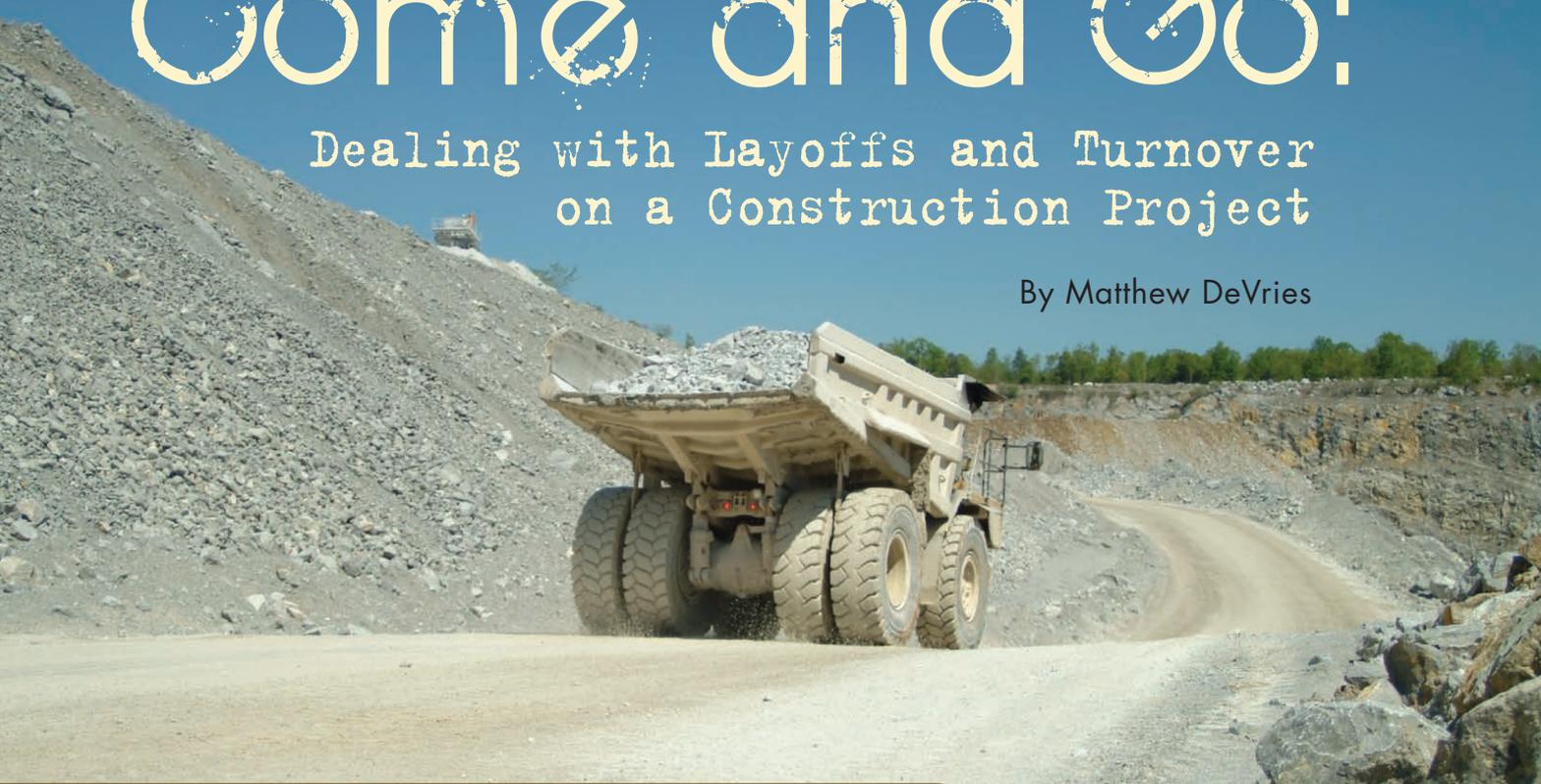


Come and Go:

Dealing with Layoffs and Turnover on a Construction Project

By Matthew DeVries



“WHEN PEOPLE COME AND GO, PROJECT TEAMS OFTEN HAVE DIFFERENT WORKERS AT DIFFERENT TIMES. AND THAT CAN CREATE PROBLEMS.”

When you read this headline from a major newspaper, what do you think? Does it apply to those involved in the construction industry? How do layoffs affect morale in your business? You can imagine the potential problems that exist in an industry such as construction where project team members change regularly.

WHAT DO THE STATISTICS SAY?

According to a recent career guide published by the U.S. Department of Labor's Bureau of Labor Statistics, the "contract construction field is very competitive" and the "rate of business turnover is high" in the managerial occupations. Contrast that with the federal employment data released on a monthly basis over the past few years that shows a steady decline in construction employment. These statistics foreshadow two issues: layoffs and turnover.

WHAT IS A RIF?

Reductions in the size of a workforce have always been a fact of the construction industry. The use of a trendy name (*downsizing, rightsizing, RIF*) does nothing to alleviate the painfulness and complexity of this process. The human side of workforce reduction often comes to mind first. With careful planning, and a dignified approach to the process, most construction companies are able to minimize the emotional toll on those employees who are terminated and build morale for those remaining team players.

DECIDING TO IMPLEMENT A LAYOFF

The legal aspects of a workforce reduction can be more problematic because it can expose your company to unnecessary liability by terminated employees and investigations (and sometimes sanctions) by government agencies. Here are some steps that should be taken *before*

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you make the final decision on how, or if, to reduce the size of your workforce:

- **Analyze and document the reasons for a workforce reduction.** Discuss measures designed to avoid the workforce reduction and document why those measures failed or were considered undesirable. Measures you might consider include voluntary reductions in the workforce, hiring freezes, and salary freezes.
- **Review any and all employee handbooks.** Assure that nothing in the anticipated reduction in force violates any handbook provision.
- **Check employment agreements.** Determine which employees, if any, have employment agreements, non-compete/non-solicit agreements, confidentiality agreements, stock option agreements, or any other type of written agreement pertaining to their employment.
- **Talk to all insurance carriers and/or brokers.** Discuss the implications of the proposed workforce reduction. Be sure to discuss the proposed effective date. This applies to all insurance policies including medical, dental, life, disability, directors and officers coverage, etc.
- **Consider the impact on 401(k) and other retirement plans.** This is for both the terminated employees and for the persons who will remain at the company. This

may require consultation with your attorney and/or accountant.

- **Evaluate other accounts.** If you have flexible spending accounts, health savings accounts, or cafeteria plans, discuss the implications of the proposed reduction in force with your accountant and/or attorney.
- **Consider other benefits.** Determine company policy and/or applicable state law regarding payment of accrued vacation or PTO time to terminated employees.
- **Evaluate severance.** Are you going to offer severance payments to any of the employees to be terminated?
- **Plan for payment of wages.** Consult legal counsel regarding specific state law on payment of final wages to a terminated employee.

WHAT NEXT?

The good news is that the legal aspects of a reduction in workforce are not difficult to identify and address. The challenges are to make sure you go through this evaluation process, do it properly, and then develop a plan to address morale within the company. Team building. Shared vision. Commitment. These are more than buzz words—they are essential areas that your company must embrace as you work through a termination and deal with turnover. Employees may come and go, but your company should stay focused on having the right team. ■

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