

# THE BOTTOM LINE



E X C E L L E N C E I N  
B O N D I N G

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## The Road to Success Starts Here

Many contractors are asking how can their company survive in today's surety world. With many sureties leaving the market place, how do I keep a surety interested and willing to support my company's growth? Many experts in the industry will state that you need to maintain good financial status in order to survive in this marketplace. There are other paths that a contractor can take as well to be better prepared to conduct business in 2006 and beyond, however, These are five basic things that all contractors should be doing to ensure that they keep up with the changing times:

- Communicate with your "team"
- Use a construction-oriented CPA
- Stay within your capabilities
- Sufficient Bank Line of Credit
- Learn from other contractors mistakes

### Communicate with your "team"

To be successful in today's world, you need to align yourself with a good team. This team should include a CPA, an attorney, a banker, an insurance broker, a bond agent, and your bond underwriter. All six of these individuals have one thing in common: they all want you to succeed in business. It is extremely important that you meet regularly with your team of professionals to not only go over your goals for your firm, but more importantly, to gain feedback about what they are seeing in your industry. These people have seen firms like yours succeed and fail.

### Use a Construction -Oriented CPA

Behind every good bonded contractor is a sound financial statement prepared by a construction-oriented CPA firm. Most CPA's are excellent in their field, but not all are knowledgeable in the construction industry. Having a construction-oriented CPA, the bonding companies will gain confidence in the statements prepared and hence be willing to extend a firm's bond program.

Many of you might be saying 'I am not going to pay \$30,000 for a construction-oriented CPA firm when

my firm only does \$5,000,000 a year in sales.' That is why it is extremely important that before you change accounting firms, you should speak with your "team" to go over what your needs are and what you are willing to pay to address these needs. If it is required by your surety company, odds are other sureties will want the same thing.

### Stay within your capabilities

"If it's not broken, don't fix it." The same can be said for construction. Contractors should know what they are capable of and stick to it. Many times contractors have been successful for years doing the same kind of work for the same owners and then decide to change things up. It is important to note that before making any major change you go over your firm's composition to see if this change makes sense. Contractors should manage their growth and make sure that their overhead is in line for the growth intended.

### Sufficient Bank Line of Credit

Another important item that a bonded contractor should be concerned with is obtaining a bank line of credit large enough to prevent cash flow issues. In a perfect world, payment would be weekly or every 30 days. However, in today's world it is becoming harder and harder to predict when contractors will get paid on a job. Bank lines help to ensure that slow paying owners do not delay a project. Bank lines also help to pay suppliers and small subcontractors that need to make payroll and cannot wait until you get paid. Your bank line is there to protect your company when a problem arises. Many contractors argue that they never utilize their bank line so why should they have it in the first place. The answer is quite simple; banks are only willing to offer bank lines to contractors that don't have cash flow problems. In other words, if you really needed the bank line, it would be difficult to obtain.

Many bonding companies have a basic rule that a bonded contractor needs to have a bank line equal to 5-10% of the total bond program. For example, a company that has a \$10,000,000 aggregate program would be advised to have a bank line in the amount of at least \$500,000.

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### Contributing Staff

Anthony J. Panno  
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### Famous Quotes

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Every time I close the door on reality it comes in through the windows.

Jennifer Unlimited

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Thirty-five is when you finally get your head together and your body starts falling apart.

-Cryn Leschen

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Benjamin Franklin may have discovered electricity, but it was the man who invented the meter that made the money.

-Earl Wilson

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Always forgive your enemies — nothing annoys them so much.

-Oscar Wilde

Famous Quotes

When I've heard all I need to make a decision, I don't take a vote. I make a decision.

-Ronald Reagan

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Problems are only opportunities in work clothes.

-Henry J. Kaiser

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How far would Moses have gone if he had taken a poll in Egypt?

-Harry S. Truman

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Somewhere on this globe, every ten seconds, there is a woman giving birth to a child. She must be found and stopped.

-Sam Levenson

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A really busy person never knows how much he weighs.

-Ed Howe

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If you have only one smile in you, give it to the people you love. Don't be surly at home, then go out in the street and start grinning "Good morning" at total strangers.

-Maya Angelou

# What You Need To Know About the Lien Law

Lien Laws were put into effect with the purpose of protecting the rights of subcontractors and material suppliers on construction projects. Basically anyone who performs labor or furnishes material for private and public improvement has lien rights. However, there is a limit as to how far this protection is provided. For example on a public improvement project only first and second tier subcontractors and materialmen are able to lien the project. Any subcontractors or material suppliers further down the line would probably have problems filing a lien.

Liens can be on Private Improvement projects or Public Improvement projects. When a lien is placed against a private project, it attaches to the real property and improvements of the private owner. On public improvements, where the property being improved is owned by the state or another public entity, the FUNDS set aside for the project (not the property itself) are being liened.

There are a few items you should be aware of immediately when you have had a lien placed against you or you are considering placing a lien against someone else.

If you are considering placing a lien on a project, please note that if you had signed what is called a "Lien Waiver" prior to starting your project this has NO legal force and effect. In other words, if you signed such a document, it does not hamper your rights to lien the project. If the entity you are liening is bonded, you are actually covered under the payment bond (provided you take the proper steps to place your claim on the bond) and do not actually need to lien the project. If you decide to lien the project anyway you should be aware that the job owner will hold 1-1/2 times the amount of the lien against the contractor you are liening. If a release of lien bond is then filed with the Owner (in the case of a public lien) from the contractor you have a dispute with, the owner will then substitute the bond in place of the money being withheld from the contractor. You should also note that your lien only considers money due from the owner to the contractor. If you are late in filing your lien and the owner has paid most of the contract funds to the contractor

and the remaining dollars are not sufficient to cover your lien, you might not be able to collect the full amount of your lien. However, within the lien law is Article 3-A, known as Trust Funds. In very general terms, this basically states that the funds on a project are to be used specifically for improvement of that project. Basically, the money for the project is set aside as a Trust. The dollars in that Trust are for the benefit of the project before anything else, even the contractor's profit. This could mean that a contractor who has been liened could have to give up his profit (that profit comes from funds set aside for the project) if it is found that the lien against him is valid.

Contractors can file a private improvement lien within 8 months from the last date labor was performed or material was supplied by the lienor. Such a lien is valid for one year from the filing date and then automatically terminates UNLESS you extend the lien. Public Improvement liens must be filed within 30 days from the date of completion and final acceptance of the project as a whole by the public owner. Public liens are also valid for one year from the date of filing and are automatically terminated unless renewed.

When you are facing a situation of deciding to place a lien or having a lien placed against you remember to consider what was mentioned above. Is it a Public or Private Improvement? What is the amount being considered? How far into the contract have you progressed? Is there a Performance and Payment bond in place? Most of all, especially if there is a sizable lien, consult with an attorney familiar with these situations.

We have just touched upon the general terms of the lien law and release of lien bonds. There are many other factors that can play a part in your decision making process since each case has to be evaluated on its own merits.

This information is has been prepared for informational purposes only and is not legal advice For your own best interest, you should consult with your attorney should you find yourself in such a situation.

For the purposes of this article everything is based on NYS Lien Law. I would also like to thank the law firm Goldberg & Connolly for its valued input regarding this article.

# Crime Insurance – Do I Need It?

We are frequently asked “Should I carry a separate Crime Policy?” “How does it differ from the coverage provided in my Commercial Property Policy?” “How much coverage should I carry?”

These are all good questions. We firmly believe that every business, no matter what the type, should have crime coverage. You are afforded some protection under your commercial property policy, however, you need to make sure that you have special peril coverage. Even then, these policies typically exclude things like bills, currency, money, notes or securities, just to name a few. Employee theft coverage is provided, but in a limited amount that can be inadequate to cover your exposure.

Any business that has employees, even long-term trusted employees, should have Employee Dishonesty—Fidelity Coverage. You may say, “My employees are responsible people of the highest moral fiber” or “My key employees have been with me for many years.” Those employees, who have full access to the company’s assets, are trusted by management and are considered the ones least expected to cause a loss, cause the majority of losses. The Association of Certified Fraud Examiners (ACFE) estimates that a typical organization loses 6 percent of its annual revenues to occupational fraud. Occupational fraud is defined as “use of one’s occupation for personal enrichment through the deliberate misuse or misapplication of the employing organization’s resources and assets.”

It’s not just money and security you need to be concerned about. Do you have a large inventory of merchandise, machinery or other equipment and supplies? Employees’ theft of these items can cause a firm thousands of dollars to replace.

Proper controls are always the first line of defense. For this reason, all Crime Coverage is written with a deductible. These deductibles will range from as low as \$500 to tens of thousands of dollars depending on the amount of coverage and the adequacy of the controls. The general rule that most insurers follow is a deductible in the amount of 10% of the coverage.

Dual responsibility of job functions provides a check and balance system that will usually catch many types of losses. There are times, however, when even the best controls fail. Your system or accountant may not immediately catch any discrepancies that can result in a loss. That’s when it’s comforting to know that there is a safety net in place in the form of insurance to protect the assets of the business that you worked so hard to build.

When deciding on how much coverage is enough, you need to look evaluate your exposure. Determine how quickly you can discover any irregularities with the systems you have in place. How much would you stand to lose before discovering a possible loss?

The rating factors used to determine the premium is based on the amount of coverage, number of employees, number of locations and type of business. Credits are given for deductibles and debits and/or credits may be given depending on the adequacy of the company’s controls.

Employee theft is not the only concern of a business. Outsiders can also cause sever loses to a business. Coverage for computer fraud committed by an outsider should be considered. Computer fraud committed by an employee is covered under the Employee Dishonesty section of a Crime policy. Computer fraud covers losses or damage to money, securities and other property resulting directly from the use of the computer to fraudulently transfer property from inside the premises or banking premises. Computerized theft of stock, equipment and other item is also included.

The Insurance Services Office, Inc. has introduced several changes to the Crime and Fidelity Program that has enhanced coverages and definitions of key terms. Some of the more notable changes include revising the definition of employee and occurrence under the Employee Dishonesty coverage has been expanded; deleting some of the exclusions under the Computer Fraud Coverage; expanding the Money Orders and Counterfeit Money Coverage to cover all counterfeit money, not just paper currency. These are just a few of the key changes.

Companies that follow the ISO filings have adapted these changes into their policies. Others that have their own proprietary policy have included many of these enhancements in their policy and is offering this automatically to all new customers or at renewal of existing accounts.

For more information on these coverages or to make sure you are getting the best coverage available, please contact us. We will gladly go over your existing coverage or assist you in obtaining this very important coverage to protect your firm and the assets.

## Famous Quotes

Self-pity in its early stage is as snug as a feather mattress. Only when it hardens does it become uncomfortable.  
-Maya Angelou  
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The great pleasure in life is doing what people say you cannot do.  
-Walter Bagehot  
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Doing what’s right isn’t the problem. It’s knowing what’s right.  
-Lyndon B. Johnson  
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An idealist believes the short run doesn’t count. A cynic believes the long run doesn’t matter. A realist believes that what is done or left undone in the short run determines the long run.  
-Sydney J. Harris  
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There are two days about which nobody should ever worry, and these are yesterday and tomorrow.  
-Robert Jones Burdette  
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To change and to improve are two different things.  
-German proverb

The Road to Success Starts Here

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Learn from other contractors' mistakes

Historians like to say, "If you do not study history you are bound to repeat it". This saying is definitely meant for the construction industry. Too many contractors are quick to celebrate when a competitor goes out of business instead of taking a step back and seeing what caused them to fail. Many of the contractors that have gone out of business all went out for similar reasons. It is

extremely important to understand how you can fail and what steps you need to implement to prevent it from happening to you.

To be in business today, it takes a lot of time, energy and a little luck. Doing these five things will not ensure your company will survive, but by taking these things into consideration, your company will be on the road to success.

Company News

Louis Spina remains on the Board of the LI Chapter of CFMA. He accepted the role of Secretary for the Association. The next CFMA meeting is scheduled for Sept. 20th at 8:30 AM at the Huntington Hilton.

Denese Thompson has been installed as President of the Women's Insurance Network of LI. Jennifer Weingarten has agreed to serve on her board as the Newsletter Chairperson.

Anthony Spina is again working full time at Atlynx Surety Brokers, LLC after having worked with our sister company learning the insurance side of the house. Take a minute to welcome him back.

Contractors For Kids Summer Barbeque Sept. 16, 2006. The event is finally here! CFK will be picking the winning ticket for the Orange County Chopper raffle. CFK is holding its' family BBQ at Southaven County Park. Cost is \$10 a person or \$30 a family. There will be food, beverages, live music and games for all! Come out for a day of good old-fashioned fun and see who rides away with a brand new OCC chopper. For more information about tickets and sponsorships, please call 1-888-208-KIDS or contact Lou Spina @ 516-745-7502. Visit Contractors For Kids website—www.contractorsforkids.com for more information about other upcoming events.

Making Strides for Breast Cancer has its annual Making Strides for Breast Cancer walk at Jones Beach on Sunday, October 15, 2006. Support the Atlynx/Amerisc Team by sponsoring a walker. Contact Denese Thompson for more information.

Letter from the Editorial Staff

This newsletter is designed with our readers in mind. All inquires and ideas regarding this or future newsletters are appreciated. Please send all inquires to me at denese@esuretybond.com. If you know anyone who you feel would like a copy of our newsletter, please let us know so that we can include them in our mailing list. Please let us know if you would like to receive this newsletter via e-mail. Check out past newsletters at our website at www.atlynx.com.

Disclosure

The Bottom Line is published quarterly by Atlynx Surety Brokers LLC, 777 Zeckendorf Blvd, Garden City, NY 11530. Phone (516) 745-5204. A service for our clients, contacts and friends, it is meant to provide useful business information and practical advice and encourage its readers to keep up with all the latest developments. These articles are not intended to provide a complete discussion of the subjects presented. Because each situation is unique, we advise you to contact us before acting upon any of the following information or planning ideas contained in this newsletter. Any questions you might have about any topics mentioned in this newsletter, please contact our office.

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