

## LEGAL HOUSEKEEPING FOR CONTRACTORS

By Rosemary Hayes, Esq.

Many owners, operators and executives in the business of construction have found themselves with extra time on their hands during this economic downturn. One way to spend available time is worrying about the area's lack of new projects. However, smart contractors understand the cyclical nature of our business and use this time to gain an edge on the competition that will serve their companies come the end of the recessionary period. This article provides a list of suggestion for legal "housekeeping" to accomplish during the construction down cycle.

- 1. Update your business forms.** Those old form Purchase Orders, Proposals, Subcontracts, Invoices and Lien Releases have served you pretty well, but you are concerned that your company's forms are up-to-date, protect the company interests, and comply with Florida law. For example, do your form documents provide for the recovery of legal fees in the event of a dispute, include alternative dispute resolution proceedings that may permit you to avoid expensive litigation and are provisions for arbitration or litigation enforceable under current law? Contractors are not focused on these issues until embroiled in controversy; however, the current slowdown affords an opportunity to get your house in order now.
- 2. Institute a process for serving statutory notices.** If you are not serving Notice to Owner, preserving your lien rights, and maintaining a handle on whether a project is subject to a payment bond, do not be ashamed. You are not alone. During these times of tighter-fisted lenders, less venture capital, and developers suffering from the real estate bust, however, it is more important than ever to have in place a process that insures all bases are covered to preserve your company's right to payment for its work.
- 3. Get your credentials to go green.** Today, nothing is more politically correct than going green. Government and private construction projects will increasingly call for renewable resources. Time that was previously spent on ongoing construction can be utilized to obtain Leadership in Energy and Environmental Design (LEED) certification by the U.S. Green Building Council (USGBC). LEED for Existing Buildings focuses on whole-building cleaning and maintenance issues, recycling, exterior maintenance programs, and system upgrades. For details, visit <http://www.usgbc.org>
- 4. Confirm the status of construction licenses.** In Florida, businesses and individuals that engage in "contracting" without complying without proper certification or registration cannot enforce contract rights or legally record a claim of lien. The statute that makes contracts by unlicensed contractors unenforceable by the unlicensed contractor has been changed by the state's legislature several times since 2000. For additional information, and to confirm the status of your company's licensure, visit <http://www.myfloridalicense.org>
- 5. Meet your continuing education requirements.** Certified or registered contractors must complete 14 hours of continuing education during each licensing cycle, one hour of which must be related to Florida law. State certified general, building, residential, roofing, specialty structure and glass and glazing contractors must have

one hour of continuing education relating to “wind mitigation methodologies” as part of the 14 hour requirement. Courses must be completed by state certified contractors before the August 31, 2008 renewal date. Registered contractors, which are licensed by local agencies, will need to complete their courses by August 31, 2009.

---

Rosemary H. Hayes is a partner with the construction law firm of Hayes & Caraballo, PL. She can be reached at [rhayes@const-law.com](mailto:rhayes@const-law.com) or (407) 649-9974.