend to the obligee. Compensation is made if the principal violates the agreement, causing losses and/or damages, and the obligee files a claim against the bond.

Yet, while sureties assume risk when issuing a bond, as contractors may default on their contract and generate a claim, the surety generally does not assume the final liability in cases of default. Every surety bond agreement is premised on the condition that the contractor is ultimately liable for claims against the bond.

In other words, even if a surety covers a claim initially, the bonded contractor must reimburse the surety in full. This is why bonds are frequently compared to lines of credit for contractors.

Of course, a bond claim can be costly and time-consuming to resolve, and it may also harm a contractor’s reputation. Yet, bond claims are a rather extreme measure, and most contractors, even when they experience difficulties under a project, do not face claims. Moreover, there are several very real benefits to contractors when they get bonded.

How Are Construction Bonds Beneficial for Contractors?
Sureties exercise great care before issuing a construction bond during the prequalification process. Before a contractor is provided with a bond, the surety will carefully evaluate financial standing, capacity to handle the project, the status of previous projects and more.

Only when a surety determines that a contractor is sufficiently reliable will it issue a bond. By issuing a bond to a contractor, the surety guarantees to the obligee that the principal will comply with the agreement.

Over time, the trust extended by sureties grants legitimacy to contractors that have demonstrated they are capable of fulfilling their side of the agreement. This trust also translates into an increased bond capacity, which allows contractors to take on more projects that require bonds.

Moreover, if a contractor does run into difficulties on a project, their surety is also a valuable ally that can provide expertise and solutions long before things go bad.

Types of Construction Bonds
Depending on the situation, different surety bonds can be required of contractors. The most common types of construction surety bonds include:

- **Bid bond.** This bond is required to submit a bid on a contract. It guarantees that the contractor will execute the contract at the bid submitted if awarded the contract.
- **Performance bond.** Contractors must post a performance bond when they are awarded a project as a guarantee that they will perform according to the conditions and requirements of the contract.
- **Payment bond.** This bond serves as a guarantee that the contractor will pay subcontractors, laborers and suppliers for services and materials.
- **Maintenance bond.** This bond functions as a guarantee to project owners that there will be no defects or faults in a structure for a certain amount of time after its completion by the contractor.
- **Public works bond.** This bond is similar to the performance bond but is typically required for projects on a state level.
- **Site improvement bond.** This bond guarantees that improvements to a structure will be made in accordance with building codes and standards.

Contractor license bonds are a separate type of bond frequently required by contractors. This bond is not a construction bond. Rather, contractors in most states require this type of bond when applying to receive a professional license or permit.

The licensing bond guarantees contractors’ compliance with state laws and protects the public in cases of injuries or losses, whereas construction bonds are concerned with the performance of a particular project. Licensed and bonded means that a contractor has obtained a license, along with submitting a contractor license bond.

Todd Bryant is the president and founder of Bryant Surety Bonds.
Providing industry-leading products, one client at a time.

Knowledge and support are always an advantage.

CNA Surety stands alongside contractors and subcontractors at every step of the bonding process to help them better manage their risks. Through our strong relationships with brokers and independent agents located in all 50 states, Puerto Rico and Canada, we offer a full range of products, including Bid, Performance and Payment bonds for contractors, as well as Commercial bonds for customers ranging from individuals and small businesses to Fortune 1000 companies. All backed by the financial strength of the CNA Insurance Group and highly rated for financial strength by all the major independent rating agencies.

To learn more, contact your independent agent or visit www.cnasurety.com.
In today’s complex and competitive construction world, it is essential to make the best decisions possible to ensure the success and growth of a construction business and the integrity of its reputation. One of the most important business decisions a contractor will make is the choice of a professional surety bond producer.

Bond producers add value by not only arranging bonds and a bonding program with a surety company, but also by giving objective advice on technical, financial and other matters impacting the business. Producers can also make recommendations for choosing other important external professional advisors, such as attorneys, accountants and bankers.

Each surety company has its own unique underwriting standards and practices, and the prequalification process can be a challenging experience if not handled by a surety bond specialist. A professional surety bond producer—one who focuses his or her career on surety bonding relationships—can serve as an objective, trusted advisor and essential guide.

Questions to Ask a Bond Producer
It pays to be discerning and selective. Be sure to ask these questions when assessing whether a particular bond producer might be a good fit for you and your company’s needs:

- Is the producer licensed in your jurisdiction and that of the project?
- What is the reputation of the bond producer? Does he or she have a reputation for integrity in the industry?
- What percentage of his or her overall business are construction clients?
- Does he or she have an understanding of the construction industry and of the construction process, particularly the management and administration of construction contracts?
- Does he or she possess knowledge of construction accounting procedures, especially an ability to analyze financial statements, work-in-progress and cash flow?
- With how many sureties does the producer work?
- Is the producer specifically authorized to issue bonds on behalf of sureties?
- Has the producer developed solid relationships with surety underwriters?
- Has the producer developed solid relationships with other professional service providers, such as attorneys, CPAs and lenders?
- How aware of and interested in local, regional and national construction markets is the producer?
- How active is the producer in local or national construction associations, such as Associated Builders and Contractors, and in local or national surety industry associations, such as the National Association of Surety Bond Producers?
- Can the producer demonstrate a commitment to maintain frequent client contact through newsletters, site visits or visits to client offices?
- What other services does the producer provide clients to help them with their business needs?
In a business as competitive as construction, reputation matters. And yours can be vulnerable to issues beyond your control. That’s where surety bonds come in.

Subcontract bonds ensure that you’re covered in the event of subcontractor failure or bankruptcy. You’ll have the resources to overcome unexpected problems and to protect your reputation — so your company can last as long as the things you build.

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external resource for evaluating a firm’s capabilities and, when necessary, can suggest improvements to help a firm meet a surety company’s underwriting requirements.

“Outside of just providing performance and payment bonds, professional bond producers are a free resource of information to the contractor to build and help grow his or her business,” says Todd Loehnert, president of L A Surety Solutions in Louisville, Kentucky.

A construction firm’s relationship with a bond producer is an ongoing relationship, often lasting decades. The producer strives to create, nurture and maintain a long-term successful relationship between the construction client and the surety company. The professional bond producer serves as a trusted advisor on continuity planning, market conditions and business planning.

“A significant part of helping my clients realize their business goals is truly understanding them and their risk tolerance, then working with them to understand, manage and mitigate risk in their business operations through training; contract review; acquisition analysis; financial and benchmarking analysis; client and subcontractor/supplier prequalification; and continuous business discussion and dialogue,” says Bryce Guignard, president of Guignard Company in Longwood, Florida.

The best bond producers are great communicators, and they communicate often with their clients. They don’t rely solely on email; rather, they consistently schedule in-person, conversational meetings. Keeping in touch encourages the contractor to seek the producer’s business advice and insight on the marketplace and ensures the producer stays informed about the status of the business.

“We have to know the character of the people we are dealing with, so we have to have face-to-face contact with them,” says Larry McMahon, executive vice president and surety manager at Construction Services Group, Alliant Insurance Services in San Diego. “I never want to handle a problem by email. I want to make that a face-to-face discussion. I want to lay out the issue. I don’t want to sugarcoat it, and I want to make sure that we both understand what caused the issue and that both of us make a commitment to fix the problem.”

The bond producer becomes an integral part of the firm’s external advisory group, which includes attorneys, accountants and bankers. In addition, the producer can be an excellent referral source to ensure that a firm has the right set of construction-experienced external advisors for continued business viability and growth of surety capacity.

“We help align the contractor with quality, construction-oriented CPAs, lawyers and bankers,” says Eric Zimmerman, sales executive at Propel Insurance in Seattle. “This benefits both our client and our surety.”

The best way to qualify for surety credit is to work with a professional surety bond producer who knows the intricacies of the bonding process, the nuances of the surety marketplace and who can match the construction firm with a surety company interested in working with a firm of its size and type. The success and reputation of a business are too precious to entrust to just anyone, particularly an insurance agent unfamiliar with surety.

Bond producers “do many things beyond the bond; we are a friend, a trusted advisor, a sounding board, a devil’s advocate, a cheerleader and a shoulder to cry on,” says Chris von Allmen, producer at Garrett-Stotz Company in Louisville, Kentucky.

The right professional surety bond producer offers business relationships built on trust, honesty and frequent communication.

Find a Surety Pro
Founded in 1942, the National Association of Surety Bond Producers is the association of and resource for surety bond producers and allied professionals. NASBP producers specialize in providing surety bonds for construction contracts and other purposes to companies and individuals needing the assurance offered by surety bonds.

Be guaranteed to succeed by contacting a NASBP Surety Pro in your state or locality at https://www.nasbp.org/guaranteed/home.

For more information about the bonding process, visit www.suretylearn.org, a site with free resources to help orient contractors, subcontractors and suppliers to the bonding process and obtaining surety credit.

Martha Perkins is general counsel and Kathy Hoffman is director of communications at the National Association of Surety Bond Producers. For more information, email info@nasbp.org or call (240) 200-1270.
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Discussions over a broad infrastructure package continue to loom on the horizon in Washington, attracting stakeholders from all corners of the construction, design and financing sectors to urge action from decisionmakers in the nation’s capital.

In 2017, the American Society of Civil Engineers released its report card highlighting the nation’s critical infrastructure needs, citing failing grades in virtually every measurable infrastructure category. An array of stakeholders in the construction industry all agree on the abundant needs to fix roads, bridges, waterways, airports and other public works. Given the unanimous agreement from stakeholders, the path forward should be clear, but a federal infrastructure package remains an elusive advocacy goal for the construction and surety industries.

In April 2019, optimism around a comprehensive infrastructure investment package was high. Leadership in the House, Senate and White House all endorsed, in principle, a $2 trillion infrastructure package. However, negotiations between the White House and congressional Democrats broke down in May, and all attention has now turned toward crafting a smaller-scale surface transportation bill. Congress is tasked with reauthorizing funding for its highway programs before the current bill, the Fixing Americas Surface Transportation Act, expires in September 2020.

The Senate Environment and Public Works Committee has begun its work by passing a bill out of committee that would authorize $287 billion in highway spending, a 27% increase over previous FAST Act levels, over the next five years. In addition to funding existing formula grant programs, it would boost funding for bridge replacement, safety improvements and other infrastructure. However, passing a highway bill is no small feat and will require action by several more committees of jurisdiction. Tough conversations around funding even a small-scale infrastructure package will need to happen soon if Congress wants to pass a new highway funding bill.

Federal Infrastructure Funding Remains Elusive

Conversations to fund a new surface transportation package are underway in the Senate, but a path forward is not apparent. Historically, roads, bridges and other surface transportation projects have relied on the Highway Trust Fund, which receives revenue from the federal gas tax and diesel tax. Revenue from the federal gas tax, however, has not been raised or indexed for inflation since 1993 and continues to fall short of the amount needed for the programs. Analysts from the Congressional Budget Office speculate the fund will be deemed insolvent after fiscal year 2021.

Preliminary discussions show little to no appetite in the Senate majority to increase the federal gas tax. Some lawmakers have floated a vehicle miles traveled tax, which would apply regardless of vehicles’ fuel efficiency, plus apply to electric cars that don’t use gasoline, as an alternative way to raise revenue. But, concerns around feasible implementation and driver privacy present major implementation issues.

Given the significant uncertainty on funding, discussions around even a smaller-scale highway bill are beginning to lose momentum. In the absence of a new highway spending bill, Congress will likely opt to extend the current funding legislation and return to the table to discuss a long-term plan later.

Gas Taxes in the States

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¹Fortune magazine (May 2019).

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CMO-1025AO (06/19)
investment is being driven at the state and municipal level. Since 2013, 31 states have raised or reformed their respective gas tax to fund infrastructure projects in some capacity. In 2019 alone, Alabama, Arkansas, Illinois, and Ohio all passed legislation raising their respective gas taxes in some fashion to address shortfalls in infrastructure investment.

Despite the significant effort to advance revenue-raising measures at the state and local level, the possibility of future federal funding creates incentives for key decision-makers to postpone investment in infrastructure in the hope of receiving additional federal funding.

**Federal TIFIA Program Reform**

The Federal Department of Transportation Build America Bureau’s new leadership has been focused on streamlining and improving the application process for Transportation Infrastructure Finance and Innovation Act loans for state and municipal transportation projects. The program has faced challenges in leveraging all the available capital in its portfolio.

According to an Eno Center for Transportation report, in fiscal year 2018, the DOT provided three TIFIA loans totaling $1.8 billion in loan value, which constitutes less than half of the new loan authority provided by the FAST Act for fiscal year 2018. The FAST Act, along with direction from the current administration, has encouraged the Build America Bureau to “improve the application processes for departmental credit programs through streamlined review and transparent approval processes.”

Congress is also considering clarifying security requirements (e.g., payment and performance bonds) for TIFIA-financed public private partnerships (P3s). State law on P3 bonding varies from jurisdiction to jurisdiction, allowing state transportation departments to inconsistently apply security requirements. Several large jurisdictions have passed legislation specifically addressing bonding for P3 projects; however, current practices potentially allow TIFIA funding to flow into unbonded projects. Historically, all projects that receive taxpayer funding have required payment and performance security in some fashion.

**Federal Bonding Thresholds**

The House of Representatives included language to exempt the Miller Act from the required indexing for inflation for all federal acquisition thresholds in its version of the National Defense Authorization Act. H.R. 224 was introduced by Chairwoman Nydia Velazquez of the Small Business Committee and was ultimately approved by the House Armed Services Committee during its deliberations on this year’s NDAA bill.

The provision is currently under consideration by the Senate and House conferees as they reconcile the two versions of the NDAA bill.

The Miller Act bond threshold is scheduled to be reviewed next year and could be increased from $150,000 to $200,000. Information collected by The Surety & Fidelity Association of America shows that the federal government’s exposure to loss from default would increase by approximately $300 million annually for federal projects alone, and subcontractors would be working on larger jobs without payment protection.

**In the States: Public-Private Partnerships**

Twenty-three states considered legislation to authorize the use of P3s in 2019. Although that number may sound high, this was this first year SFAA observed a slight downward trend in the volume of legislation, particularly in the number of bills to authorize the broad use of P3s for public infrastructure projects. This could be because Massachusetts and New York are the only remaining large markets for P3s without a broad-based P3 authorizing law.

Notably, Colorado and Indiana amended their P3 laws to require bonding. In the transportation sector, Florida enacted legislation for corridor and expressway projects. Eight other states also considered P3 transportation bills that did not pass in 2019. Although fewer states considered broad, enabling legislation this year, more bills focused on specific kinds of P3 projects. P3 legislation for specific kinds of projects was enacted in Illinois, Missouri and Vermont, with nine other states also considering such legislation.

In Missouri, legislation passed affirming payment bond requirements for P3s after the Brentwood Academy v. Tennessee Secondary School Athletic Association court decision injected some uncertainty around bonding P3 projects.
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Provisions included in the new law require the payment bond to pay suppliers of all tiers with 90-day notice and prohibit lien rights when payment bonds are in place.

**Emerging Issue: Broadband P3s**
P3s are increasingly being considered to address access to broadband wireless services, with such legislation being enacted in Arkansas and North Carolina. Legislation in North Carolina included reference to the state’s Little Miller Act to ensure broadband P3 projects require payment and performance bonding.

Five states—Hawaii, Mississippi, Nebraska, New Mexico and New York—considered bills to authorize the use of P3s for broadband.

Oregon introduced a bill for studying the use of P3s to address broadband infrastructure needs, and Washington enacted a new law to create an infrastructure grant and financing program for which P3s will be eligible to receive such funds.

On the federal level, the Federal Communications Commission proposed rules designed to expand the Rural Digital Opportunity Fund. Currently, the FCC requires internet service providers to provide a line of credit to secure the obligations to repay the support already paid for out of the Rural Digital Opportunity Fund. Small internet service providers have voiced concern over the impact a line of credit has on their day-to-day finances and have suggested surety bonds would be a viable opportunity to secure their obligations to the FCC.

**Retainage**
Retainage also came under some scrutiny this year as states considered reduced amounts. A new trend was states considering reducing retainage to as low as 2.5%. In Oklahoma, a new law provides that when public construction projects are 50% complete and a bond is required under the Little Miller Act, the retainage will be reduced to 2.5% of the progress payments.

Retainage also will be capped at not more than 5% until the project reaches 50% completion. Previously, retainage was capped at not more than 5% for the whole project. Nevada enacted a new law that reduces the amount of retainage that the DOT is authorized to withhold from 5% to 2.5% of the amount of the progress payments to the contractor. The new law repealed the $50,000 cap on the total amount of retainage that can be withheld.

Florida also considered legislation to reduce retainage from the current 10% to 5% prior to a project reaching 50% completion, and then reducing it to 2.5% after the project reaches 50% completion, but the bill failed to pass.

**Alternative Project Delivery Methods**
Fifteen states considered legislation concerning the design-build and construction manager project delivery methods.

Wisconsin enacted a new law authorizing the DOT to use design-build projects and stating that the request for proposal must include requirements relating to performance bonds, payments bonds and insurance.

Oklahoma and South Carolina amended their laws for alternative project delivery methods to further specify the bonding requirements. In Oklahoma, political subdivisions now are authorized to require construction managers to provide 100% bonding. The construction manager also may require subcontractors or suppliers to be bonded. The new South Carolina law provides that bonds or security may be required for 100% of the designated portions of a project for construction managers at-risk, design-build or design-build-finance-operate-maintain contracts.

Dalton DeFendis is director of government affairs for SFAA. For more information, email ddefendis@surety.org or visit surety.org.
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Financial statements tell contractors, as well as sureties, bankers and other stakeholders, how well a construction company is doing. A contractor’s character, capacity and capital are determined by the numbers reported on the company’s financial statements. Commonly referred to as the “three Cs,” these indicators provide a foundation for sureties to form an opinion on a contractor’s past, current and future performance.

Sureties look at the three Cs to determine if the contractor has:

- working capital, or access to it, to finance a job and absorb losses (capital);
- experience, knowledge and equipment to perform the job (capacity); and
- a competent management team to fulfill obligations and contracts (character).

The four types of financial statements are the balance sheet, income statement, statement of retained earnings and cash flow statement. Notes and disclosures to the financial statements are required to comply with generally accepted accounting principles (GAAP). Schedules are also included to provide additional information and explain certain numbers. Financial statements audited by a CPA who specializes in construction accounting are sometimes required for bonding.

**Balance Sheet**

The balance sheet reports the assets, liabilities and owner’s (stockholders’) equity at a specific point in time, such as Dec. 31. Assets are resources owned by a company that have future economic
value that can be measured and monetized. Examples include cash, investments, accounts receivables, inventory, supplies, land, buildings, equipment and vehicles. Assets are bought or created to increase a company’s value or to improve operations. Assets are typically reported on the balance sheet at cost or lower.

Goodwill is an intangible asset because its value is perceived by the contractor. The actual value of goodwill is based on what someone would pay for the company above its fair market value. For instance, if the value of a contractor’s ongoing business is worth $5 million and goodwill is $1 million, the total value of the business would be $6 million only if a potential buyer is willing to pay $6 million. Examples of goodwill include brand equity, loyal customer base, good customer and employee relations, and any patents or proprietary technology.

Liabilities are company obligations that are not paid for or completed. Liabilities are presented on the balance sheet in two categories:
- current liabilities, which are due within one year of the balance sheet date; and
- and long-term liabilities, which extend beyond the current year or current operating cycle.

Current liabilities include accounts payable, accrued liabilities, accrued wages, deferred revenue, income taxes payable, interest payable, payroll taxes payable, salaries payable, sales taxes payable, use taxes payable and warranty liability, as well as amounts owed to lenders and suppliers. Examples of long-term liabilities are long-term debt and company-issued bonds.

Equity (owner’s or stockholders’) is the difference between a company’s assets and liabilities. Equity is the book value of the company to its owners. It can consist of capital stock or members capital, retained earnings and treasury stock.

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**DELMARVA SURETY**

A DIVISION OF RISK STRATEGIES

Sureties typically analyze a contractor’s mid-year and year-end balance sheet position to ensure that everything is going according to plan. Sureties want to see that the assets and liabilities are properly classified. They will also analyze contracts, job cost efficiencies and billings (overbillings and under-billings), as well as other indicators that jobs may not be well managed, adequately financed and being completed on or under budget.

Items that sureties do not want to see on a balance sheet are cash overdrafts, loans to officers, loans to employees, certain current assets, increases in current liabilities and negative equity.

**Income Statement**

The income statement is a summary of the results of a company’s operations for a specific period of time. It presents a picture of a company’s revenues, expenses, gains, losses, net income and earnings. The income statement is also referred to as the profit and loss statement (P&L), statement of income and the statement of operations. The key line items are that generally presented on the income statement are revenue, cost of sales, gross profit, operating and administrative expenses, income from continuing operations, income from discontinued operations and net income. Public companies must include earnings per share (EPS) on the income statement.

Sureties will compare a contractor’s year-over-year and period-over-period financial statements. They look for significant changes in reported revenue and expenses. Key performance indicators also will be analyzed to determine if a contractor’s performance is in alignment with past periods, benchmarks on similar companies and industry trends. Sureties want to see consistency in performance and that the
contractor is operating as well as, or better than, other companies in the same market.

**Statement of Retained Earnings**
Retained earnings represent the amount of net income or profit left in the company after dividends are paid out to stockholders. The statement of retained earnings shows the changes in retained earnings from one point to another.

Retained earnings is reported as a separate component of the stockholders’ equity section of the balance sheet. Negative retained earnings are reported on the balance sheet as a deficit or accumulated deficit instead of retained earnings.

Sureties look at the statement of retained earnings to determine if a contractor is over-extended. Although a contractor may have a positive amount of retained earnings, they may not have a large amount of cash if it was invested in buying property, materials and equipment, or used to reduce the corporation’s liabilities.

**Cash Flow Statement**
The cash flow statement reports the sources and uses of cash and certain supplemental information for the period specified in the heading of the statement. The cash flow statement is also known as the statement of cash flows.

Cash flows into and out of a company from a contractor’s business activities, investment activities (sale of a property or payments, gross proceeds from selling certain assets or purchasing land, equipment, materials, etc.) and financing activities (borrowing money, paying off debt, issuing stock, purchasing stock or paying dividends and making distributions to owners).

Sureties analyze a contractor’s cash flow statement to see if they can pay bills in a timely fashion.

**Notes to the Financial Statements and Schedules**
The notes to the financial statements (footnote disclosures) provide information on a company’s operations and financial position. The footnotes summarize significant accounting policies, business activities, the use of estimates, cash equivalents, method(s) of accounting used and other key pieces of data. Notes to the financial statements are required by the full disclosure principle and are important to communicate relevant facts and explain certain numbers.

Supplemental schedules give more detailed information. These include, but are not limited to the:• schedule of contract revenue;• schedule of general and administrative expenses;• schedule of completed contracts; and• schedule of contracts in progress.

Sureties will analyze each footnote and schedule to determine the concentration of risks, costs and estimated earnings on uncompleted contracts; if the contractor took out or used its line of credit, if there are long term notes payable, excessive overhead expenses; the collectability of accounts receivable, as well as any financial exposure due to retirement plan obligations, backlog, lease commitments, related party transactions, and commitments and contingencies.

In addition, sureties want a breakdown of the cost of labor, materials and subcontractors per job; the number and size of jobs in progress, gross profit per job, and job fade. Sureties want to see that the contractor is making money and that the gross profit is enough to cover 12 months of overhead expenses.

**KPI Standards**
The 10% rule (10% working capital and 10% equity of total cost to complete work on hand) is a recognized standard used by sureties to determine if a contractor is bond-worthy. Other general guidelines are:

- **working capital:** 10% to 15% of annual revenue;
- **backlog:** equal to one year’s worth of revenue;
- **debt-to-equity ratio:** below a three to one ratio of total liabilities to equity;
- **under-billings:** under 25% of working capital; and
- **profit fade:** less than 10% of the original estimate.

Sureties do not like surprises and respect contractors that bring issues to their attention. Contractors should explain the situation, why it is a problem, and their proposed solution. Contractors should also prepare written plan outlining realistic, achievable and time-sensitive goals. Being proactive is essential to having a positive working relationship with sureties.

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Martin C. McCarthy is managing partner and Matthew Boland is director of accounting and assurance of McCarthy & Company. For more information, email marty.mccarthy@mcc-cpas.com or matthew.boland@mcc-cpas.com.
Many contractors rely heavily on surety credit, also known as bonding capacity, in order to bid and win projects. It is important to understand how surety credit is calculated and what efforts can maximize that credit.

Surety credit is based on what is known as the “three Cs”: character, capacity and capital.

Capital refers to the working capital of the contractor, adjusted for certain items, as well as the contractor’s equity. Under Generally Accepted Accounting Principles (GAAP) in the United States, working capital is the difference between the contractor’s current assets and current liabilities. For surety credit purposes, adjustments are made to the GAAP working capital to determine the adjusted working capital. The surety will typically calculate surety credit based on the contractor’s year-end audited or reviewed financial statements.

Surety credit normally ranges from 10 to 20 times the lesser of the adjusted working capital or equity of the contractor. To maximize surety credit, it is imperative to identify the items that affect the calculation.

Accounts Receivable Over 90 Days
Receivables over 90 days are normally removed from working capital for surety purposes unless the contractor can show that the receivables have been collected from the customer. Throughout the year and, more importantly, prior to year-end, contractors should focus on collecting any receivables that will be in this 90-day-plus bracket as of their year-end.

Inventory
The surety will remove from working capital 50 to 100 percent of inventory carried on the contractor’s financial statements. Contractors should try to have a minimal amount of inventory on hand as of their year-end.

Notes Receivable From Unrelated Parties
Notes receivable from unrelated parties are frowned upon by sureties. If a note receivable is on the contractor’s balance sheet, the surety will look into the credibility of the party from which the note receivable is due, in order to determine if it will be included as part of the working capital.

Loans and Notes Due From Related Parties
Amounts loaned to related parties, including affiliated companies or relatives of the stockholder(s) of the contractor, are removed from working capital by the surety. Prior to the contractor’s yearend, any amounts owed from related parties should be repaid or reduced to minimize any impact on working capital.

Prepaid Expenses
For surety credit purposes, prepaid expenses are removed in their entirety from working capital. Based on this, it would be prudent to conduct a review of all items creating a prepaid expense and determine if changes can be made to reduce the potential for any prepaid expenses at the contractor’s year-end. An example of this is general liability and workers’ compensation insurance. If the renewal period is just prior to the contractor’s year-end, the prepaid premium could be very large.

A simple change to the policy’s year-end to fall after the
contractor’s year-end could reduce the reporting and impact of prepaid expenses.

**Cash Surrender Value of Life Insurance**
A contractor’s ability to access cash is important to the surety. CSV is considered part of adjusted working capital, making it a short-term asset, as compared to GAAP, under which it would be a long-term asset. The CSV would be net of any loans the contractor has taken against the CSV and any applicable surrender charges.

**Loans Payable to Stockholder(s)**
If the contractor’s adjusted working capital or equity is not at the level needed to sustain the surety credit required by the contractor, the surety may require the stockholder(s) of the contractor to loan the company funds for working capital purposes. This loan would increase the cash position of the contractor, which then increases the working capital. The loan would then be required to be subordinated to the surety, meaning the contractor would be required to get permission from the surety to repay the stockholder(s).

**Line of Credit**
Sureties often require contractors to obtain a line of credit with a bank. The line of credit normally does not increase the working capital of the company but allows the contractor to obtain cash if needed. This provides financial security to the surety that the contractor will have funds, if needed, to complete projects.

**Equity**
The equity of a contractor is the amount shown for GAAP purposes, reduced by any loans or notes due from related parties or increased by any loans from stockholders to the company that have been subordinated to the surety.

With proper planning prior to the contractor’s year-end, construction companies have a multitude of options that can enhance their capital position in order to maximize surety credit.

Robert Mercado is an assurance services partner and New England Construction Leader and William A. Clark is an assurance partner and member of the national Construction Industry Practice Group of Marcum LLP.
Get Ready! There’s a Train A-Comin’—the New Lease Accounting Standard

BY R.A. BOBBI HAYS, LARRY MAY AND ROBERT COKER

Right on the heels of changes in revenue recognition that sureties will, for the most part, begin to see on financial statements for the years ending Dec. 31, 2019, comes another significant change to nonpublic contractor financial statements. This change is the new accounting standard on leases, which is effective for nonpublic companies for fiscal years beginning after Dec. 15, 2019 (for practical purposes that means a Dec. 31, 2020, yearend).

The Financial Accounting Standards Board (FASB) voted on July 17, 2019, to propose delaying the effective date for nonpublic companies by one year, until fiscal years beginning after Dec. 15, 2020; however, the proposal must go through public comment before a determination on whether the delay will go into effect. The changes required by this new standard will impact traditional financial analysis of contractors, affecting the income statement and balance sheet presentation, working capital and debt/equity ratios, and are also expected to create challenges to loan debt covenants.
Interim 2020 financials issued for nonpublic companies are not required to use the new standard. The latest presentation, though required at a minimum to be computed as of the first day of the 2020 fiscal year, will more likely show up for the first time on the contractor’s 2020 annual financial statements.

The new standard, technically referred to as ASC 842, is already in effect for public companies for their fiscal years beginning after Dec. 15, 2018. Although early adoption of this standard was allowed, only two public companies chose to do so—Microsoft and Target—which is an indication of the complexity of the new rules. Accountants are starting to see presentation and disclosures on the new standard for public company interim financial statements as of their March 31, 2019, quarterly reporting.

**Financing Leases and Operating Leases**

The new standard calls for changes for both financing leases (formerly called capital lease obligations) and operating leases. While calculations involved in analyzing financing leases haven’t changed dramatically, the bigger impact will come from the change in accounting for operating leases. Prior to the new standard, operating lease rents were reported on the income statement, and future minimum lease payments were disclosed in the financial statement. However, the new standard requires the annual rents for operating leases to be capitalized and reported on the balance sheet as an asset with a corresponding liability for the future minimum lease payments.

The new standard requires that operating leases be analyzed to break them down into noncurrent lease assets and current and noncurrent liabilities for presentation on the balance sheet.

The technical discussion starts with an analysis of the old standard (and is still the standard for 2019 nonpublic financial statements). The old rules (now codified as ASC 840) were issued in November 1976. Leases were classified into two categories: capital leases and operating leases.

If the transaction met one of four rules (see box at left) it was deemed a capital lease. Rather than lease payments being reflected as rent expense in the income statement, the present value of the lease payment stream was capitalized as an asset recorded in the noncurrent asset section of the balance sheet, and a corresponding liability “capital lease obligation” similar to a note payable was recorded.

As lease payments were made during the year, a portion of the payment would be applied to the underlying obligation and a portion treated as interest expense. The asset was amortized over its economic life.

All other leases were treated as operating leases, with the lease payment recorded as rent expense in the income statement.

Under the new rules (ASC 842) issued in 2016, the terminology changes from capital lease to a finance lease (see five qualifications in box at left).

The main changes have to do with “majority” rather than “75%” of the economic life, and present value equaling or exceeding the fair value of

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**Four Old Rules to Qualify as a Capital Lease:**

- Ownership was transferred to the lessee from the lessor by the end of the lease term.
- The lessee had a bargain purchase option at a price lower than fair market value at the end of the lease.
- The term of the lease was greater than or equal to 75% of the economic life of the leased property.
- The present value of the minimum lease payments exceeded 90% of the fair value of the leased property.

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**Five New Ways to Qualify as a Finance Lease:**

- The lease transfers ownership on or before the end of the lease term.
- The lease gives the lessee an option to purchase the asset, and the lessee is reasonably certain to exercise that option.
- The lease term represents the major part of the remaining economic life of the lease asset (except if near the end of its economic life).
- The present value of the total lease payments and any residual payment equals or exceeds the fair value of the asset.
- The asset is so specialized that it isn’t expected to have an alternate use at the end of the lease.
the asset as opposed to “90%” of the fair value. Recording and accounting treatment of the asset and liability for a finance lease is the same as for the prior capital lease. If a lease doesn’t meet the finance lease rules, it is also called and treated as an operating lease, but there are changes to the accounting and presentation.

For an operating lease, a “right of use asset” and a “lease liability” must now be recognized. The lease liability is calculated as the sum of the present value of the rest of the lease payments, using a discount rate. Nonpublic companies can elect an accounting policy to use a “risk-free” discount rate at the date of commencement of the lease. That will usually be the U.S. Treasury yield rate for a similar lease length.

**Lease Payment Calculations**
The contractor has the option to perform and record the calculation as of the first day of its current year and to present comparative information under the prior method. In the alternative, it may go back and recalculate as of the first day of the comparative year, presenting both years under the new standard. In either case, calculations on previously existing leases will require recording the resulting change to equity as a prior period adjustment. Most contractors likely will elect to perform the calculation as of the first day of their 2020 fiscal year.

Lease payments include fixed payments, any variable payments tied to an index, the exercise price for a purchase option that is reasonably certain to be exercised, and penalties for terminating the lease if the lessee is reasonably certain to terminate a lease. If the lease is considered to be short-term (12 months or less as of the commencement date), the lessee can elect not to recognize a “right of use asset” and corresponding “lease liability,” and may treat all lease payments as expenses. All operating leases with related parties, such as leasing of land, buildings and equipment, will fall under the standard. The impact on a balance sheet will be to record a noncurrent asset accompanied by both a current liability and a noncurrent liability, impacting working capital and debt-to-equity ratios. The income statement will not see major impacts.

**Impact on Bonding Decisions**
How will these changes impact bonding decisions, especially when factored for potentially multiple leases? For example, a contractor may find itself in violation of debt covenants on its loan agreements. A violation of a debt covenant causes the corresponding debt to be classified as current unless the lender provides a waiver.

One more complication exists for contractors. The treatment for income tax purposes has not changed, creating additional financial statement to income tax return differences, resulting in additional deferred tax assets and liabilities.

What should contractors be doing in 2019 to prepare for the new lease standard? They should be undergoing a detailed analysis of all leases to determine the impact on their financial statements. They should be comparing changes in ratios to their existing debt covenants, engaging in a discussion with their bankers and possibly renegotiating loans. They should be examining the terms of all of their lease agreements, including those with related parties.

If, for example, they decide to change a related party operating lease for a building to 12 months or less, they will have to analyze the impact of any leasehold improvements to that building they may have recorded on the books. What is the economic life of a leasehold improvement if the lease is 12 months or less? Will the remaining balance need to be amortized in the year of change?

The contractor will also have to make the decision whether to apply the new standard retroactively to the first day of a comparative fiscal year or to apply the new standard only to the first day of its 2020 fiscal year. Hopefully, the contractor will be working with a CPA firm well-versed in construction financial and tax return matters to help the firm navigate the new lease standard. 

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This article is an excerpt from the article originally published in the Fall 2019 issue of the NASBP magazine, Surety Bond Quarterly. For more information, visit www.suretybondquarterly.org.
AIA Contract Documents

Real projects start with the industry standard

Before the project broke ground, Earl Swensson Associates made sure The Gaillard Center, a world-class multipurpose theater, was protected with AIA contracts.

New AIA Construction Management documents coming in November! Register for a free webinar to learn more at aiacontracts.org/ce-CM.
It’s an all-too-common occurrence: A trusted, long-time employee starts stealing from the company. At first, it may be only a few small items. Then the employee becomes emboldened by how easy it is to forge checks, alter invoices or pad expenses. Often this goes on for years. Greed or carelessness may finally lead to the employee being caught. By then, the business has suffered significant losses.

Employee theft can add up to hundreds of thousands of dollars—an average of 5% of a company’s annual revenue, according to the Association of Certified Fraud Examiners. And it’s not just money. Employees steal inventory, office supplies, even time. Security Magazine reports the total cost to U.S. businesses is $50 billion per year. At least 30% of business failures are caused by employee theft or embezzlement.

Theft isn’t limited to the employer’s jobsite. Workers who visit a customer’s premises may walk away with jewelry, cash, laptops and other valuable items, or they may damage property. Contractors, consultants, painters, pet sitters, repairmen, janitors, home healthcare workers and computer technicians are just some of the employees may work offsite and unsupervised.

What Can Be Done?
Thankfully, insurance protection exists to cover employee dishonesty and theft, and it’s economical and easy to purchase. Known as fidelity bonds, these policies should be part
of an employer’s insurance program, along with business liability and property insurance.

While surety companies usually sell fidelity bonds, they are actually a form of insurance. The policies are sold as one-year contracts that can be renewed annually. When a company suffers a loss, it makes a claim that is then paid by the insurer.

There are typically three types of coverage available:

- **Standard fidelity** protects an employer against employee dishonesty. Most policies cover theft and embezzlement, computer fraud, illegal fund transfers, counterfeiting and other dishonest acts.
- **Business service or third-party fidelity** is for businesses that have employees who work on their customers’ property. If the employee steals from the customer and there is a conviction, the bond will pay for the loss. When service contractors say they are bonded, this is the type of bond they are referring to.
- **ERISA bonds** are required by the Employee Retirement Income Security Act for employers who offer 401(k) or other retirement plans to their employees. Employers must have a bond equal to 10% of the assets they manage, up to a maximum of $500,000. These bonds protect the plan from the misappropriation of funds.

**Good for Employers and Insurance Agencies**

Fidelity bonds are a win-win for both the employer and the agent. They’re an inexpensive way to provide additional coverage to an employer, and the agent earns extra income from the sale. I always recommend that when agents review their clients’ business liability, worker’s compensation and property coverage, they also discuss fidelity coverage. The premiums are relatively low, and the customer has the added protection of being covered against employee fraud and theft. It also allows the customer to say that his firm is bonded.

Fidelity is an easy coverage for agents to write. Business service and ERISA coverage are available through an online portal. Agents simply enter information on the employer, and the bond is immediately issued. For standard fidelity, the agent must submit an application for approval. It takes a little longer, but most sureties are very responsive in writing this coverage.

Insurance agents should definitely include fidelity coverage in the clients’ renewal checklist. Fidelity helps add value to the client’s portfolio while generating additional cash flow for the agency. Educate them on how employee theft or fraud can be devastating to their business.

**Tightening Financial Controls**

A simple discussion of fidelity coverage may prompt an employer to tighten financial controls or better monitor supplies and inventory. Whenever writing a fidelity bond, check to see if the employer has policies and procedures in place to prevent losses. Small firms, in particular, may not be adequately protected against fraud and embezzlement. Sometimes asking a few basic questions can help a business protect its finances and property.

Companies of all sizes can benefit from instituting these basic checks and balances:

- **Confirm** past employment, job references, certifications and degrees, and consider a background check before hiring someone.
- **Have written policies** regarding theft and fraud, and enforce them.
- **Separate operations from accounting.** Don’t let one person have total control over funds. Someone authorized to write checks shouldn’t be making deposits or reconciling bank statements. Checks should be countersigned.
- **Limit** who can handle cash and institute controls.
- **Create a paper trail** for each accounting transaction.
- **Count inventory** on a regular basis and compare it to records.
- **Lock and limit access** to storage areas.
- **Don’t hesitate to contact the authorities** and press charges if there is a case of theft.

Unfortunately, not all employees are honest, and the cost of employee theft and fraud keeps going up. Employers need to be vigilant so they don’t fall victim to employee dishonesty. Agents need to discuss fidelity bonds with their clients to help them protect their business.

Shayne Albine is the southeast regional director of commercial surety for Old Republic Surety. For more information, visit orsurety.com/blog.
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remarkable 93% of professional contractors rented equipment in the past year, according to the 2019 Rental Customer Needs Study conducted by the American Rental Association. Of study respondents who rented, 92% planned to rent as least as much as last year, and 52% expected to increase renting over the next year.

The equipment rental industry is growing and changing right along with the businesses that increasingly depend on it. Following are five construction equipment rental trends to watch for in 2020.

1. The Shift to Rental Continues
In the wake of the financial crisis, the construction industry moved away from equipment ownership and toward equipment rental, which has proven to be enduring rather than just a short-term solution to an economic problem.

The ARA Rental Penetration Index, which measures the percentage of the total equipment fleet currently owned by rental companies, has stayed near 53% since 2013 after breaking the 50% mark for the first time in 2011.

The index suggests that contractors are seeing the ability of rental to help them:
• reduce capital expenses;
• get exactly the equipment they need;
• supplement equipment to extend a fleet and compete for more jobs;
• ensure equipment has the latest safety features and emissions-compliant engines;
• experience the convenience factor of delivery;
• enjoy confidence that the equipment is well-maintained; and
• eliminate or decrease the need for storage.

Rental is an original sharing economy—a concept that includes newer companies like Uber and
Airbnb—and the migration to rental is driven in part by the younger generation coming into the construction business. Attitudes toward renting instead of buying do not show signs of changing anytime soon.

2. Technology Is Enhancing the Rental Experience
As rental customers increasingly expect progressively more convenient, round-the-clock service, rental stores are incorporating more technology into both the way they operate and their equipment fleet offerings.

From the initial online search, the rental process is easier and more efficient through mobile-friendly website designs, online booking and portals, as well as texting programs. Telematics systems on equipment are helping rental customers maximize productivity by tracking fleet location, utilization rates and service needs.

3. Rental Stores Are Educators on New Safety Standards
Modern equipment, such as mobile elevating work platforms, introduces complex safety requirements and demands that rental companies and contactors have specialized knowledge and training to use it properly. Complying with detailed regulations such as the recent silica dust rule also requires detailed expertise.

Rental stores are embracing the responsibility of educating and training contractors on the new requirements and safety features. ARA provides members with a wealth of educational resources related to the new standards, and companies regularly take part in equipment training and demonstrations with manufacturers.

4. Rental Is Mitigating the Labor Shortage
The construction industry is experiencing a significant skilled labor shortage. Many rental stores help ease the effects on contractors by providing equipment maintenance and transportation support.

Rental leaders understand the labor issues they share with their construction counterparts, and they are working alongside contractors nationwide to raise awareness about the rewarding careers available in the rental and construction industries.

5. Women Are Helping to Advance the Rental Industry
Thousands of women help make up the equipment rental industry, holding positions from mechanics to CEOs. According to ARA research, 27% of attendees at The ARA Show™ in 2018 were women, and 32% of 2018 Leadership Conference attendees were women.

To help empower women and build their collective voice, ARA has created the group Women in Rental, which provides networking, mentorship and educational opportunities with the goal of increasing volunteering from women on a local, regional and national level. It is anticipated that more women will join the industry as the younger generation becomes aware of the rental career option and is able to take advantage of mentorship opportunities.

Beth Hoff Blackmer is president and owner of Aspen Rent-All in Basalt, Colorado, and president-elect of the American Rental Association.

How to Find a Rental Partner
More than 90% of ARA’s 2019 Rental Customer Needs Study participants said rental locations are doing an excellent job of providing their customers with satisfying rental experiences. According to the research, professional contractors seek five key things from their local rental company:

- attentive customer service
- reliable, well-maintained and varied equipment
- online engagement
- clear communication
- rewards

Heading into 2020, ARA members will use the study’s findings to make optimizations that grow and strengthen their partnerships.

To help construction contractors find rental partners, ARA offers RentalHQ.com, an easy-to-use online rental store locator. Website visitors enter the type of equipment they require and their ZIP code to obtain a list of local ARA-member rental companies that assist with meeting their specific needs.
Too many firms grow for the sake of growth, only to suffer when the end product does not meet the client’s expectations. Managing growth with a balanced view of a firm’s own talent and core service structure helps a best-in-class contractor avoid professional liability claims. Historically, firms that do not focus on talent acquisition and management do not fare well through market cycles.

Beyond the shortage of talent, many contractors continue to take on projects outside their skill sets, as well as contractual undertakings that blur the lines between design and construction services in the ever-evolving construction marketplace. Once a niche model, design-build methodologies now represent 40% of the nonresidential construction marketplace and are likely to support more than $1 trillion in building projects between 2018 and 2021, according to the Design-Build Institute of America. DBIA also estimates most design-build projects are completed 102% faster than with design-bid-build methodologies. That said, expedience has its downside. This is particularly true when constant design updates and alterations supersede the project’s overall integrity.

As a result, responsibility and risk have intertwined in this highly litigious marketplace to make contractor’s professional liability (CPrL) and protective errors and omissions (E&O) policy forms a necessity for overcoming industry challenges and transferring financial exposures to third-party carriers when things go wrong. However, there is more to the process than ensuring the proper policy is in place and adequately composed before the job begins.

Every contractor should be aware of the steps needed to obtain the most competitive policy terms at the lowest possible rates. This typically begins with a comprehensive analysis of the contractor’s services and operations, including the business models that a contractor uses to successfully manage liability issues through every project phase.

The Risk Management Plan
A risk management plan is an imperative for preventing loss and ensuring profitability.

Cross-functional teams should collaborate to establish goals and strategies that not only identify and anticipate potential risks, but also that mitigate the severity of challenges once they arise.

With the goal of protecting the assets and financial well-being of the company during times of
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What differentiates the ABC Users Summit from other such events is the drive for **tangible results**—concrete steps we can take to improve the **owner-contractor relationship** and our industry. I want my company to support, participate and reap the rewards of collaborating with these companies.

—Edmund C. Luckenbach, Air Products

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crisis, these plans should provide recommendations for enhancing everything from business management and client satisfaction to staff training and development. Specific elements often include the:

- understanding of professional liability risks (standard of care), the contractor’s role and the allocation of risk between all of the project’s parties;
- thorough review and negotiation of all contract terms and conditions, including the clear definition of services and the criteria for providing additional services;
- communication, decision-making and documentation involved in each project;
- contingencies for dealing with challenges or changes that occur throughout the design and construction process;
- review of completed projects and lessons learned;
- assurance of the proper coverage levels and terminology for the services rendered; and
- methods for retaining and hiring talented industry professionals.

Developing Comprehensive Risk Profiles
While CPrL and E&O policies have become increasingly prevalent for managing the risks, it’s important to realize that not all policy forms are written with similar terms and conditions. In addition, carriers have been known to favor certain industries over others, while including specific exclusions, enhancements or requirements into their policies depending on the company, project type, potential risk and even the application’s geographic location.

Subsequently, every contractor should work diligently with their brokers and underwriters to supply the corporate and project information needed to obtain the best possible policy terms in the marketplace. This process often starts with detailed answers to questions:

- Have your revenues fluctuated by more than 10% during the past five years?
- What percentage of your current client roster are repeat customers?
- What is your employee retention rate?
- Does your firm employ a full-time risk manager?
- How many professional liability claims has your company filed within the past five years?
- Has your firm built similar structures in the past? What were the challenges?
- Will the project employ any new innovative technologies?
- Is there a formalized process for dealing with change orders or communicating problems and issues?

Mitigating Risk With the Proper Coverage
When choosing a CPrL or E&O policy, remember that policy forms differ—sometimes dramatically—from carrier to carrier. Several questions to ask a broker/insurer include:

- Is the insurance provider financially sound?
- Do the individuals managing the program have a good reputation and history of servicing the business from both a claims and underwriting perspective?
- Does the insurance carrier specialize in providing CPrL or E&O to contractors? Or do they also insure other unrelated businesses?
- Does the insurance carrier have the capability of meeting the firm’s project specific needs?

Many of today’s project owners are demanding evidence of professional liability insurance from both design and construction teams. However, this doesn’t mean paying premium rates for comprehensive protection. The old adage of an educated consumer makes the best customer definitely rings true for CPrL and E&O insurance for construction firms.

Raymond F.H. Bustamante is executive vice president of Berkley Construction Professional, a division of Berkley Alliance Managers. For more information, email rbustamante@berkleycp.com.
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Q: Who are your business heroes and what do you admire most about them?

SHANE NAPPER
PRESIDENT OF CONSTRUCTION
Rockford Construction
Grand Rapids, Michigan

I’ve had a lot of positive role models throughout my career who have impacted who I am today.

One person who stands out along the way is Wes Higgins from W. J. Higgins & Associates. Wes created his company through hard work and dedication, staying true to himself throughout the process.

My Uncle Jack is also important to me. I started working with him when I was 14 years old. His parents started Holwerda Furniture & Upholstery decades ago, and the lessons I learned were about what it means to be a business owner and a hard worker.

I also had an opportunity, early on at Rockford Construction, to work with Pat Corderman. He took me under his wing and taught me how to interact with people, what to do in tough situations and how to be confident and stand up for what’s right.

Thanks to those on this list, I have been continually inspired to seize opportunities and always act with integrity. It’s now my responsibility to take those things I’ve been taught and invest in others.

WYATT WIGGINS
EASTERN SHORE SALES & BUSINESS DEVELOPMENT MANAGER
Chaney Enterprises
Gambrills, Maryland

In order to recognize a great leader, you must first identify the qualities that make one admirable. I believe great leaders have four crucial attributes: determination, passion, vision and teamwork.

In the last year, I had the privilege to join Chaney Enterprises after being with the same organization for over 15 years prior. Within the leadership team at Chaney Enterprises, I have found that all four attributes are viral. These leaders were the main deciding factor when I accepted the new position with the Chaney family. They have all developed into my mentors and continue to set examples for the leader I strive to become.

A business hero should present values you believe are admirable. Learn from those you admire and, better yet, invite them to mentor you. A true leader will display those four aforementioned positive qualities and, when executed brandwide, the entire team will become great leaders and affect the culture of the organization.

JUSTIN AZBILL
DIRECTOR OF SAFETY
Callahan Construction Managers
Bridgewater, Massachusetts

One of the first construction companies I worked at was Kiewit, where my first job was under the construction manager, Dale Keech.

On the numerous jobs I worked under Dale, there were rarely safety incidents. He’s a hero to me because of the ways in which he managed each project site with regard to team safety. Dale valued communications across the entire team, recognizing the cruciality of ensuring all project team members are on the same page. In Dale’s mind, if one person was hurt, the whole team was hurt, no matter their title.

As I have moved forward in my career, I’ll always remember Dale’s mentorship and his emphasis on a team atmosphere. We still remain close friends. As I step into my new director of safety role at Callahan, I intend to build upon the company’s strong safety initiatives and continue to foster an outstanding safety culture. I firmly believe that a team-first mentality can improve a jobsite, improve a company and improve an employee’s quality of life outside of work.
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