

## Addressing Unfair Payment Practices

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Maxim Consulting Group

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#### Maxim Consulting Group Overview Management Consulting Lean Corporate **Peer Groups Transformations** Finance Advisory Supply Chain Electrical Mergers & Strategic Acquisitions Planning Management Mechanical Advisory Operational Design Fire Protection Standards Excellence Equity & Debt Financing General Technology Enterprise Contractor Ownership Integration Scheduling Transition Heavy Civil Training & Process Development Standardization Management Utility Succession Captive Insurance NECA

## Agenda

- Problem Statement
- Financial Impact
- Mitigation Strategies
- Appendices Overview





### **Problem Statement**

- Cash flow constraints impact subcontractors
  - Limiting company growth as new projects cannot be financed
  - Staff reductions to lower overhead costs and avoid losses
  - Delayed payment to vendors and material suppliers leading to higher materials costs, ultimately impacting future bid competitiveness
  - Reduced profitability caused by the cost of financing working capital requirements
  - Bankruptcy



## Survey Findings

- The results are based on over 450 respondents representing
  - Owners
  - General Contractors
  - Subcontractors
  - Architects
  - Engineers



## **Key Findings**

- 1. Payment Practices are Changing
- 2. Owners are Pushing Out Contractual Payment Timeframes
- 3. Contract Terms are Getting Worse for the Subcontractor
- Both General Contractors and Subcontractors Believe They Have Limited Scope to Negotiate Contract Terms and Conditions
- 5. Complex, Hierarchical Approval Processes with Extensive Documentation Slow the Payment Process



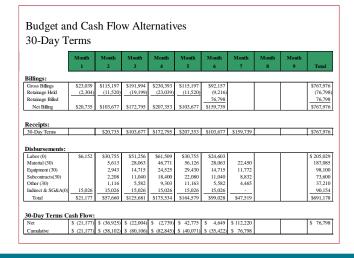
## Key Findings (Cont.)

- 6. General Contractors Exacerbate the Payment Problem
- 7. Management Practices Around Payments Vary Widely Across Subcontractors
- 8. Owners are Paying More as Subcontractors Price in Expectations of Slow Pay
- Current Payment Practices Create Risk for the Whole Industry; Subcontractors Feel it the Most





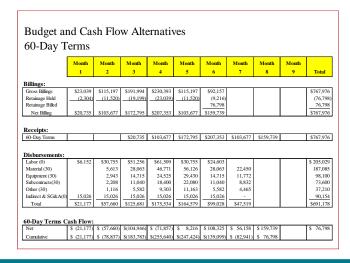
## Sample Impact of 30-Day Payment Terms



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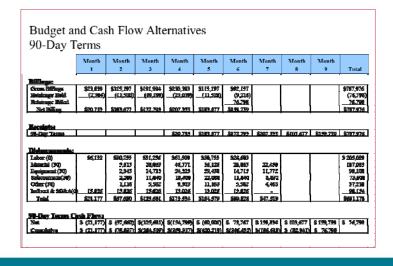


## Sample Impact of 60-Day Payment Terms





## Sample Impact of 90-Day Payment Terms



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## Impact on Ability to Acquire Additional Work

- Slow paying jobs hinder a contractor's ability to
  - Take on additional projects
  - Hire additional people
  - Continue to grow the business

More companies go out of business due to cash flow than they do because of profitability

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# Contractors Increasing Bid Markups to Carry Jobs Longer

- It is also known that faster paying general contractors and owners get favorable treatment and pricing from subcontractors.
- What may be less widely advertised is the contingency or "slush fund" that subcontractors put on projects where they expect slow payment.

Owners should recognize slow payment is resulting in much higher pricing of their projects.





## **Bidding**

- Select Projects and Structure Bids to Drive Profitability
  - Selectively Bid
  - Incorporate the Financing Costs into the Bid

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## **Negotiate Contracts**

- Proactively Negotiate Contract Terms and Conditions
  - 1. Specify Timeframes on "Pay When Paid" Clauses
  - 2. Require GC Notification of Payment by Owner
  - 3. Accelerate the Retainage Release
  - 4. Preserve the Right to Stop Work if not Paid
  - 5. Retain your Mechanic's Lien Rights
  - 6. Avoid Contingent Payment Clauses
  - 7. Ensure that GCs Have to Pay You for Change Orders
  - 8. Use a Cost-Loaded Schedule
  - 9. Establish Protocol for Billing Change Orders
  - 10. Consider Incentivizing the General Contractor by Offering Discounts

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## Managing Billings & Collections

- Implement "Best Practices" Across the Payment Cycle
  - Review the Owner/General Contractor Contract and Understand Their Payment Cycle
  - 2. Develop Customer Specific Strategy Around Billings and Collections
  - 3. Establish Relationships with the General Contractors and Owners Throughout the Organizational Hierarchy
  - 4. Standardize on the Schedule of Values
  - 5. Improve the Billing Process
  - 6. Establish an Accounts Receivable Escalation Process
  - 7. Project Managers Need to be Part of the Solution

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## **Appendices Overview**

- Mechanic's Lien Laws by State
- Construction Project Payment Laws by State
- Marketing Collateral
- Change Order Guidelines
- Legislative Strategies

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## Thank you! Questions?



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#### Don't forget...

- 10:15 am 11:30 am General Session with Jim Donald
- 11:30 am 4:00 pm NECA Show Hours

