

# Building for Success

## What's in store for contractors in 2012?

There is some good news for contractors next year.

Financial data from the past several years show that profits continue to exist. For larger companies and those with unique expertise, prospects may be even better. Contractor size, as opposed to the specific trade or industry niche, seems a better indicator of how businesses have weathered the recession.

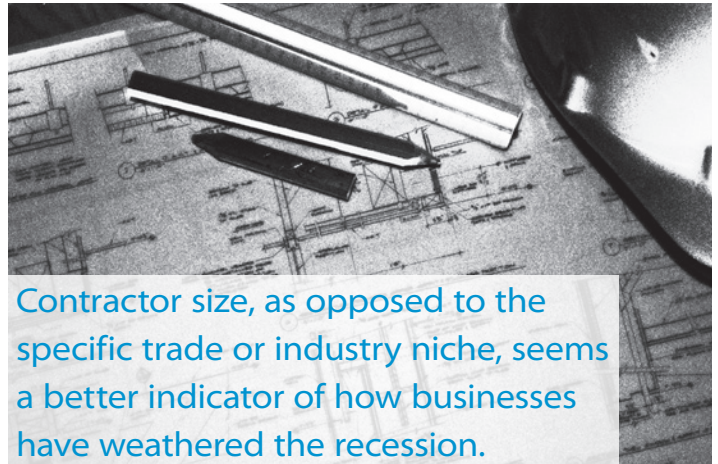
Here are some of the key predictive factors of contractor profitability in recent years for both general and subcontractors, as well as what may be in store based on the Architecture Billings Index.

The current construction market has been hardest on small contractors, whether general contractors or subcontractors. Large contractors reacted quickly to the downturn, cutting overhead as revenue and margins dropped, partially because they had more timely financial information and a greater ability to react as the economy slowed.

Smaller contractors were slower to react, largely due to limited financial information and ability to react. As revenue and margins dropped, they were unable to cut overhead to sustain profits. The larger the company, the easier it was to trim payroll due to redundant workers. In smaller companies, lean staffing made cuts more difficult and affected essential functions.

Larger contractors often bid on larger jobs, which means they competed with fewer bidders on jobs that promised higher margins. Smaller contractors bid on smaller, more competitive jobs with tight margins.

But now a different metric is at work. Smaller contractors who survived the past few years have already right-sized their companies, while larger contractors



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may need to make bigger overhead cuts once they burn off their accumulated backlog.

Big or small, finding enough work will continue to be the challenge. Current trends reveal a consolidation of projects, which may force smaller contractors to form joint ventures and larger contractors to forge new subcontracting relationships.

To a certain extent, current financial data reflect what is usually seen in down markets: Recessions weed out weak, inefficient companies, and the strong, efficient contractors survive. Exceptions do exist, but not many.

Poignant examples of trades lacking profitability have been excavating and underground utility contractors. With residential construction still in the tank, many of these contractors are bidding and taking on commercial projects – unfamiliar work and a situation ripe for underbidding, overruns and disastrous financial outcomes.

To make matters worse, contractors with heavy bank debt and repeated losses now find sustaining bank financing difficult or impossible. Since the banking crisis, many banks are calling loans

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An information bulletin to contractors from:



N&K CPAs, Inc.

ACCOUNTANTS|CONSULTANTS

SUITE 1700 ASB TOWER  
1001 BISHOP ST.

HONOLULU, HAWAII 96813  
TELEPHONE (808) 524-2255

THE HAWAII AFFILIATE OF CPAMERICA INTERNATIONAL

# Construction software options for home builders

The construction market is always competitive. With the economic downturn affecting many parts of the country, maintaining every competitive advantage is important.

Marketing, responding to potential contracts, winning deals, managing labor, controlling costs and managing day-to-day operations are all items that have to be done to be successful.

Wouldn't it be good to have some computer software that would help manage the business effectively, while being reasonably easy to learn and reasonably affordable?

What are some of the needs of the home building industry? Think about your own needs. To get you started, here are some common requirements:

- ◆ Bid management
- ◆ Custom option pricing
- ◆ Estimation, including unit take-off
- ◆ Purchase orders
- ◆ Subcontractor and trade management
- ◆ Change orders
- ◆ Job costing
- ◆ Project management, including phases
- ◆ Completion, including punch lists
- ◆ Walk-throughs and service calls

Depending on your specialty and the market you are trying to compete in, one or more of these common requirements could be critical, while others may be necessary.

Before selecting any software product, first consider your needs as you see them. Do this before you discuss buying anything with any potential technology supplier. List 10 to 15 items that you desire in a new system and separately list 5 to 7 features you don't want to lose from your existing system.

If acceptable in your market, discuss what other builders are using and what they think of their systems. Ask questions about the support they are receiving, maintenance costs, and like and dislikes.

Have your requirements list completed, as well as a list of potential solutions from your casual research, before you do any research on the Web or before any discussion with computer dealers, installers or value-added resellers (VARs).

Many websites track your research and make you a target for a sales cycle that you are not ready for.

A safe website for some of your research could be [www.accounting-softwareworld.com](http://www.accounting-softwareworld.com), which lists both selection steps and potential construction software. Additional good listings can be found at the Constructech Top 50 for 2011 at [www.constructech.com/tech\\_50/CT50\\_2011.aspx](http://www.constructech.com/tech_50/CT50_2011.aspx) or from the New Hampshire Home Builders at [www.hbranh.com/index/softwaredirectory](http://www.hbranh.com/index/softwaredirectory).

Again, be cautious of websites that claim to help you – many are motivated by sales commissions or referral fees. If you give them your name and other contact information, you just became a lead for one or more companies.

A number of companies have made their names in the construction software industry. Products that have widespread acceptance at the low end of the market include Jonas, JobPower, QuickBooks Premier Contractor Edition, Sage Peachtree Quantum and Sage Master Builder. For medium-sized home builders, the product list includes products like Sage MAS 90, Sage Timberline, ComputerEase and Constellation Newstar.

Note that companies that have multiple offerings in the construction industry tend to have more expertise and more focus on specialties within the industry. Read the website content carefully, and look at published information and reviews in sources that service the home building industry.

The products named in this article and on the reference list are just a fraction of those available.

It is quite understandable why it is so difficult to tell the good products from the bad. However, you have a discerning eye. Think about how you spot the quality difference between a quality home and one that is built shoddily. Recognize that, with a little practice, you can tell the difference between quality software and shoddy software.

Even though time is money, try to avoid spending hard dollars until you are convinced you are looking at quality software installed by a quality company. The availability of local vendors for support may also be important. Your CPA firm may be able to help. After all, when a home is built well, doesn't it work better and last longer? So does computer software for home builders. – *Randolph P. Johnston, CPAmerica's technology expert*

What vendors have reasonable solutions for home builders? The list is long, and the products are listed in order of those serving larger to smaller contractors, with vendors with multiple offerings grouped together. Here are some good, safe bets:

Sage – [www.sagenorthamerica.com/Solutions](http://www.sagenorthamerica.com/Solutions)  
Construction-and-Real-Estate

- a. Timberline
- b. Master Builder
- c. MAS 90
- d. Peachtree Quantum
- e. Peachtree Accounting
- f. Foundation Software, Inc.

Constellation – [www.constellationhb.com/products.php](http://www.constellationhb.com/products.php)

- a. Fast
- b. Newstar
- c. Builder 360
- d. BuildTopia
- e. HomeDev Pro
- f. BuildSoft Pro

Contractors Software Group – [www.contractorssoftwaregroup.com/products.aspx](http://www.contractorssoftwaregroup.com/products.aspx)

- a. Professional Series
- b. Plus Series

c. Simple Series

Larger

- a. Primavera P6 – [www.oracle.com/us/products/applications/042373.htm](http://www.oracle.com/us/products/applications/042373.htm)
- b. Meridian Prolog – [www.meridiansystems.com/products/prolog/construction-project-management.asp](http://www.meridiansystems.com/products/prolog/construction-project-management.asp)
- c. Maxwell Systems ProContractorMX – [www.maxwellsystems.com/products/construction/procontractormx](http://www.maxwellsystems.com/products/construction/procontractormx)
- d. ComputerEase – [www.computerease.com/Contractor-Industries/Home-Builders-and-Residential-Contractors.aspx](http://www.computerease.com/Contractor-Industries/Home-Builders-and-Residential-Contractors.aspx)
- e. Mark Systems IHMS – [www.marksystemsusa.com/](http://www.marksystemsusa.com/)
- f. Builder MT – [www.buildermt.com/construction-cost-estimating-software.html#](http://www.buildermt.com/construction-cost-estimating-software.html#)
- g. ProEst – [www.proest.com/](http://www.proest.com/)

Smaller

- a. BuildTools – [www.buildtools.com/](http://www.buildtools.com/)

b. BuilderTrend – [www.buildertrend.com](http://www.buildertrend.com)

c. Dedicated Software Solutions Home Builder Construction Software – [www.dedicatedsoftware.com/](http://www.dedicatedsoftware.com/)

d. Procore – [www.procore.com/](http://www.procore.com/)

e. BuildScope – [www.buildscope.com/products.asp](http://www.buildscope.com/products.asp)

f. JobPower – [www.jobpow.com/index.htm](http://www.jobpow.com/index.htm)

g. Jonas – [www.jonas-construction.com/](http://www.jonas-construction.com/)

h. HeadsUp iCPM – [www.headsuptech.com/home/Products.aspx](http://www.headsuptech.com/home/Products.aspx)

i. JetStream Construction Project Management – [www.jetstreamapp.com/index.html](http://www.jetstreamapp.com/index.html)

j. PlanSwift – [www.planswift.com/](http://www.planswift.com/)

k. QuickBooks Premier Contractor – [quickbooks.intuit.com/premier/?industry=contractor](http://quickbooks.intuit.com/premier/?industry=contractor)

l. Job Simplicity – [www.jobsimplicity.com/home-builder-software.html](http://www.jobsimplicity.com/home-builder-software.html)

m. Clear Estimates – [www.clearestimates.com/](http://www.clearestimates.com/)

n. BSE Estimator – [www.builders-software.com/](http://www.builders-software.com/)

# At-will employment – Don't undermine its protections

You have probably heard of at-will employment, but do you know exactly what it means? It is important for companies to understand and comply with laws governing at-will employment because, if you're not careful, you can void the protections it provides.

At-will employment means:

- ▶ Employees may quit their jobs at any time without notice or reason.
- ▶ Companies may terminate an employee similarly – at any time without notice or reason.

At-will employment also allows companies to hire, fire, demote or promote any employee they choose.

Over the past 20 years, 49 states (excluding Montana) have changed their laws to “at-will” employment from “just cause” employment. “Cause” means having a reason. “Just cause” means that the level of the company action must match the significance of the employee’s violation or misconduct.

Employment contracts guaranteeing “just cause,” such as union contracts or employment agreements with specific employees, will override at-will employment arrangements.

At-will employment has leveled the playing field between employees and employers. Even though at-will does not require a reason for a termination, companies should document the specific reason an employee was terminated. This will provide protections against unemployment claims and discrimination allegations.

All states have some exceptions that void at-will employment, such as:

- ▶ An employee fulfilling legally mandated obligations such as jury duty
- ▶ An employee exercising a right guaranteed by law, such as filing a workers’ compensation claim
- ▶ A company unintentionally creating an “implied contract,” such as promising an employee continued employment through the use of an employee handbook or disciplinary procedure

If a federal or state law provides legal protection to an employee, this will also impact company decisions relating to terminations.

## Probationary periods

Without “just cause,” there is no need for a probationary period. Probationary periods were intended to insulate a window of time to assess the new hire before “just cause” kicked in.

## Severance pay

Areas affected by at-will employment include decisions to provide notice of termination or severance pay. There is no federal law requiring severance pay – it is optional. A federal law called the WARN Act requires notice for mass layoffs but not individual terminations.

## Disciplinary action

Another way at-will laws can be undermined is promising during a disciplinary action that an employee would not be terminated if he or she repeated the action(s) that caused the discipline. For example, indicating that the next disciplinary step for attendance violations would result in a three-day suspension can be interpreted by the courts as promising that the employee would not be terminated. Instead, consider using this language to finalize a disciplinary action:

*“Any future violations of this or any other company rule, policy or instruction or any unacceptable behavior will result in disciplinary action up to and possibly including termination.”*



Many companies use disciplinary forms that outline progressively severe levels of discipline for minor infractions. This progression can be interpreted as a promise of future job security, voiding at-will employment.

## List of ‘Do’s’ to maintain at-will employment

- ▶ Maintain a well-written, legally compliant employee handbook or, at minimum, have all employees sign an at-will policy statement.
- ▶ Review employment contracts or agreements with individual employees to make sure they do not unintentionally void at-will.
- ▶ When describing the reason for termination, be as clear and specific as possible. For example, document that an employee “repeatedly did not follow instructions on the use of a circular saw” or “repeatedly failed to measure properly,” rather than using vague language such as “poor performance.”
- ▶ Rename any “probationary” period to an orientation or training period, which matches what you are hoping to accomplish during the period.
- ▶ Eliminate old disciplinary forms and generate simple write-ups with words supporting at-will employment.

## List of ‘Don’ts’ that can undermine at-will employment

- ▶ Don’t promise anything into the future – ever. For example, by promising a future pay raise, the courts may interpret that an employee was promised continued employment until this event, thus voiding the company’s right to terminate the employee at any time without notice. Even vague promises can be a potential problem.
- ▶ Don’t fire an employee for:
  - ▮ Filing a workers’ compensation claim, which can expose the company to state laws that protect employees from “retaliation” for filing the claim
  - ▮ Filing a claim for wage and hour, safety and health, or discrimination
  - ▮ Reporting for jury duty as summoned or for not asking for rescheduling or waiver
  - ▮ Refusing to commit perjury in a court case
  - ▮ Contacting a governmental agency to “whistle blow” on the company or its contractors
  - ▮ Voluntarily using any unpaid leave provided by federal law, such as family medical leave or military leave
  - ▮ Voluntarily using any unpaid or paid leave as provided by state-specific laws, such as to vote, give blood, perform a role as an EMT or attend a child’s school meeting, to name a few

Protecting at-will status for your employees is beneficial to your company. Don’t undermine it! – Leslie Day, SPHR, of Precision Payroll of America, Inc.

## What's in store for contractors? *continued from page 1*

and eliminating lines of credit when they see consecutive annual losses. If replacement funding cannot be found quickly, contractors must close their doors and liquidate.

Adding insult to injury, sureties have also become much more selective, making bonds difficult to secure for contractors of any size. Research indicates that the private construction market is not yet ready to grow. The reasons cited should not surprise any contractor:

- Financing problems
- Owners nervous about proceeding
- Weak overall economy
- Excess capacity (commercial, industrial, residential)
- Too much uncertainty

The Architecture Billings Index (ABI), produced monthly by the AIA Economics & Market Research Group and one of the leading economic indicators of what is in store for the construction industry, indicates the same, although actual construction lags the ABI by 9 to 12 months.

A score of greater than 50 on the ABI means more billings in the current month than the prior month. From September 2010 through March 2011, the ABI was barely over 50 for six of those seven months, largely due to government

spending. It fell below 50 in five of the next six months through September 2011.

So what does all of this mean for you?

Basically, pockets of construction activity are still thriving. Clean-energy construction, service work and specialized fields in which contractors have expertise setting them apart from their competition are doing well.

Even with a somewhat bleak outlook, there is good news – you have survived! But to remain “in the black,” or as close as you can get, you should:

- Work with strong contractors who will also survive.
- Get financial statements from your subs, and check to see if they are spread too thin.
- For subs, ask around and be sure general contractors are financially sound.
- Be sure projects are well funded and that owners have resources adequate to complete the job.

The construction industry continues to struggle, along with the general economy, but there are still profitable projects to be found and completed. Strong, efficient companies will continue to find work and survive. – *Dan Owens, CPA, MBA, CCIFP*

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### *Building For Success*

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The technical information in this newsletter is necessarily brief. No final conclusion on these topics should be drawn without further review and consultation. Please be advised that, based on current IRS rules and standards, the information contained herein is not intended to be used, nor can it be used, for the avoidance of any tax penalty assessed by the IRS.

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N&K CPAs, Inc.

ACCOUNTANTS|CONSULTANTS

SUITE 1700 ASB TOWER  
1001 BISHOP ST.  
HONOLULU, HAWAII 96813