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CONTENTS

BD4AEC has one goal - to make those engaged with bringing in new clients to architectural, engineering or construction companies successful. Some companies have business developers, while others rely on the principal or project managers and estimators to bring in the work. Whatever the case, we have the experience and the solutions to help you increase your business in the only way it can be done, and that is by getting more clients. We provide a variety of ways to help you close more deals!

8 **Your greatest asset**

Three key essentials to management level hiring
by Larry Silver

4 **Editor's Note**

The business of development

6 **News & Notes**

14 **Take Notice: Business development, a.k.a., the most expensive sandwich orderer**

by Bill Snow

16 **Sales: Why not just memorize your presentation?**

by Dena Wyatt

18 **Value: Sixty-Five – Business Developer Commission Structures**

A Good BDer should make more than the President
by Ronald A. McKenzie

20 **Leadership: Converting doers into sellers**

by Deborah Schindler

22 **Perspective: I get paid – you get paid**

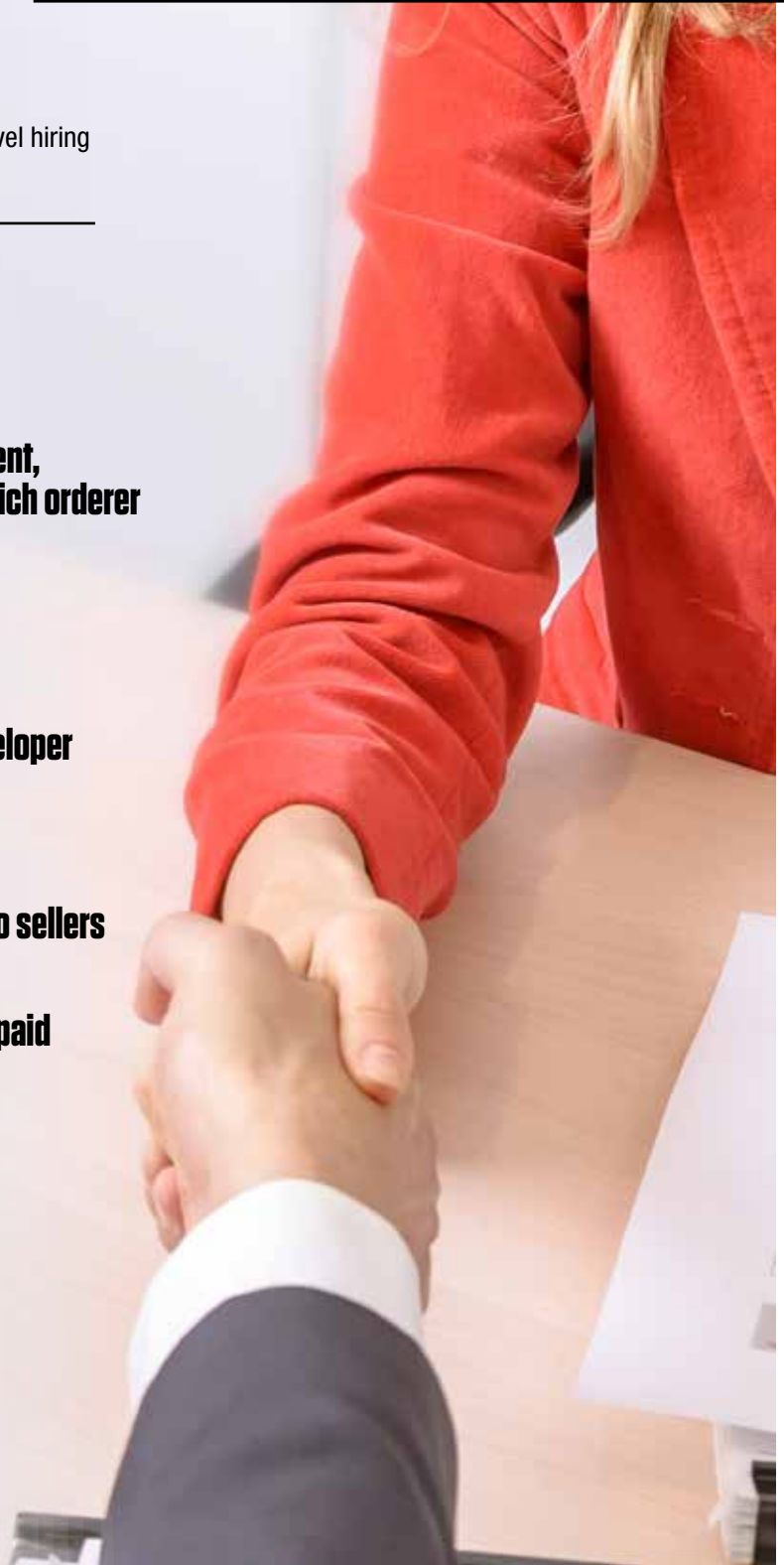
by Sean Wagner

24 **Advertiser's Index**

24 **Future Issue Editorial**

26 **Publisher's Letter**

The Business of Development



The business of development



James Cash Penney, the founder of JC Penney, once said, “Growth is never by mere chance; it is the result of forces working together.” The success of any company – the factors that not only enable it to grow, but to be sustainable – lies in its ability to develop new business.

Realistically, the term “business development” means different things to different companies. Ask 10 business leaders to define what the term means, and you may get 10 different answers.

Entrepreneurial thought leader Scott Pollack says that “business development is the creation of long-term value for an organization from customers, markets, and relationships.” Pollack’s definition, which speaks to the heart of every company’s mission statement – harkens to the ideal that business development is your company’s efforts to generate revenue and improve its reputation as an industry leader.

No matter what size your company is, your business development efforts are what should drive you. And, you have to own them.

No matter what size your company is, your business development efforts are what should drive you. And, you have to own them. In the end, the thought process behind business development should be a means to creating long-term value for your brand – a way to systematically and consistently grow your company.

In the course of my 25 year-plus career as an editor and writer, I have overseen the publishing reins in a variety of industries – sporting goods, youth sports, swimming pool and spas, commercial printing and accounting.

Through the years, I have profiled a number of business leaders, including Arthur Blank (Atlanta Falcons and The Home Depot), Bob Nardelli (The Home Depot), Herman Russell (H.J. Russell & Co.), Frank Wren and John Schuerholz (Atlanta Braves), Kevin Plank (Under

Armour) and film star Chuck Norris, among others.

Each of these leaders – and the scores of others like them from large and small companies – know what business development means to the sustainability of their operations.

As we move forward with the new and improved *Business Development Magazine*, our mission statement is to continue to give you the thought leadership insights you need to thrive in today’s ultra-competitive marketplace.

I look forward to working with you, and am honored to be a part of your team.

President/Publisher
David Corson

Executive Vice President
Larry Silver

Editor
Michael J. Pallerino

Creative Director
Brent Cashman

Contributing Columnists
Julia Craighill
Mary Erlain
Doug McIsaac
Ronald A. McKenzie, NCARB
Hugh A. McCoy
Mike Medrzycki
Michael J. Pallerino
E. David G. Pugh, PhD
Leonard Rubin
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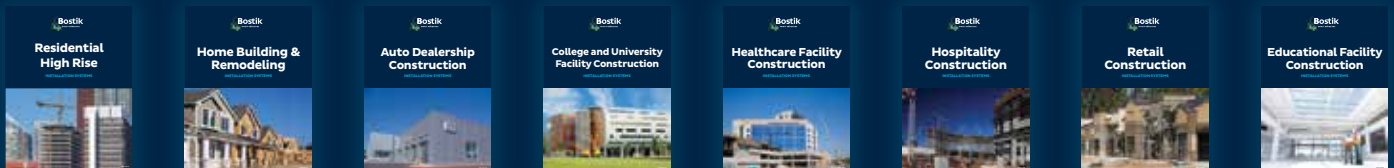
Advertising - **Larry Silver**
larry@contractormarketing.com

Contact information:
Contractor Marketing Inc.
2285 Old Post Road
Beavercreek, OH 45434
Phone: 937-776-7170
larry@contractormarketing.com
www.contractormarketing.com
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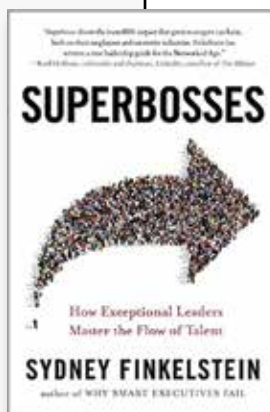
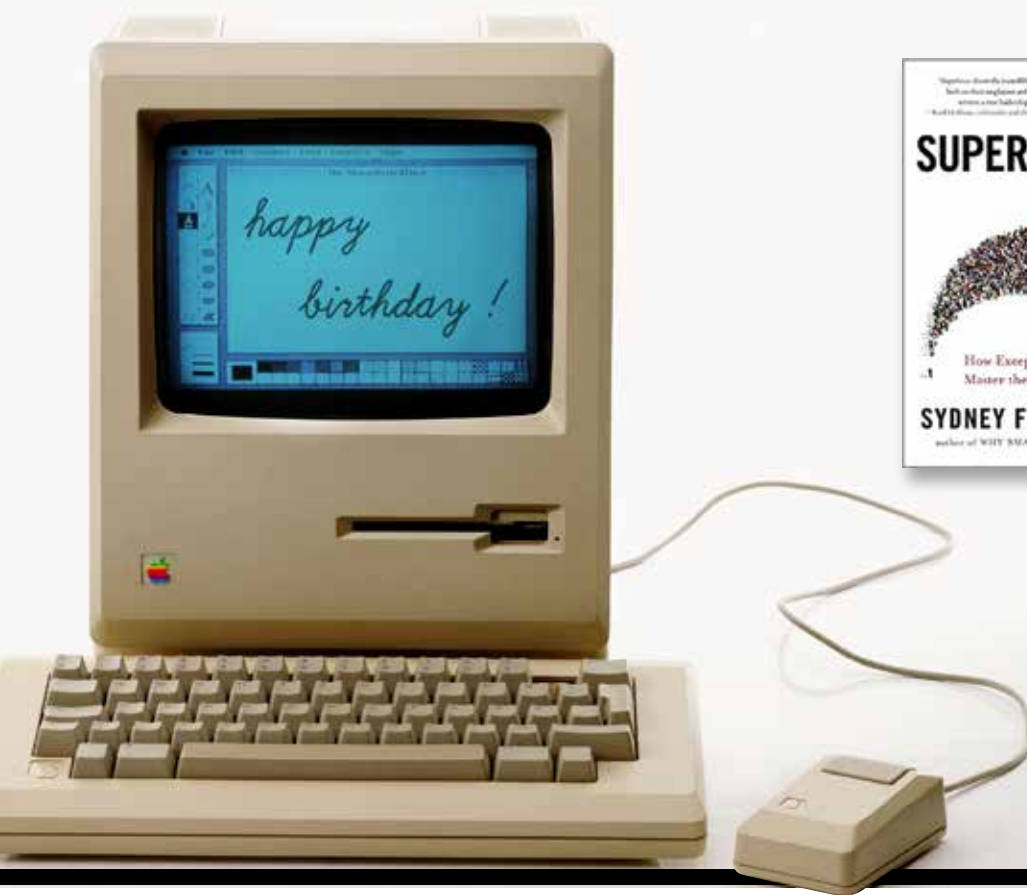
What would Steve Jobs do?

Ask any executive today, and they will tell you that among the many qualities they loved about Steve Jobs was his ability to close out a presentation with a proverbial bang. Whether the co-founder of Apple ended a keynote with his go to line, “And one more thing,” shared a personal story or delivered a jaw-dropping statistic, Jobs was the master of the “leaving-them-with-wanting-more-approach”. One of his patented moves was to ask the audience a thought-provoking or impactful question. Jobs’ strategy: If you do it right before your presentation ends, you’ll have them pondering the answer for the rest of the day. Next time you’re making a presentation or meeting with your team, ask one of these classic Jobs’ questions:

Imagine six months have passed. How has your company evolved?

If you don’t overcome a problem your company is facing, how will it affect your business?

Can you afford to ignore the disruptions impacting your industry?



Book Rec

Superbosses: How Exceptional Leaders Master the Flow of Talent

By Sydney Finkelstein

Football coach Bill Walsh. Restaurateur Alice Waters. Television exec Lorne Michaels. Fashion pioneer Ralph Lauren. What do they all have in common? At first glance, other than leaders in their respective fields, not much else, right?

But take a closer look, and you will see that they share a common approach to finding, nurturing, leading, and even letting go of great people. It is why author Sydney Finkelstein calls them Superbosses.

The acclaimed professor at Dartmouth’s Tuck School of Business, speaker and executive coach Finkelstein spent 10 years researching her subjects to deliver her book. What she

found is that while superbosses differ in their personal styles, they all focus on identifying promising newcomers, inspiring their best work and launching them into highly successful careers. In addition, they expand their own networks and build stronger companies.

In a time when finding and keeping the best talent in our industry is paramount, Superbosses could be the blueprint you use to find your way.

“One way to improve your bench is to get inside the heads of your players. That is, you get them to believe in what you are trying to accomplish. You sketch a picture of what must be done now. And you paint a full-color picture of what the future will be if the team pulls together and accomplishes its goals.”

– John Baldoni, chair of leadership development at N2Growth, on why making accountability a team issue is a critical step in the leadership playbook

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Your greatest asset

It's a cliché to say that,
“Our people are our greatest
asset.” It is so overused, that it

Three key essentials to management level hiring

By Larry Silver

almost has no meaning. The funny thing is that it's quite a true statement. Your people are your greatest asset and give your firm a brand identity, a reputation in the marketplace and a certain feeling that emanates from your offices.

The problem with the statement is that it's not just your people by themselves that make the difference, it's the collection of a team that your people form and how they collectively serve the needs of your clients, carrying out an intentional corporate culture and strategy consistently over time. This is what makes the difference and what separates one company from another, no two being alike.

When to Hire: Chicken or the Egg?

There are two primary reasons why managers are hired for construction. The driving reason is because the firm is going after work and there are no existing leaders who are ready to perform it. In this case, it's the potential project driving the hiring bus.

The second reason is for strategic growth's sake. We decided to open an office in that city and we need someone from there to manage it that knows his way around. Perhaps your strategic plan calls for a few managers to be hired to accomplish the anticipated growth over the next 12-24 months. The first year can be a steep learning curve to learn the company and their approach to projects or work acquisition (which some call business development).

My clear preference is the second reason. Hire when you're not desperate. Hire for growth. Don't just hire because you have the need to fill a warm body into a new project. That can be very risky all the way around.

“If you pursue management talent on a more relaxed timeframe, you can hire excellent execs for an attractive package without having to give the farm away and, perhaps in the process, actually select a keeper who will stay long-term.”

Owners are not naïve, nor are they stupid. If they find out your project team was hired to cover your needed resume on the project, your firm will get a black mark against it.

The exception would be if they know the person and like their work. That's acceptable. However, you'll probably have to pay top dollar and a premium bump to acquire the person. This can upset the pay scale in your firm, and cause division and dissension in the ranks.

If you pursue management talent on a more relaxed timeframe, you can hire excellent execs for an attractive package without having to give the farm away and, perhaps in the process, actually select a keeper who will stay long-term.

Three Hiring Essentials

My overview of hiring the top talent to help your firm grow lies in three essential keys for you to consider as you move forward to hire talent to grow your firm.

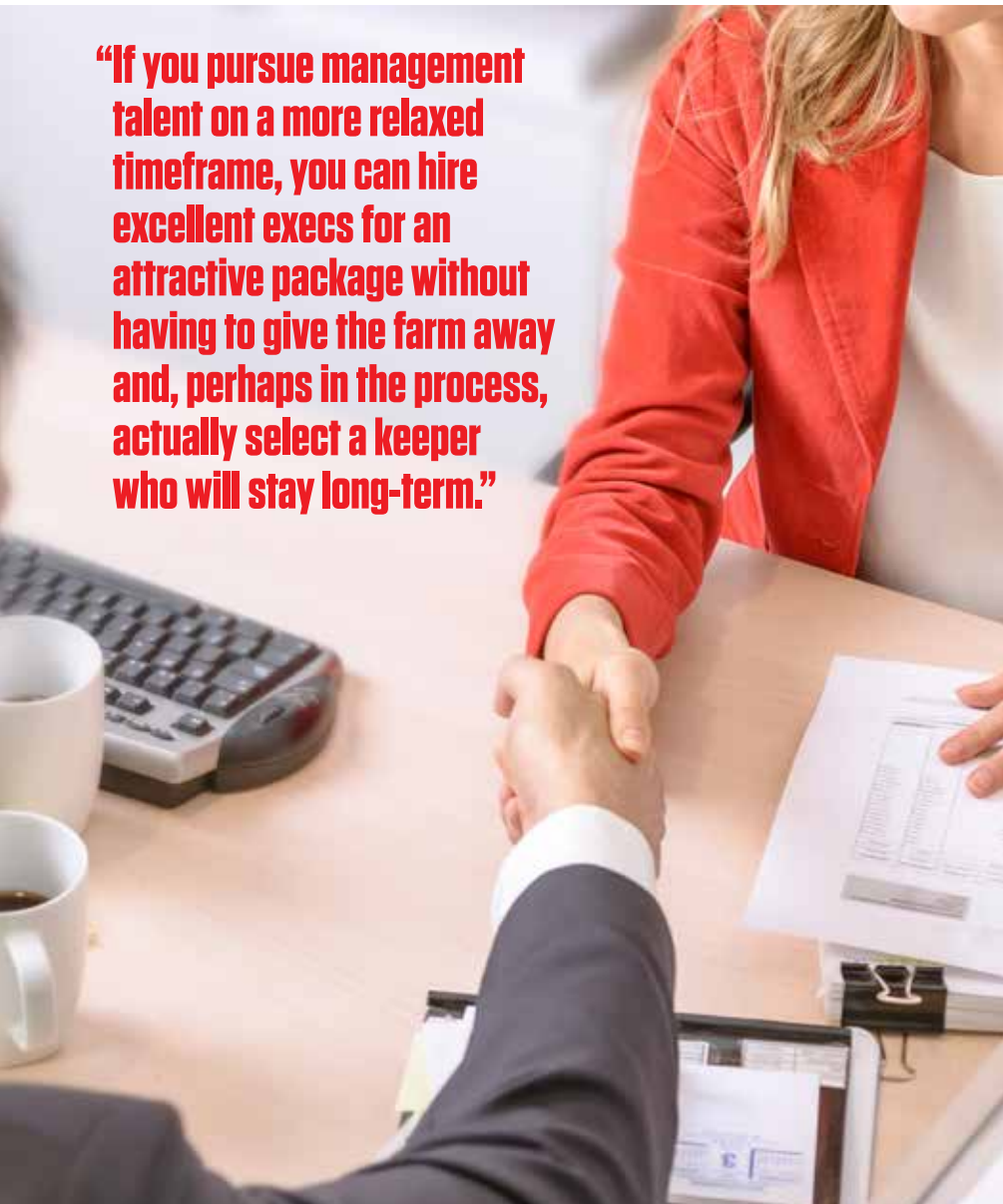
Essential No. 1 – The Executive Must Be a Good Cultural Fit

I believe this first key essential should be the biggest deal breaker of them all. The following is a strong statement, but my experience and many others have proven it to be true. If you hire someone who does not fit your corporate culture, you're making a hiring mistake that will cost you significantly in time and money over the long-term. Don't do it.

This is presuming you understand and realize what your corporate culture is. Every firm has one, but not every firm has its culture clearly spelled out. I think it's wise to be clear what your organizational DNA is and do a good job of communicating it internally and externally. This approach will save your human resource (HR) effort so much time and money, there's no way to calculate it.

For example, let's say you're a small, privately held GC that focuses on design-build negotiated projects and you value teamwork, excellent communicators and those who appreciate various sports. There is a certain mindset and person who fits into this set of values. You can consider each of these cultural elements when hiring.

Make sure moving forward that your culture is clear to your employees and the marketplace. People are attracted to certain things. If they like what they see in your



firm, they may be willing to consider employment when a recruiter calls them unexpectedly. But, if they're turned off or not attracted to the culture you portray, you'll filter them out because of it.

Essential No. 2 – Employ an attractive and streamlined process

Hiring is a process and it takes time. Learning how to go about this process in a streamlined way is imperative and could make the difference between getting someone and losing him.

I've found that using a scoring matrix is a safe and superior approach in that you score candidates to discern whether they're worthy of hire or not, and also to be able to compare one with another for the same position.

The example matrix shown is for a Business Development Manager position. Your firm can change the criteria and the weighted averages for each interview performed. I recommend using a team approach and averaging the scores over the group. This keeps the score more accurate and takes the blind spots and more subjective aspects out of the equation.

Remember that the interview is not a chemistry test to see whether you like one person over another. That's not the purpose of the interview. It's to find the best talent for a given position within your firm. A candidate who scores 70 or above is worthy of hiring. If it's below 70, don't hire the person. You're determining

Make sure moving forward that your culture is clear to your employees and the marketplace. People are attracted to certain things.

the hiring criteria using the matrix as your gauge. This is intentional, planned and systematic. It works well if you use it as it was meant to be.

Don't violate the matrix, even if the entire candidate pool scores below 70. For those who score above 70, the scoring should make it clear who's the best hire, the best fit for your firm and the open position. Begin by attempting to negotiate with the best first, and then working your way down the list if you're unsuccessful.

Remember that interviewing is a mutual two-way activity. It is not just you as the employer interviewing the candidate. It's also

them interviewing you. Remember this principle. If someone asked me why I would want to go to work for them, I might say, "I am unsure that I want to yet, perhaps this interview will give me some solid reasons and encourage me?"



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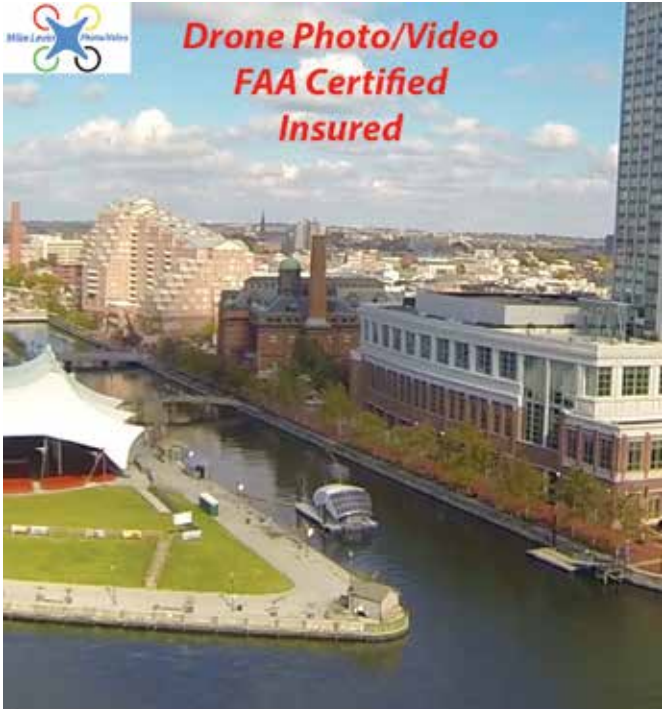
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I'm being a bit sarcastic, but you get the gist of what I'm saying. Put your best foot forward in every interview. Leave every person on a positive note. You may end up doing business in one way or another with this individual, so be careful to show professionalism and respect in this process.

You're revealing your uniqueness as a company as you go through this process. For higher-level positions, have multiple interviews. Compare notes to others who have interviewed the same candidates.

As the matrix reveals your best choices, move quickly to bring them into your fold. I've lost many candidates because my client was moving so slowly in the process that either the candidate lost interest or was snagged by another firm who didn't drag its feet.

The best talent, the ones you're seeking must be reached out to and engaged before they become open.

If the new hire runs into trouble and has no way to seek help or to reach out regarding the expectations communicated, they often suffer remorse and possibly can leave in the first year as a result, more money or not.

another to write down clear expectations for both sides.

Job descriptions are a dime a dozen. Have you ever seen one that gets you excited? I haven't. They're boring and serve a purpose, I suppose, but they say nothing about the day-to-day stuff you'll do from a management standpoint.

I've discovered that the exercise of writing down your mutual expectations, and then reviewing that progress over periodic intervals is a great way to bring an exec on board and help them speak up if there's any deviation.

Making good money is important, but enjoyment, expressed appreciation and solid achievement are real pluses for a new hire to deposit in the HR bank.

Business Development (BD) Manager

GENERAL CATEGORIES	#/100	Candidate #1	Candidate #2	Candidate #3
Appearance	7			
Self- Motivated/Aggressive/Tenacious	10			
People Person/Friendly	10			
Construction Experience	8			
Presentation/Listen/Communication	10			
Sales Ability/Close Deals	15			
Culture Fit/Team Player/Teach.	20			
Honest/Integrity	8			
Network of Existing Contacts	7			
Interest Level/Retention?	5			

100

Essential No. 3 – Hire with Clear Mutual Expectations and a Monitored Career Path

Now that you've gained the ultimate goal of this hiring process and a brand new exec to represent your firm, let's get started on the right foot to minimize any anxiety or remorse for their decision. Like any sale, you must reinforce that they made a good decision to join your firm.

Reaffirm your culture and their fit into it. Communicate in superior fashion by writing down mutual expectations for the position. It is one thing to have a written job description and

new employment. An accomplished exec typically likes where they are.

You can dangle money, but for most, that's not enough to bring them to the table. If an exec responds to an ad, there's something not right. The best talent, the ones you're seeking must be reached out to and engaged before they become open.

The recruiter must know what your corporate culture is and not waste time by throwing resumes in your inbox. They should have a sense what you're seeking and focus their efforts on firms and individuals who fit the profile that makes sense for your position. ■

Time to Use a Recruiter?

Most construction management and upper level positions today are better served by using a recruiter. Why do I say that? Lower level positions can be advertised and sorted out by mid-level managers looking for unskilled folks.

But executives require special attention and treatment to win them over. If an exec responds to your ad, why are they responding? Most execs are not seeking to find

This article originally appeared in the **October 2016 edition** of The Contractor's Compass and is reprinted with permission by the American Subcontractors Association and the Foundation of the American Subcontractors Association.

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Business development, a.k.a., the most expensive sandwich orderer



Bill Snow is a middle-market investment banker with Chicago-based Jordan, Knauff & Company. He works with companies with revenues between \$10 million to \$300 million. He's also a speaker and author, who has written "Networking Is A Curable Condition," "Mergers & Acquisitions For Dummies" and "Venture Capital 101." You can reach him at 312-254-5904 or wsnow@jordanknauff.com.

Editor's Note: This article was plagiarized from the book, "Networking Is A Curable Condition." The author of the book doesn't mind because he also wrote this article.

Professionals are guilty of creating job titles and descriptions based on internal interactions of the company. For example, we might think to ourselves: "Good old Charlie is supposed to develop business; therefore I'll give him the title of VP of Business Development."

Ask yourself when you've reviewed a website, because you want to connect with a company. Perhaps you're thinking about retaining their services. Do you instantly seek out the business development creature?

I don't. Most people don't. We want a decision maker. So, why do we use "business development" to describe our salespeople? These people are the ones who are supposed to connect with sales targets. Yet, the sales targets probably have no interest in connecting with the business development person.

In my view, this is silliness. It's just another example of people doing what they think they're

supposed to do. Shouldn't job titles and job descriptions be based on how we want the outside world (our sales targets) to interact with our sales people?

The answer, of course, is yes.

If this still doesn't make sense, think of it this way. Let's say you're a top executive in a company, but you don't want to be bothered by pesky people calling you to sell you things. You want to keep the riff-raff and Hoi polloi from bothering you.

If that's the case, why do you place your headshot, fancy title and impressive bio front and center on your website? You know you're going to be pestered, thus, you hire a crew of screeners to help prevent the great unwashed from actually connecting with you.

Instead, if you're a top executive and you don't want to be bothered by calls, your title should be "Director of Business Development for SEO, IT and Insurance Products."

Nobody would call that person, right? So, why do we insist on giving versions of that title to the people we have tasked with the responsibility of connecting with our sales targets?

Inward looking marketing, that's why. When we use "business development" in a title, we're not marketing to our sales targets – we're marketing to ourselves. If I'm the president of the company, I know good old Charlie is supposed to develop business for me. Why does he need a title that describes his role to me? Shouldn't he have a title that describes his role to sales targets?

The answer to that question is, of course, yes.

Solutions

First and foremost, rethink your titles and job descriptions. I'm strongly in favor of banishing



“business development” from titles. Think of something creative, different and unique. Think of something that accurately describes the kind of person with whom the target wants to connect – something that’s a conversation starter, perhaps.

After all, you’ll never stand out if you strive to be the best at fitting in.

Even more important than titles is making sure your salespeople have the right tools to be successful. Does your marketing paraphernalia and other leave-behind materials do a good job of describing your product or service? Are your leave-behind documents even worthwhile?

How about your website? Are the visitors directed to the appropriate salespeople? Or, are they difficult to find and contact? Do your salespeople have a budget? If so, do they have autonomy to execute within certain parameters? How about meals and sporting events and golf outings? Does any of that make sense and are your people able to utilize those tactics?

Trying to come up with a “one-size fits all” all approach to what constituents the “right tools” is impossible, of course. Different jobs require different tools. The most important thing to

“So, why do we use ‘business development’ to describe our salespeople?”

figure out is what do your sales targets want? What do they find interesting? What addresses a real concern for them?

And even more important than titles and tools, do you even have the right people for the job? Far too many companies seem to think they need a “business development” person. Often, this person is young with very little experience. No offense to 20-some-things, but even if they are intelligent, decent, hardworking people, what do they have in common with the 50- or 60-something executives they’re trying to sell?

I’ll answer that for you: Not much and probably nothing.

If your business development person cannot lead a meeting, close a deal or requires senior partners to ultimately do all of the heavy lifting to win a client, you might not have the right person.

If that’s the case, your business development person will be able to do little more than handle some of the logistics of the meeting. Lunch, for example.

Use the right title, provide the right tools and, most importantly, employ the right person. Otherwise, you run the risk having a business development person who is little more than an expensive sandwich orderer. ■

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33 kW EON shown

	Output Rating	Width (in.)
EON	33 kW	70
Competitor A	32 kW	130
Competitor B	33 kW	140



Why not just memorize your presentation?



A former Dale Carnegie instructor and trainer and founder of Marketing Evolutions Inc., Dena brings more than 20 years of experience in the AEC industry. Dena's expertise adds another dimension to the client interview process and helps teams understand and prepare for presentations to ensure they make a connection with the selection process and ultimately win more work. In addition helping AEC firms with project pursuits, Dena participates in charity bike rides and makes active industry connections in the Better Networking Through Skiing (BNTS) group she founded. Dena can be reached at 303-424-9462 or Dena@MarketingEvolutionsinc.com.

Sure, we all have things in our lives that we memorize, right? Our ABCs. The Pledge of Allegiance. Prayers. I grew up Catholic, so I still have a lot of those in my mind today.

But even with as long as I've known and recited the "Our Father" prayer, I still can't start it in the middle.

The same holds true with your presentations to a client. If the client asks a question and you lose track, it's nearly impossible to answer and get back on target. Besides, if a presentation is memorized, it will sound scripted. If you try to memorize a script, unless you're a natural actor, the client will pick up on it every time.

You actually put more stress on yourself when you try to memorize, because when you forget a word – and you will – or, if you get a little bit off track, you'll become so nervous that you stand a good chance of losing the whole thing. And you cannot recover from that. Besides, none of us have that much time in our day to memorize a presentation.

Here is how to prepare for a presentation in the easiest and quickest manner.

- Know your opening statement. And make sure it connects to one of the client's needs or issues he faces.
- Define three keys to success. In other words, what are the three ways you help solve that issue your client is facing? Write out your bullet points. Not the entire sentence, just keywords that spark your

memory. Now, get those bullet points down, this is your outline.

- Talk naturally about each bullet point. This is your conversation with your client and how you can help them. It will change slightly each time you say it, and that's just fine. You still will get your point across.
- Have your closing statement down. This will keep you from rambling and you know you're finished. This closing statement also should include the benefit to the client.

This type of outline creates a conversational tone, allows you to be in the moment, and can be more interactive. And when you practice your outline, practice out loud.

Have you ever practiced anything in your head from a speech to song lyrics? It always sounds great, doesn't it? The words flow without a hitch, all perfectly formed without a single "um" or awkward pause. There are no wimpy words or loss for words.

In other words – You sound like a Hollywood actor turned rock star. But try it again, out loud. It sounds a lot different, doesn't it?

When you practice – Do it out loud. For the next level, try it in the mirror. Watch your own facial expressions. Do you look grumpy or approachable? Do you look friendly and likable, but insincere? Do you have good posture?

When you practice in this manner, your next presentation will be conversational and make a stronger connection with your listener. ■



Puzzled about how to build your business?

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Sixty-Five – Business Developer Commission Structures

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Ronald A. McKenzie, NCARB, is president of COMPASS Consultants Corporation, a national strategic planning and marketing company, helping architects, engineers and contractors. Mr. McKenzie has authored or co-authored numerous books on construction marketing and business planning, as well as over two hundred articles on marketing. He can be reached at: ramckenzie.compass@gmail.com.



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Essential tactics you need to know about marketing, business development, business planning and strategic planning.

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Every business developer will love this chapter.

If a business developer brings in good paying clients and profitable projects, they should be compensated for their efforts. But there must be a plan that says, here’s your base salary, and here’s your bonus package based on meeting your objectives and developing a profitable business. If business developer brings in more work than the plan calls for, then the BD’er shall be rewarded accordingly.

responsible for estimating and other factors. Of course, the difficulty is the age-old question: If the business developer brings in the work, and operations lose money on it, is the business developer still owed a bonus?

The answer is the bonus program must take this into account: The BD’er should receive his bonus on several parameters. One, of course, is signing work. Another parameter is part of the bonus is paid on overall company profitability. That’s why some compensation

“There must be a plan that says, here’s your base salary, and here’s your bonus package based on meeting your objectives and developing a profitable business.”

If the business is making money, it means that the owners are making money, so it shouldn’t be a negative concept if business developers make very good money. It’s a win-win situation for everyone.

It depends on a lot of factors such as the actual hand-off between business development, estimating and operations, and whether the business developer is

plans for business developers are paid a portion of their bonus at the time of a new project signing.

Every office is different, and this must be part of the decision-making process. ■

McKenzie’s Secrets of Construction Marketing #65



“Compensation plans for business developers are very competitive in order to retain the very best business developer. When a business developer leaves they also leave with tremendous market knowledge, and it’s very difficult to get another business developer up to speed. Consequently, business developers are an important part of the business plan and strategy.”

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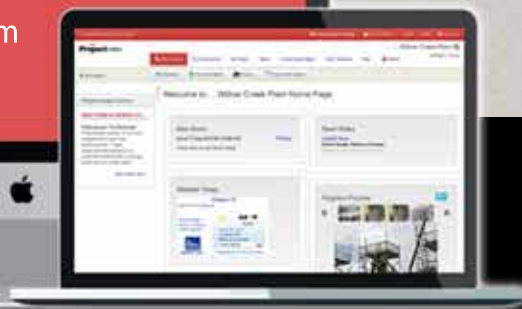
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Converting doers into sellers



With 30+ years in business development and marketing in the design and construction industry, Deb has built a proven toolbox of strategies, processes, and metrics in order to define the optimal structure for revenue generation. She has managed and coached seller-doers over that entire time and understands the nuances of working with various individuals as they take on the role of seller-doer. She is a recipient of SMPS Colorado's prestigious Leonardo Award for Lifetime Achievement in Marketing Excellence and serves on the American Council of Engineering Companies Colorado Chapter's BD Forum. She can be reached at: dschindler@redhoundstudios.com

Getting your basics in place. Converting doers into sellers doesn't happen overnight, and it doesn't happen without a clear plan. If you think taking a doer to a few networking events is going to turn him into a seller, you'll soon discover it's going to be a long and frustrating, uphill climb.

Many components must be in place in order to get that doer over into the seller column. But, before even going down that road, there are some basics that must be in place within your firm to provide the optimal environment for your new seller-doers.

- 1.** There must be an understanding across the firm that business development is a core component of the firm's business operations and its success. All staff must know that it's everyone's responsibility to participate in the pursuit of work in a variety of ways – ways that fit with their role and planned career path within the firm. It's not the sole responsibility of a few individuals – it takes an approach of all-hands-on-deck. Without new and repeat work, the firm doesn't move ahead.
- 2.** Seller-doers must know there will be new thinking, skills, processes and approaches to be learned and adopted. That expertise can and will be different, at times, from what they were trained to do. However, to be successful as a seller-doer, that learning is crucial, and will be an ongoing activity via additional training and coaching.
- 3.** The seller-doer model must be sanctioned, from the top, and the program must be provided continued support in the form of time and funding for training and coaching. That mandate from top management and ongoing support means you're creating seller-doers who successfully can pursue work while still producing quality projects for existing clients.
- 4.** A clear metric on utilization must be in place and understood by all, from operations through project production and business development. That way, seller-doers, BDers, and marketers understand how much time the seller-doer has available to apply to pursuing work. That time metric should be reviewed quarterly and overlaid on to project quality and success for projects in production, and onto new and repeat revenues for project pursuit.
- 5.** A proven, repeatable and systematic approach to the pursuit of new and repeat business already must be in place within the firm. It must be trainable to and repeatable by others, i.e., the seller-doers. This should include, at a minimum:
 - A clear, documented model(s) for the manner and processes the firm uses to pursue and acquire new and repeat work.
 - An integrated marketing and supporting communications program that continuously and consistently promotes the firm within its target markets. This will further support the activities of the seller-doers.
 - An easy-to-use system for collecting contact data, prioritizing and assigning opportunities, providing follow-up activities for contacts, setting appointments and projecting future anticipated revenues. This system could range from a simple spreadsheet to contact relationship management software.
 - Ongoing training and coaching for the seller-doers



It's important to note, that in the AEC industry, virtually all of the individuals working within the profession are very linear thinkers and process-oriented people. It's in their nature to follow process. If you don't have something in place for them to follow, it will reduce their desire and willingness to participate, and, subsequently, reduce the results they are able to produce. Per Paul Selden, author of "Sales Process Engineering," "The majority of the time, if a process is failing, it's more likely the process than the people." Make it easy, enjoyable and rewarding to participate in building business for the firm, and you'll find more takers at the table.

Many components must be in place in order to get that doer over into the seller column.

6. A knowledgeable business developer to lead and manage the seller-doer program. That key role means your firm has a champion for the entire seller-doer program – someone to coordinate their activities and programs, coach them and follow-up with their activities on a regular basis. Outside of the AEC industry, this person would be known as a sales manager.

A key point to remember: The seller-doers are not professional BDers. They were trained to do another type of work and they require guidance, knowledge and support from the BD and marketing experts in order to be successful. Don't leave them on their own.

Other items to have in place as you move to a seller-doer model include:

- A clear structure defining who is responsible for what in the project pursuit process
- A clear delineation of what a seller-doer should know about the firm and know what to do in the pursuit of work
- A clear definition of the role of a seller-doer as a career path within the firm; make it an actual career path, rather than an "extra" responsibility to take on and you may find more professionals wanting to participate
- A clear definition of how performance will be measured, when it will be measured and how it will be rewarded

If you're considering the move to a seller-doer model, head that direction. It's the best use of your dedicated business developers and marketers, and the technical expertise of your professional staff.

Best advice: Move forward with a plan. ■

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Sean M. Wagner is an Associate at Querrey & Harrow's Chicago office and concentrates his practice on Construction Law, Real Estate Law, Commercial Matters, Contracts and Insurance Defense. Sean joined Querrey & Harrow after serving as General Counsel for a commercial general contractor in the Chicago area. Sean's experience as general counsel provided him great experience in the challenges faced by small to mid-sized companies and allows him to connect with clients on a personal level. Mr. Wagner received his law degree from Valparaiso University School of Law. Prior to obtaining his law degree Mr. Wagner attended Saint Ambrose University in Davenport Iowa where he graduate cum laude with a double major in Political Science and Public Administration and was also the Captain of the Men's Volleyball Team. Mr. Wagner is an active member of the Illinois State Bar Association construction law section council. He can be reached at: swagner@querrey.com

I get paid – you get paid

General contractors usually don't want to pay subcontractors until the owner pays them for the subcontractors' work. As a result, most subcontracts contain provisions stating that the general or prime contractor only need pay the subcontractor, if, or when the owner pays the general contractor for the subcontractor's work.

What happens if the owner does not pay the general contractor? Such occurrences are not unheard of, especially given the risky nature of real estate development. How does the subcontractor get paid for its work? Obviously, the subcontractor

court decisions hold that payment by the owner is a condition precedent to payment of the subcontractor. Thus, such a provision is used to pass the risk of non-payment to the subcontractor.

Obviously, legal disputes often arise over whether the specific language of a contract created a "pay-if-paid" clause. In a recent Illinois case, the court held that the language used by the general contractor failed to create a "pay-if-paid" provision.

In the Illinois case, the court held that no magic language is required to create a "pay-if-paid" clause, but the provision must express two

"What happens if the owner does not pay the general contractor?"

can file a mechanics lien against the property subject to the improvement, but any payment arising from the mechanics lien claim may be less than the amount owed the subcontractor.

Accordingly, the subcontractor will demand that the general contractor pay the balance it is owed under the subcontract.

General or prime contractors often use one of two payment provisions in their contracts to protect them in the event they're not paid for the work of any of their subcontractors. They are "pay-when-paid" and "pay-if-paid" clauses.

Under a "pay-when-paid" provision, the general contractor eventually must pay the subcontractor, even though the owner has not paid the general contractor. Such a clause governs timing of the payment to the subcontractor.

Pursuant to a "pay-if-paid" provision, the general contractor must pay the subcontractor only if the owner pays the general contractor. The

concepts. First, it must specifically state that the general contractor must receive payment for the subcontractor's work before it is obligated to pay the subcontractor. This is a condition precedent to payment of the subcontractor.

As a result, such provisions usually use the specific words "condition precedent." Second, the provision must clearly state that the subcontractor assumed the risk of non-payment by the owner and that the subcontract price included the risk.

The court then looked at the payment terms of the subcontract. The terms merely stated that the general contractor would pay the subcontractor when the owner paid him. The court held that such general language was not sufficient to create a "pay-if-paid" provision.

Obviously, one of the things missed from the clause was an affirmative statement that the subcontractor assumed the risk of non-payment by the owner. ■

If you want to read this case, it is *Beal Bank Nevada v. Northshore Center THC, LLC*, 2016 IL App (1st) 151697.

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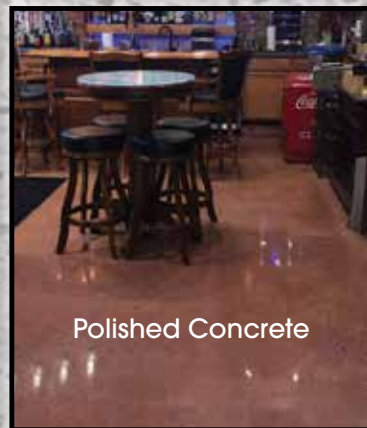
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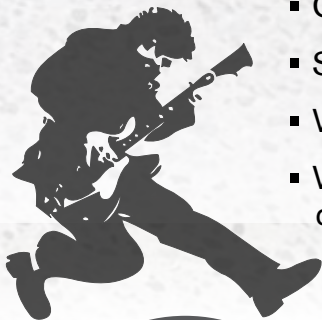
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A Day in the Life of a Business Developer

April 2017

Winning Proposals

May 2017

Successful Communication Principles

June 2017

The Marketing Plan

July 2017

How To Leverage Your Successful Projects

August 2017

Branding Your Firm

September 2017

Different BD Approaches

October 2017

Deepening Your Business Relationships

FOUR PHASES IN DEVELOPING A MARKETING DRIVEN COMPANY

PHASE 1	PHASE 2	PHASE 3	PHASE 4
"If you don't have anybody buying your service, it doesn't matter if you do it well."	"It's a question of focus."	"The best strategy isn't worth anything if it isn't implemented."	"Out of sight... out of mind."
Commitment	Planning	Implementation	Autopilot
Perceived Need to Change	Internal Assessment	Internal	Marketing Systems
Investigate Options	Corporate Vision	External	Special Projects
Engagement of Construction Marketing Consultant	Mission Statement	Business Development	On-going Training/Seminars/Webinars
	Corporate Level Strategies	Proposal Writing	Marketing Planning
	Long-Range Strategic Plan	Press Releases	Company Retreats
	Business Plan	Newsletters/Ezine	Long-Range Planning
	Marketing Plan	Case Studies/Whitepaper	
	Marketing Research	Database Development	
		Brochure	
		Direct Mail	
		Web/Social Media	
What are the implications of not having an on-going marketing program in your company?	How much is not having a business and marketing plan costing you in terms of lost business?	Do you have marketing needs and no one to implement them?	What is the impact on your clients, allies & prospects when they no longer see your company name?

OFTEN companies spend their efforts on the wrong tasks simply because they are comfortable doing them, and because they can do them well. Having someone from outside your company become involved is the very best decision you can make.

First, you need to focus on where your business is causing you problems —

Where do you lose sleep?
 Money?
 People?
 Projects?
 Clients?

We address all of these areas first, and then eventually take a step back and look at the business as a whole. Then, and only then, can you develop meaningful planning tools that will move your company forward to where you want it to go.

Whether you're trying to grow your business, or hold on to what you have, give me a call today, I can help!



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RONALD A. MCKENZIE
 630-740-4434 cellular
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Architect. Author. Advisor.

The Business of Development



I've been in publishing for 22-plus years and have worked on multiple magazines with several launches and refreshes. All have been successful.

Launching or refreshing a trade publication is just like a GC overseeing a construction/renovation project, you have to have a vision, a realistic budget, obtainable goals, and choose the right personnel or sub contractors to get the job done. And that job must be done on time and right the first time. In addition, it must be on budget or, better yet, under budget.

When the owners of *Business Development Magazine* reached out to me to partner with them to improve their four year old digital e-zine and take it to the next level, I jumped at the opportunity. It's just like in playing sports – you embrace the challenge with the aim to succeed.

Launching or refreshing a trade publication is just like a GC overseeing a construction/renovation project.

It also was a no brainer, as this is a perfect fit with our current portfolio – our main magazine, *Commercial Construction & Renovation*, our two supplements, *Commercial Kitchens* and *Federal Construction*, as well our growing custom publishing division, which includes the Retail Contractors Association Newsletter and annual directory, and The McIntosh Group's quarterly magazine, *Commercial Transformations*.

We also have several new pieces in the pipeline, including our new title in the craft brewing sector called *Craft Brand & Marketing*, which will launch in January.

It's amazing how with an updated colorful design, fresh paint, new carpet and new equipment can increase sales for a retail store, hotel or restaurant. We know the same will happen with *Business Development*.

We hope you like our new image, and look forward to your feedback and constructive input on how we can make it a "must read" e-zine each month.

Here's to a Happy Thanksgiving with your family and friends, and good health and prosperity for the remainder of 2016 and into the New Year. ■



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