



**PDHonline Course P137H (4 PDH)**

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# **Fundamentals of Starting and Operating a Business**

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## **Fundamentals of Starting and Operating a Business**

### **Course Content**

There are a host of issues that need to be addressed before and after starting a business. Some of these concerns are either easy to address in a small business or require entire departments to address in larger corporate entities. The following is an attempt to give a complete listing of these concerns with each topic being separately detailed in its own section of the course.

This course is divided into sections each addressing one of the following topics:

- Section 1 - Business Plan & Mission Statement
- Section 2 - Form of Business Entity
- Section 3 - Marketing
- Section 4 - Accounting & Taxes
- Section 5 - Establishing and Maintaining Corporate Identity
- Section 6 - Financing
- Section 7 - Human Resources
- Section 8 - Insurance
- Section 9 - Schedule of Services and Rates
- Section 10- Quality Assurance
- Section 11 - Contracts and Legal
- Section 12 - Purchasing
- Section 13 - Customer Service
- Section 14 - References and Resources
- Section 15 - Ethics
- Section 16 - References and Useful Links

## Section 1 - Business Plan & Mission Statement

**Mission Statement** - It is important to know right from the start what is motivating your business and what your goals are. The Mission Statement is a powerful way to simply state what you are trying to do and what is the driving principle you will follow to achieve this goal. It allows your clients and potential investors to help size you up and determine if you are a good risk. It is your first introduction and we should all realize that the first impression is critical to your success.

The exercise of coming up with your mission statement is extremely useful in collecting and focusing your goals and belief system as related to your business. It is truly amazing what happens when you have to commit to a one or two sentence statement to express your life's work.

During the course of your business life and the life of your business, things can change. You may diversify into other areas of interest or change direction all together. Don't be afraid to change your mission statement. It is a tool to help you focus your energies toward success, but if it has been overcome by changing events, fix it. Don't struggle to fulfill a mission that no longer applies. Just don't change it every week or month. If you think this is necessary, you probably don't have a real good idea of the mission to begin with.

Example of a Mission Statement – Below is the Mission Statement from my company:



**“Our mission is to unburden your technical staff while enhancing your ability to deliver quality Contract Data Items and other documentation on time and at significant savings. We are Your Source for Everything Written for Your Business.”**

This statement clearly states what the company does and how it will help the customer.

- **We do your paperwork**
- **We do it well**
- **We save you money**
- **We let your technical people concentrate on technical matters**
- **Please use us for any paper work you don't want to do**

**Business Plan** – The Business Plan is a document that serves two main purposes. It is a detailed expansion of your mission statement in concrete terms such as expected markets and market share, initial investment required to start the business, your expected growth and your near and far term needs and goals. It again is a powerful tool to help the business owner nail down the details and take a realistic look as to what he or she is getting himself or herself into.

The other key purpose of the business plan is to attract financial investors for obtaining capital to establish or expand your business. If after reading your plan and meeting with you, the potential investor has that "warm and fuzzy" feeling that you have all the bases covered, did



your research completely and are the type of person who has good judgment and can be relied upon, you will probably get some help.

There are several good and affordable software programs out there to help you generate a business plan. Some of the top rated programs are shown below:

The image shows a banner for "2015 BEST Business Plan Software Review" with the subtitle "REVIEWS AND COMPARISONS". Below the banner is a "Rankings" section with ten numbered boxes. Box #1 is highlighted as a "Gold Award Winner" and contains the logo for "LivePlan". The other boxes contain logos for: #2 Business Plan Pro, #3 PlanMagic Business, #4 Enloop, #5 Plan Write for Business, #6 iPlanner, #7 Ultimate Business Planner, #8 BizPlan Builder, #9 Business PlanMaker, and #10 QuickPlan.

There are others including some rudimentary shareware, but they all touch on the same or similar main areas of concern. These are listed below with brief explanations of each. There are also a wealth of books and guides on the topic.

### Typical Content Sections for a Business Plan

Introduction – This is the section where you briefly state what you want to do and what you need.

Confidentiality or Non-disclosure Agreement – There is a lot of private and proprietary information in your business plan that you don't want getting out to competitors. This is a legal agreement that states that the information contained in your plan will only be used to evaluate your business proposal and will not be shared with others. It may also be bilateral in that the potential investor might not want you to divulge that they are considering investing in your company. It is meant to protect all parties.

Table of Contents – Lets you and any reader of the plan find areas of interest and skip areas of disinterest.

Executive Summary – This is the section where you try to grab the reader. It briefly and hopefully effectively states the objectives of the business and its ownership, contains and explains your Mission Statement and gives highlights of why you will succeed where others have failed.

Company Summary – This section tells what type of business entity is planned or exists. Is it a sole proprietorship, a corporate entity such as an LLC, S Chapter Corporation or is it a classical C corporation? Who are the owners? If it's a start up, what are the keys to success and what skills and assets are involved? Who are the key personnel?

Services or Products Offered – What does the company do or make?

Market Analysis Summary – This section explains what market you are chasing, how much of it you think you can capture and what your strategy is to capture it.

Strategy and Implementation Summary – This section defines what you think is your competitive edge. It also contains your strategy for achieving sales and what those project sales are for the near and far term. It also includes what key milestones in sales are to be achieved and when.

Management Summary - A good company is made up of good people. This section contains the resumes of key personnel and/or describes how you plan to attract and retain good people for your company.

Financial Plan – Here's the section with all the numbers and details. It contains assumptions made, break-even analysis, profit, loss and cash flow predictions, projected balance sheets and business P/L ratios.

Appendix of Supporting Data – This section contains the entire bulky backup and details that support what you said in the previous summaries.

If you can successfully complete the business plan, you are well on your way to at least being aware of the great majority of operating details of concern for a business.

A Business Plan explains your ideas for a Business to others and yourself. It's a marketing tool to convince investors to help you out by risking their money. The Business Plan is a powerful tool to help the business owner nail down the details and take a realistic look as to what he or she is getting himself or herself into.

But of course there's more....

**END Section 1**

## Section 2 - Form of Business Entity

This subject was mentioned in the previous section in the business plan. A business can take several legal forms and each has its pros and cons. The types of business entities usually encountered in small businesses are 1) Sole Proprietorship 2) Partnership 3) S Corporation 4) C Corporation 5) Limited Liability Company – LLC.



The following definitions are from [LearnThat.com](http://LearnThat.com)

A Sole Proprietorship has many advantages for the small business owner. You control it, all of the profits come to you, it's easy to form, and you make all the decisions. With this type of entity, you have complete freedom over operating your business, whereas in most of the other business types you have to report to other people and share decision-making. You also have less government restrictions and control when you are a sole proprietorship, so you have a little less to report back to Uncle Sam.



Disadvantages for a sole proprietorship include unlimited liability. If your business is sued, you and your personal assets are at risk. As a sole proprietorship it may be more difficult raising capital, you may have to use your own money or personal loan for the business.

Partnership. A partnership is an association of two or more people who share ownership and control over the business. As with a sole proprietorship, a partnership is easy to form. You should create a legally binding partnership agreement between all of the partners; otherwise you may end up in disagreement about the amount of time and energy spent by each party in the business.



The partnership agreement should include how decisions are made, how the profits should be distributed, how disputes should be resolved, how new partners will be admitted, how existing partners can back out of the agreement, and what steps are necessary to dissolve the partnership.

The advantages for a partnership include its easy formation, profits flowing directly to the owners, benefit of more than one person working the business, and a better chance of raising capital from more than one person.

The disadvantages of a partnership include the liability of all of the partners in case of judgement against the business. Also, the partners are liable for the other partners' actions. Profits of the business have to be shared with other people, disagreements could occur between partners, and the partnership may dissolve on death or withdrawal of one of the partners.

A C Corporation is a state-sanctioned entity that is a separate entity than those who own it. A corporation can be taxed, sued, and it can enter into contractual agreements. A Corporation sells shares to its owners who elect a board of directors to oversee the company. A Corporation does not dissolve when it changes ownership; it has a life of its own.



Generally, shareholders cannot be held liable for a corporation or its debts, up to their investment in the company. A Corporation's officers can be held liable for their failure to perform an action, such as paying taxes. Corporations can raise money by selling stock. A Corporation can also deduct the cost of benefits for its officers and employees. Additionally, a corporation under certain circumstances can elect to become an S Corporation, with similar taxation to a partnership.

Disadvantages of a C Corporation include double taxation for some owners. A Corporation is taxed at the corporate level and then again at the personal level for any dividends it pays out. The filing to become an S Corporation relieves this as stated in the previous paragraph. The process to incorporate also takes a lot of paperwork and time, and in most states, money. This process is a lot more complicated than the other forms of business, and all levels of government monitor it much more closely.

S Corporation - This election allows shareholders to treat earnings and profits as distributions and has them pass directly to their personal tax returns. The only catch is that if you are an employee, you have to pay yourself "reasonable compensation" for any work you perform for the company. A disadvantage to the S corporation is that there is a federal and state requirement to pay unemployment insurance tax for principles of the company and it could be tricky to collect benefits. This is not required in an LLC.



Limited Liability Companies (LLC) combine the advantages of corporations of limited liability with the control and tax advantages of a partnership. A Limited Liability Company is more complicated than a normal partnership in its formation. The owners are the members and the life of the LLC is stated when the forms are filed. In general, the LLC is taxed as a partnership.



The advantage of an LLC is the limited liability of its controlling parties. If the LLC is sued, oftentimes the owners do not have their personal assets at risk. In a general partnership, the owners' assets can be at risk if the company is sued.

The disadvantages include strict IRS rules as to when you can be taxed as an LLC and the rules you need to meet in different states to become an LLC

### **Registered Agent**

When you incorporate or form an LLC, you are required to designate a registered agent to be available to accept any important legal and tax documents on behalf of a business in a given state. This includes important mail sent by the state (annual reports or statements), state tax documents, as well as any Notices of Litigation. Although there are cases where you can act as your own registered agent, the article below from Smallbiztrends.com gives some good reasons to hire a professional.

### **You Shouldn't Be Your Own Registered Agent**

Aug 6, 2012 by Nellie Akalp In Small Business Operations

*"Deciding to take your small business to the next level by incorporating or forming an LLC is an important step in the lifecycle of any company. If you've recently incorporated or formed an LLC, you'll realize that one of the prerequisites to becoming a corporation or LLC is designating a registered agent in the state of incorporation.*

*If you're not familiar with the term, a registered agent receives important legal and tax documents on behalf of a business in a given state. This includes important mail sent by the state (annual reports or statements), state tax documents, as well as any Notices of Litigation.*

*Individuals can act as a registered agent for a business. If you have a physical address in the state where you incorporate or foreign qualify, you could name yourself as the agent. While it may be tempting to take on this role for yourself, here are five reasons why you should think twice:*

*1. The registered agent must have a physical address in the state of incorporation or qualification: A registered agent is required to have a physical address in the state; post office boxes and private rented mailboxes won't suffice. If you incorporated or formed an LLC in Delaware, but you live in California and*

*your company is physically located in California, this means you cannot serve as a registered agent in Delaware. In this case, you'll need to use a professional third party as your registered agent in Delaware.*

*2. Your company does business in multiple states: When you register your company to conduct business in other states besides where you incorporated, you'll need a registered agent in each of those states (unless you have physical offices in each state).*

*3. You don't maintain normal business hours: The registered agent needs to be available during normal business hours to accept important documents from the state. If you set your own hours or aren't tied to an office (i.e. you're a real estate agent or landscaper), you should consider a third party service so you never miss an important communication from the state.*

*4. Your address is likely to change: A registered agent's address must always stay current in the state records. Any changes to the address require a formal state filing, which is often accompanied by a fee. By using a professional third party service as your registered agent, you never have to worry about updating the state records – no matter how many times you move over the years.*

*5. The registered agent's address is of public record: Since the registered agent's address is publicly available, anyone has access to it... including marketers, mailing lists, and spammers. Registered agents often receive unsolicited junk mail for their business. If you wish to keep your company or personal address information confidential, opt for a third party registered agent. You'll get an extra layer of privacy and won't have to deal with as much unsolicited mail.*

*While a registered agent may seem like a trivial formality, it actually plays an important role in receiving communications and keeping your corporation or LLC in good standing. The last thing you want is to miss an important filing date or fail to respond to a litigation notice because you didn't receive the notice on time."*

**End of Article**

**Summary** - The following table from QuickInc.com is a quick look comparison of the different legal business entities. Of course, in any important business decision, it is smart to talk to your tax attorney and lawyer before deciding on which form of business entity you need to become. There are many long-term implications to choosing the right or wrong business type, so be sure to check with the professionals before making this important decision.

Issue	C Corporation	S Corporation	LLC	Partnership	Sole Proprietor
Limited Liability for Owners	Yes	Yes	Yes	No	No
Double Taxation of Income	Yes	No	No	No	No
Positioned for Growth in Number of Owner	Yes	No	No	No	No
Raising Capital	By selling shares of stock	By selling shares of stock	Sell interests subject to operating agreement	Partners provide capital or add more partners	Individual owner puts money into business
Continuous Life of Entity	Yes	Yes	Usually	Dissolved by death of partner	Depends on sole proprietor
Transfer of Ownership Interest	Easy	Easy	Easy or Difficult, by choice	May be difficult	May be difficult
Tax Treatment of Owner's Fringe Benefits	Good	Poor	Poor	Poor	Poor
Ability to Choose Tax Year	Yes	Limited	Limited	Limited	Limited

**END Section 2**

## Section 3 – Sales and Marketing



All businesses need some sort of Marketing to attract clients and grow. The form that this marketing activity takes depends on such factors as sales goals, business size, number of employees and the type of business.

For the consultant just starting out where he or she is the sole employee of the company, it's the all-in-one Chief cook and bottle washer routine. You do it all and it usually consists on word of mouth advertising to get referrals and new business. This is great for a small business content to stay small or maybe get real small... or disappear altogether. To grow a healthy business, the word has to get out to many prospective customers. You are not going to be a fit with all of

these people or companies and the timing might not always be right to match the talent and the need.

Then there's that competition thing slowing sales down. You have to reach many times more people than you expect to get as customers. This requires means that are more efficient than word of mouth. The advantage of word of mouth of course is that it is free or at least does require you to write a check. There may be some referral reciprocity agreement where that in return you become a "word of moulder" for some other business. Still pretty cheap and it's all good but it's not enough.

Alternative forms of Marketing can take several forms. Some these are 1) Active Marketing or Sales 2) Print Advertising 3) Authoring of Articles, Courses or Seminars 4) Internet Advertising.

Active Marketing or Sales - This is where somebody has to be on the phone or on the road drumming up business. This is expensive and time consuming but may be appropriate for some companies with more than one person and may achieve the desired increase in sales. It can be treated as a part time task for some or all employees. In smaller companies "everybody is in Marketing". In larger companies entire Marketing departments exist with the sole purpose of sustaining and increasing sales levels. A typical figure of merit for successful companies is that the cost of the Marketing department should be approximately 1-3 % of annual sales. If it's more, then you are not getting the "bang for the buck" out of your marketing efforts. Of course, once you get big enough, you can hire Public Relations or Advertising Agencies to handle some of these efforts.

Print Advertising – This is the conventional ad placed in a newspaper or trade journal telling everyone how wonderful your company is. These should be targeted at specific audiences at specific times to prevent wasting advertising dollars. The time to saturate the papers and journals to maximize returns is when there's a convention in town that is held by potential clients. If your business has potential clients across the country, use the same approach for remote events in the newspaper of that locale. Don't forget to generate a really good advertisement for one of the most viewed publications around, the Yellow Pages, whether the paper or online version. It's around all year or longer and is the best accidental advertising exposure you will get.

Authoring of Articles, Courses or Seminars – Generating articles for trade journals in your profession is a great way to get your name out there as well as increasing your professional prestige. Writing on-line or correspondence courses is another way to get your company name out there. This course is an example. Giving seminars in your field of expertise accomplishes the same goal. Check with you Professional Association to see if there are any opportunities to present topics at various trade events.

Internet Advertising – the Internet is viewed by millions of people everyday. There are at least three ways to take advantage of this exposure. The first is to buy advertising on related sites. It can be a banner ad or a whole 1-inch column on a web site. Costs vary depending on the site's popularity so do the research and check it out. Again, check out the site for your Professional Organizations.

Another way is to host your own web site. This gives you an opportunity to tell your story without having to actually take the time to tell your story. Put your web site address on all your stationery and correspondences.

*A word about search engines. The probability of some search for keywords related to your business and your site popping up is slightly less than zero unless you contact Yahoo, Google, Bing or other companies to buy your way up the priority list. The more you pay the better your position and the more people that will find you when the search for your service or product. Sometimes it's a flat rate and sometimes is per hit. Again, do your homework here to get a good payback.*

Another way to take advantage of the Internet is through targeted e-mail campaigns. Don't Spam everyone, but seek lists of people that might genuinely have an interest in your services. You may be able to obtain subscription lists from related trade publications or mailing lists from related organizations or groups. It reaches a large number of potential clients at a reasonable cost. You can do it yourself or hire a service to do mass e-mailings for you. Just make sure to invest some time in creating an interesting and informative e-mail that will prompt the potential client to contact you

### Social Media

Over recent years, social media such as Facebook, Twitter, LinkedIn and a host of others have become increasingly useful as an economic means to reach a broad range of potential clients or customers. You should investigate the relevance of users of these services as potential customers, but be careful what information you post on these sites.



## **END Section 3**

## Section 4 - Accounting & Taxes

If you are like most technical professionals, you do pretty well with performing on your assignments and making money, but don't really have a clue on getting paid, keeping records and reducing your tax liability.

There are several options open to the business owner depending on his or her level of knowledge and comfort in dealing with the financial aspects of running a successful business.



- 1) The sure-fire way is to hire an accountant. An accountant can help set up your books, maintain them, set up tax strategies and advise you on things like insurance and investments. He or she does your taxes at the end of the year and you're set. The problem with this approach is that the more services you want, the more you pay. This can add up pretty quick and you may not need or want all these services to be farmed out. The small businessperson especially has to watch expenditures and needs to be intimately familiar with everything going on. If they abdicate all financial authority to the accountant, they are blind to tax and investment strategies and sometime even expenditures. It is an opportunity for disaster unless a balance is achieved.
- 2) Do some of it yourself. There are many local county or state resources that the small business person can take advantage of to reduce dependency on others. The Small Business Association and other county economic development agencies often offer courses in various topics related to almost every aspect of running a business. Even some office supply centers hold seminars on topics and products that you may find valuable. These courses combined with books, articles and wide array of relevant software packages greatly reduce the need to have specific knowledge or detail professional help in the accounting and tax areas.
- 3) Software Packages - for tax preparation and strategies Turbo Tax, Tax Cut, IntelliTax and many other programs are available. They all have versions for small businesses, are user friendly and take most of the guess work out of tax preparation. Many programs also have audit checks and deduction finders to make sure you get all the deductions your company deserves and alerts you to any conditions that might trigger and audit. When it comes to Accounting and book keeping there is also a wide array of products available. One of the most popular programs for running small business is Quicken. This program helps you with bookkeeping in the areas of payroll, accounts receivable and payable, inventory, check generation, etc. It's pretty powerful. For even more sophisticated accounting needs there is Peachtree Accounting software.

**Tax Issues** A wise businessperson uses an accountant to make tax decisions. Starting up your company will involve decisions regarding selecting a "tax year," selecting an accounting method, selecting an inventory method, selecting whether to amortize start-up costs, setting up accounting records and books and establishing a chart of accounts. While off the shelf accounting programs are available and relatively inexpensive, do not fall victim to the allure of trying to establish these records yourself. You may find yourself at tax time with records that are either useless or which will require your accountant to spend hours sorting things out for you (at substantial cost).

If your company is a subchapter S corporation, an election must be filed with the IRS by the fifteenth day of the third month after the beginning of the corporation's tax year. For a new company the regulations say that the tax year begins when the company first has shareholders, acquires assets, or begins doing business, whichever first occurs. The form must be mailed to the IRS at the service center where your company will file its returns. It should be mailed certified or registered mail, return receipt requested. The burden is on you to prove that you filed the election. You should make a note to check after 15 days to make sure that you received back the green return receipt card and after 45 days that you receive an acknowledgment of filing from the IRS.

A C corporation (General Corporation) must pay FICA tax on all salaries or other compensation, including any bonus paid to a shareholder. An S corporation likewise must pay FICA on salary paid to shareholders, but does not have to pay FICA on distributions of earnings and profits. Be careful if you do not pay any salary but only distribute earnings and profits as IRS may re-characterize the payments. The S shareholder does not have to pay self-employment tax on the earnings on profits. Members of a LLC must pay self-employment tax if under the regulations they participate sufficiently in the operations of the company or have that authority. The company does not have to pay FICA on distributions to the members.

**END Section 4**

## Section 5 - Establishing and Maintaining Corporate Identity

A typical mistake made when starting a small business is the blurring of the line between personal business and company business. It is of the utmost importance to define and segregate this difference. Several steps for establishing a business' identity and maintaining it are given below.



**Employer Identification Number** Every Corporation or LLC filing a state or federal tax or informational return must have an employer identification number (E.I. number). An E.I. number is your company's "social security number" and banks and other companies use it as an identification number. The number is obtained by completing IRS form SS-4. You can obtain the form from any IRS office and from most banks. The instructions tell you that after you complete the information required on the form, you can either call IRS at the number on the instruction and obtain the E.I. number by phone or mail it to IRS and they will send the number to you in about 2-3 weeks. The form calls for your social security number, however if you are not a citizen or do not otherwise have a social security number you may omit that information. You will need an E.I. number to open a bank account, obtain a business license and for many other purposes.

**Bank Accounts** Your Company must have its own bank account into which all income must be deposited and from which expenses paid. The account should be opened at a bank convenient to you. The checks should be printed with your full corporate name and any trade name.

**State Qualification** If your company will do business in a state other than Delaware, most states have laws which require companies not formed in that state, referred to a "foreign corporations" or "foreign LLC's" to register with that state before "doing business" in that state. What constitutes "doing business" varies from state to state. Activities, which are entirely on an interstate basis, such as catalogue sales and solicitation of business from outside the state generally, do not require registration. Qualification has nothing to do with the obligation to collect and pay sales taxes. However, almost universally having an office in the state, owning or leasing real property or providing labor or services in the state will constitute doing business. If your company is "doing business" in a state without registration, there are penalties which will attach. Almost all states prohibit you from using their courts and in some cases prohibit a non-qualified company from raising a counter claim if sued. Most states permit you to register after either commencing an action or having been sued so as to cure the problem. Some states impose monetary penalties and in some states the penalty is a personal obligation for persons acting on the behalf to the non-qualified company.

The registration process is done through the state's office of Secretary of State. Most states have the forms available and they will send them to you. You will need to complete the information required on the form, provide them with a copy of the certificate of incorporation or the LLC's certificate of formation and pay a qualification charge. The state may require a Certificate of Good Standing from Delaware.

**Business Licenses** Wherever your company does business it will not only have to qualify, but also obtain a business license (which is a revenue issue separate from qualification). Generally the state has a business license requirement, as does the county, town, city and/or village. You may be required because of the nature of your business to obtain multiple business licenses. You may also be required to obtain some type of license or registration from a state labor department dealing with unemployment taxes and workmen's compensation insurance or state workers compensation fund.

**Corporate Governance** Under Delaware law, its Board of Directors manages the business of a corporation. Its officers oversee everyday functions. The business of an LLC is managed by it manager or managers if it is a "manager managed company" or by it members if it is a "member managed company." The manner in which the managers or members act is governed by the company's operating agreement. Every LLC should have a written operating agreement, though Delaware law recognizes oral agreements

and in those cases where there is neither a written agreement nor oral agreement, the state law governs. You may not be satisfied with the result determined by reference to the Delaware Code. Certainly your banker will want to see a written operating agreement.

Corporations need to adopt By-Laws. By-Laws set out the basic outline for the corporation's governance. In addition to By-Laws, a corporation needs to hold meetings of its shareholders and of its directors. Minutes must be maintained of those meetings. In lieu of a meeting, shareholders and directors may take most actions by written consent. If the consent is not unanimous, but only by a vote necessary to pass the resolution, notice of the action must be sent promptly to the non-consenting directors and shareholders. The consent must be filed with the corporate records of the company. No less than annually the corporation must have a meeting of shareholders and a meeting of the board of directors. Unless otherwise provided in the certificate of incorporation or in the by-laws, all persons need not participate in person. Meetings of shareholders and directors may be held by telephone, provided that all participants can hear each other. A shareholder may designate another to act for him as a proxy at meetings of shareholders. A director may not use a proxy for a meeting of directors.

It is very important the a corporation or LLC preserve records of its actions so as to evidence that it has preserved it franchise and is an entity separate from its shareholders or members. If the assets of the company and its owner or owners are commingled, that separate identity will not be preserved. The company must have its own bank account. Only company expenses may be paid from that account, not personal obligations. The company must maintain accounting records of its income and expenses. In the absence of fraud Delaware will generally recognize a corporation or LLC as an entity separate from its owners if the company is in fact, treated by the owners as being separate from them. If the company did not maintain accounting records, did not keep written minutes of meetings and commingled funds between the company and its owners, that separate identity will not be recognized and the owners may then become personally responsible for the company's debts or obligations.

**Maintaining Corporate Identity** In addition to the issues discussed in the previous paragraph, there are a number of steps that you should take to preserve your corporation or LLC's identity separate from its owners.

- Make all annual filings with the Secretary of State and pay the franchise fee on time.
- Operate the company under its proper name or properly filed trade name.
- Make sure that people dealing with your company understand that it is a corporation or LLC and that they are not dealing with you as an individual.
- Avoid, to the extent possible, giving personal guarantees. Any document signed on behalf of the company should clearly indicate that the person signing is doing so as an officer of the corporation or as a member or manager of the LLC without personal guarantee. Check the "small print". The proper way to sign a document is as follows:

ABC Corporation

By: John Smith

John Smith, President

Or

ABC, LLC

By: John Smith

John Smith, Manager (or Member)

- As noted above, treat the company as a separate financial entity. Payments to the company need to be documented as capital contributions, loans, compensation, dividends or loan repayments. These are items that should be enumerated in the annual minutes of the Board of Directors.
- Stock or Membership certificates are only evidence of ownership and not necessary for ownership. Stockholder and members are not required to be US citizens and are not required to

be US residents. Ownership must appear in the company's minutes and on the transfer records. It is the better practice to issue stock or membership certificates. Any restriction on transfer must appear on the certificate to be effective against third parties.

- If you let employees drive their own cars on company business, make sure that both your and their insurance is sufficient and make sure that your company is listed as an "additional insured" on their policy of insurance. Do not take inconsistent positions with your insurance company (no business use) and then deduct car expenses on your company's tax return.
- If you lend money to the company the company should adopt a resolution authorizing the borrowing and should issue a note.
- If you have a pension plan, consult your accountant or plan administrator at least annually for a review because of changes in the law or regulations.
- Annually review minutes and records with your attorney and accountant.
- Except in the case of S corporations, the company should have a written employment contract with an owner employee and the company's minutes should reflect the adoption of the contract.
- If an owner leases property to the company the lease should be either favorable to the company or at arms length with the owner. Rent and expense obligations need to conform to the lease to make it deductible.
- If you have multiple companies, steps must be taken to avoid confusion. Just as with the case of your need to maintain your company as a separate financial entity, the same must be observed with parent subsidiary relationships as well as brother sister relationships. Document all inter-company transactions and maintain financial separation.

## **END Section 5**

## Section 6 - Financing

If you're lucky, you have your own money to invest, but if you're smart you have somebody else's. You may think that if I only use my own money then I don't have to pay interest or dividends and can actually save money. Maybe yes and maybe no. If you are a good and shrewd investor, then the return you can earn on the money you would have invested in your company is more than you would have to pay out. It's a little like betting against your own company's success but it also hedges your bets. If you are really confident that your company is the best return on investment for you then go for it but recognize it is now all your risk. It is good to have control and with all your own money you certainly have the illusion of total control. The benefit of having investors is that along with their vested interest and money come different and valuable experiences. Many of these people are serial entrepreneurs and investors and can help you avoid pitfalls. They are anxious to share this information and advice as it protects their investment.



We have mentioned some funding sources, but here's a more complete listing of possible funding for starting and running your company. It doesn't have to be all from one source. It's good to have a balanced mix.

Private Owner Financing – a.k.a. your own money. You must invest in the company an adequate amount of capital for the nature of the company's business. You cannot simply lend the company the money. In the case where the company is not adequately capitalized, a court may permit a creditor to look through the company and hold the owners liable for the company's obligation. Courts have held that inadequately capitalized companies can be considered to be shams. The question of how much is adequate is fact specific and should be discussed with your attorney or accountant.

This could be from savings, a second mortgage on your home or a combination of both of these. This is the riskiest of all options as although incorporating will protect your personal assets, once you invest in the company those funds are no longer personal property but are now owner investment. These funds are at risk to both business loss and business liability.

Private Investors – these are people or businesses that think you are a good business risk. These investors might be found through personal dealings with you in your business, meeting you through trade organizations or by word of mouth. They may also be family members or friends (Avoid this if you can. It's a good source for former friends and family feuds. That's just my personal opinion).

Bank Loans – Banks make business loans all the time. They usually require some sort of collateral to secure the loan or rely on your personal credit for an unsecured credit line. Be careful here to maintain separation from your personal assets and those of the business.

Small Business Loans – Banks and the Small Business Administration arrange for loans to small businesses. These loan programs exist to help foster the growth of small businesses and are usually a little easier to get than a normal business bank loan.

Grants – The US Government grants money for a wide range of projects for individuals and small business. They are usually intended to provide funding for initial research in an idea, which will eventually have commercial value. One example of these is the SBIR grant. SBIR stands for Small Business Innovative Research and is a multi-phase program.

- Phase I of these programs is the initial research to formulate and formalize an idea for a technology innovation.
- Phase II usually involves some sort of prototyping of product or application idea.
- Phase III if you are fortunate enough to get to it is for find commercial applications and partner to bring the product to market,

There are specific funding levels associated with each phase and in exchange the Government has free license to use the technology. The good news is that aside from the Government, you have exclusive

ownership of any intellectual property developed such as patents. These SBIR grants are awarded by various branches of the Government such as the Air Force, Navy, Marines, Army, Defense Advance Research Agency (DARPA), National Institute of Health (NIH) and others. There are other industry specific grants available if you look.

Venture Capitalists – These are people or groups that make their money by investing in businesses, mainly new or start up companies. This funding in some cases is less formal and easier to get since it is usually private money but in exchange there are usually more demands. Venture capitalists don't just hand over the money. They usually take equity in the company (i.e. become part owners) and they also usually expect a fairly quick return on their money. They are investing in you because they want a better return than other types of safer investments. Expectations are high and investor involvement is usually to be expected.

Local Government or University Incubator programs – Many communities and local Economic Development agencies sponsor Entrepreneurial Incubator programs to help foster new businesses to help economic growth in the area. Local governments, universities, private companies or any combination of the three can run the incubators.

They usually offer valuable information similar to that found in this course on forming and setting up a business but they also offer support and advice from local business, college faculty, and government agencies as well as other incentives.

Some incubators offer low cost or free rent, free professional advice and review of business plans and business operations. These programs are great for young companies that need an initial boost until they are successful enough to graduate from the program and go out on their own. Some of these incubators will take a small amount of equity in your company while others won't. Check this out in the beginning depending on how you view this.

Some of the programs actually offer loans or grants while others just provide contacts to banks or venture capitalists.

## **END Section 6**

## Section 7 - Human Resources

Although the owner or one of the company employees on a part time basis usually handles this function, it is seriously important. Today's business environment is also a legal environment. It is a minefield of regulations and laws that govern overtime, family leave, sexual harassment, disabilities, discipline, discrimination and a host of others that will boggle your mind.

It is important to take a course, read a book, or get professional advice on these items right in the beginning before you get in trouble. Once you have a good understanding of these issues and provide training for all employees, you can set up a company compliant to all the rules and make them the background concern they should be. The following is an attempt at a complete sampling of issues with which to concern yourself.



- Standard Operating Procedures
- Employee Handbook
- Payroll Issues
- Tax Withholding and FICA Payments
- Unemployment Insurance payments
- American Disability Act (ADA)
- OSHA Safety requirements
- Health Insurance
- Time Sheets or Time Cards
- Absences and Sick Leave
- Family Leave Act
- Corporate or Income Tax
- Intangible and other weird taxes
- Sexual and/or other types of Harassment
- Anti-Discrimination Policy
- Business Size or type – Small Business, Small Disadvantaged Business, Women Owned Business, Veteran Owned Business, etc.
- CCR or other Government Registrations
- Holidays and Vacation
- Promotions and Disciplinary Actions
- Performance Reviews

Standard Operating Procedures– Whether you are a small company or a large concern it is important to have *Standard Operating Procedures (SOPs)*. These can be as short as a memo or many volumes of procedures. The amount of documentation required is dependent on the number of repetitive tasks your company personnel perform. You don't want to reinvent the wheel on practices that may have taken you a long time to perfect. These SOPs ensure consistency in operation, are excellent for training new employees on the way you do things and presents a uniform professional face to your clients.

The topics of these procedures can range from filling out time sheets, preparing invoices, standard forms, and letterhead layout up to proposal preparation or engineering drawing format. It's pretty much up to you to determine what levels of documentation you need, but you will find it invaluable in saving time and aggravation.

Employee Handbook - This is a summary or detail of the Policies of the company as they concern employee/employer relations. This is usually modifiable with minimal notice to the employees but is a good tool to provide clear communications to employees.

Payroll Issues – Employees need to be paid on a regular basis. The business owner must define the period and method. The business owner, his or her designee or an outside service may handle payroll.

Tax Withholding and FICA Payments – Federal, State and local agencies require certain deductions and withholdings from payroll checks. These include withholding of State and Federal income tax and Social security payroll tax.

Unemployment Insurance payments – companies are required to pay unemployment insurance on behalf of their employees.

American Disability Act (ADA) - These laws concern the treatment of disabled employees in the workplace. They address reasonable accommodations to be made in equipment, practices and facilities.

OSHA Safety requirements – These laws outline the safety precautions to be taken by companies to ensure a minimum of danger in the workplace.

Health Insurance - Although Health insurance is not required by law to be provided, it is often required to attract a higher caliber of employee. If you offer it, you need to administer it effectively. Expect many and frequent questions from employees. Many people work solely for the purpose of providing health insurance for their family. It is extremely important to them and therefore to you.

Time Sheets or Time Cards – It is important to keep track of attendance, hours worked, sick time and vacation. Excellent records are the key and the time sheet or time card is the way this information comes to you from the employee. Collect them, check them and retain them for your protection and that of the employee.

Holidays, Vacation, Absences and Sick Leave – It is important that employees know what time off with pay they are entitled to for holidays, vacation and in the case of sickness or necessary absences. These vary from company to company, but should be clearly stated to avoid confusion. They can be separately stated or part of the Employee Manual.

Family Leave Act – This recent law addresses time off allowed for child birth and infant care as well as other family leave issues. Get familiar with it.

Corporate or Income Tax - Check out what taxes you have to pay on your income and profits. You don't need to be surprised. Check with an account or other tax expert. (See Section 2, Form of Business Entity).

Intangible and other weird taxes – Some states and localities have Ad valorem or Intangible taxes based on things that your company owns such as office equipment and inventory. There are ways to minimize these. Consult your tax expert.

Sexual and/or other types of Harassment – Harassment in the workplace is a big problem these days. Find out what behavior is appropriate, train your people and have zero tolerance. Everybody will be better off.

Anti-Discrimination Policy – Like harassment, this is a big deal and requires more knowledge than just being fair to everyone. Find out the details and adhere to them.

Business Size or type – If you deal with the Government, the type of business you are affects the advantages and special programs available to you. This is particularly true for small business. There are sub-classifications that provide advantages when you are bidding on a government contract. Some of these are Small Business, Small Disadvantaged Business, Women Owned Business and Veteran Owned Business. Check with your local Small business Administration (SBA) office for details and requirements.

Promotions and Disciplinary Actions – When any employee violates company policies or laws, there should be clear disciplinary guidelines stated or at least known to the ownership. The consequence of

violating company policy has some latitude but violation of local, State or federal law must involve outside Law Enforcement agencies. Don't hesitate to call for help. That's why you pay taxes and it will protect your interest.

Performance Reviews – Promotions and raises are results of some measured increase in performance. Periodic employee evaluations and reviews allow you to tell the employee the things they are doing right and also any improvements, which you think are required. This is a time to change pay rates but the communication with the employee should be frequent and less formal.

This is a broad smattering of concerns facing you and your business. Consult professionals in each area to protect your business and your employees.

**END Section 7**

## Section 8 - Insurance

This section is not meant to be an in-depth tutorial on all the aspects of insurance that should concern a business or individual. It is intended to give a broad exposure and rudimentary definition of the types of insurance a business may require. The following paragraphs define the types and applications of various types of policies. You should confer with an insurance professional for specific details and tailoring of policies for the needs of your business.



Liability Insurance - A liability is something or an event that could adversely affect your financial or other type of position. In real short terms, it's something for which you and/or your business could be sued.

The types of insurance policies pertinent to this vary with the type of liability. For instance, if someone trips and falls on your property, any resultant legal or medical actions would probably be covered as part of your facility *Property* insurance (see below) similar to your residential Homeowners policy. This is typically referred to as *Personal Liability* insurance.

If someone wants to litigate against you for damages caused by a product you make, that would have to be covered by a separate *Product Liability* policy. This would protect your business against unwarranted claims due to an allegedly faulty product and if structured correctly against claims for consequential damages from product use. Consequential damages are events or losses whose cause may be traced back to the alleged fault in your product, but not a direct result of using your product.

For example, if you make baseball bats and someone is playing ball and hits a line drive back to the pitcher using your bat and the pitcher is hit in the head. His injuries might be claimed as consequential damages resulting indirectly from the use of your bat. The user might claim that there was no warning label saying that hard projectiles striking this bat could cause injury if directed at people. The claim is frivolous but could still be made and perhaps even won. You might want to get some version of this insurance.

Property Insurance - This type of insurance, as it states, protects your property. We touched on this before as Facility Property insurance. This type of policy is intended to protect the physical assets of your business such as the building, equipment and material contents against events such as fires, theft, and with special provisions, flood, hurricane and earthquakes. As stated above, some sort of personal liability insurance is usually associated with this type of policy. You need this type of policy!

Professional Liability Insurance (Error and Omission Insurance) – Engineers and Architects rely on their special training and attention to detail to perform contracted tasks and projects. From time to time mistakes are made or incomplete research or preparation is performed resulting in less than acceptable results. This may be due to negligence or it may be due to conditions not detectable even by competent work performance. In these rare events, the Professional is a potential target for legal action. Professional Error and Omissions insurance provides some financial protection and resources similar to malpractice insurance for Doctors and other medical professionals. It is certainly less expensive than medical malpractice policies but is equally important, especially in projects involving public safety.

Special Performance Bonds and Policies – With certain customers and on certain contracts, it is required for the Professional Service Provider or company to “put up” a performance bond. This is protection for the customer against you or your company not performing up to contract requirements. These requirements could be specifications or schedule or both. In a few cases this bond is actually a cash deposit to an escrow account. Typically even if this is the case, it is usually a loan accompanied with an insurance policy insuring your performance. Often, it is only the insurance policy if partial payments are not involved such as milestone or progress-payments. These could still be worked out but requires special insurance provisions and customer approval.

Health Insurance – This type of policy is fairly self-explanatory and familiar to most people. This is the medical and perhaps dental insurance for you and your employees. It is not only good for everyone to have but is also a benefit that may help attract talented employees. With today's health care and insurance costs, some sort of employee sharing of premium costs is expected. The exact level of employee contribution is dependent on what your company is willing or able to bear. Keep an eye on this as it is always changing with new products and laws popping up daily.

Key Person Insurance (From Entrepreneur .com) - Key person insurance is simply life insurance on the key person in a business. In a small business, this is usually the owner, the founders or perhaps a key employee or two. These are the people who are crucial to a business--the ones whose absence would sink the company. You definitely need to consider key person insurance on those people.

Here's how key person insurance works:

- A company purchases a life insurance policy on its key employee(s), pays the premiums and is the beneficiary of the policy.
- If that person unexpectedly dies, the company receives the insurance payoff.
- The reason this coverage is important is because the death of a key person in a small company can cause the immediate death of that company. The purpose of key person insurance is to help the company survive the blow of losing the person who makes the business work.

I'm sure that you will encounter other insurance types that may or may not be of interest to your business. Again I urge you to consult an insurance professional to determine your needs.

**END Section 8**

## Section 9 - Schedule of Services and Rates

In order for you to win a job or assignment, you usually have to prepare a bid or quotation. This will state what you will and won't do and what you will charge for it. To help streamline this process, it's good to have standards that can be combined to create a complete bid. For instance, an assignment may require a final report, which you have a standard format for and know how long it takes to prepare. You can assign a standard rate or price for. If it's going to be a little different, you can tweak the price up or down, but you don't have to start over every time. Other tasks may fall into this category so that in order to prepare a complete bid, you can simply combine the standards and then only have to address any differences or extra scope. Not only does this save time but it also produces consistent proposals and bids.



*This is a Great deal!*

For jobs where you are on a time and materials basis, it is critical to have rates either on an hourly basis or by well-defined tasks. In this way there are no surprises and reduced chance of sticker shock. When doing this type of job it is beneficial to have measurable and payable milestones defined in scope and schedule. These discrete measurable steps help your customer measure your progress and help you to keep a positive cash flow.

### How Much Do I Charge?

Knowing what to charge for your products and services is a key to your success and involves a careful balance of several factors. These are detailed below.

#### Cover Your Costs and Generate Reasonable Profit

To stay in business you must generate enough income to cover salaries and expenses and some extra revenue known as "profits". Just covering costs is the minimum you can do to sustain a business without losing money. This is not enough however to allow a business to thrive and grow.

Profits can be distributed to owners or shareholders but they can also be reinvested to fund expansion or capability growth to help the company become a leader in its field. Most companies must exhibit some growth just to keep up and maintain their relative position to their competitors.

The reasonable size of profit expectations for a given business depends on the efficiency of the business and the price of the goods or services offered. If your business is less efficient it eats up a bigger portion of the sell price and reduces the profits. If you raise the price to reclaim profits you may price yourself out of the market. It is better to fix the company rather than fix the price.

#### What Will the Market Bear?

Regardless of how efficient your business is, it is guaranteed that you will not generate enough income if no one buys your product or uses your services because they are too "high priced". Look around at similar businesses and check out their advertisements and web sites. Try to find out what they are charging through third parties if you can. It sounds like espionage, but if you just deal with public domain or knowledge, it's just business.

Once you take your best shot at setting your prices you can just sit back and wait. The market will immediately answer the question of appropriate pricing. You will either increase in income or decrease in income. If you can't lower your price due to costs you have two choices.

1) Make the business more efficient and lowering costs. This can be done through a change in process to reduce the amount of "touch" labor such as automation or listening to your workers suggestions for improved productivity or 2) pay less for materials. Look at making long-term arrangements with key vendors to convince them to lower their prices. Or even better, do both!

The only other choice you have is to raise prices to cover costs and profits. To get away with this you have to find a way to convince the market that your widget is much better than the other guy's widget and therefore worth a higher price. It's all about value for the buck not just the lowest price. What makes your widget better? Maybe its performance, maybe its reliability or warranty, or maybe its excellent customer service, but to me, it better be all of them and it still better, be close in price to the competition. Value only gets you a little forgiveness; otherwise it's back to low price.

Another way to determine the actual cost, and therefore appropriate price for your product, is through the use of the break-even analysis. The concept of break-even point is fairly simple and finds applications in many areas. Simply stated it is used to determine how many items must be sold at a particular price in order to cover the cost of making and marketing them. Above this break-even point is where profit is starting to be generated.

This can be stated in several ways. Since profit = sales price – manufacturing & marketing cost:

The break-even point is where:

**Manufacturing & marketing costs = Number of units sold x Unit price**

**or where the profit is exactly equal to \$0.**

This seems pretty simple but the determination of the manufacturing and marketing costs are not that straightforward and present somewhat of a moving target.

Let's look at what types of costs are involved. There are costs that are commonly referred to as

**Fixed Costs** -These represent money that must be spent regardless of how many units you produce. Examples of this are rent, utility bills, salaries, capital equipment and tooling costs.

The other costs involved that do change with the number of units produced are referred to as **Variable Costs**. Examples of this are materials, shipping, packaging, production labor, etc.

A third useful term is **Variable Cost percentage per Unit**. Adding all the variable costs involved in each sale and dividing by the average sales price derives this term.

**For example**

**If you sell something for \$8.00 and the variable costs are \$2.00, then the Variable Cost percent per Unit = \$2.00/\$8.00= .25 = 25%.**

**To determine the Break-Even Point (\$ in sales) you would use the following formula:**

***Break-Even Point (\$) = Fixed Cost/(1- Variable Cost Percentage Per Unit)***

**So for the previous example if we assume a fixed cost of \$1,000 the**

***Break-Even Point(\$)= \$1000/(1-.25)=\$1,000/ .75 = \$1,333.33***

**So, \$1,333.33/(\$8/unit) = 166.66 or 167 units to break even. This also indicates that every unit sold above 167 will return a 75% profit. What this means is that units number 1 to 167 were *contributing* to covering the fixed costs. Unit 167 and above cover variable costs and *contribute* to profit.**

So the real money is made after reaching the break-even point. Use this formula to evaluate your price versus your cost and profit to check for a reasonable return in a reasonable time.

### Gauge the Competition

We talked about checking out the competition's prices, but there is much more to be learned. Find a successful competitor and emulate them.

- They are doing something right. Try to copy those things, but put your own style and mark on them.
- They are targeting the right market for their services or products. Be better at it and take that market share. Advertise where they advertise but try to put a new angle on it.
- Buy from the vendors they buy from but try to get a better price through long term commitments or other creative deals.
- Also watch for what doesn't work for them and stay away from it. Try to figure out what went wrong and fix it. They seem to be smart; maybe the idea was good, but had the wrong approach or wasn't thought through.

The message here is to learn from any source you can. Keep your eyes and ears open and constantly process new ideas and input and to be flexible enough in your thinking to take advantage of your competitors strengths and supplement them with your own.

**END Section 9**

## Section 10 - Quality Assurance

Although the methods your company may use to ensure the quality of your product or services could be contained in your Standard Operating Procedures, it is customary to generate a separate Quality Manual. This manual serves as an excellent marketing tool to instill confidence in clients to show that you have your act together and recognizes the importance of checks and balances and structured review processes in conducting your business.



By far the most accepted system to follow in setting up your Quality System is the International Standards of Operation or ISO. These standards are more general guidelines to ensure basic concerns are covered with the procedures being tailored for your particular type of business. ISO-9000 was the standard that listed 20 key areas of concern. These were further defined as ISO-9002 for manufacturing companies and ISO 9001 for companies that perform design as well as manufacturing. Other ISO standards exist for many other types of businesses. If none of these apply to your business, then just use some of the key points mentioned here as a basis for your QA System.

You can set up your business around these key points and document them in your Quality Manual. You may also take the extra step of hiring an outside ISO audit firm or Registrar that will come into your company for several days and review your operation and your own procedures and those previously mentioned ISO 9000 guidelines. He or she will note discrepancies and or observations that must be corrected or answered before you are granted your ISO registration. This costs some money but it also will grease the way for clients to trust you and not have to do their own due diligence on your quality system.

About 5 years ago ISO adopted the ISO 9000-2008 standard. This covers all the key elements of the previous ISO 9000 but adds the focus on customer satisfaction and continuous improvement in tweaking your organization to better serve the needs of both you, as a company owner, and your client. The same deal exists with the auditor or registrar. This standard has superceded the plain vanilla ISO-9000 and ISO 9000-2000.

The 20 Key Elements of ISO 9000	
Element No.	Title
1	Management Responsibility
2	Quality System
3	Contract/Order Review
4	Design Control and Review
5	Document and Data Control
6	Purchasing
7	Control of Customer Supplied Material and Equipment
8	Product Identification and Traceability
9	Process Control
10	Inspection and Testing
11	Control of Measuring, Inspection and Test Equipment
12	Inspection and Test Status
13	Control of Non-Conforming Material
14	Corrective and Preventive Action
15	Handling, Storage, Packaging and Delivery
16	Control of Quality Records
17	Internal Quality Audits
18	Training
19	Servicing
20	Statistical Techniques

You should get more information about ISO-9000 and ISO-9000/2008 and make sure you address all the elements as they pertain to your company. You might think that many of them do not apply to your operation but you would be wrong. Some may apply to a very small degree or don't apply very much yet. As companies change they are pretty certain to cover these points. Just make sure you review them, define the level of applicability to your organization and check back periodically or after any significant change in your company.

It is certainly not necessary to strictly adhere exactly to ISO-9000 for company types, but being aware and addressing all the elements in an appropriate manner ensures that you have most of the bases covered.

**END Section 10**

## Section 11 - Contracts and Legal

Getting legal advice is a key before you even start. Whether it's from hiring an attorney or taking a seminar or just reading, there are several areas where some legal knowledge is critical. These are 1) What type of legal business entity should I form? 2) Do I need liability insurance or errors and omissions insurance to protect me legally? 3) How do I write a standard contract or what do I do if I need something special? 4) What about the need for non-disclosure agreements? 5) What if I'm sued? 6) How do I collect payment from a slow or non-paying client? 7) Is my lease OK?



Let's take these one at a time to explore their significance. This is not a complete list but scratches the surface pretty deeply. Handle these and you are probably reasonably prepared for the rest.

- 1) What type of legal business entity should I form? -  
I covered this previously but more from a tax liability angle. You need to know what legal business entities are allowed in your state and what, if any special limitations apply for your area. The legal liabilities of each form are different and you need to be informed and protected.
- 2) Insurance – I know I need something but what type, what for and how much? These all depend on the first decision you made in selecting a business entity and the type of work you do and services you provide. A Corporation protects your personal property but not necessarily you personally from negligent or dishonest acts on your part related to the operation of your company. Each business entity is different and legal advice is key in knowing what your exposure is under the laws of your city and/or state. Error and Omission insurance is common for the technical professional such as a PE or Architect. Other types of liability insurance may also be appropriate. Consult a legal and insurance professional to make sure you have the correct protection in place.
- 3) Contracts and Agreements – The primary legal instrument used when a client hires you is the Contract. It defines the work to be done, either directly or by reference to another document. It also states any conditions or exceptions by either party and details such items as schedule, payment terms, milestones, warranties and liability disclaimers or limitations. These contracts can be standardized for the type of work you perform with addendum or attachments for special circumstances. It is important that you get legal help in drafting the standard terms and conditions (T's & C's) and all other "fine print". It also wouldn't be a bad idea on getting a lesson or two on writing any addendum or clauses required. This advice would apply to any binding agreements you make on the company's behalf.
- 4) Purchase Orders – the PO is another type of contract used typically by larger companies to procure products or services. They usually originate from a Buyer or Purchasing Agent rather than some legal representative. They are typically top-level orders that invoke reference or incorporate other more detailed documents such as Statements of Work (SOW) or proposals. A separate set of Standard Terms and Conditions (Ts & Cs) is either attached or printed on the back of the PO form. These are usually very long, involved and printed in extremely small print. They are usually fair to both parties and are proven legal terms and conditions but you should still read and understand them. They usually won't change from order to order from the same company so hopefully you only have to go through them once for each company.
- 5) Non-Disclosure Agreements – This is a special type of agreement, not legally, but functionally. This agreement is a contract between two or more parties to honor and guard information exchange during the course of doing business. An example of this is if you submit a proposal with your labor rates in it, the reviewer of the proposal is bound not to reveal that information to anyone else, especially your competitors.

**END Section 11**

## Section 12 - Purchasing

During the course of providing services or fabricating products, you probably have to buy stuff. The size of your business and the amount of “stuff” you buy will dictate whether you need a separate Purchasing department or if you can just make it part of some other administrator’s duties. The primary functions of the Purchasing Department are listed below.



1. Review parts and material requirements and identify possible vendors
2. Negotiate the best price for parts or services required.
3. Evaluate vendor performance
4. Ensure that deliveries support production of products
5. Plan for future material requirements
6. Ensure that all procurements are ethical and have sufficient competition

### END Section 12

## Section 13 - Customer Service

The quickest way to go out of business is to ignore your customer base. Repeat business is the key to success. Even if a customer never has need for your products or services again, the chances are that they know someone who does. Never underestimate the power of word of mouth referrals. A good referral might get you two or three customers but a bad referral spreads like wild fire and could deter hundred of potential customers. Pay attention to your customers and talk to them about their needs and expectations. They will become partners in achieving results that are beneficial to them and to you.



### END Section 13

## Section 14 - References and Resources

In the section about Standard Operating Procedures I mentioned that you don’t want to reinvent the wheel. You don’t want to spend time chasing the same references or resources time and again. It is likely that you will perform the same or similar services for many customers and that there is a core of resources that you use frequently. Buy these and establish a company “library” which serves as a warehouse for books, software or other resources that you always use.

Besides saving time, reuse of the same resources produces a more consistent and uniform style to bids and proposal and results in more consistent pricing.

### END Section 14

## Section 15 - Ethics

In today’s climate of corporate deception and corruption, it is of the utmost importance to run your business in an honest and honorable manner. It instills faith in your customers, your investors, other

businesses you deal with and the general public. It is also amazingly easier to tell the truth and remember the truth. If you forget, it's still there. It's the truth. Liars need good memories.

## END Section 15

### Section 16 – References and Useful Links

This section serves as my listing of sources for my course materials as well as a collection of Internet sites useful to any business starting up or already in operation.

Small Business Resources - All the information you need to start and run a business!

<http://www.openforum.com/idea-hub/topics/money/articles>

SBA - Business Plan Basics – Help with Business Plans <http://www.sba.gov/starting/businessplan.html>

Business.gov - Find development programs near you. The federal government offers support to entrepreneurs through Small Business Development Centers and mentorship programs.

<http://www.business.gov/>

SBA - PRO-Net Integration with CCR - The US Small Business Administration, the Department of Defense, the Office of Management and Budget and the General Services Administration have taken steps to simplify the federal contracting process by creating an integrated database of small businesses that want to do business with the government.

<http://pro-net.sba.gov/>

OSHA's Small Business Page - to-follow guides for specific OSHA standards. It also includes links to OSHA local offices and the Small Business Administration.

<http://www.osha.gov/dccsp/smallbusiness/>

SCORE "Counselors to America's Small Business" – Corps of Retired Businesspersons available to advise new business owners.

<http://www.score.org/>

Online Women's Business Center - Homepage - Calendar Newsletter What's New Success Story of the Month Facts And Statistics Latest Program Announcements WomenBiz.gov Women's Business Centers.

<http://www.onlinewbc.gov/>

Free US Government Grants - How To Obtain Free US Government Grants. Complete Grant Guide.

<http://UncleSamsMoney.com>

Register.com – Internet tools for small business with many links to other useful business sites.

<http://www.register.com/>

## END Section 16

### END of Course Content