

How to Succeed with Your Own Construction Business

by

Stephen & Janelle Diller



Craftsman Book Company
6058 Corte del Cedro / Carlsbad, CA 92011

ACKNOWLEDGMENTS

The authors wish to express their appreciation to the following individuals and companies for furnishing materials used in the preparation of various portions of this book.

Robert Bowman, Computer Specialist
Bradford Publishing Company, Lakewood, Colorado
Community Development
First American Bank, George Lenz
Haley Property Management Company
G. K. Helzer Construction, Valerie Helzer
Holme Roberts & Owen, Brent Rychener
The Insurance Center, Nancy Branstedt and Connie Stevenson
Melvin Jantz, General Accounting & Tax Preparation
Neighborhood Housing Services, Terry Allen
Remodeling Magazine, Washington, DC

In addition, we greatly value the excellent resources of two other outstanding industry magazines: *Professional Builder* and *Qualified Remodeler*.

Our greatest appreciation goes to our parents, Ivan and Doris Diller and S. Milford and Rosie Roupp. Over the decades, they have set an example of honesty, integrity, and competence that we aspire to. Further, they have instilled in us an entrepreneurial spirit that is the foundation of our enthusiasm for owning our own business.

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Library of Congress Cataloging-in-Publication Data

Diller, Stephen.
How to succeed with your own construction business / by Stephen & Janelle Diller.
p. cm.
Includes index.
ISBN 0-934041-59-8
1. Construction industry--Management. 2. New business enterprise--Management. I. Diller, Janelle. II. Title.
HD9715.A2D49 1990
624'.068--dc20 90-48956
CIP

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1

Taking the Plunge

It's hard to swing a hammer on a contractor's payroll and not dream of running your own construction company some day. You know you could do it faster, better, and make better money. So why let someone else make the profits while you work for wages? Why not take the risks and get the rewards yourself?

If that's what you've been thinking, keep reading. This book can help you make the big step from wage earner to contractor — in the shortest time possible and with the best possible chance of success. We're going to explain how to take the plunge, step by step, and in the clearest language possible.

Most new contractors quit their regular construction jobs because they have good prospects for making it on their own. A strong economy and a few good leads may provide all the courage needed to step out on your own. As long as the economy stays robust, you can keep busy moving from one job to the next. You feel good about all the money going through your bank account. For a while that

may seem like prosperity — until you get a notice from the Workers' Compensation Board or the IRS that you're delinquent on some payment required by law. Or your suppliers start calling to find out where their money is. Or a client threatens suit because of some work you did or didn't do. Worse yet, the bottom may drop out of the local economy — leaving you with all overhead and no income.

What happens then? Do you quit and go back to work for your old boss (if the job's still open)? Do you declare bankruptcy? Or do you stop and rethink where you're headed, how you got there, and what your options are?

We hope you're reading this book before you reach the point of desperation. But even if you're desperate, what you learn here should be well worth the time you invest scanning these pages.

Maybe you're just starting to explore the idea of construction on your own. If so, you're lucky. Not everyone is so far-sighted. Nearly one-third of all new businesses fail in their first year. Only half survive two years. The statistics don't have to be so grim. You can overcome most problems. We'll show you how. You don't have to discover all the dead end streets, blind alleys and potholes yourself. Let this book be your road map.

Learning the Hard Way

Before beginning, we'll offer some personal history so you understand our perspective. We're a husband and wife construction team. We both grew up in the construction industry. Steve's father owned his own home-building business for 45 years. Janelle's dad owned a ready-mix concrete plant and plowed his profits into real estate. We saw our fathers work long hours and come home dirty and tired. Their struggles in running businesses — even successful ones — didn't appeal to us. The money looked good enough, but we weren't sure we wanted the customer hassles or the hard work. A construction company seemed like the last thing we wanted to do.

Still, construction was what we knew best. And everyone needs a career. So we tried to make a living in the home renovation business, fixing up old houses for sale in Colorado Springs. We might have made a living at it, except that home loan rates zoomed to 18 percent and the local economy went into a tailspin before our first home was done. Fortunately, a couple of jobs dropped in our laps and we were "contractors," whether we'd planned to be or not. Even more unexpected, we liked it!

Those first jobs rolled in so easily that we thought others would quickly follow. Those first jobs came from casual acquaintances who knew we had some construction skills. Of course, as luck (or logic) would have it, the phone didn't ring again for six months. Fortunately, we had very little overhead and a second income that kept us afloat.

Our success story would be more persuasive if we could say that some serious reading and a few changes solved all our problems. Unfortunately, that wasn't what happened. We discovered ways to make a good living in the construction business. But we never found a magic formula. Maybe there isn't any. What we discovered was the hundreds of mistakes nearly any contractor can make in this business — and a few ideas and ways of doing business that seemed to work again and again.

That's what we're going to share with you — information to make your first few years a lot easier than ours were. We'll tell you how to estimate and schedule jobs, set up books and run your office, dig up business and close the sale. Of course, you have to add the real magic that makes a business succeed: hard work, construction know-how, and management skills.

The Big Picture

The construction industry is the nation's largest in terms of the number of people employed. It touches the lives of everyone, either as a consumer or as a producer. Until just the last decade or so, new construction was the glamorous part of the industry and remodeling was the ugly duckling. Home renovation and remodeling were like crumbs left on the table after all the prime jobs had been swept up.

That's not true any more. The remodeling and renovation industry is growing much faster than new construction. Experts predict that remodeling work will continue to thrive because our nation's housing stock is getting older. A home is built only once. But most will be remodeled several times before they're finally demolished. For many homes, the cumulative cost of remodeling and repairs will far exceed the original cost of construction. That makes home remodeling, renovation and repair a very promising business.

Of course, new construction may seem more glamorous. You don't have so many unexpected problems. You don't have to work around a house full of people. And you don't have to deal with the eternal problem of knowing where to start and where to finally call it quits. Fortunately for the consumer, most remodelers see those as minor inconveniences in a very challenging and rapidly growing industry.

For the first few years we planned to move up to the "real" contracting business some day, putting up new buildings instead of just making them better. Gradually though, we began to realize that remodeling had major advantages. Once we stopped apologizing for being on this end of the industry, it was easy to get more respect. Most important, we found ourselves getting more business and more recognition as specialists in the construction industry.

Here's Why We Concentrate on Remodeling

- 1) Most remodeling and repair work is financed by savings or the settlement of an insurance claim, not proceeds from a loan. When new

construction is being strangled by high loan rates, repair and remodeling work tends to keep humming. In a weak business market, many prospective new-home buyers opt to remodel instead of buy. The market ups and downs aren't nearly as dramatic or dangerous to the remodeler as they are to the contractor who does mostly new work.

In 1985, *Professional Builder* reported that from 1979 to 1983 residential construction dropped about 60 percent. In the same period, inflation-adjusted dollars spent on remodeling dropped less than 13 percent.

According to *Qualified Remodeler*, in 1978, 16.2 percent of National Association of Home Builders (NAHB) members said remodeling was an important part of their operation. By 1982, that percentage had more than doubled to 36.8 percent.

In fact, this shift presents a problem. Most builders wouldn't touch a remodeling project when times are good. But they're more than anxious to bid remodeling jobs when work is slow. Because they don't have the unique skills that remodeling takes, they botch a couple of jobs and then get out. In the process, they leave behind one more blemish on the reputation our industry carries. Remodeling requires better management, scheduling, and public relations than new construction. Unfortunately, too many builders don't discover that until they're knee-deep in a tricky job.

- 2) The remodeling industry tripled in size between 1975 and 1985. By 1984, more money was being spent on remodeling and repair work than on new construction. Industry experts project total remodeling dollars to triple again by the year 2000, reaching nearly \$300 billion a year. That compares with about \$100 billion spent in 1989. About 40 percent of those dollars will be spent on additions or alterations. The rest will be spent on maintenance and repairs.

Asbestos removal by itself will become a big business. *Remodeling* magazine projects as much as \$200 billion will be spent on eliminating the health risk from asbestos over the next ten years. And within the next few years, many states will probably require a radon test before houses can be sold. Detecting and correcting radon problems will become a nice sideline for many remodelers.

Predictions are that the industry will average 10 to 15 percent annual growth through the 1990s.

- 3) Remodeling takes less money and less risk than new home building. What you need is some equipment, credit from your suppliers and subcontractors, and cash to meet payroll until receipts catch up with expenses.

New-home builders need lots more. Many try to get started by putting up a speculative house. They find a bank to finance them, build the house, and hope that it sells. They also hope to get enough leads so

building another spec house isn't necessary. Spec building is risky. Especially in suburban areas where big, publicly-held developers are active. They're masters at the fine art of getting more square feet of floor for less money.

Remodeling, by its very nature, lends itself well to a mom and pop company. You don't need a showroom or a fancy sales office. You can work out of the back of your truck. Plenty of good remodelers started this way and have chosen to stay this way.

Four-fifths of all remodeling companies have ten or fewer employees. But there are few very large remodeling companies. Most of the giants are in a single line of work, such as siding, roofing, or window replacement. *Qualified Remodeler's* 1988 listing of the 500 top remodeling companies in the U.S. included only five full-line remodelers in the top 25 companies. The number one company grossed over \$120,000,000 doing siding and decks. Many in the top 500 were full-line remodelers with gross sales over \$1,000,000 in 1987.

Some new-home builders hire subcontractors to do nearly all the work, from digging the foundation to decorating. All you need are competent subs. Construction becomes a matter of putting the many parts together like a giant jigsaw puzzle. Every house may have a different set of plans, but the parts go together the same way.

Not so with remodeling. Your first job may be enlarging porch windows and painting the exterior. Your second may be adding a sun room; your third, updating a kitchen. Unless you specialize, no two jobs are ever the same. As a result, most remodelers know a lot about most construction trades. It's hands-on skill that helps a remodeling company build a reputation in this industry. Good construction skills are essential. But as the company grows, good management skills become just as important. The remodeler who built the company with construction know-how has to master the fine art of running a construction office. That's not easy, as maybe you've already discovered.

- 4) Remodeling is a people business, not a product business. Turning clients into friends is one of the things that we like best about the business. If you don't like dealing with people, you might as well stop reading. Your success depends, at least in part, on how well you can get along with clients. Remember, they're trusting you with their most valuable possession, their home. Home renovation can be very stressful for homeowners. The mess, noise, and general disruption to their schedule is a nuisance for anyone. It's your responsibility to help clients survive while you build and remodel.
- 5) There's always room for someone who can do it better. The Better Business Bureau reported over 47,000 complaints against the home improvement industry in 1986. That was an increase of 31 percent over 1985 and accounted for 10 percent of all consumer complaints. Home

improvement ranked second highest in number of problems of all the business categories.

Those statistics aren't meant to scare you off. We've never had a complaint lodged against us; we've never spent a day in court or even with an arbitrator. We know lots of remodelers who can say the same thing. We also know several remodelers who got more than their share of those 47,000 complaints.

There's plenty of room for anyone who can do it better. If you do quality work, are willing to work hard to build a reputation, and can get along with people, the industry needs you!

- 6) Remodeling can be very profitable. We know that's true. But we won't mislead you. It can also be very unprofitable. If you can control your overhead and if you're consistently good at estimating costs, you can make good money on almost every job. Most remodelers who leave the business haven't been able to do either.

It certainly helps to do a high volume of business, but volume alone won't make you profitable. Some high volume remodelers we know aren't making much money. And we know some low volume remodeling specialists who consistently make good money. Profit margin is usually more important than volume. Be a remodeler who earns a healthy margin regardless of volume, not a remodeler who takes all the work available regardless of price.

Your reputation as an experienced remodeler should help open up some other opportunities in specialty markets. If you have any doubts, get a quote on having some asbestos removed.

- 7) Owning your own business is very satisfying. True, our bias is showing. We grew up in families that appreciated the flexibility, variety, and challenge self-employed people enjoy. We think running a remodeling company gives us a sense of pride that few businesses could. Looking back over the last ten years, we're proud to have survived changes in the local economy and to have grown and prospered as we accumulated experience. It feels good because we did it ourselves!

But Is It Right for You?

How do you know if you're cut out to run your own business? There's no sure way to know without actually trying it. But answer the following questions to get at least an initial impression. The first set of questions explore your general attitude toward being self-employed. The second set of questions is more specific. It covers the kinds of personality traits needed to run a remodeling business.

Neither test asks questions about your actual construction skills. We've done it this way for three reasons. First, we assume that if you're reading this book, you have most of the construction skills needed in the remodeling business. You can either do the work, know who to hire to get the job done, or you've got an armload of books to fill in your gaps.

Second, testing your skill as a remodeler can't be done in half a page. In fact, maybe it can't be done on paper. Besides, you probably know already if you have the building skills needed to go out on your own.

Third, construction skills probably aren't as important to a remodeler as business smarts. We know several very average remodelers who have strong companies because they have good employees and they keep tight control on the business end. We also know some highly skilled craftsmen who have had trouble as remodelers because they couldn't estimate accurately or run an efficient construction office.

Here's the test. Take a minute to read the following statements. If you strongly agree with a statement, give yourself 4 points; if you generally agree, 3 points; if you disagree somewhat, 2 points; if you strongly disagree, 1 point.

- 1) I am very confident of my skills. ____
- 2) I would gladly hire someone like me to do a job. ____
- 3) I'm not a clock watcher. In fact, I find it hard to forget about my work outside of working hours. ____
- 4) Hard work — not luck — builds businesses. ____
- 5) I'd rather work with a difficult, highly-skilled person than an easygoing, less skilled one. ____
- 6) If I put my mind to it, I can do just about anything. ____
- 7) I like being in charge. ____
- 8) I rarely feel helpless in dealing with life's problems. ____
- 9) I'm not as motivated by making a lot of money as I am by being good at what I do and being successful in my field. ____

If you scored between 27 and 36, you're probably motivated enough to run your own business. But what about running a remodeling business specifically? Do you have the temperament for it? Take the next test and score it the same way.

- 1) I am able to delegate responsibility. ____
- 2) I try hard to tackle the parts of a task I don't like first so I can get them out of the way. ____
- 3) I like the challenge of keeping on schedule with a job or task, and I'm usually able to meet the deadlines I've set. ____
- 4) I don't mind doing "cold" or follow-up calling on a prospect. ____
- 5) I'm organized in most things that I do. ____

- 6) I usually make a good impression on people and I'm able to maintain it. _____
- 7) I'm somewhat of a perfectionist and I take pride in my work. _____
- 8) I demand high quality work out of others. _____

If you scored between 24 and 32, you'll probably like running a remodeling company and probably can develop the business skills needed. If you scored much lower, be careful. If you still think you're perfectly suited to running your own business, at least look for a likeable partner who would ace the test.

The Good Side

If you scored high on both tests, you have a lot to look forward to. As we've already said, there are plenty of pluses to owning your own remodeling company.

Remodeling is far less volatile than new construction. Because of that, it promises to be a strong growth industry throughout the 1990s. It's cheaper to get into and stay in than new construction. Yet, if you run your company right, it can be very profitable.

Owning your own business can be satisfying as well as profitable. Your hours are more flexible than when you work for someone else. There's never an end to the variety and challenge you'll find in remodeling. And you also have a chance to deal with the public every day.

Last, but certainly not least, if you're honest and capable, the industry needs you!

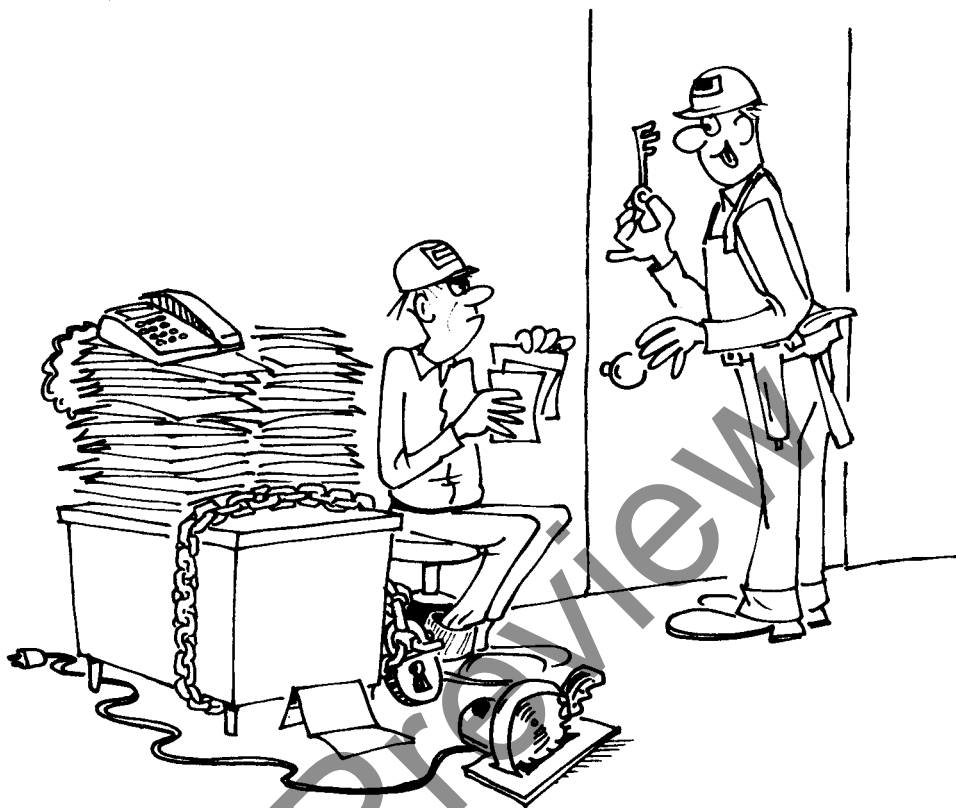
The Bad Side

Of course there is one. But this is the only time we're going to mention it. There are a number of things that can be and have been very frustrating to us.

Remodeling, especially in the early years, doesn't give you a steady income. In fact, there can be plenty of times when you have no income at all! Twenty thousand may come in one month and nothing the next. If you don't know what your true expenses are, you can find yourself in one of those financial sinkholes we mentioned earlier.

In the decade we've been in business for ourselves, we've seen our Workers' Compensation costs go from 9 percent of every dollar paid to over 30 percent. Our liability premiums have gone up over 500 percent. Add to that the paperwork required by federal, state and local government and it can get pretty discouraging. We get really tired of being tied to a desk when we should be on the job site.

Anyone who's self-employed will tell you about their long work days and weekend work. The extra hours are especially discouraging when they're the result



"Your turn to do the paperwork this week."

of an estimate that was too low. You planned to hire a crew to do the work but ran over budget. So you're doing the work yourself.

Even if you're making great money on a job, you're probably the first one on the job in the morning and the last to leave. Every day. Every week. On every job.

The part we like best — the people part — can also give us the most headaches. You'll find yourself dealing with an interesting variety of people, some of whom are a bubble off plumb. Even if you can spot them ahead of time — and there are usually some warning shots fired — you may not always be able to turn down the work, especially in the beginning.

Maybe most difficult of all, when you first set up shop, you're the bookkeeper, estimator, carpenter, personnel manager, salesman, and diplomat. And you have to be good at all of them. Some people like the various hats, some hate it.

Don't despair, though. This book is going to explain how to avoid the most common problems.

Are You Up to the Challenge?

How do you take advantage of the pros without being burned out by the cons? It's not an easy question to answer. But let us offer four suggestions from some professionals who have been in the business a long time.

- 1) Keep an upbeat attitude by trying to look at the larger picture. Try not to sink down in the day-to-day grind. Remember that you're building a business. Good ones don't happen overnight. If you can make it past the first two years, you've done better than 50 percent of the people who try.
- 2) Educate yourself. Take advantage of seminars, trade books, and even local college business courses. The more you can learn about what you're doing, the better off you, your business, and your clients will be. None of it will be wasted, even if you should decide down the road that running your own company isn't for you.
- 3) Plan, plan, plan. Industry experts stress the importance of a game plan. Where do you want your company to be in a year? In five years? How can you get from here to there? It also helps you keep that larger picture in sight.
- 4) Don't take work home with you. We know this must sound like strange advice. But we believe it's important. If your office is in your home, it's hard to resist working on an estimate at night or getting your shop ready for the next day. Tell yourself that after 6 o'clock, your day is done. Do something that will energize you for the next work day. You shouldn't have to eat, sleep, and dream construction.

The Next Step

The next step is to actually set up your business. The first choice is the form of business ownership. There are three alternatives:

- 1) Sole proprietorship
- 2) Partnership
- 3) Corporation

Each has its own legal and tax distinctions. The following will give you a general idea of which legal form is best for you. Every state has slightly different requirements. Before you make the final decisions, talk with an attorney and an accountant.

Sole Proprietorship

A sole proprietorship is a business owned by one person. As the owner, or proprietor, all of the company income and expenses appear on Schedule C of your federal tax return. Company profit is your income and you pay tax on it every year. You're legally responsible for all company debts. As owner, you assume all liability not only for your actions, but also the actions of your employees.

In the past, the "actions of your employees" has usually meant what happens while your employees were working. If your foreman drops his hammer and gouges the floor, you're responsible for repairing it. If a careless toss of his lit

cigarette burns down the house, you're liable. If he has an accident driving from one job site to another, you again are responsible.

Recently, though, that interpretation has been broadened. In 1987, an Oregon contractor was held liable to a third person who was raped by an employee. The employee had been under a lot of stress and had been taking illegal drugs. During his working hours he became "disoriented," forced his way into a house, and raped a woman. The court held the contractor responsible because he should have been able to see that the employee wasn't stable and was a danger to others.

This chilling example should tell you two things. One, your liability for employee actions is very broad. It's more than most of us might consider even logical. And two, until the courts interpret the law differently, you must be very careful about who works on your jobs and what instructions they are given.

There are four main advantages to running a sole proprietorship.

- 1) You have total control of all business decisions.
- 2) All of the profit goes directly into your pocket.
- 3) Setting up a sole proprietorship is quick and simple.
- 4) Business losses are completely deductible.

The disadvantages are these:

- 1) You're legally responsible for all company debts.
- 2) You're liable for all company acts and omissions, including those of your employees.
- 3) If your business income is high, you'll pay more tax than if the income was kept in a corporation.

Partnership

A partnership is a business owned and operated by two or more people. The partnership is formed by an agreement negotiated between the partners. There may be a large number of partners — 50 or more, or as few as two. Each partner owns a percentage of the business. It doesn't have to be an equal percentage, although it can be. One may own 50 percent, one 30 percent, and one 20. Profits and losses are usually divided based on the same percentage as ownership.

Each partner is also personally responsible for the company's debts. Liability is *not* proportionate to each partner's percentage of ownership. Sadly, this means that if the business goes under and your partners are broke, you may have to pay any debts the company still owes, even if your share of the business was very small.

Usually, each partner contributes something to the business in the form of money, skills, or property. It's up to the partners to decide what each partner has to contribute and what each partner receives in return.

Note this very carefully about partnerships. Unless the partnership agreement says otherwise, each partner can act as an agent for the business. Any partner may hire, fire, borrow money, sign contracts, or make any business decision. All of the other partners are bound by these actions, whether they were aware of them or not.

As a result, if you choose to set up a partnership, it's extremely important that your partnership agreement cover all rights and obligations of each partner. Usually you'll want to have an attorney draw up an agreement that covers all the issues. Even partnerships among good friends and relatives can end in acrimony and lawsuits when the agreement omits some important point. We've seen it happen and it isn't pretty. Sometimes it's harder — both financially and emotionally — to break up a partnership than it is to end a marriage. The more you plan ahead, the smaller your risk if things fall apart.

Partnerships work well for some people. But they aren't ideal for a construction business. You have all of the disadvantages of a sole proprietorship and few of the advantages of a corporation. Consider very carefully whether your prospective partners will be bringing into the company enough to make the risk worthwhile. At the very least, try to find someone who can provide something you don't have, like money, contacts, carpentry experience or sales skills.

Again, the advantages:

- 1) The sum is usually greater than its parts. With one or more partners, you should have plenty of capital and expertise.
- 2) If you lack startup capital or management skills, bringing in partners may be the quickest and easiest way to get the business going.
- 3) Except for the contract between the partners, it's a very simple form of ownership.

And the disadvantages:

- 1) All partners are liable for all company debts.
- 2) Business losses may be deducted only to the extent of your investment.
- 3) You're legally responsible for the actions of your employees.
- 4) You're responsible for the business decisions of the other partners whether you know about them or not.
- 5) A partnership is dissolved after a partner's death and must be reorganized.
- 6) If your business income is high, you'll pay more in taxes than if you operate as a corporation. The partnership files only an "information" return showing income and expenses. Whatever profit is earned is divided among the partners and each pays tax on those earnings.

Corporation

A corporation is legally separate from the people who own and operate it. It's like a third invisible person. It can bid, make contracts, receive loans, and will pay taxes on its earnings. It goes on living even when shareholders sell their stock or managers leave the company or die. A partnership, on the other hand, is dissolved on the death of a partner. A corporation makes it easy to continue business from year to year. Although it's a very minor benefit, in some states it's also possible to pass on a construction license within a corporation.

Most corporations raise money by selling shares or stock. If you decide to incorporate, be sure to authorize far more shares than you ever expect to issue. From that point on you can sell any of the shares that have been issued.

You may own all of the shares, in which case you control the business. However, if you want to raise additional money for your company, you may sell shares to others. In doing so, you're also selling part of your control. As long as you keep over 50 percent, though, you have the votes to control the company. Of course, most investors want some voice in how their company is run. Raising money will be easier if you're willing to share control.

If you incorporate, you become an employee of the corporation. Both your salary and the fringe benefits you receive will be expenses to the corporation — part of the cost of doing business. The corporation doesn't have to pay taxes on that money. But, of course, you do. The corporation pays income tax on the profits it makes every year, even if that money is used to buy equipment or vehicles or to carry inventory or accounts receivable. If part of that profit is distributed to stockholders, it's taxed twice, once as profit to the corporation and once as income to stockholders. That's one major disadvantage of incorporating.

Most companies choose to incorporate for two reasons. First, corporations are taxed differently and usually at a lower rate than individuals. As of this writing, corporations pay federal tax of only 15 percent on the first \$50,000 of net income (profits). If you took that same \$50,000 as additional personal income, your federal tax rate would probably be 28 percent. Keeping profits in the corporation lowers the tax so you can accumulate the money needed to run your company. Of course, that money isn't in your pocket yet. If and when the money does reach your pocket, you'll still have to pay the tax.

There's another reason why so many companies incorporate. Unlike sole proprietorships and partnerships, your personal liability is probably limited to what you've invested in the company. Both the tax advantages and limited liability need more explanation. First, taxes.

Tax Differences

There are two kinds of corporations. Although there are a few characteristics that distinguish the one from the other, for all practical purposes, the choice is

usually based on tax considerations. The two types of corporations are type C corporations and type S corporations.

In a C corporation, the corporation pays taxes on its profits. When the corporation distributes some of those profits to shareholders in the form of dividends, shareholders pay a second tax on the distribution. That's why most small corporations don't pay dividends. It's double taxation. It saves tax to pay a larger salary (a deductible business expense to the corporation) and no dividends.

An S corporation blends the advantages of a partnership with the advantages of a corporation. You still have the legal protection from personal liability. But all income and losses are passed through to the stockholders who then have to pay the tax, even if they didn't actually receive any money. Stockholders pay tax on their share of profits at their regular tax rate. That's the same rate as would apply if the company were run as a proprietorship or partnership. In effect, you escape the double taxation problem that you would have in a C corporation.

Limited Liability

A corporation can sue and be sued. If it's set up and run correctly, the corporate shell protects shareholders from liability. To have this advantage, though, it's very important that you separate personal finances from corporate finances. If you don't, a court may decide that you and your corporation are one and the same, exposing you to personal liability for corporate debts.

Which Corporate Form Is Right for You?

Unless you expect to make a lot of money or have more than the S corporation's current legal limit of 50 shareholders, we recommend an S corporation over a C corporation. Most small, and certainly most new, corporations are not profitable enough to make it worth their while to choose a C over an S. The tax advantage of being an S over a C is less than it used to be with the most recent tax changes. Have both your attorney and your accountant make a recommendation. The IRS allows one switch from C to S or the reverse. After that, you need IRS approval to change again. With good advice, you can choose the one right for you and stick with it from the beginning.

The Final Word

Incorporation doesn't make you a better remodeler. It won't make your company any more profitable. In fact, we would suggest putting off the decision to incorporate until you've been doing business for a few years. There's no hurry. Your banker will insist on getting your personal guarantee on loans whether you're incorporated or not. So you'll probably be personally liable for most corporate debt anyway.

	Sole Proprietorship	Partnership	S Corporation	C Corporation
Financial liability limited to your investment?	No	No	Yes	Yes
Business losses may be deducted? Only to extent of investment.	All	All	All	All
Where does startup money come from?	You	You and partner	Shareholders	Shareholders
Easy to form?	Yes	Yes	No	No
Ease of succession?	Hard	Hard	Easy	Easy
Can license be passed on?	No	No	In some locations	In some locations
Who is legally responsible for decisions made?	You	You	Corporation	Corporation
Who is legally responsible for employees' actions?	You	You	Corporation	Corporation
Tax status?	Pay as individual	Pay as individual	Pay as individual	Pay as corp. & individual

Figure 1-1

Forms of ownership

There's another reason to delay incorporation. It's expensive, usually a thousand dollars or more. Better to spend your money on what will bring in more money than on legal formalities. Wait a few years until business is good and getting better. Then spend some money to form your corporation.

Figure 1-1 compares the three forms of ownership. Use it to compare the advantages and disadvantages of each form.

Choosing Your Name

No matter what form of business you choose to set up, there are some things a new remodeling company has to do. The first is probably choosing your company name. Does that sound easy? Choosing a name can be surprisingly hard. Consider the following.

- 1) You want a name that isn't already being used.
- 2) You want a name that identifies the kind of work you do.
- 3) You want a distinctive name that people remember.
- 4) Ideally, you want a name that has all three of the above.

Still think it's easy? Try this exercise. Look in your local Yellow Pages under home improvement and read through the listings. Now close the book and try to remember as many company names as you can. Do any stand out? If any have, try

and figure out why. If none do, maybe you can better understand how difficult it is.

For most remodelers, the easiest solution is also the most common. How many company names included the name of the owner: John Doe Remodeling? A name like this satisfies the first two elements listed above, but doesn't do much for three and four. How many were Miller Kitchens? Or White Construction? The first is so specific a homeowner might wonder if you do baths or additions. The latter is so general you wonder if they do a little of everything — and none of it well. Nevertheless, you're probably better off being too general rather than too specific, especially if you're like most remodelers and you do all kinds of remodeling and some new construction. Certainly for your new construction work, a name that has *remodeling* in it wouldn't be a good choice.

Good names are hard to find. One of the few we know of is used by a highly successful competitor in our area. His last name is Klass and he goes by Klass-ique Remodeling. It's a clever play on his name that's worked well for him. For some reason, the same contractor uses the name "The Remodeler." We don't know the history of that, but suspect that more than once he's regretted the clumsiness of using two company names. His combined name neatly fits criteria 1, 2, 3, and 4: A unique name that identifies the scope of work and is easy to remember.

If you live in a small town, choosing a unique name for your business probably isn't very important. Most people are going to be calling Tom Smith, not Best Remodeling. In fact, they may be confused if you do choose a name that doesn't directly identify you. In an urban area, your company name may be far more important. And while a name alone can't sell a job, if it sticks in the consumer's mind, it may get you in the door to bid a project.

Of course, even the worst name won't sink your company. But it can be a handicap. One tendency we've noticed is that remodelers often end up using their own name one way or another, even if they've chosen a completely neutral name for their company. If Tom Smith has a good reputation, potential clients will probably hear and remember his name and not Best Construction. Best Construction may be a nuisance for Tom Smith because it confuses potential clients.

The solution? Choose one name and use it. Put it on your stationery, vehicles, business cards, caps, all your advertising. If you know who your company is, the public will have an easier time knowing too.

One last note. Don't worry about choosing a name that will be listed first in the Yellow Pages. As we'll discuss in the next chapter, a Yellow Pages listing is more a courtesy to your clients who already know you. Very few remodelers get much work from the Yellow Pages; certainly not enough to merit an awkward name.

Registering Your Company Name

Once you've selected a name, your next step is to claim it officially as yours. Now's the time you'll probably run across the letters *DBA*. *DBA* is short for *doing business as* and refers to your business name. Only sole proprietorships and partnerships are identified this way. Corporations are chartered by each state and don't need a *DBA*.

If your company is a proprietorship and the name is Best Remodeling, for legal purposes you're Tom Smith, DBA Best Remodeling.

The DBA information informs the public of the person (or persons) responsible for the business. Not all states or counties require you to register your DBA. If you live in one that does, registering a DBA usually requires only payment of a fee and completing a simple form. Usually you'll have to run a small ad in the local paper giving notice to the public of the name you're using. Check with your county clerk and with your state's Secretary of State office.

You can't use a name that's being used by another business. Likewise, once you have registered your name, no one else in your area of registration may legally use that name. If you find the name you've chosen is already registered by someone else, don't give it up immediately. Check with the business that registered the name. If they're no longer using the name, they'll probably be very willing to release it.

Corporate names have to be unique too. The Secretary of State or Department of Corporations in your state probably keeps a register of names currently in use. They probably have a phone number where you can check the availability of a name and have that name reserved while your corporation is being formed.

An Employer Identification Number

Once you have a name, you'll need an Employer Identification Number (EIN), sometimes called a Taxpayer's ID number. An EIN is required if you have employees. If you don't have employees, you may use your Social Security number. However, if you plan to ever hire anyone, you might as well file for one right away. It saves the hassle and confusion of changing over later.

It's very easy to get an EIN. Either visit your local IRS office or call the toll free number listed in your phone book. Ask for Form Number SS-4. See Figure 1-2. They'll ask whether you plan to set up a proprietorship, partnership, or corporation. If you're still thinking it over, they'll send you a packet for each. Fill out the right form and you'll be sent an EIN. Use this number when you pay federal taxes or need to correspond with the IRS. Many states use your federal EIN on state tax forms. Check with your state revenue service to see if you need a separate state number. If you do, you should be able to get a form from that office.

Getting a Business and Contractor's License

You may or may not need a business license to operate. Although most cities require a license for retail businesses, not all will require one for construction or remodeling companies. Check with your city or county clerk to see if you need one. Again, this license is easy to apply for and the fee minimal.

Form SS-4 (Rev. August 1988) Department of the Treasury Internal Revenue Service	Application for Employer Identification Number (For use by employers and others. Please read the attached instructions before completing this form.) Please type or print clearly.	Official Use Only OMB No. 1545-0003 Expires 7-31-91
1 Name of applicant (True legal name. See instructions.)		
2 Trade name of business if different from item 1		3 Executor, trustee, "care of name"
4 Mailing address (street address) (room, apt., or suite no.)		5 Address of business, if different from item 4. (See instructions.)
4a City, state, and ZIP code		5a City, state, and ZIP code
6 County and State where principal business is located		
7 Name of principal officer, grantor, or general partner. (See instructions.) ▶		
8 Type of entity (Check only one.) (See instructions.)		
<input type="checkbox"/> Individual SSN _____ <input type="checkbox"/> Plan administrator SSN _____ <input type="checkbox"/> Partnership		
<input type="checkbox"/> REMIC <input type="checkbox"/> Personal service corp. <input type="checkbox"/> Other corporation (specify) _____		
<input type="checkbox"/> State/local government <input type="checkbox"/> National guard <input type="checkbox"/> Federal government/military <input type="checkbox"/> Church or church controlled organization		
<input type="checkbox"/> Other nonprofit organization (specify) _____ If nonprofit organization enter GEN (if applicable)		
<input type="checkbox"/> Farmers' cooperative		
<input type="checkbox"/> Estate <input type="checkbox"/> Trust		
<input type="checkbox"/> Other (specify) ▶		
8a If a corporation, give name of foreign country (if applicable) or state in the U.S. where incorporated ▶	Foreign country	State
9 Reason for applying (check only one)		
<input type="checkbox"/> Started new business <input type="checkbox"/> Changed type of organization (specify) ▶		
<input type="checkbox"/> Hired employees <input type="checkbox"/> Purchased going business		
<input type="checkbox"/> Created a pension plan (specify type) ▶ <input type="checkbox"/> Created a trust (specify) ▶		
<input type="checkbox"/> Banking purpose (specify) ▶ <input type="checkbox"/> Other (specify) ▶		
10 Business start date or acquisition date (Mo., day, year) (See instructions.)		11 Enter closing month of accounting year (See instructions.)
12 First date wages or annuities were paid or will be paid (Mo., day, year). Note: If applicant is a withholding agent, enter date income will first be paid to nonresident alien. (Mo., day, year).		
13 Enter highest number of employees expected in the next 12 months. Note: If the applicant does not expect to have any employees during the period, enter "0."	Nonagricultural	Agricultural
		Household
14 Does the applicant operate more than one place of business? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," enter name of business. ▶		
15 Principal activity or service (See instructions.) ▶		
16 Is the principal business activity manufacturing? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," principal product and raw material used. ▶		
17 To whom are most of the products or services sold? Please check the appropriate box. <input type="checkbox"/> Business (wholesale)		
<input type="checkbox"/> Public (retail) <input type="checkbox"/> Other (specify) ▶ <input type="checkbox"/> N/A		
18 Has the applicant ever applied for an identification number for this or any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No Note: If "Yes," please answer items 18a and 18b.		
18a If the answer to item 18 is "Yes," give applicant's true name and trade name, if different when applicant applied.		
True name ▶		Trade name ▶
18b Enter approximate date, city, and state where the application was filed and the previous employer identification number if known.		
Approximate date when filed (Mo., day, year)	City, and state where filed	Previous EIN
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.		Telephone number (include area code)
Name and title (please type or print clearly) ▶		
Signature ▶		Date ▶
Note: Do not write below this line. For official use only.		
Please leave blank ▶	Geo.	Ind.
		Class
		Reason for applying
For Paperwork Reduction Act Notice, see instructions.		
U.S. Government Printing Office: 1988-523-133/00332		Form SS-4 (Rev. 8-88)

Figure 1-2
Application for Employer Identification Number

Licensing is a hot issue for remodelers all over the country. About one-half the states currently require contractors to have a license. Some licenses are not much more than a business license: fill out the form and pay the fee. Others are much more demanding. Some require extensive testing, bonding, and proof of Workers' Compensation, liability insurance, and financial stability. And the test and application fees can be steep. To put teeth into the law, some states won't allow unlicensed contractors to sue for payment under a construction contract that exceeds \$600. A few states use part of the license fee to help consumers who have claims against insolvent contractors.

Florida is one of the more regulated states. The license exam is a two-day, 16-hour open book test. Less than a third of the people who take the test pass the first time around. The Florida system is also one of the more expensive. Books for the test cost \$630, an application costs \$175.

Many remodelers object to licensing laws. They feel government control of the industry is heavy-handed and the industry could do a better job of regulating itself. Many also believe that licensing is too costly for the small remodeler. And these costs are eventually passed on to the client. Others complain that the tests don't do any good. They don't test a remodeler's character or his construction skill. More important, states don't enforce the license law. There are too many unlicensed contractors running around making good money.

But there's another side to this debate. Licensing can help increase professionalism in the industry and can help to weed out the fly-by-nighter. Usually, states with solid testing and enforcement have more qualified construction contractors and fewer marginal operators.

In spite of the negatives, licensing is here to stay. If testing and enforcement are credible, then licensing is probably good for the industry. If they're not, licensing is just another burden you have to carry.

If you live in an area or state which requires a license, check with your local building department, county clerk, or contractor's license board for information on how to get licensed. All the tests we're aware of are open book, but you still need to study the material so you know where to look for answers. Take the requirements seriously, even if the testing authority doesn't. Passing the exam will make you a more qualified professional in the industry.

The Certification Option

If you don't live in an area that requires a license, you have another option. Both the National Association of the Remodeling Industry (NARI) and the National Association of Home Builders (NAHB) Remodeler's Council offer certification programs that may interest you.

The NARI program is for an individual, not a company, and must be renewed every year. The exam, which is open book, covers 21 areas of remodeling. Testing is scheduled several times each year in major cities. Again, this isn't cheap. The initial cost runs \$340 for NARI members, and \$600 for non-members. Re-certification costs \$75 and \$225 respectively.

In addition to the exam, you must have at least seven years' experience in the remodeling industry. You must also prove that your business dealings meet NARI standards.

The Remodelor's Council certification program is similar. For more information on either certification program contact the executive director of NARI or the executive director of NAHB Remodelor's Council. Their addresses are listed in Chapter 16 at the end of this book.

Opening a Business Checking Account

Banks love accounts opened by remodelers. They usually come with high cash flow, operating loans, and construction loans. Some bank in your community will probably offer very good terms on a checking account if you ask. At the very least, ask for free checking and no holds on local checks. You may also want a line of credit and a check guarantee.

You'll probably find that a small bank will serve you better than a large one. The first six years in business we banked at one of the largest banks in town. We had only one account with them — our company checking account. But they could never seem to understand that we were a business and had special requirements. In fact, they didn't seem to understand what we needed from our bank. We switched to a smaller bank and were amazed at how helpful our banker could be. Another advantage of a small bank? Once they got to know us, they sent a considerable amount of work our way.

Getting Bonds and Insurance

Although bonding is a form of insurance, it has one very important difference. Insurance policies cover losses that you can't absorb yourself. A bond, on the other hand, guarantees that money is available to do what's required. A bond is the bonding company's promise to pay. That makes getting a bond like getting a loan. You'll get a bond only for about as much as you could borrow. In a sense, the bond fee is like a loan commitment fee. A bonding company won't agree to back you unless it knows you're good for the money. If you don't perform as promised, the bonding company has to make good. Then they'll try to recover their loss by suing you.

Unless a state requires a bond to get a license, many small remodelers will go through their whole career without getting bonded. Bonds are usually required for certain kinds of government work and most larger commercial and industrial jobs.

There are several types of bonds.

- 1) *License bond* — This is the most common kind of bond. Many states now require a small license bond. This bond usually guarantees you'll do work according to code. It does not guarantee anything about completion or payments. Although the cost for a license bond may vary from state to state, it'll run around \$50 and will need to be renewed every year.
- 2) *Bid bond* — On larger jobs the contract documents may require that either a bid bond or a certified check for 5 percent of the contract price be submitted with the bid. Usually the bid bond has to be for 10 percent of the bid total. The check or bid bond guarantees that if you win the bid, you'll sign the contract for your bid amount. A bonding company won't issue a bid bond for a job unless they're willing to write performance and payment bonds for the same job.

If your bid is the lowest but you're not willing to sign the construction contract, the measure of damages may be the difference between what you bid and the next lowest bid. This amount usually won't be more than your bid bond.

Bid bonds are usually written without charge because the bonding company has little or no liability until you win the bid. Then they get paid for the performance and payment bonds you need.

- 3) *Performance and payment bonds* — The performance part of the bond covers the owner if you don't complete the project according to specifications. The payment bond guarantees that all of your labor and material bills will be paid so there's no supplier or mechanic's lien on the project. If you're bonded through an insurance company, the cost of these bonds will usually be 1 to 2 percent of the total contract price. If you can't qualify for a bond with commercial insurance carriers, the Small Business Administration (SBA) has a program that may qualify you for bonding. The usual cost is from 2 to 3 percent of the contract price. If the job total is \$100,000, your bond cost will be \$1,000 to \$2,000 with an insurance company or \$2,000 to \$3,000 with the SBA.
- 4) *Maintenance bond* — This bond assures the owner that you'll fix all defects in your work and materials for a period of time after work is completed. The usual period is no more than three years.

- 5) *Supply and subcontractor bonds* — These bonds are like the contractor's payment bond. They guarantee that the sub's labor and material bills will be paid. The bond is paid for by the sub or supplier and is included in the cost of their bids.

Your insurance agent can help you get bonded. There is no up-front charge for this, but there is a lot of paperwork — about like applying for a loan. If the insurance company approves you, you'll be charged only for the bonds you require. Figure 1-3 shows a sample application form. As you can see, applying for a bond isn't easy. The process usually takes from three to six weeks to process.

Liability and Workers' Comp Insurance

These are very important to your business. Even if the law doesn't require you to carry general liability insurance or Workers' Compensation, you'd be crazy not to. Every remodeler has a high level of exposure to risk. If you don't pay an insurance company for coverage and something happens, you'll lose everything you have. And maybe more.

We'll explain both of these in more detail in a later chapter.

The Final Checklist

Here is a brief checklist of the things necessary for starting your own remodeling business.

- 1) Choose a business form (proprietorship, partnership, or corporation).
- 2) Select a name.
- 3) Register the name.
- 4) Get an Employer Identification Number (EIN).
- 5) Get a business license.
- 6) Get a contractor's license or NARI certification.
- 7) Open a business checking account.
- 8) Get the bonds you need.
- 9) Buy business liability insurance and Workers' Compensation coverage.

What About a Franchise?

We can't end this first chapter without talking about franchises. A franchise is the right to market a product or service under a specific name in a given area. A franchisor is the one who sells the rights; a franchisee is the one who buys the rights. It's an option that has some attraction, especially if you feel really unsure

CONTRACT, BID OR MAINTENANCE BOND APPLICATION		Bond No. _____
STATE SURETY COMPANY		
		_____ Agent
NOTE		
(a) Copy of contract, applicant's current financial statement (Form 2545) and contractor's information blank (Form 2592) must accompany this application, if not previously furnished. (b) All questions must be answered fully. (c) The Company reserves the right to decline this application and to withhold reason for declination, as all information relative thereto is regarded as confidential.		
1. Full Name of Applicant (If corporation, give exact title) _____		
2. Business Address (Street, City and State) _____		
3. Name and Address of Oblige to Whom Bond is to be Given _____		
4. Concise Description of Proposed Work and Location _____		
5. Contract or Bid Price _____ Date Bids to be Opened _____ Date of Award _____		
6. The following kinds and amounts of bonds are required:		
Bid Bond	Performance Bond	Labor, Material Bond
\$ _____	\$ _____	\$ _____
		Maintenance Bond
		\$ _____
		Other
		\$ _____
7. Time for Completion _____ Penalty for Delay _____ Terms of Payment and Retained Percentage _____		
8. List all other bids, including highest and lowest. (If more than four bids, tabulate on separate sheet and attach.)		
NAME	ADDRESS	AMOUNT OF BID
9. Name and Address of Architect or Engineer in Charge _____		
10. His Estimate of Cost of Work _____		Your Estimate of Cost _____
11. Will you sublet any part of the work? If so, state nature and amount. _____		
(Tabulate on separate sheet if necessary)		
12. Will subcontractors be required to give bonds? _____		
13. Terms and duration of guarantees of efficiency, maintenance and repairs, if any, in contract or specifications _____		
Is bond to cover this? _____		
SSC 2506 (Rev. 7/77)		(OVER)

Figure 1-3
Contract, bid or maintenance bond application

NOTE: If a fully completed application has been previously furnished us, only question 16 need be answered.

14. Number of Years Experience as a Contractor (For Yourself) (For Others)

15. List the most important contracts you have completed during the past five years:

KIND OF WORK	LOCATION	NAME AND ADDRESS OF ARCHITECT OR ENGINEER	CONTRACT PRICE	YEAR COMPLETED

16. List of contracts now being performed, with location, amount and percentage completed, including outstanding bids.

NATURE OF WORK AND OWNER	LOCATION	CONTRACT PRICE	% COMPLETED	EXPECTED COMPLETION DATE

17. Have You Applied to Any Other Company For This Bond? (If so, state when, to whom, and with what result?)

18. Have You Furnished Bid or Performance Bonds Before? (If so, give names of surety companies and state what bonds are now outstanding)

19. Have You Ever Failed to Complete Any Work Awarded to You? (If so, give details)

20. Have You Received Financial Assistance From Your Present or Previous Surety?

21. References. Give name of your banker, an architect or engineer, an owner, also supply houses who have granted you credit.

NAME	OCCUPATION	ADDRESS (Give Street Address, Town, State and Zip Code)

22. Have you, or if a firm or corporation, has said firm or corporation, ever been bankrupt or insolvent?

Figure 1-3 (cont'd)
Contract, bid or maintenance bond application

AGREEMENT

THIS AGREEMENT entered into by and between State Surety Company, Des Moines, Iowa hereinafter called the "Surety" and the principal and other signatories herein sometimes called the "Indemnitors".

WITNESSETH:

In consideration of the surety executing the bond or bonds herein applied for or procuring the execution thereof, the principal and the indemnitors, hereinafter referred to as "Indemnitors," for themselves, their heirs, their executors, their administrators, their successors and assigns, jointly and severally covenant and agree as follows:

1. That the statements contained in the foregoing Application are represented by the indemnitors as true and correct and are made without reservation for the purpose of inducing the surety to become surety on the bond or bonds herein applied for.
2. If the application is for a bid bond and the principal is awarded the contract, that said principal shall not be obligated to secure the final bond or bonds from the surety nor shall the surety be obligated to sign or procure such bond or bonds.
3. The indemnitors will pay to the surety at its home office the premium, or premiums, including all additional premiums, if any applicable to the bond, or bonds, herein applied for, in the amount or amounts set forth at the rate or rates filed with the State in which the bond or bonds were executed.
4. The indemnitors will indemnify and save the surety harmless from and against every claim, demand, liability, cost, charge, judgment and expense which the surety may incur or be obligated to pay as a consequence of having executed, or procured the execution of such bond or bonds; or any renewal or continuation thereof or substitutes therefor, in making any investigation on account thereof, in prosecuting or defending any action brought in connection therewith, obtaining a release therefrom and enforcing any of the agreements herein contained, including and not limited to attorneys' fees and expenses of attorneys. Indemnitors further agree to pay the reasonable fees of attorneys in bringing any action for the enforcement of indemnitors' liability to the surety arising under this agreement. In the event of payment by the surety the indemnitors agree that the voucher or other evidence of such payment shall be prima facie evidence of the propriety thereof and the amount thereof.
5. If the surety shall set up a reserve to cover any claim, suit or other liability arising under such bond or bonds, the indemnitors will, immediately upon demand, deposit with the surety a sum of money equal to such reserve or securities acceptable to the surety. That in such property, the surety shall have a security interest and the surety shall have the rights of a secured party under the Uniform Commercial Code, as adopted by the state of Iowa, and it is further agreed that reasonable notice shall be satisfied by giving to the person who deposits such collateral security, five days' notice of any contemplated action or disposition.
6. The Surety is authorized and empowered, without notice to or knowledge of the Indemnitors to assent to any change whatsoever in the Bonds, and/or any contracts referred to in the Bonds, and/or in the general conditions, plans and/or specifications accompanying said contracts, including, but not limited to, any change in the time for the completion of said contracts and to payments or advances thereunder before the same may be due, and to assent to or take any assignment or assignments, to execute or consent to the execution of any continuations, extensions or renewals of the Bonds and to execute any substitute or substitutes therefor, with the same or different conditions, provisions and obligees and with the same or larger or smaller penalties, it being expressly understood and agreed that the Indemnitors shall remain bound under the terms of this Agreement even though any such assent by the Surety does or might substantially increase the liability of said Indemnitors.
7. The company shall have the right and is hereby authorized, but not required:
 - (a) To adjust, settle or compromise any claim, demand, suit or judgment upon said bond or bonds or any of them, unless the indemnitors shall request the surety to litigate such claim or demand, or to defend such suit or to appeal from such judgment, and shall deposit with the surety at the time of such request, cash or collateral satisfactory to it in kind and amount to be used in paying any judgment or judgments rendered or that may be rendered, with interest, costs and attorneys' fees; that such collateral shall be held as provided in paragraph five hereof;
 - (b) To fill up any blanks left herein, and to correct any errors in the description of any of said bond or bonds, or in any name or names, it being hereby agreed that such insertions or corrections, when so made, shall be prima facie correct.
8. The surety is hereby authorized, but not required to, make or guarantee advances or loans for the purposes of the contract without the necessity of seeing to the application thereof; it being understood that the amount of all such advances or loans, unless repaid with legal interest by the principal to the surety when due, shall be conclusively presumed to be a loss hereunder.
9. Indemnitors do hereby convey and assign unto the surety any and all payments, funds, money or property due or to become due the indemnitors under the contract and general intangibles which arise during the performance of the contract which required the bond or bonds applied for, and the indemnitors do hereby assign, transfer and set over to the surety all their right, title and interest in and to all subcontracts let in connection therewith, all machinery, plant equipment, tools and materials which shall be upon the site of work or elsewhere needed for the performance of such contracts including all material ordered for such contracts and the indemnitors do hereby authorize the surety to endorse in the name of the payee and collect any check, draft, warrant or other instrument made or issued in payment of any such sum and to disburse the proceeds thereof.
10. In the event the principal under any bond written as a result of this application:
 - (a) Abandons, forfeits, or breaches the contract or (b) breaches any bond given in connection therewith or any other bond or bonds executed or procured by the surety or (c) fails, neglects, or refuses to pay for labor and materials used in the prosecution of the contract or (d) if an individual dies, absconds, or cannot be found by the usual methods of communications, or is incarcerated or (e) have proceedings instituted alleging that the principal is insolvent; or (f) have proceedings initiated, the effect of which may be to deprive the principal of the use of any part of the equipment used in connection with the work under the contract so as to hinder, delay or impede the normal and satisfactory progress of the work; the surety shall have the right, but not the obligation, to take possession of the work under the contract and at the expense of the indemnitors to complete the contract or cause or consent to the completion thereof.
11. The surety, and its designated agents, shall, at any and all reasonable times, have free access to the books and records of the indemnitors.
12. The surety shall have the right at any and all reasonable times to ascertain from the bank, banks, or other depository with which the indemnitors do business, the amounts standing to the credit of the indemnitors, and the indemnitors' indebtedness to such bank, banks, or other depository and such are authorized and directed to supply the surety with such information.
13. Separate suits may be brought hereunder as causes of action accrue and the bringing of suit or recovery of judgment upon any cause of action shall not prejudice or bar the bringing of other suits upon other causes of action, whether theretofore or thereafter arising. Said actions may be commenced at the discretion of the surety in the Courts of the County or judicial district wherein the Capitol is located of the State wherein the indemnitor against whom action is brought resides.
14. Nothing herein contained shall be considered or construed to waive, abridge, or diminish any right or remedy which the surety executing such bond or bonds might have if this instrument were not executed. Should any clause or any part of this agreement be held to be void or unenforceable, such finding shall not invalidate the remaining covenants contained in this agreement.
15. If the surety procures the execution of such bonds by other companies, or executes such bonds with co-sureties, or reinsures any portions of such bonds with reinsuring companies, then all the terms and conditions of this Agreement shall apply and operate for the benefit of such other companies, co-sureties and reinsurers as their interests may appear.
16. The undersigned expressly agree and stipulate that their homestead(s) shall be liable for any and all indebtedness hereunder and that their homestead(s) may be sold on execution to satisfy any indebtedness arising under this agreement or any judgment rendered thereon.
17. The word indemnitors, or personal pronouns used to refer to said word, shall apply regardless of number or gender, and to individuals, partnerships or corporation as the circumstances require.
18. That this agreement contains the whole of the agreement of the parties hereto, and any subsequent agreement of the parties hereto shall be only in writing, and signed by the President, a Vice-President, Secretary or an Assistant Secretary of the Surety.
19. The Indemnitors do hereby waive the benefit of any statutory limitation of liability of indemnitors as contained in the statutes of any state.

Continued on page 4

Figure 1-3 (cont'd)

Contract, bid or maintenance bond application

AGREEMENT – Continued

20. That this Agreement shall constitute a Security Agreement to the Surety and also a Financing Statement, both in accordance with the provisions of the Uniform Commercial Code of every jurisdiction wherein such Code is in effect and may be so used by the Surety without in any way abrogating, restricting or limiting the rights of the Surety under this Agreement or under law, or in equity.

21. Waiver of Exemptions. Each of the Undersigned does, jointly and severally, bind his or her property and does hereby release and abandon, as to the Surety all right to claim any property, including their homestead, as exempt from levy, execution sale or other legal process under the law of any state, province or other government, as against the rights of the Surety to proceed against the Undersigned for indemnity hereunder. The Undersigned also waive the provisions of Sec. 204.075 of the Wisconsin Statutes and any similar provision in any other jurisdiction.

PLEASE BE SURE application is dated, witnessed or attested, signed and notarized in full.

This Agreement shall be effective this _____ day of _____ 19_____.

APPLICANT

(SEAL)

Witness or Attest:

NOTARY ACKNOWLEDGMENT of applicant's signature.

By _____
(Officer's Name and title if a corporation)

State of _____ }
County of _____ } SS

Subscribed and sworn to before me this _____ day of _____ 19_____ (SEAL)
NOTARY PUBLIC

INDEMNITY

In consideration of the aforesaid Surety executing the bond or instrument herein applied for, the undersigned join or joins in the foregoing indemnity agreement, and agree or agrees to be jointly and severally bound thereunder, and by all of the terms, covenants, and conditions thereof; the undersigned admits and declares that it has a material, substantial, and financial interest in the performance of the obligation which the bond or instrument applied for is given to secure, or in execution of the bond or instrument applied for, and asserts that if a corporation or a partnership is fully empowered to obligate itself hereby.

INDEMNITORS:

WITNESS: _____ (SEAL)
Signature

Address

WITNESS: _____ (SEAL)
Signature

Address

WITNESS: _____ (SEAL)
Signature

Address

NOTARY ACKNOWLEDGMENT of Indemnitors' Signatures.

State of _____ }
County of _____ } SS

Subscribed and sworn to before me this _____ day of _____ 19_____ (SEAL)
NOTARY PUBLIC

WITNESS AND NOTARIZATION MUST BE COMPLETED FOR INDEMNITORS' SIGNATURES

Figure 1-3 (cont'd)

Contract, bid or maintenance bond application

about your entry into the remodeling market. After all, what worked for McDonald's and 7-Eleven might also work for construction!

If this book had been written five years ago, there might have been a full chapter on franchising. Five years from now, it may not be mentioned at all. At least, that's the direction we see it heading.

In the early 1980s experts predicted that remodeling franchises would swallow up a large part of all remodeling business. Nearly one-half the new construction businesses fail in the first two years. The survival rate among franchises is usually above 90 percent. It seemed like franchising was just what the remodeling industry needed.

Somehow it never happened. After nearly a decade, there are at most 2,000 companies nationwide that have bought franchises. That 2,000 includes everything from remodeling to gutter cleaning companies. Out of the 200,000 to 300,000 home improvement companies in the U.S., that isn't much. Nor do they have much impact in any market area.

Remodeling franchises haven't spread like wildfire because the public hasn't gone for it. People may be willing to tolerate large, faceless companies to build their houses, but they seem to prefer a small, hands-on kind of company to do their alterations. People eat at McDonald's because they know it's going to look, taste, and cost about the same no matter if they're in Mattoon, Illinois, or Garden City, Kansas. But renovating a home isn't like catching a quick bite. You don't do it that often, so you better find someone who can do it right.

Most of those who predicted the spread of remodeling franchises were experts on franchising and marketing. They knew very little or nothing about the difficulties and quirks of remodeling. As a result, most of the early boom fizzled fast. It turned out that teaching a teenager to flip hamburgers or run a cash register was very different from teaching someone to patch drywall or trim.

Mr. Build is one of the biggest franchisors, with hundreds of franchisees. It was started by the same people who started the Century 21 real estate franchise. While marketing and sales are vital to real estate, they are only a small part of remodeling. No matter how much help the parent company can be in those areas, it's much harder to standardize construction techniques and regulate quality when the home office is 2,000 miles away.

There are some advantages to franchising. A good franchisor will offer good training on marketing and management. You'll get good quality advertising and an effective referral system. Unlike the early franchise operations, most of the companies now franchising in the remodeling field are run by true remodeling experts — people who have built successful remodeling companies. Most have experience and good advice to share.

Keep in mind, though, that most franchisors now try to avoid new startup companies. They prefer to sign up well-established firms. They want established successes, not companies that require time, energy and training. That alone says a lot about the value of a franchise to you.

The biggest advantage a franchisor can give you is access to information. But that information will cost you. Some franchises charge as little as \$1,000 for the name, but then several thousand more to cover setup costs, and either a flat fee or a percentage of your gross take each month for advertising and management. Others will charge as much as \$100,000 plus the monthly fees. For money like that you'll get a "turn-key" operation. One that should have retail space, trucks, computers, and a well-trained staff.

Remember that the franchise fee is in addition to your normal startup cost and regular overhead. How much will you have to add to bids to cover the extra overhead? Can you be competitive in your area if you have to charge this amount?

If you're still interested in buying a franchise, consider the options carefully. At the end of this chapter you'll find names, addresses and a brief sketch of some of the more solid franchisors. If you contact these people, ask some of the questions listed below. Don't be satisfied until you get some straight answers. After all, you're entitled to know what you're buying. Be especially wary of new or very small franchisors. Of the two dozen or more remodeling franchisors that have been started in the last ten years, probably only half are still around. Of those, only two have more than 100 franchisees nationwide. Eight report fewer than 25.

Questions to get you started:

- 1) How long has the franchisor been in business?
- 2) How many active franchisees are there?
- 3) How many franchisees are no longer with this franchise?
- 4) How much is the initial fee?
- 5) What additional fees are there? Will they go up?
- 6) What do I get in return for these fees?
- 7) What kind of information will I get? (Can you get the same information cheaper at the library, bookstore, or from a construction book publisher such as Craftsman, Walker, or R.S. Means?)
- 8) What kind of training will I get? (Can you get the same training at NARI or NAHB seminars or local college night classes?)
- 9) What are my ongoing costs?
- 10) If the franchisor goes under or pulls out of my area, will I get my money back?
- 11) What does this franchise have to offer that others don't?

Here are names and addresses of franchisors that were active at the time this book was written (Fall 1990):

Paul W. Davis Systems
5111-6 Baymeadows Road
Jacksonville, FL 32217

Contact them at (904) 730-0320. Specializes in insurance restoration work. Most franchisees are located in the eastern half of the U.S. Cost is an initial cash investment of \$20,000 with additional \$25,000 needed for operating capital. Monthly fees start at 2.5 percent of gross.

Four Seasons Greenhouses
5005 Veterans Memorial Highway
Holbrook, NY 11741

Contact them at (516) 563-4000. Sells franchises for design and remodeling centers and specialty trade franchises (plumbers, electricians, carpenters, etc.). The initial cost is \$50,000 to \$100,000 for design centers and \$3,000 for specialty trade franchises.

Mr. Build Handyman Services, Inc.
Glastonbury Corporate Center
628 Hebron Ave.
Glastonbury, CT 06033

Phone (203) 657-3607. Mr. Build franchisees cover a whole range of services in addition to remodeling. Fees start at \$3,000 with \$600 or more in monthly service and advertising fees.

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