

Construction Industry Update: Key Takeaways for Contractors

A PRACTICAL GUIDE TO PROTECTING PROFIT, MANAGING RISK, AND STRENGTHENING PROJECT PERFORMANCE

Experts Larry Logsdon (Member; Wallace, Jordan, Ratliff & Brandt, LLC) and Gaines Moorer (Risk Partner; Lakeview Risk Partners) explored the importance of surety bonds, how bonding companies evaluate financial stability, risk capacity, and working capital needs, as well as the impact of economic pressures like tariffs, inflation, and fraud risk on underwriting from the perspective of the insurance and legal/financial viewpoints. These highlights cover key ratios and metric sureties monitoring today and provide insights to captive insurance arrangements and when they may be the right fit for your company.

SET UP SUCCESS BEFORE WORK BEGINS

- Your proposal is not part of the contract unless explicitly attached.
- Fixed Price v. Cost-Plus; POs increasingly operate as full contracts.
- Master Agreements govern all future work – review carefully.
- Use a rider/clarification page that overrides conflicting contract language.

CONTRACT CLAUSES THAT MAKE OR BREAK PROFITABILITY

- Indemnity: Aim for 'only to the extent of our fault.'
- Consequential Damage Waivers protect against major financial exposure.
- Liquidated Damages: Tie LDs to substantial completion.
- No-Damages-for-Delay: Time extensions matter for recovery.
- Venue & Attorney Fees: Avoid out-of-state venues and costly fee-shifting.
- Retainage: Set clear conditions surrounding when retainage is required to be released.



PROTECT PROFIT DURING THE PROJECT

- Timely notice is required – AIA documents require 21 days
- Document everything: daily reports, RFIs, emails.
- Use signed T&M tickets and cost-code work immediately.
- Carve out pending change orders in lien waivers.

INSURANCE CAPTIVES: A STRATEGIC OPTION

- Best for mature companies with strong safety culture.
- Benefits: control, long-term savings, peer accountability.
- Captives require collateral and long-term commitment.

SURETY BONDS & INCREASING YOUR BONDING CAPACITY

- Sureties focus on working capital, net worth, and cash flow.
- Rule of thumb: ~20x working capital for program capacity.
- Be transparent and involve sureties early on project concerns.

MARKET CONDITIONS & STRATEGIC OUTLOOK

- Bid lists are growing; project releases slowed late-year.
- Expect stronger Q1 as rates stabilize and federal delays clear.
- Now is the time to strengthen risk management practices.



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