

# CONTRACTOR PRE-EDUCATION PROPOSAL

## INTRODUCTION

Salt Lake Community College (SLCC) Division of Continuing Education has a great working relationship with Utah's Division of Occupational and Professional Licensing (DOPL) to provide Continuing Education for Contractors and Electricians. In addition, the Small Business Development Center and Goldman Sachs 10,000 Small Businesses Project are both located at the Miller Campus and offer relevant resources and services for individuals considering new start-ups. Currently, contractors may enroll in many appropriate courses to meet the 20 hours of pre-education requirements.

## HIGHLIGHTS

The 20 hours of pre-education requirements in the focus areas of Business Management, Project Management and Human Resources are available for enrollment today. In addition, the following highlights are noteworthy:

- Statewide access – online delivery of courses available 24/7, convenient, user-friendly experience with instructor support
- Ready for launch – a variety of courses in the focus areas are ready for registration today
- Affordable cost – courses start at \$99 making the 20 hours of pre-education requirement very affordable on anyone's budget
- Tracking system – the contractor pre-education requirements could easily be tracked by CE using the same similar processes already in place for contractors and electricians
- Website launch – CE could build a website pages overnight with contractor pre-education information
- Marketing support – CE would be willing to work with DOPL to market/promote training options

## SAMPLE COURSE SELECTION (Courses start the 3<sup>rd</sup> Wednesday of every month)

### **CETG 0394 Start your own small business 24 hrs \$99**

Participants will discover the tricks to identifying the right opportunity, how to develop proven marketing techniques to build sales, traditional and nontraditional financing options, employee-management procedures, how to write business policies to build your business, and time management. Discover the secrets that separate the successful entrepreneurs from the struggling ones.

### **CETG 0017 Project Management Fundamentals 24 hrs \$99**

Learn from an experienced Project Management Professional how to master the essentials of project management. You'll become an indispensable member of your project team by discovering and mastering the critical concepts needed to plan, implement, control, and close any type of project. You'll learn about project politics and ethics, project measurements, and project closure. Whether you're new to project management or an experienced project manager, this course will make you more valuable to your employer by increasing your skills and competencies.

### **CETG 0034 Understanding Human Resource Function 24 hrs \$99**

This course provides foundational knowledge for individuals with little experience in human resources. In particular, attention is given to the hiring process, including ways to locate quality employees in a competitive labor market, employee rights, and legal issues.



Call (801) 957-5200 to register  
Email [kathy.jonsson@slcc.edu](mailto:kathy.jonsson@slcc.edu) for additional information

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Additional Business related online classes for \$99.

CETG 0250	Acct Fundamentals	24 hrs
CETG 0539	Intro to Quickbooks	24 hrs
CETG 0010	Fundamentals supervisory & mgmt.	24 hrs
CETG 0035	Intro to business analysis	24 hrs
CETG 0023	Managing Customer Service	24 hrs
CETG 0033	Distribution & logistics management	24 hrs
CETG 0034	Understanding Human Resource Function	24 hrs
CETG 0426	HIPPA Compliance	24 hrs
CETG 0015	Employment Law Fundamentals	24 hrs

In-person classes are available for individuals who prefer traditional classroom instruction. A combination of courses will meet the 20 hours requirement. Course dates and prices vary.

CECW 0507	Microsoft Office Suite	18 hrs	\$599
CECW 0230	Quickbooks Pro Beginner	6 hrs	\$139
CECW 0508	Microsoft Project	12 hrs	\$299
CECW 0620	Social Media for Business	12 hrs	\$299
CECW 0613	Websites for professionals	2 hrs	\$59

Full semester, credit course option is also available. Individuals must first apply and be admitted to SLCC in order to register.

BUS 1050	Foundations of Business	45 hrs	\$472
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## MAINTAINING CONTRACTOR LICENSE

SLCC offers a wide range of continuing education courses to help contractors maintain their state license. A full listing of courses can be found at <http://www.slcccontinuinged.com/continuingprofessional>.

## TUITION ASSISTANCE

Tuition assistance (50%) may be available through Short Term Intensive Training (STIT) which utilizes state funds to help individuals pay for training costs.

## PROPOSED IMPLEMENTATION APPROACH

The following implementation approach is proposed by SLCC Continuing Education:

- SLCC acquires prior approval for potential course curriculum
- List pre-approved courses on DOPL and SLCC websites (SLCC can set-up contractor pre-education webpage within 10 days)
- Individuals may enroll for courses following SLCC registration process
- SLCC issues certificates to individuals successfully completing the final course assessment with a 70% pass rate within 3-5 business days of request
- Individuals submit copies of certificates with DOPL application



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WTCLC

Utah 20-hour Contractor Educational Course  
Proposed Category General Outlines (In no Particular Order and Subject to Revision)

**Estimating and Bidding:** about 3 hours

Introduction to Estimating

- Purposes
- Types of Estimates
- Organization

Estimating Math

Using tools to make the Estimating Process more efficient and effective

Estimating/Bidding Do's and Don'ts

Profit and Overhead

Estimating Ethics

**Scheduling and Project Management:** about 3 hours

Objectives of Project Management

- Time
- Cost
- Quality Control
- Safety
- Customer Service
- Responsibilities of Key Individuals

Time management tools

- Checklists
- Daily To-Do lists
- Linear Schedules
- Gantt Charts – bar Charts
- Pert Charts – Logic Diagrams
- 3-week look ahead – day-to-day commitments
- Critical Path Scheduling - CPM

Developing a CPM Schedule

- Identify Activities
- Determine Durations
- Determine Logic - Identify Predecessors
- Forward Pass – Early Dates
- Backward Pass – Late Dates
- Analyze and Manage Float (Slack)

Making a Schedule Work

Updating a Schedule

**Advertising a Business:** about 1 hr.

Understanding the Market

Customer Perception

Marketing

Sales

**Accounting:** about 2 hours

- Financial Statements (Balance Sheet, Income Statement)
- Revenue Recognition
- Income Tax Issues for Contractors (Filing Deadlines, etc.)
- Importance of Payables (see Red Flags below)
- Bookkeeping Fundamentals (keeping your books in order)
- Keeping Accounting Receipts
- Checking Accounts

**Employee Payroll:** about 1 hours

- Employee vs. Independent Contractor (Legal Considerations)
- Payroll Taxes (Labor Burden)
- FICA, Medicare, Workman's Compensation, SUTA, FUTA, Fringes
- Payroll Problem (Knowing your Costs)

**Construction Law:** about 3 hours

- US Legal System
- General Contract Theory vs. Tort Law
- Change Orders (CO exercise)
- Bidding (irrevocable bids)
- Payments (Doctrine of Conditions)
- Defects
- Time (CPM legal issues)
- Alternative Dispute Resolution (mediation and arbitration)
- Small Claims Court
- License Law (holding oneself out; working under another's license; no standing in court)

**Lien Law:** about 1 hours

- General US Lien Law Theory
- Utah Lien Recovery Act (residential)

**OSHA Safety:** about 2 to 3 hours

Intro To OSHA

- Focus Four Initiative
  - Fall Protection
  - Electrical
  - Caught In/Between
  - Struck By

Employers Responsibilities

- Record Keeping
- Safety Resources and Education
- Creating a Safety Plan

**Operating a Business:** about 2 hours

- Planning
- Forms of business association
  - Sole Proprietorships
  - Partnerships
  - C-Corporations
  - S-Corporations
  - LLC's
- Construction Business Statistics
- Insurance
- Red Flags of Failure
- Labor laws and Human Resources
- Hiring and Managing Subcontractors

**DOPL Licensing Requirements:** about 1 hour

- Rules for applying for Utah licensure
- 20-hour course
- Tests that must be passed
- Setting up an entity
- Registration fictitious names (must check Dept. of Commerce lists)
- Tax numbers (Federal EIN)
- Workman's Comp and Liability Insurance requirements (regardless of employees)
- Application paperwork
- Experience requirements

WAB

## **Logic For Sole Provider**

### **Enhance control**

DOPL resources are limited and currently taxed to their limits. The HBA would be responsible for course quality and delivery. DOPL would perform random checks on one provider rather than trying to oversee dozens of providers.

### **Geographically Diverse**

The HBA has 8 local groups dispersed across the metropolitan areas of Utah from Bear Lake in the north, to St George in the south. Locally offered classes enhance the learning process, by providing flexible schedules that meet the student's needs rather than a 3 day jamb course.

### **Membership Pool**

The HBA has dedicated members, willing to volunteer time to insure the success and accuracy of this program. These members range from hourly labor force to practicing attorneys, and CPA's. They also have a number of members who have or are currently teaching university level courses.

### **Dedication to Success**

The HBA has demonstrated through aggressive legislative effort they believe well administered, high quality education is the cornerstone to contractor and industry success. No one will fight harder than the HBA to insure this program delivers consistently high quality, useful education.

### **Partnering Capabilities**

The HBA is already well positioned with local educational institutions to partner with them, if it is demonstrated to improve the education process. HBA members are involved with most higher education institutions, serving on boards and contributing as content experts. Conversely many educational institutions are members of the HBA.

### **Nonprofit**

The HBA is a nonprofit association, meaning any income or revenue transfer from educational programs is invested back into the industry. Specifically the Utah state Industry

As an association the HBA is motivated by the ability to improve the industry rather than profit from it.

## **Methodology and Pedagogy for Course Work**

### **Single Manual**

The commission should control course content; a single manual that is reviewed routinely by commissioners provides comprehensive oversight and quality control.

It will be difficult to determine the content of multiple courses by reviewing simple outlines. That is one of the challenges with continuing education.

For consistency of training from one student to another it is only fair they all meet the same standards and outcomes.

One manual lays a foundation to effectively partner up with other institutions, by clearly defining learning objectives, outcomes and deliverables.

### **Book Structure**

The book will be designed as an ongoing resource. Links to critical web sites and sample forms provided the student future reference material.

Text book content is specific to Utah law, climate, and common practices. The limited time in this class demands a narrow focus.

### **Assessment**

It is not the intent of this book, or course work to culminate with a comprehensive test, but rather a series of projects for the student to complete. The logic of this is; testing measures short term retention of specific terms, concepts, and ideas. A project engages the student in the process of running a business. That process will have the critical concepts embedded.

Student projects can be used for the setup of their new business. It can be argued that a business owner is more likely to maintain good accounting and business practices if they are only required to maintain a well set up process.

Many of the subjects covered in this course evolve with time; it is more effective to teach students how to look the answer up than memorize the current answer.

This method reduces the worry the assessment tool (test) has been compromised.

### **Book Layout**

The book is divided up into sections. Each section will have specific learning objectives and a deliverable outcome. Regardless if the class is a 1 hour a week for 20 weeks or a 5 hour a day class for 4 straight days, the depth and breadth of learning will be the same.

The sections can be mixed and matched to meet the strengths of instructors, as long as all sections are fully taught. Students will be required to meet attendance requirements and submit a complete portfolio of assignments.

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- Course Requirements

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- General Liability Insurance
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## Section 3 Government Requirements

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- Business Plan
- Business Ethics

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- License Type and Classification
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- Duties of Advisory Boards
- Utah State Licensing Act
- Utah State Licensing Rules
- Disciplinary Actions
- Appeal Process
- How to Report Licensing Violations
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# **INTRODUCTION**

## **Overview**

The Utah State Legislature passed SB 186 during the 2014 general session. Among other things this bill requires 20 hours of business related education to be eligible for a contractor's license. This course has been developed to provide applicants with the required education. The primary objective is to introduce new contractors to basic business practices, the accounting process and general management skills. This course does not address technical trade specific skills required to function as a contractor, nor will it prepare individuals for the trade exam.

## **Objective**

This course is designed to provide participants with a basic understanding of business principles, requirements and practices. At the completion of this course you will understand how businesses are legally organized, insured, and regulated. You will learn fundamentals of how to properly structure, and financially manage a construction business. This course will also provide information on contracts, business practices and ethics.

## **Course Requirements**

This course is a combination of classroom based lecture and projects that must be completed and turned in. The classroom portion is critical, and will be monitored and tracked. One hundred percent attendance is mandatory for completion. If you miss class you will need to make arrangements for a makeup class.

The project portion of the class will be submitted in the form of a portfolio. This will be a compilation of assignments from each class. You will be expected to complete each assignment and organize it into a single packet of information.

Submission of the student portfolio and the instructor's attendance record is required to qualify for licensure.

The following is a list of assignments

- Section 1
  - ✓ A one page paper detailing a specific business form. Explain why this business form appeals to you and how it could benefit your company
  
- Section 2
  - ✓ A paper stating what the minimum penalty is for failure to maintain general liability insurance,
  - ✓ and the definition of a construction project, as found in the Residence lien restriction and lien recovery act.
  
- Section 3
  - ✓ Completed EIN
  - ✓ Sales Tax number application
  - ✓ I-9 application, and instructions
  - ✓ Form 1099
  - ✓ Form W-4
  - ✓ Form W-9
  - ✓ Business License Application
  - ✓ Contractor's License Application
  
- Section 4
  - ✓ Copies of OSHA form 300, 300A and 301
  - ✓ Copies of required work place posters
  
- Section 5
  - ✓ A business plan complete with
    - Executive summary
    - Vision statement
    - Mission statement
    - SWOT
    - Market analysis
    - Financials
    - Goals and time line
  
- Section 6
  - ✓ A paper stating your desired classification; include restrictions and limitations
  
- Section 7

- Section 8
  - ✓ A paper explaining bond amounts and application to meet DOPL financial responsibility
  
- Section 9
- Section 10
  - ✓ A set of accounting books for a hypothetical company to include (this can be electronic)
    - Chart of accounts
    - General ledger
    - Accounts receivable
    - Accounts payable
  
- Section 11

## **Business Structure**

### **Learning Objectives**

Upon completion of this section participants will understand

- Why people start businesses
- What it takes to run a business
- The different forms of business

### **Assessment**

#### **Submit**

- ✓ A one page paper detailing one specific business form. Explain why this business form appeals to you and how it will benefit your company
  - <http://www.irs.gov/pub/irs-pdf/p583.pdf>

## **Why Start a Business?**

In the U.S., businesses operate with a free market system that is based on three fundamental rights: The right to private property, the right to freedom of choice and the right to rewards. While that is true, if you ask a business owner his or her reasons for starting a business, you are likely to find their reasons are much more personal. People start their own business to be in control of their own destiny, to reap the benefits of any financial gains and to be part of the free enterprise system.

About three quarters of businesses have no employees. They are made up of individuals who are self-employed, operating unincorporated businesses. Shifts in the economy can trigger people to seek alternative revenue streams. The idea of starting a business is especially enticing following a reduction of force, or reorganization at ones current job. Leveraging a skill or talent to provide income provides a sense of direction. Many business owners keep their “day job” and stepping up a fulfilling hobby to a fruitful second income, while others become fully immersed into self-employment.

Regardless of the motivating factor to start a small business, it clearly accounts for a significant part of the U.S. economy. The 23 million small businesses in America account for 45% of all sales, 55% of all jobs and 66% of all new jobs, since 1970. The small business sector is experiencing rapid growth while large corporate America is shrinking.

Starting a business is how average citizens partake of the American dream and become the driving force that elevates this country to unprecedented heights. The opportunity to work endless hours at great risk is off set by the prospects of grand reward, and the satisfaction of ownership. Few things in life will equal the amount of commitment and sacrifice, offset by fulfillment and self-directed destiny found in business ownership.

### **What Does it Take to Run a Business?**

There is a difference between running a business, owning a business and successfully running a business. Many business owners hire managers to run their business. That is not to say the manager runs it at maximum effectiveness; however, it is easy to find examples of successful businesses by someone other than an owner. It is fair to say successfully running a business, owning the business, and merely running a business are not mutually exclusive, but they do share some commonalities.

What is the difference between running a business and running it successfully? To correctly answer that question one needs to define success. A competent manager has the ability to meet deadlines, respond to daily challenges, and skillfully function within a budget. His performance produces positive returns. The dictionary defines success as; “the favorable or prosperous termination of attempts or endeavors; the accomplishment

of ones goals; the attainment of wealth, position, honors, or the like.” Clearly this definition coincides with average managers.

Business owners tend to more stringently define success. They demand leadership. A leader is a skilled manager who seeks opportunities, embraces change, and inspires outstanding performance. The complexities and challenges facing business today demand more than just a manager. Success requires rapid completion of projects requiring a broad spectrum of personnel, subcontractors, vendors, government agencies and customers. Effective linkages, cooperation and alliances among various organizational functions are critical for proper communication, decision making, and control. This requires sophisticated teamwork orchestrated through strong leadership.

Leadership and the use of cutting edge technology is not new to the construction industry. From Noah’s ark and the roman coliseum, to textile mills and transatlantic communication lines, people have used leadership and managed technology to develop special skills to deal with the challenges, risks, and uncertainties. However, todays technologies have created a new business environment that has pushed conventional boundaries ever farther, with heightened risk, and great opportunities for big gain. Today successful business leaders must deal effectively with a myriad of contemporary challenges, focused on lending practices, complex and changing regulations, accelerated technological changes, product innovations, social and ethical issues, to name a few.

Running a business today takes a leader with technical expertise, supported by a vision and the communication skills to transmit ideas to an every expanding audience. They need to organize a structure capable of hiring the brightest candidates, motivate them to achieve more than they knew possible, and provide useful assessment and rewards. Today’s business leader will be called on to prepare and manage budgets, track financial progress with correct accounting principles, prepare and execute business, and marketing plans without losing sight of production mile stones and sales goals. In short, a business owner running a successful business in today’s environment will need to be a one man army, capable of stepping into dozens of roles.

### **Forms of Business Entities**

Understanding the different legal forms of a business and selecting the correct one is one of the most important parts of setting up a business. Sole proprietorship, partnership, Limited Liability Company and corporation are by far the most common choices. Legal and tax consideration drive the decision when selecting the best form. This section will address some of these considerations; however, it is recommended that additional research is completed prior to finalizing the decision. Consultation with a tax professional and an attorney insures accurate results.

## Sole Proprietorship

A sole proprietorship is often referred to as simply a proprietorship. It has no legal distinction between the owner and the business. The owner is responsible for all profits and losses and accompanying tax liabilities.

Proprietorships are very easy to set up, and require little capital to run. They can use a trade, or business name, or operate under the legal name of the business owner. They are very flexible because the entire organizational structure is one person, who has complete authority and assumes full liability. Creditors can lend money easier because the owner has unlimited liability, eliminating the need for personal guarantees, and worries of misbehaving partners.

A sole proprietorship is responsible for licensing and permitting as it relates to their industry; however, they do not need to formally organize a business, because a proprietorship and an individual are one in the same. The individual operating a business in this model is expected to report income with a schedule C and Form 1040. It is the individuals responsibility to pay all income tax, including self-employment tax.

Proprietorships struggle to secure capital because investors have a difficult time insuring invested money is limited to business ventures and not comingled with personal activities. The entire enterprise rests on one individual, so if he was to fall ill or die it terminates the business, leaving creditors in a precarious position, so banks are reluctant to make long term loans. Creditor's security is also the personal property of the proprietor, so financial difficulty could lead to liquidation of personal assets as well as business assets to satisfy claims.

### Advantages of a Sole Proprietorship

**Simple;** There is no formal action required for startup. The status of proprietor is automatic with business activity. Do not confuse business form and requirements with state and local licensing requirements. Sole proprietors are still required to obtain business licenses, and proper state licensure. Owners who choose to operate under a different name will need to file a Fictitious name, more commonly known as a trade name or DBA, (Doing Business As).

**Absolute Control;** The structure of this business is restricted to a single owner, so by its very definition the owner has complete control of all decisions. Company direction and financial out comes are under the control of the proprietor.

**Limited Regulation;** A sole proprietorship is formed without filing any formal paper work, and there is no ongoing reporting. However, it is important to keep in mind all regulatory requirements for a chosen discipline are applicable.



**Easy Tax Preparation;** A sole proprietorship is not individually taxed. Operation of a proprietorship may add some burden to personal tax preparation. Tax rates for sole proprietorships are the lowest of all the available structures.

**Easy Transfer of Ownership;** The sale of a sole proprietorship is at the discretion of the owner.

### **Dis-Advantages of Sole Proprietorship**

**Personally Liable;** The owner of a sole proprietor is personally responsible for all debts and obligations of the business. Liability extends to the actions of employees as well. Personal assets of proprietors can be used to satisfy the debt.

**Increased Responsibility;** With only one owner, all decisions rest on the shoulders of that individual. They do not have the advantage of shared work load.

**Difficult to Raise Capital;** Banks are hesitant to loan to sole proprietorships. Investors are unable to purchase stock or a percent of the company to secure their investment.

### **Partnership**

A partnership is usually an agreement between two individuals, but can certainly expand beyond two. Partnerships are based around each person contributing time, money, expertise, labor, or some assets. Each partner also shares in the profits and losses of the company. There are several types of partnerships, specifically; general partnership, limited partnership, husband and wife business and joint ventures.

- **General Partnership;** when an organization has only general partners, they are liable beyond the amount invested. General partnership assumes that profits, liability, and management duties are divided equally among partners. Each partner has the ability to bind the entire partnership. If partners opt for unequal distribution, the percentage assigned to each partner must be documented in the partnership agreement.
- **Limited Partnerships;** Limited partnership allow partners to have limited liability as well as limited input with management decisions. This business form is made of a general partner, who manages the project, and limited partners who invest money, but have limited liability. These limits depend on the extent of each partner's investment percentage. Limited partnerships are attractive to investors of short-term projects, and are used in real estate, oil, gas, and equipment. They can also be used in research and development projects and movies.

- **Joint Ventures;** Act as a general partnership, except it is for a limited period of time, or for a single project. Partners in a joint venture can be recognized as an ongoing partnership if they continue the venture, but they must file as such.
- **Husband and Wife Business;** A married couple owning and operating an unincorporated business, where they share financial gain and loss are considered partners in a partnership, regardless of not having a formal partnership agreement. In this arrangement they should not use schedule C or C-EZ. Instead, file a form 1065, U.S. Return of Partnership Income. More detail can be found in publication 541, partnerships.

Partnerships are required to file an annual information tax return to report income, deductions, gains, losses, etc. from its operations. Partnerships do not pay income tax. They pass any profits or losses to its partners. The partners are required to include their share of the partnerships income or lose on their personal taxes. Partnerships taxes generally include; annual return of income, employment taxes and excise taxes. The partners in a partnership are responsible for; income tax, self-employment tax, and estimated tax. The partnership is required to furnish copies of their schedule K-1 (form 1065) to all partners. Partners are not employees and should not be issued a form W-2.

Unlike a sole proprietorship, a partnership has more than one person making decisions. Prior to forming a partnership the parties should spend time discussing how the decision process will accrue. These discussions should be summarized and memorialized with a formal, legal partnership agreement. Important subjects to cover are: how profits will be divided, dispute resolution, change in ownership, and even how to dissolve the partnership.

Partnerships do not require legal agreements. Because of the complexity's that arise during business operations and the emotions involved with financial decisions, it is strongly recommended to obtain an agreement. Even the best intentioned partners can find themselves years down the road where two memories of the same agreement collide, damaging the relationship and possibly destroying a business. Clarity and longevity is easily accomplished with a well written agreement.

Partnerships do require legal documents to establish the business. The partnership must be registered with the Utah State Department of Commerce, Division of Corporations. They also need a legal name. A partnerships legal name is the name given in the partnership, or the last names of each partner. Owners who choose to operate under a different name will need to file a Fictitious name, more commonly known as a trade name or DBA, (Doing Business As).

## **Advantages of a Partnership**

**Simple;** Legal requirements are minimal. The partners determine the scope and focus of the business with little distraction for outside voices.

**Start-Up Funding;** Having several people involved with raising capital for start-up and ongoing operations is easier than a single owner.

**Easy;** The most difficult aspect of setting up a partnership is the partnership agreement. This agreement can be as simple or complex as the partners choose.

**Limited Regulation;** There is little regulation that impacts partnerships. They are expected to correctly meet the demands of business ownership, but do not suffer from additional requirements on the organizational form.

**Increased Knowledge;** It only stands to reason that two heads are better than one. Several skilled individuals with a common passion, who form a partnership, are well positioned to improve upon each other's abilities.

**Adaptability;** Partnerships are easy to change legal structure if circumstances change.

**Key Employee Advancement;** Outstanding employees can be elevated to the level of partner. This provides them with more control while insuring long term commitment for the balance of partners.

**Shared Financial Commitment;** Partners are equally invested into the success of the business, and profits are equally split.

## **Disadvantages of a Partnership**

**Joint and Individual Liability;** Partners retain full, shared liability among the owners. Partners are not only liable for their own actions, but also for the business debts and decisions made by other partners. In addition, the personal assets of all partners can be used to satisfy the partnership's debt.

**Dispute Resolution;** Invariably disagreements will take place. Partnerships lack a single and decisive leader, so resolution can be difficult.

**Profit Sharing;** Profits and losses are equally divided. Unequal time commitment, or unbalanced skill levels can generate contention

**Partner Changes;** If partners change or new ones are brought on, it will require complete assets evaluation. This can be a costly process.

## S Corporation

An eligible domestic corporation can avoid double taxation (once to the corporation and again to the shareholders) by electing to be treated as an S corporation. Generally, an S corporation is exempt from federal income tax other than tax on certain capital gains and possible income on their tax returns, the S corporation's separately stated items of income, deduction, loss, and credit, and their share of no separately stated income or loss.

S corporations effectively limit personal liability. To set up an S corporation the business must first set up a C corporation or limited liability company first. Protection from business liability comes at a cost. S corporations require more accounting and bookkeeping. For most businesses this added burden means the employment of staff with specific accounting related skills. It also means that some sort of an accounting program will need to be purchased. A small business consisting of one person will be required to process payroll. With payroll comes an additional quarterly and annual tax filing. Compared to a sole proprietorship where the profits can be dispersed at the will of the owner. The S corporation tax returns are much longer and it is recommended that a professional be hired to complete them.

There is a tax advantage to S corporations as well. A regular, or C corporation is required to pay corporate income taxes on its profits. After those taxes are paid, the balance is dispersed to shareholders in the form of dividends. The shareholders are then required to pay personal income taxes on their portion of the dividends. An S corporation pays no corporate income taxes on profit; rather the profit is allocated to shareholders based on their percent of ownership. The shareholders are liable for personal income taxes, but avoid income tax on dividends. It is important to note that because of volume and income brackets, it is likely the shareholders will pay higher personal income tax, but still less than the double taxation of a standard corporation.

Payroll and associated taxes are a bit of a mixed bag for S corporations. A small business that has not been required to make payroll will have a significant increase in costs, both for processing payroll and the taxes required on the business side. For companies who are already paying payroll and all its associated withholding taxes, an s corporation will offer some savings. It is much more complicated than can be explained in this short description, but in short, the S corporation can pay employees at a "reasonable rate" and the balance of profits can be dispersed to shareholders as described above. By dividing up compensation between salary and dividends, owners can reduce the percentage of taxes paid.

S corporations have some ownership restrictions and usually incur additional legal and banking costs. S corporations are limited to 100 persons that are permanent residents or U.S. citizens. There is only have one class of stock, although a portion of that stock may

be designated as “nonvoting”. Banks often charge more for checking accounts, loans, or other services. Because of the complexity associated with subchapter S status, it is usually necessary to hire an attorney to help set up the company. Keep in mind this is only a fraction of the detailed requirements and regulations attached to this form of business. Make sure you have competent professional advice when setting an S corporation up.

For more information on S corporations see the instruction for Form 2553, Election by a Small Business Corporation, and Form 1120S, U.S. income Tax Return for an S corporation.

### **Advantages of an S Corporation**

**Accounting;** A higher level of accounting is required; forcing business owners to better understand and track business activities.

**Liability Protection:** S Corporations hold all business liability; however, they do not completely shield owners from things like litigation from workplace incidents.

**Ownership Transferability;** Ownership is held in the form of stocks, so as one owner decides to sell their stock the other owners or a new owner can purchase the stock. This lets the company continue on independent of any single individual

**Tax Benefits;** Only wages of an S corporation are subject to employment tax. Additional corporate income can be dispersed as dividend avoiding the higher income tax rate.

### **Disadvantages of an S Corporation**

**Increased Regulation** since it is an individual legal entity S corporations require routine meetings of the directors and shareholders, with minutes and recorded votes. It also requires formal by-laws, and well documented records

**Shareholder Compensation Regulation;** Employees that are also shareholders are required to be paid a “reasonable” salary. A low salary coupled with distribution of dividends can flag the shareholders for audit. An audit may reclassify the distribution of wages, resulting in higher employment taxes.

**Accounting;** Additional accounting is required, although this is also listed as an advantage, it will increase the effort and expertise required to meet regulations. This effort and expertise has a cost and can draw on existing resources.

**Regulatory and Operational Costs;** Stringent regulation coupled with requirements from banks, will increase costs and can cause aggravation.

**Restrictions on Ownership;** There are a variety of restrictions on size and membership that may dictate use of this form of company.

**Cost to Set Up;** The complexity of this business form demands a lot of effort and expertise to set it up. In most cases an attorney will be required to correctly structure the business.

## **C Corporation**

A C corporation is an independent legal entity. The corporation is owned by the shareholders; however, they are not liable for the actions and debts of the corporation. This is a business structure usually reserved for larger well established companies with lots of employees. Corporations are the most complex of all business forms, and require costly administrative fees and involved tax and legal requirements.

Corporations are regulated by individual states. To set up a corporation a name must be registered with the applicable state. Corporations who choose to operate under a different name will need to file a Fictitious name, more commonly known as a trade name or DBA, (Doing Business As). Name requirements vary from state to state, but most of them will require a corporation designation at the end of the official name (corporation, incorporated, limited)

Corporations exist as an individual legal entity so they are subject to, federal, state and at times local income tax on profits. Corporations income is taxed twice, once when they make a profit and again by the dividends to shareholders claim on their personal income taxes. Corporations use form 1120 or 1120-A U.S. corporation income tax return, to report revenue to the federal government.

Employees of a corporation that are also shareholders are required to pay income tax on wages. Social security and Medicare taxes are paid by both the employee and the corporation. Each pay half of the overall burden. The corporation can deduct their share as a business expense. Employees usually see these taxes on pay check stubs as “deductions”.

Since corporations are actually a legal entity they offer a veil of protection between business liability and personal assets. Shareholders level of risk and liability is limited by their investment into the company. Creditors have the right to pursue any and all corporate assets to satisfy debt, but they cannot pursue shareholders in any way. This veil protects all shareholders, even the original founder and officers. Because of this protection, banks and other lending institutions often ask for a personal guarantee to secure loans.

Corporations can use stock as a vehicle to raise capital. Stock can be structured in many ways to include voting and nonvoting stock. The ability to issue stock gives corporations an advantage over other business forms to finance business activities, expansion, and compensation package for employees, or initial startup. Another option available to corporations is selling stock in a publicly traded form (NASDAQ or the New York Stock Exchange) to raise capital.

### **Advantages of Corporations**

**Liability Protection;** Corporations actually create a new legal entity and by doing so they assume all liability, passing nothing on to shareholders.

**Stock;** The ability to issue stock provides corporations with an effective method to generate capital for startup, operations and expansion.

**Perceived Stability;** The level of commitment required to establish a corporation suggests strength and longevity. These are attractive traits for potential employees.

**Tax Advantages;** The legal entity of a corporation files tax's separate from the owners. The owners are liable for taxes paid to them for salaries, bonuses and dividends. Remaining profits are taxed at a corporate tax rate, which is usually lower than personal income tax rates.

### **Disadvantages of Corporations**

**Costs;** Corporations are complex to set up, and have ongoing requirements. The detail and depth of regulations require individuals with specialized knowledge to properly comply.

**Increased Paper Work;** Usually additional staff will need to be hired to negotiate the increased paper work. Federal, state, and sometimes local regulation demand the increase in paperwork.

**Business Formality;** Corporations have a rigorous set of formal rules to comply with regulations. They must have a meeting of the members at least annually. All meetings must have minutes taken, and voting record kept. They also are required to file annual reports with the state, and create a financial statement.

**Double Taxation;** Corporate profits are taxed at the corporate level and again when divided ends are paid to the shareholders.

**Limited Liability Company (LLC)** A Limited Liability Company is an entity formed under state law by filing articles of organizations. The members of an LLC are not personally liable for its debts. An LLC may be classified for federal income tax purposes

as a partnership, a corporation, or an entity disregarded as an entity separate from its owner by applying the rules in regulations section 301.7701-3

LLC's are not separate tax entities in the eyes of the federal government, so the business is not taxed. Profits generated by LLC's are passed on to the LLC members, taxes are then paid by each individual. Be aware that although the federal government does not tax LLC's some states do tax them more like a corporation; however, Utah is not one of those states. The LLC is required to fill a form 1065 and list all the members taxable profits on form K-1, so although the LLC reports the income it does not pay taxes.

LLC's do not automatically get classified as a corporation even though in many tax situations they behave like one. LLC's are not recognized as a business entity so they are required to select a business form and file it with the federal government. If there is only one owner the default form is sole proprietorship. The form to elect a classification or change the current one is Form 8832.

Members of an LLC are not allowed to pay themselves wages. Instead they distribute profits or have guaranteed payments. Each member can access payment by writing themselves a check as needed, and is in concurrence with its operating agreement. Operating agreement is a formal document describing the business structure, rules and regulations and finance operations. Although it is not required it is highly recommended to maintain a smooth functioning company. An article of organization is a simple document that formalizes the LLC. This is done using form???? And file with the state department of Commerce, Division of Cooperation's.

LLCs have a hard time acquiring outside investments. They do not have stock, so any kind of stock offering is not useful. LLC's is still a relatively new form of business, so investors are cautious when committing money. They worry about how all the little intricacies will impact long term pay back. When attempting to raise money it is always best to make the experience as simple and safe as possible for the investors, since there are always other options for investors. For that reason a company that is needing outside capital should consider a different form of business.

### **Advantages of a Limited Liability Company (LLC)**

**Reduced Record Keeping;** Although there is more record keeping requirements with an LLC than a sole proprietorship, there is far less than with other business forms offering similar advantages

**Profit Distribution;** LLC's enjoy flexible rules for the payment of owners and distribution of profits.



***Tax Advantages;*** LLC's avoid the double taxation associated with corporate business forms, while still providing some liability protection.

***Limited Liability;*** Members of an LLC are shielded from liability of company debt, or law suites. Because it is limited, this business form does not protect members from wrongful acts, by themselves or company employees.

### **Disadvantages of a Limited Liability Company (LLC)**

***Self-Employment Taxes;*** Members of the LLC are considered self-employed and are required to pay all the taxes associated with self-employment

***Non-Transferable;*** Once one of the member's leaves the LLC dissolves the business and requires all remaining legal and business obligation to be closed. The remaining members can decide if they wish to continue or replace the departed member, but in either case it will require new articles of organization. It is possible to prolong the life of a corporation if a member leaves addressing it in the operating agreement. For more information see the instructions for Form 8832, entity classification election.

## References

United census bureau

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<http://www.sba.gov/content/sole-proprietorship-0>

<http://experts.allbusiness.com/advantages-and-disadvantages-of-sole-proprietorships/>

<http://search.live.com/results.aspx?q=advantages+of+sole+proprietorship&src=IE-SearchBox&Form=IE8SRC>

<http://www.answers.com/topic/limited-partnership>

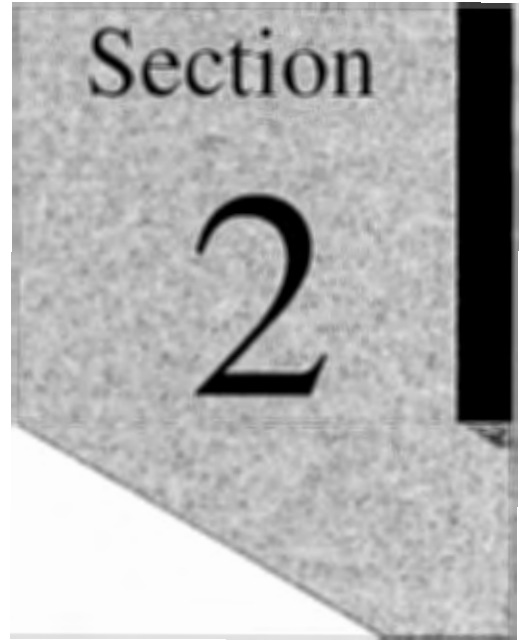
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[http://www.ehow.com/info\\_7748107\\_advantages-disadvantages-corporation.html](http://www.ehow.com/info_7748107_advantages-disadvantages-corporation.html)

<http://www.sba.gov/content/s-corporation>



## **Insurance and Risk Management**

### **Learning Objectives**

Upon completion of this section the student will have an understanding of the fundamentals of insurance

- Workers Compensation Insurance
- General Liability Insurance
- Builder Risk
- Vehicle Insurance
- Other Insurances
- Umbrella Insurance
- Health Insurance
- Lien Recovery Fund

### **Assessment**

#### **Submit**

- ✓ A paper stating; what the minimum penalty is for failure to maintain general liability insurance,
- ✓ and the definition of Construction Project, as found in the Residence Lien Restriction and Lien Recovery Act.

**Workers compensation Insurance;** The state of Utah requires all contractors to carry workers compensation insurance failure to do so has a penalty, See <http://dopl.utah.gov/laws/R156-55a.pdf> ,

**R156-55a-401. Minimum Penalty for Failure to Maintain Insurance.**

(1) A minimum penalty is hereby established for the violation of Subsection R156-55a-501(2) as follows:

(a) For a violation the duration of which is less than 90 days, where the licensee at the time a penalty is imposed documents that the required liability and workers compensation insurance have been reacquired, and provided an insurable loss has not occurred while not insured, a minimum of a 30 day suspension of licensure, stayed indefinitely, automatically executable in addition to any other sanction imposed, upon any subsequent violations of Subsection R156-55a-501(2).

(b) For a violation the duration of which is 90 days or longer, or where insurable loss has occurred, where the licensee at the time a penalty is imposed documents that the required insurance have been reacquired, a minimum of 30 days suspension of licensure.

(c) For a violation of any duration, where the licensee at the time a penalty is imposed fails to document that the required insurance have been reacquired, a minimum of indefinite suspension. A license which is placed on indefinite suspension may not be reinstated any earlier than 30 days after the licensee documents the required insurance have been reacquired.

(d) If insurable loss has occurred and licensee has not paid the damages, the license may be suspended indefinitely until such loss is paid by the licensee.

(e) Nothing in this section shall be construed to restrict a presiding officer from imposing more than the minimum penalty for a violation of Subsection R156-55a-501(2) and (3). However, absent extraordinary cause, the presiding officer may not impose less than the minimum penalty.

**R156-55a-501. Unprofessional Conduct.** (2) failing to continuously maintain insurance and registration as required by Subsection 58-55-302(2), in coverage amounts and form as implemented by this chapter; and

(3) failing, upon request by the Division, to provide proof of insurance coverage within 30 days.

Workers compensation insurance is the program designed to offset employees financial loss, as a result of a work place accident or illness. The state of Utah requires employers carry a no fault policy, so the employee is entitled to full coverage, regardless of how the injury took place. As stated above, the state of Utah requires any employer with one or more employee, carry this insurance. It does not matter if the employee is full time, part time, seasonal, etc.

The fact all employees must be covered places some level of liability on general contractors. They are responsible to have every worker on their site insured. If the workers fit the IRS definition for employee their insurance is paid by the general contractor; however, if the general contractor has sub-contractors working on his site, the premiums can be paid by the sub-contractor. The General assumes the responsibility of

collecting certificates of insurance for each sub-contractor. Failure to do so will shift liability of the sub-contractors employee premiums to the general contractor.

Workers compensation insurance only covers employees, so sole proprietors, and partners are not automatically covered. Business owners who elect this business form have the option of paying an extra premium for their coverage. This requires specific paperwork and is not in effect until that form is submitted and approved. Corporate officers are considered employees, and are covered by the standard company plan.

**General Liability;** General liability insurance is required by state law. The governing rules are in the same section as workers compensation insurance <http://dopl.utah.gov/laws/R156-55a.pdf> , please look above for exact rule. It is also important to point out that insurance laws and rules are subject to change, so to insure you are in compliance with state law check the web site for any updates or changes.

General Liability insurance is issued to protect against liability claims for bodily injury (BI) and property damage (PD) arising out of premises, operations, products, and completed operations; and advertising and personal injury (PI) liability. Liability insurance is designed to offer specific protection against third party insurance claims, meaning payment is not typically made to the insured, but rather to someone suffering loss who is not a party to the insurance contract.

## **Terms**

### **Bodily Injury (BI)**

Physical harm to a person at your place of business, or an injury caused by employees at a job site.

### **Personal Injury (PI)**

Damage to the reputation or rights of a person or business due to slander, libel, copyright infringement, invasion of privacy, false arrest, wrongful eviction, etc.

### **Advertising Injury**

Losses caused by your advertising (spoken or written);

### **Completed Operation /Products Liability**

Losses after your business has completed work for a customer (such as repairing appliances or installing plumbing), or manufacturing and distributing products.

### **Medical Payments**

Pays the medical expenses of a person injured on your premises (including trespassers, customer's clients or visitors) up to a stated amount, regardless of fault, as a good will gesture to prevent lawsuits

### **Independent Contractor Liability**

Damage from acts of an independent contractor hired by your business

### **Insurable Risk**

Liability insurance does not protect against liability resulting from crimes or intentional torts committed by the insured.

## Section 2 Reference list

<http://dopl.utah.gov/laws/R156-55a.pdf>

<https://www.wcgroup.com/about-your-policy>

<http://www.irmi.com/online/insurance-glossary/terms/c/commercial-general-liability-cgl-policy.aspx>

<http://www.ambest.com/resource/glossary.html>

[http://en.wikipedia.org/wiki/Liability\\_insurance](http://en.wikipedia.org/wiki/Liability_insurance)



## **Government Requirements**

### **Learning Objectives**

Upon completion of this section participants will understand, basic tax requirements and forms, and mandatory licensing;

- Employer Identification Number (EIN)
- Sales Tax Number
- Employee I-9
- Contractor 1099
- W-4
- W-9
- Business License
- Contractor's License

### **Assessment**

#### **Submit**

- ✓ Completed EIN
- ✓ Sales Tax Number Application
- ✓ I-9 Application and Instructions
- ✓ Form 1099
- ✓ Form W-4
- ✓ Form W-9
- ✓ Business License Application
- ✓ Contractor's License Application



## **Human Resources**

### **Learning Objectives**

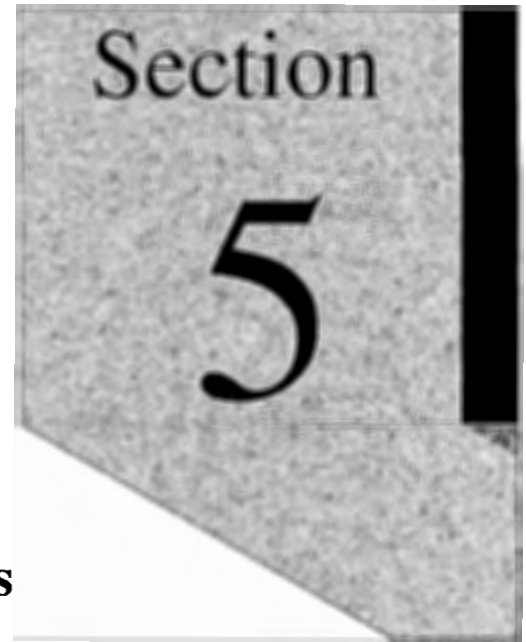
Upon completion of this section participants will understand, fundamentals of hiring, firing and compensating employees;

- Equal Employment Opportunity Laws
- Hiring Practices
- Retirement Plans
- Employee Assessment
- E Verify
- Employee Leasing
- Payroll Services
- Payroll Reporting Requirements
- OSHA Reporting Requirements
- Work Place Posters and Notifications

### **Assessment**

#### **Submit;**

- ✓ Copies of OSHA form 300, 300A and 301
- ✓ Copies of required work place posters



## **Business Principles**

### **Learning Objectives**

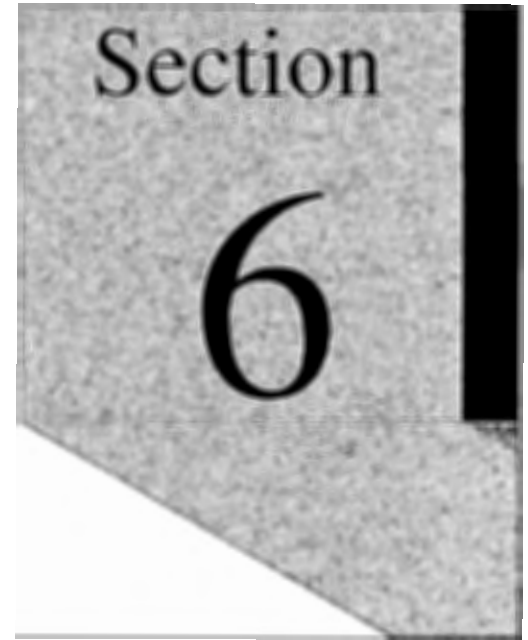
Upon completion of this section participants will understand fundamentals of business planning, organization, and ethics.

- Vision statement
- Mission statement
- SWOT
- Organization Chart
- Business Plan
- Business ethics

### **Assessment**

#### **Submit;**

- ✓ A business plan complete with
  - Executive Summary
  - Vision Statement
  - Mission Statement
  - SWOT
  - Market Analysis
  - Financials
  - Goals and Time Line



## **Licensing Requirements, Obligation, Responsibilities**

### **Learning Objectives**

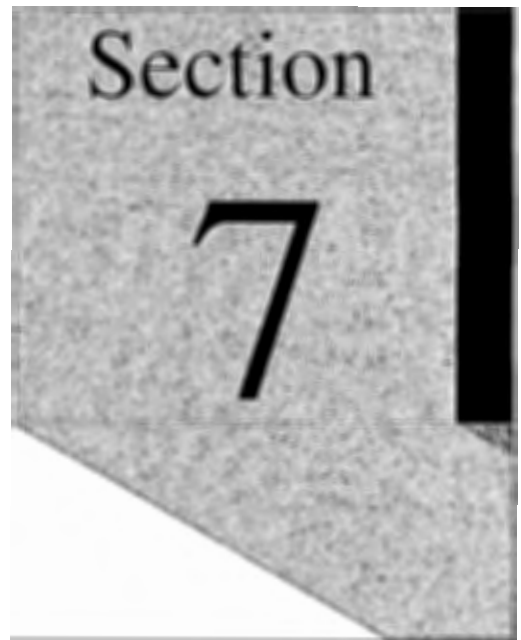
Upon completion of this section participants will understand, regulatory authority, disciplinary action and due process

- License type and classification
- Duties of construction service commission
- Duties of advisory boards
- Utah State Licensing Act
- Utah State Licensing Rules
- Disciplinary actions
- Appeal process
- How to report licensing violations
- Continuing education

### **Assessment**

#### **Submit**

- ✓ A paper stating your desired classification, include restrictions and limitations



## **Contracts**

### **Learning Objectives**

Upon completion of this section participants will understand how and why to use contracts.

- Types of Contracts
- Terms and Definitions
- Application and Use of Contracts
- Impact of Contracts

## **Financial Management**

### **Learning Objectives**

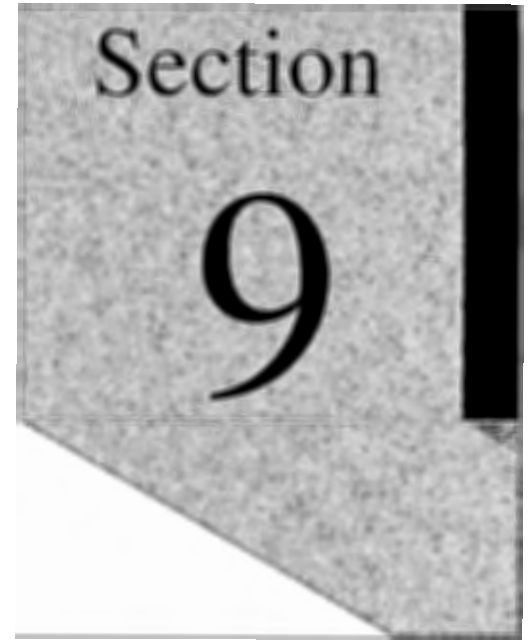
Upon completion of this section participants will understand fundamentals of financial responsibility, security and management.

- Basic Math / Financial Math
- Financial Security
- Financial Responsibility (as defined by law)
- Banking
- Job Costing
- Budget
- Capitalization
- Bidding
- Financial Statements

### **Assessment**

#### **Submit**

- ✓ A paper explaining bond amounts and application to meet DOPL financial responsibility

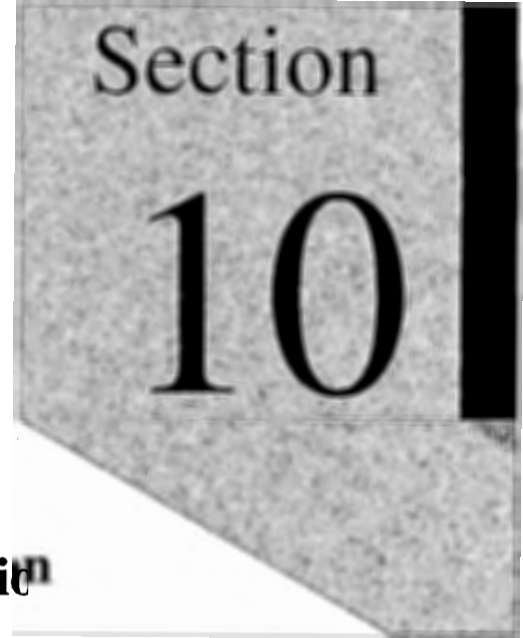


## **Accounting**

### **Learning Objectives**

Upon completion of this section participants will understand, basic accounting terminology, forms and tools for financial accounting.

- Accounting methods
- Terms and Definitions
- Chart of Accounts
- General Ledger
- Double Entry System
- Credits
- Debits



## **Accounting Application**

### **Learning Objectives**

Upon completion of this section participants will understand, how accounting, and book keeping applies to business practices. The student will understand how accurate records are used to meet tax obligations, and position the business for better profits.

- Bookkeeping Set Up
- Tracking System
- Monthly Operations
- Bank Reconciliation
- Quarterly Operations
- Tax Requirements
- Annual Operations
- Tax Requirements
- Financial Statements
- Return on Investment Analysis
- Break Even Analysis
- Loan Application

### **Assessment**

#### **Submit**

- ✓ A set of books for a hypothetical company to include (this can be electronic)
  - Chart of Accounts
  - General Ledger
  - Accounts Receivable
  - Accounts Payable



## **Business Practices**

### **Learning Objectives**

Upon completion of this section participants will understand, basic tools for business operation, time management and customer relations.

- State Construction Registry (SCR)
- Scheduling
  - Reason for Scheduling
  - Ramifications of Getting off the Schedule
  - Correction Process
- Time Management
- Division of Labor and Delegation
- Employee Motivation
- Customer Relations
- Customer Service



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<https://www.wcfgroup.com/about-your-policy>

<http://www.irmi.com/online/insurance-glossary/terms/c/commercial-general-liability-cgl-policy.aspx>

<http://www.ambest.com/resource/glossary.html>

[http://en.wikipedia.org/wiki/Liability\\_insurance](http://en.wikipedia.org/wiki/Liability_insurance)

<http://www.sba.gov/content/10-steps-hiring-your-first-employee> hiring process