



BUILDING CHAPTER NEWS

NEBRASKA BUILDING CHAPTER

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA

QUALITY PEOPLE. QUALITY PROJECTS.

APRIL 2011

Table Of Contents

- 3 From The President: What Is In A Number?
- 3 Is Your Energy Drink Safe?
- 4 It's 2011, Do You Know What Your Retirement Plan Is Doing?
- 6-7 Toxic Business
- 8 AGC Nebraska Building Chapter Spring Golf Outing Registration
- 10 How Solid Financial Reporting Can Help Improve Future Profits
- 10-11 Calendar Of Events
- 11 Bank Operating Lines Help Maximize Surety Credit
- 12 Know The Rules: Review Your Contracts!

Advertisers

- 1 Gene Lilly Surety Bonds
- 2 Lutz & Company
- 5 SilverStone Group
- 9 The Harry A. Koch. Co.
- 13 Union Bank & Trust Co
- 14-15 The Marketplace
- 16 Woods & Aitken LLP

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FROM THE PRESIDENT

Linette Butler, BD Construction, Inc./Kearney



WHAT IS IN A NUMBER?

When I first realized that one of my presidential duties was to write a series of articles for the newsletter I panicked and told Jean, "I'm a number cruncher not a wordsmith!!" So for this edition of our newsletter I am going to attempt to combine the two.

- 32,818 is the number of AGC Members nationally in 95 Chapters.
- 120 members in the Nebraska Building Chapter.
- 7 or more opportunities throughout the year to network with other Nebraska AGC members; Regional Meetings, Golf Outing, Fall Conference and the Legislative Luncheon.
- \$1 billion additional dollars invested in nonresidential construction adds
- \$3.4 billion to Gross Domestic Product (GDP) and \$1.1 billion of that is in personal earnings, which is enough to create or sustain 28,500 jobs.
- 47,700 construction jobs in the state of Nebraska.
- \$40,875 is the average income of those construction jobs.
- 13% higher pay than any other private sector in

the state.

- 6,233 construction firms are registered with the Nebraska DOL as of June 2010.
- 93% or 5,797 of those firms are small businesses with 20 employees or less.
- 119,039 is the number of letters written to Congress and administration officials.
- AGC has generated support from its grassroots campaign last year and 232 statements or testimonies were given on Capitol Hill from AGC Members.

And last but not least:

- \$6,817 is the amount of money a typical AGC member can save through exclusive membership discounts and valuable training.
- And 1 membership to 1 association that can service your entire organization.

AGC contractors know the value of AGC membership isn't just measured in dollars and cents or percentages or any other number ... it is measured in success!

IS YOUR ENERGY DRINK SAFE?

Ron Pettit, MS, The Harry A. Koch Co., Loss Control Specialist

The caffeine content of a single energy drink may contain the equivalent of four or more cans of Coca-Cola. Yet the caffeine amounts are often unlabeled, and most do not include warnings about the potential health risks of caffeine.

Some energy drinks have as much as 500 milligrams of caffeine in an 8-ounce can compared to 35 milligrams in a 12-ounce can of cola. With high concentrations of caffeine, you may run the risk of developing caffeine poisoning.

The recommended daily dose of caffeine is 100-200 milligrams for teens and

200-300 milligrams of caffeine for adults.

Energy drinks are even worse when mixed with alcohol. Alcohol adds another level of danger since caffeine in high doses can give users a false sense of alertness and less effects of the alcohol. This is mixing a depressant (alcohol) with a stimulant (the energy drink) that can lead to a variety of unhealthy side effects.

Caffeine symptoms can include anxiety, upset stomach, and restlessness. Caffeine, especially in large quantities, is dangerous as it raises your blood pressure and can create a rapid heartbeat, putting some people with cardiac problems in a life-threatening situation.

The most common ingredients in these drinks are sugar and/or caffeine. So, before you go bragging about how great a certain drink was, you probably

got a sugar rush than anything else. Safety aside, a common complaint of energy drink users is the "crash" they experience after the energy "buzz" wears off.

Instead of having frequent energy drinks, choose other, healthier options to energize yourself. A good healthy breakfast, consisting of proteins and low carbohydrates will maintain your energy throughout the day. Consuming around 2 liters of water every day will help to prevent fatigue. Regular exercise coupled with a balanced diet will help keep energy levels high. Adding this to a good night sleep of seven to eight hours every day will keep you active and alert for the whole day.

Energy drinks are not harmful if you consume them in limited quantities, but overuse may prove fatal.



IT'S 2011, DO YOU KNOW WHAT YOUR RETIREMENT PLAN IS DOING?

By Jon Read, Financial Education Consultant, Union Bank & Trust Company

Do you remember the commercial that asked, "It's 10 p.m., do you know where your kids are?" This commercial instilled the importance of monitoring your kids to millions of parents in the 80s and 90s. We can apply this logic to a retirement plan as well. Both kids and your retirement plan need to be monitored to ensure that both are behaving the way you would like them to. When managing your account, use these three strategies to make sure your nest egg grows into the sizeable account you'll need for your retirement years.

Boost Your Savings!

Contribute an additional 2% to your retirement plan. Thanks to the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, the employee portion of Social Security taxes were reduced in 2011 from 6.2% to 4.2%, saving you 2% of income (on income up to \$106,800). Thus, an extra 2% contribution to your retirement account will make little difference between your 2010 paycheck and your 2011 paycheck.

Protect Your Investment

Choosing the right investment strategy according to your individual risk tolerance and time until retirement is extremely important. Once you choose the appropriate strategy, stick with it. Don't succumb to the doomsday talk in the media when the market goes through a rough patch. Recessions and stock market downturns are part of the economic landscape. Therefore, one



of the best strategies is to ride out the downturn and continue to invest. In essence, you will be buying more shares for your dollar when the investments are down at a lower price per share.

Take Advantage of Company Contributions

Take the time to learn the details of your company's retirement plan. All experts agree you should take advantage of any available contributions your employer makes to the plan. Typically, if a contribution is made by your employer, it will come in the form of a matching contribution. For example, a plan may offer a match of \$.50 for every \$1 you contribute to the plan up to 5% of your compensation.

The thought of free money sounds great, but what does this really mean for your account balance?

Here's an example, if you make \$40,000 per year and had invested 5% (\$2,000) of your income annually over the last

20 years in the S&P 500, you would have \$86,928. If you take into account a company matching contribution (\$.50 for every \$1 you contributed up to 5%) you would have over \$130,750. This means you just turned a total investment of \$40,000 into \$130,750.

What you need to do now:

- Increase your current contribution by 2%.
- Choose and stick with an appropriate investment strategy by completing the Investor Questionnaire at www.ubtrust.com/investor.pdf.
- Take advantage of company contributions.

If you have questions or would like to speak with a Union Bank & Trust Retirement Plan expert please call 402-323-1592.



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TOXIC BUSINESS

POLLUTION LIABILITY INSURANCE TO THE RESCUE

by Andrew Fereday, CLS

The extensive devastation caused by the recent British Petroleum oil spill in the Gulf of Mexico captured the world's attention and, in doing so, shed light on the often-overlooked environmental risks frequently faced by companies throughout the United States.

Although such risks are commonly associated with oil, petroleum and chemical industries, environment-related accidents and claims can impact any business.

As concern for the environment grows and the list of known pollution sources expands, environmental issues have become an escalating concern for many businesses. The broad spectrum of environmental risk means that a pollution claim can arise at any time, for any type of business. And, because most of these risks are not covered under standard insurance policies, a company may be blindsided by a costly lawsuit with potentially devastating consequences. However, companies can protect themselves from these exposures by carrying pollution insurance, which is readily available and can be specifically tailored to meet individual business needs.

Common exposures

Did you know that you could be working in a "sick" building? Or that a mild rain storm could do more than simply create a gloomy view outside your office window? Environmental exposures lurk in a variety of circumstances. Business owners need to become familiar with these risks so they can protect their companies from unexpected loss. Following is a list of environmental exposures that can bear significant consequences:

- **Sick building syndrome**— Occurs when mold and bacterial air are released due to faulty heating, ventilation or air conditioning systems, causing individuals to experience a variety of ailments, including

headache, dry cough, dry/itchy skin, dizziness, nausea, difficulty concentrating, fatigue, sensitivity to odors, or eye, nose and throat irritation.

- **Leaky storage tanks**— These receptacles, whether under- or above-ground, have the potential to release heating oil or fuel, which can impact the insured's property or neighboring properties, ultimately resulting in remediation expenses or claims for bodily injury.
 - **Carbon monoxide poisoning**— Caused by machinery malfunctions, which can lead to serious bodily injury and death. This toxic gas is colorless, tasteless, odorless and non-irritating, and is therefore very difficult to detect.
 - **Contaminated drinking water**— When drinking water becomes polluted, bodily injury claims may result (regardless of whether the water was contaminated on or offsite). Remediation expenses may be sought to neutralize contamination that impacts drinking water.
 - **Rain water runoff**— Takes place when contaminants are transported through rain water from one area to another, affecting wetlands, streams and surrounding areas.
 - **Historical issues**— Occurs when contaminants are present from known or unknown historical usage/operations.
- Environmental insurance products date back to the early 1980s, following the creation of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This act not only placed a tax on the chemical and petroleum industries, but it also granted greater federal authority to respond to risks threatening public health or the environment. Shortly after CERCLA's enactment, the "Absolute Pollution Exclu-

MAJOR ENVIRONMENTAL LAWS IN THE U.S.

A FEDERAL PERSPECTIVE

1969: National Environmental Policy Act (NEPA)

1970: EPA established Clean Air Act (CAA)
Occupational Safety and Health Act (OSHA)

1972: Predecessor to the Clean Water Act (CWA)
Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)

1973: Endangered Species Act (ESA)

1974: Safe Drinking Water Act (SDWA)

1976: Resource Conservation and Recovery Act (RCRA)
Toxic Substances Control Act (TSCA)

1977: Clean Water Act (CWA)

1980: Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), a.k.a. Superfund

1986: Superfund Amendments and Reauthorization Act (SARA)
Emergency Planning and Community Right-to-Know Act (EPCRA)

1990: Oil Pollution Act (OPA)
Pollution Prevention Act (PPA)
CAA Amendments

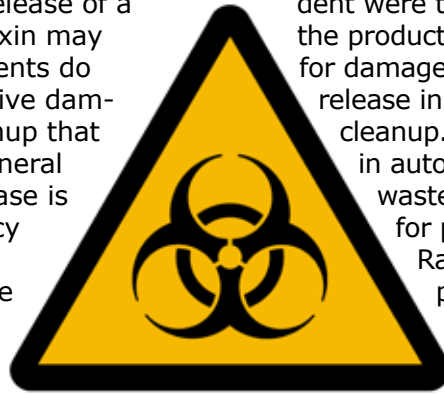
Continued from previous page

sion" began to appear in liability policies, which all but eliminated coverage for the majority of pollution incidents. As a result, the first pollution policies written in the 1980s were expensive, lacked significant coverage terms and were used primarily by larger companies to meet regulatory requirements.

Pollution policies today

The past 10 years have ushered in dramatic changes for the environmental insurance marketplace. The latest coverage terms and conditions give organizations meaningful tools and resources to address environmental risks. Currently, several types of pollution coverage are available, and most policies can be customized to address a company's unique risks and exposures. Environmental insurance presently covers the following exposures:

- **Onsite cleanup**– Although the release of a chemical, solvent or hazardous toxin may seem to be an unlikely risk, accidents do happen; they can result in extensive damage and ultimately require a cleanup that will likely be excluded by most general liability policies. Whether the release is sudden and requires an emergency response, or has occurred underground for decades, the bill for the cleanup will be sent to the company responsible for the incident.
- **Offsite cleanup**– If a release from a business owner's site affects a nearby property, the owner is ultimately responsible for the cleanup. Damage can be far-reaching, affecting not only the neighboring property, but operations at that location as well, creating expensive consequences.
- **Onsite bodily injury and property damage**– Accidental toxic releases can have a negative impact on both employees and non-staff members. Damage can be sudden or may slowly occur over time. If emergency response is necessary, third parties who are called to assist may potentially be affected as well. Companies can be held liable for injury or damage on a multitude of levels.
- **Offsite bodily injury and property damage**– Accidental releases can negatively impact neighbors and adjoining property, but the damage may not always be physical in nature. For example, pollution conditions can cause a neighboring property's market value to crumble or even force occupants of neighboring schools, hospitals and cities to evacuate.
- **Non-owned locations**– A company may inadvertently cause pollution exposure if it maintains a location where waste is disposed of or recycled, or where its product is warehoused. While the owner usually cannot maintain or control the exposures at the non-owned location, the company can be held liable for damages related to the pollution caused by its product. Even the



most meticulous operation cannot guarantee that its product will not pollute at a location that is not under its immediate jurisdiction.

- **Products pollution**– A product may react unexpectedly when introduced to an environment different from the one in which it was manufactured. Companies need to ensure that products are stored correctly, thus reducing the risk of environmental accident. For example, some agents produce toxic by-products if exposed to moisture, air or other conditions. If stored improperly, such products may adversely affect everything warehoused at that location.
- **Transported cargo**– While in transit from point of origin to another location, products are the responsibility of the manufacturer. If an accident were to occur during transit, the owner of the product could ultimately be held responsible for damages. Even if the product is non-toxic, a release in an unintended location could require cleanup. MCS-90, a required provision included in automobile policies for hazardous material/waste transporters, is commonly mistaken for pollution coverage for the insured. Rather, MCS-90 only serves to financially protect the public who may be adversely affected by trucking accidents involving hazardous materials. It is important that product manufacturers are aware of this fact and that

they seek out coverage for this potential liability.

Who should consider environmental insurance?

Due to the unpredictable nature of environmental pollution, this type of risk is an economically uncertain liability that could be financially disastrous. Because damages can exceed the value of the property itself, some risk managers prefer to pay a fixed premium rather than gamble with potentially catastrophic future costs. The high price tag associated with environmental disasters is most likely related to the variety of possible pollution exposures. For example, a third-party claim could include bodily injury, property damage and/or hefty cleanup costs, both for contaminants that traveled offsite or were released onsite. Furthermore, the company would be responsible for legal fees associated with defending itself. Likewise, a first-party claim arises when a company experiences a spill or contamination that requires cleanup, often due to violation of local, state or federal environmental standards. Pollution insurance can cover both exposures.

Pollution policies are flexible, making it easy for businesses to tailor their coverage to fit their needs. The unpredictability of environmental exposures makes the assurance offered through proper coverage invaluable. The experts at SilverStone Group can assist companies and help them reduce risks by embracing sound environmental management practices.

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AGC Nebraska Building Chapter Spring Golf Outing Registration

Monday, May 16, 2011
Quarry Oaks Golf Course
16600 Quarry Oaks Drive
Ashland, Nebraska

Join your friends and colleagues for a great day on the golf course! The AGC Nebraska Building Chapter has put together an excellent day of food, fun and friendship. The Format will be a four-person scramble with flag prizes for each hole as well as some specialty pin prizes and betting holes!

Registration Fee

\$125.00 per person. (Included in your registration for this event is noon luncheon, golf cart, flag prizes, and greens fees. \$25.00 of your registration will go to the AGC Nebraska Building Chapter's state PAC fund.)

Thank you to our
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Schedule of Events

10:30am - 11:30am	Registration and deli box lunch
11:30am	Shotgun start!
4:30pm - 5:30pm	Awards Social and BBQ. Flag and special pin prizes awarded.

Registration, lunch and social hour will be held in the clubhouse at Quarry Oaks.

2011 AGC Nebraska Building Chapter Golf Outing Registration, May 16, 2011

Please register _____ person(s) at \$125.00/person= _____ Bill me Registration Fees Enclosed

Please list name(s) _____

Company: _____ Address: _____

City, State, Zip: _____

Phone: _____ Fax: _____ Email: _____

Please team me/us with the following people (if you do not have a foursome, you will be assigned to a team):

1. _____ Company: _____

2. _____ Company: _____

3. _____ Company: _____

Return by May 8, 2011
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Lincoln, NE, 68508
Phone: 402-438-0400 Fax: 402-438-0066
E-mail: agcnebuilders@windstream.net



HOW SOLID FINANCIAL REPORTING CAN HELP IMPROVE FUTURE PROFITS

By Josh Weiss and Mark Duran, Lutz & Company CPA

As year-end financial statements and tax returns are being prepared and sent to the various banks, your bonding agents and surety companies, this provides the company opportunity to analyze the results from the past year and make adjustments to operations to improve performance in the coming year. In order for the past to influence the future, the reporting must be accurate and understood throughout the company and not just by the accountants. The financial statements can serve as the report card for the year as management can analyze the results, both positive and negative.

Communication of the operating results and financial performance beyond the accounting department to operations can help bidding and estimating departments better understand the company's goals, strengths and weaknesses. Ultimately this may allow the company to pursue more profitable work. If the estimators in the organization only consider the direct construction costs and ignore overhead and indirect costs, they run the risk of the company losing money as a whole. For example, if a job is bid expecting 20% margin, but in reality the estimator or project manager would be happy with 15% to 17%, but overhead and indirect costs of the company are 18%, the company would lose money overall. Often estimators and project managers have no idea of the impact of overhead or the indirect costs to a company.

Striking a balance between not enough or too much information is always a concern. Management does not necessarily have to provide detailed analysis, but communication that these costs in fact exist and what role they play in the overall financial success of the company is important. The required overhead and indirect costs can be communicated as a percentage as their importance must be considered and factored into each bid.

The most important gauge of the overall health and profitability of the company is the jobs in progress or work in progress schedule.

Regular review of this schedule amongst management, project managers, estimators and accounting can help a company ensure that jobs are being adequately monitored so any changes or problems with a project can be identified in a timely manner. Often successful companies hold weekly or monthly meetings that include all of the individuals involved to discuss job status. This helps to ensure that all parties involved on the projects understand the position of each job and makes certain everyone is held accountable for their particular projects. A contractor's livelihood is dependent on estimates, it is critical that those estimates are accurate and analyzed on a regular basis.

Accounting has the benefit of hindsight and proper accounting of the costs incurred will allow accounting personnel to report job performance on a regular basis. Timely accurate reporting is necessary to effectively monitor financial results. Project managers should review and analyze those results to be sure they are correct and in line with the actual progress of a job. If a change order is needed, it can be addressed during the job as it is often more likely to be approved as events occur rather than waiting until the end of a project when the owner or general contractor has long since moved past the particular issue. Working hand in hand, accounting and operations can provide insight to the estimators to ensure that the estimates on future projects are dialed in and put the company in a good position to win the contracts.

Financial reporting and the financial statements of a construction company serve as the ultimate scorecard for the year. A good understanding of the financial statements and financial position of the company by the owners and management along with proper communication shared throughout the company can help lead to better future project management and overall company profits.

CALENDAR OF EVENTS

April 5: Building to LEED for New Construction. Electrical Industry Training Center, 8960 L St. Room 306, Omaha from 8:30am to 5:30pm.

April 6: Building to LEED for New Construction. Held in Lincoln at Bellevue University, 1001 S 70th St, Room 219, 8:30am to 5:30pm.

April 6, 13, 20, & 27: LEED Green Associate Exam Prep Class - Online course, Wednesdays.

April 7: Building to LEED for New Construction. Held in Norfolk (location TBA), 8:30am to 5:30pm.

April 7, 14, 21, & 28: LEED AP BD&C Exam Prep Course - Online course, Thursdays.

April 12: 2010-2011 Construction Leadership Academy. Held at

the Cornhusker by Marriott, 333 South 13th Street, Lincoln, from 1:00pm - 7:00pm.

April 20: AGC Board of Directors Meeting - Cornhusker Plaza, Suite 101, 3:00pm

April 26 & 27: BIM Technology (BIM Unit #2). Electrical Industry Training Center, 8960 L St. Room 306, Omaha from 8:30am to 5:30pm.

BANK OPERATING LINES HELP MAXIMIZE SURETY CREDIT

By Jake Buss and Jim King, Gene Lilly Surety Bonds, Inc.

A key component in your surety program is strong bank support, particularly in the form of your operating line of credit. Surety companies view this as funds available to a contractor to help fund operations and pay suppliers in a tight cash flow situation. Of course, contractors and sureties would prefer that the contractor funds operations through their own working capital, but the operating line of credit is a good supplement to that.

Tom Sonderegger, assistant vice president of commercial lending at Union Bank and Trust, has valuable insight into how banks look at contractors' operating line and the factors that go into determining what is available. Banks will look primarily at contractors Accounts Receivable Schedule to set available credit. The Accounts Receivables serve as "short term collateral to secure short term borrowing."

Banks will typically provide credit on 80% of unbonded receivables. They do not factor receivables on bonded projects into their analysis because the surety company has priority right to those monies. This practice is customary, but does not mean that there are not exceptions that can be made.

Occasionally a bank may provide operating credit with fixed assets as collateral. These assets would need to be free of debt and have verified value. Examples of this could be equipment that is paid for or a contractor's office or shop building. Additionally, if a contractor can demonstrate that inventory turns over quick and converts into cash or receivables that may be factored in as well.

The Borrowing Base Certificate is an item that is used monthly to gauge what assets are available to borrow against. This is used heavily by larger lending institutions and is becoming more and more common with banks of all sizes. This form is prepared monthly by the contractor and provided to their banker. This gives the loan officer an as-

set base with which they can determine available credit.

There are two main issues to consider regarding the Borrowing Base Certificate when trying to maximize your available credit. The first is the aging of your receivables. Banks will disregard receivables more than 90 days old. They will likely view this account as uncollectable. Secondly, you must be proactive in your billings. No credit is given for under billings. This means that, even if you have performed the work and incurred costs, you will not get credit for that money unless you have it billed. Not only would you have incurred costs and not been paid yet, but now you are not able to borrow against that money unless it has been billed.

While the Borrowing Base Certificate is prepared for the bankers use, it also is analyzed by some surety companies. Tyler Adams, Regional Manager for International Fidelity Insurance Company, looks at these in his assessment of a contractor for bonding. Surety companies want to know what the covenants, or guidelines, are for that contractor's operating line of credit. They want to know what requirements the bank has placed on the contractor as a condition of providing that operating line. These requirements may include minimum working capital, equity or cash amounts or ratios of debt to worth. The concern from the surety perspective is that if those requirements are not met the bank could potentially pull the operating line of credit. That could be very costly to the cash flow of a contractor that relies heavily on bank support for their operations.

In conclusion, the bank operating line of credit is important to contractors and their ability to maximize surety credit. In order to get the most out of an operating line, a contractor should stay on top of their billings and make sure that they are able to collect those funds once they are billed for.

April 27: Western Nebraska Regional Members Meeting - Scottsbluff Country Club, 5:00pm - 7:00pm

April 28: BIM Process, Adoption, and Integration (BIM Unit #4). Electrical Industry Training Center, 8960 L St. Room 306, Omaha from 8:30am to 5:30pm.

May 4: Omaha Regional Member Meeting - Regency Marriott Hotel, 7:30am - 9:00am.

May 4: Lincoln Regional Member Meeting - The Nebraska Club, 12:00pm - 1:30pm.

May 10: 2010-2011 Construction Leadership Academy. Held at the Cornhusker by Marriott, 333 South 13th Street, Lincoln, from 1pm - 7pm.

May 16: SAVE THE DATE! Annual Golf Outing - Quarry Oaks.

Go to the calendar online for registration forms and more information - <http://agcnebuilders.com/events.shtml>

KNOW THE RULES: REVIEW YOUR CONTRACTS!

Erin Ebeler, Woods & Aitken LLP

In today's distressed financial circumstances, good economic news is sparse for construction industry participants. Unfortunately, when times are tough, contractors and subcontractors alike are more likely to accept increased risk, both financially and in terms of taking on projects outside their experience or expertise. Naturally, owners and general contractors will look to protect themselves by shifting these risks downstream to other parties involved in the construction process.

Generally speaking, such risk shifting is accomplished through contracts. Therefore, it is essential that contractors and subcontractors review all contract documents to which they are subject. Oftentimes, these documents expand beyond the subcontract or prime contract signed to incorporate other documents such as upstream contracts, plans and specifications, drawings, etc. Contractors and subcontractor should review all contract documents to identify any one-sided, risk-shifting provisions, or "killer-contract" provisions. Some examples of these provisions include:

- **Short Notice Provisions**— Deny adequate time to determine ramifications of events on the project.
- **Claim Waivers and Releases with Pay Applications**— Require waiver and release of any claims connected with work included in pay applications in order to receive progress payments.
- **Prospective Lien Waivers**— Waive lien rights as part of the contract before work begins.
- **No Damages for Delay**— Deny the right to seek damages caused by project delays (whether or not caused by the contractor or subcontractor).
- **One-sided Dispute Resolution**— Restrict the types of disputes, the requirements for consideration, and/or the venues that a contractor or subcontractor may utilize in the resolution of project disputes.
- **No Limits on Consequential Damages**— Provide no limit to the damages that can be sought against the contractor or subcontractor.
- **High or Uncapped Liquidated Damages**— Provide unreasonable or punitive liquidated damages against the contractor or subcontractor for late completion.
- **Scheduling of Work**— Make the contractor or subcontractor responsible for work progress entirely out of its control.
- **Coordination of Work of Others**— Require the contractor or subcontractor to

coordinate work of parties with whom it has no contractual relationship or means to control.

- **Default or Convenience Terminations**— Limit the contractor's or subcontractor's rights in the event of contract termination.

The enforceability of killer-contract provisions such as these varies by state. Consequently, critical but often overlooked provisions are the "choice-of-law" and "choice-of-venue" provisions. Parties can designate which state's law will govern the terms of an agreement and where a dispute over that agreement will be heard, and the state(s) chosen may not necessarily be the state in which construction occurs. However, many states (including Nebraska) limit parties' ability to designate a state other than the one in which the work is actually performed as the "choice-of-law" or "choice-of-venue."

The significance of these provisions cannot be overstated. Without knowing which state's law will govern your contract, it is difficult—if not impossible—either to assess the impact of certain contract terms, to conduct a meaningful risk-assessment, or to mitigate the risk associated with the contract's terms. Accordingly, contractors and subcontractors should consider utilizing standardized contracts such as the ConsensusDOCS or AIA General Conditions to avoid the more onerous provisions. If such contracts cannot be utilized, parties should familiarize themselves with the risks in the agreement at issue and investigate the enforceability and potential consequences of such provisions on their right to receive payment.



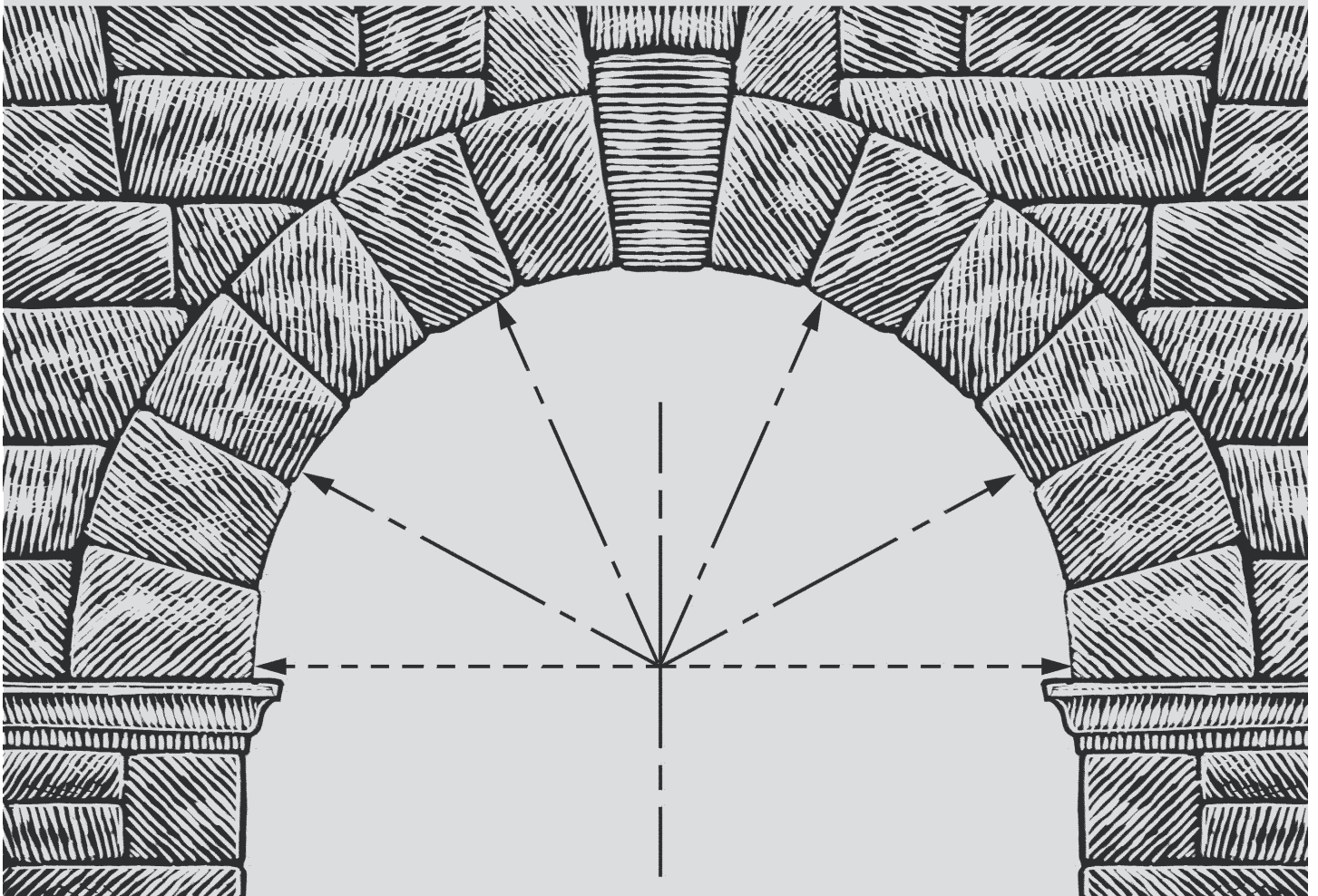
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