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# FORGING AHEAD TOGETHER



## Editor's Message

### Tightened Screws Call for Closer Contract Review

by Barry Dixon

**T**his past year has been a challenge for many component manufacturers around the country—my company included. For most of us, factors like the drop in housing starts and customers demanding price reductions in order to either improve the customer's profitability or to offer up a cheaper home to the end user has put us in a difficult position. I often hear "we want a five percent price reduction" or "we need ten percent." If they can knock two or three percent off each supplier, suddenly they've got an overall reduction of about ten percent. So in order to be competitive, the tendency for many of us is to be more amenable to customer demands, no matter how unreasonable they may be.

Of course, it's the contract process where we often find ourselves between that rock and hard place. These days, the rock is more of a boulder and the hard place is, well, pretty damn hard. We all want—and need—to make our customers happy; but that doesn't mean we should be agreeing to one-sided contract forms or complying with other requests that could put us at risk.

Personally, I'm very close to my company's contract review and negotiations process. In fact, on a normal day, I'm in constant contact with my insurance broker, my insurance agent, my CFO, my customer, and our corporate counsel. I'm sure many of you find yourselves in similar roles. I talked to WTCA Legal Counsel Kent Pagel about what he's seeing as the biggest contract trends during this period of correction. He said the heavily weighted, one-sided contract forms that we used to see primarily from national home builders are now trickling down to regional and even large local builders. And in April he warned a group of component manufacturers that he's heard of national builders coming to component manufacturers after finishing a job, demanding deep discounts not agreed upon in contracts already in place. Some have threatened not to pay manufacturers unless they comply. I remember saying a few years ago that this would never happen.

My conversation with Kent reaffirmed what I can no longer ignore right here in my own market: the screws are tightening even more than they ever have in this market. Despite this trend, I believe we should never take contract forms lightly, especially in the realm of insurance requirements, and we should remain firm on contract review and negotiations.

One area in particular I've dealt a lot with lately is insurance requirements. Usually, the requirements relating to insurance are numerous, so we have a tendency to simply give up trying to understand them. But it is really important for us to understand what they're asking for in these sections.

Here's an example I just encountered a few weeks ago. In hurricane-prone Florida, we build "safe rooms" that are stand-alone, above-ground structures designed to withstand hurricane-caliber winds. Through a careful review of the insurance requirements for this project's contract, I determined that my insurance company would only provide coverage for our "normal" trusses and panels. This is because a "safe room" structure falls into a different insurance classification than a typical residential structure. So I had to find another insurance company to insure the "safe room" work and materials we were providing for the project before proceeding with

Continued on page 8

Contracts can be risky business,  
so take them seriously.

#### at a glance

- ❑ Component manufacturers need to be wary of builders demanding deep discounts not agreed upon in contracts already in place.
- ❑ Although you may feel like giving up trying to understand insurance requirements, it is possible to learn about them.
- ❑ If you aren't aware of what your insurance coverage actually provides, you are exposing yourself to tremendous and avoidable risk.



## Editor's Message

Continued from page 7

the contract. Now, had we been blind to what our insurance coverage actually provided, we would have exposed ourselves to tremendous—and avoidable—risk.

How we choose to go to market or expand our businesses also impacts the types of insurance we may need. Many manufacturers have looked into turnkey framing solutions. But just because you meet the types of coverages, endorsements and limits you would as a manufacturer doesn't necessarily mean you meet them on the framing side of things. Likewise, offering design services can also affect the types of insurance you will need. For instance, if you are looking to provide whole building design services, you need to be very careful to understand the inherent risk in those services. Does supplying a permanent bracing plan for the roof diaphragm or just simply sealing a layout tie you into engineering services? Are you licensed? Are you insured for these risks? These are just a few of many questions and situations that need to be addressed depending on your personal business plan.

I have often enlisted the help of our insurance broker and corporate counsel so that I can fully understand these insurance matters. Another tool my company has invested in is WTCA's *ORisk* program. We've found it to be immensely helpful in this process because much in the program's first five tracks deal specifically with this topic. For more information on *ORisk*, visit [www.wtcatko.com](http://www.wtcatko.com).

Remember, insurance procurement and negotiating builders' insurance requirements is a very important part of your contract process. Once you learn how to effectively manage this process, you will find yourself well on your way to developing a solid risk management program that protects your company not only when business is booming, but also during the leaner times. The better you understand risk, the better position you put yourself in to protect your company and the industry. Good luck! **SBC**

*SBC Magazine encourages the participation of its readers in developing content for future issues. Do you have an article idea for a future issue or a topic that you would like to see covered? Email your thoughts and ideas to [editor@sbcmag.info](mailto:editor@sbcmag.info).*

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