



Addressing Unfair Payment Practices

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2 Continuing Education and 2 Contact Hours.**

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Maxim Consulting Group Overview

Management Consulting	Lean Transformations	Peer Groups	Corporate Finance Advisory
<ul style="list-style-type: none">▪ Strategic Planning▪ Operational Excellence▪ Technology Integration▪ Training & Development	<ul style="list-style-type: none">▪ Supply Chain Management▪ Design Standards▪ Enterprise Scheduling▪ Process Standardization	<ul style="list-style-type: none">▪ Electrical▪ Mechanical▪ Fire Protection▪ General Contractor▪ Heavy Civil▪ Utility	<ul style="list-style-type: none">▪ Mergers & Acquisitions Advisory▪ Equity & Debt Financing▪ Ownership Transition▪ Management Succession▪ Captive Insurance

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Agenda

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

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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

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Key Findings

1. Payment Practices are Changing
2. Owners are Pushing Out Contractual Payment Timeframes
3. Contract Terms are Getting Worse for the Subcontractor
4. 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

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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
9. Current Payment Practices Create Risk for the Whole Industry; Subcontractors Feel it the Most

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Sample Impact of 30-Day Payment Terms

Budget and Cash Flow Alternatives 30-Day Terms

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Total
Billings:										
Gross Billings	\$23,039	\$115,197	\$191,994	\$230,393	\$115,197	\$92,157				\$767,976
Retainage Held	(2,304)	(11,520)	(19,199)	(23,039)	(11,520)	(9,216)				(76,798)
Retainage Billed						76,798				76,798
Net Billing	\$20,735	\$103,677	\$172,795	\$207,353	\$103,677	\$159,739				\$767,976
Receipts:										
30-Day Terms		\$20,735	\$103,677	\$172,795	\$207,353	\$103,677	\$159,739			\$767,976
Disbursements:										
Labor (0)	\$6,152	\$30,755	\$51,256	\$61,509	\$30,755	\$24,603				\$205,029
Material (30)		5,613	28,063	46,771	56,126	28,063	22,450			187,085
Equipment (30)		2,943	14,715	24,525	29,430	14,715	11,772			98,100
Subcontracts(30)		2,208	11,040	18,400	22,080	11,040	8,832			73,600
Other (30)		1,116	5,582	9,303	11,163	5,582	4,465			37,210
Indirect & SG&A(0)	15,026	15,026	15,026	15,026	15,026	15,026	-			90,154
Total	\$21,177	\$57,660	\$125,681	\$175,534	\$164,579	\$99,028	\$47,519			\$691,178
30-Day Terms Cash Flow:										
Net	\$ (21,177)	\$ (36,925)	\$ (22,004)	\$ (2,739)	\$ 42,775	\$ 4,649	\$ 112,220			\$ 76,798
Cumulative	\$ (21,177)	\$ (58,102)	\$ (80,106)	\$ (82,845)	\$ (40,071)	\$ (35,422)	\$ 76,798			

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Sample Impact of 60-Day Payment Terms

Budget and Cash Flow Alternatives 60-Day Terms

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Total
Billings:										
Gross Billings	\$23,039	\$115,197	\$191,994	\$230,393	\$115,197	\$92,157				\$767,976
Retainage Held	(2,304)	(11,520)	(19,199)	(23,039)	(11,520)	(9,216)				(76,798)
Retainage Billed						76,798				76,798
Net Billing	\$20,735	\$103,677	\$172,795	\$207,353	\$103,677	\$159,739				\$767,976
Receipts:										
60-Day Terms			\$20,735	\$103,677	\$172,795	\$207,353	\$103,677	\$159,739		\$767,976
Disbursements:										
Labor (0)	\$6,152	\$30,755	\$51,256	\$61,509	\$30,755	\$24,603				\$205,029
Material (30)		5,613	28,063	46,771	56,126	28,063	22,450			187,085
Equipment (30)		2,943	14,715	24,525	29,430	14,715	11,772			98,100
Subcontracts(30)		2,208	11,040	18,400	22,080	11,040	8,832			73,600
Other (30)		1,116	5,582	9,303	11,163	5,582	4,465			37,210
Indirect & SG&A(0)	15,026	15,026	15,026	15,026	15,026	15,026	-			90,154
Total	\$21,177	\$57,660	\$125,681	\$175,534	\$164,579	\$99,028	\$47,519			\$691,178
60-Day Terms Cash Flow:										
Net	\$ (21,177)	\$ (57,660)	\$ (104,946)	\$ (71,857)	\$ 8,216	\$ 108,325	\$ 56,158	\$ 159,739		\$ 76,798
Cumulative	\$ (21,177)	\$ (78,837)	\$ (183,783)	\$ (255,640)	\$ (247,424)	\$ (139,099)	\$ (82,941)	\$ 76,798		

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Sample Impact of 90-Day Payment Terms

Budget and Cash Flow Alternatives
90-Day Terms

	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Total
Billing:										
Current Billings	\$23,839	\$315,397	\$191,984	\$236,383	\$112,197	\$92,157				\$787,976
Accounts Payable	(7,384)	(11,520)	(89,139)	(23,039)	(11,520)					(146,592)
Retainage Billing						78,798				78,798
Net Billing	\$20,732	\$303,877	\$102,845	\$213,344	\$100,677	\$170,955				\$787,976
Receipts:										
90-Day Terms			\$20,732	\$183,877	\$172,792	\$207,332	\$403,677	\$199,739		\$787,976
Disbursements:										
Labor (0)	\$6,132	\$20,235	\$31,236	\$61,508	\$36,753	\$24,683				\$182,607
Material (0)	9,132	28,843	48,771	98,771	56,128	28,883				\$270,928
Equipment (0)	2,945	14,733	26,523	29,438	23,438	14,713				\$131,800
Subcontract (0)	2,296	11,490	18,409	22,008	18,490	8,892				\$75,605
Other (0)	1,136	5,582	9,302	11,859	5,582	4,463				\$37,238
Interest & Retention	15,826	15,826	15,826	15,826	15,826	15,826				\$98,126
Total	\$21,177	\$67,680	\$129,691	\$271,294	\$184,479	\$89,828	\$47,519			\$691,178
90-Day Terms Cash Flow										
Net	\$ (21,177)	\$ (57,680)	\$ (269,681)	\$ (156,996)	\$ (83,802)	\$ 79,567	\$ 156,858	\$ 103,677	\$ 199,739	\$ 74,798
Cumulative	\$ (21,177)	\$ (78,857)	\$ (308,538)	\$ (465,534)	\$ (549,341)	\$ (469,774)	\$ (312,916)	\$ (209,239)	\$ (6,499)	\$ 74,798

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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
 1. 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

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