



**LEVELSET**

*Payment help is here.*

# Three Steps to Get Paid on Every Construction Project



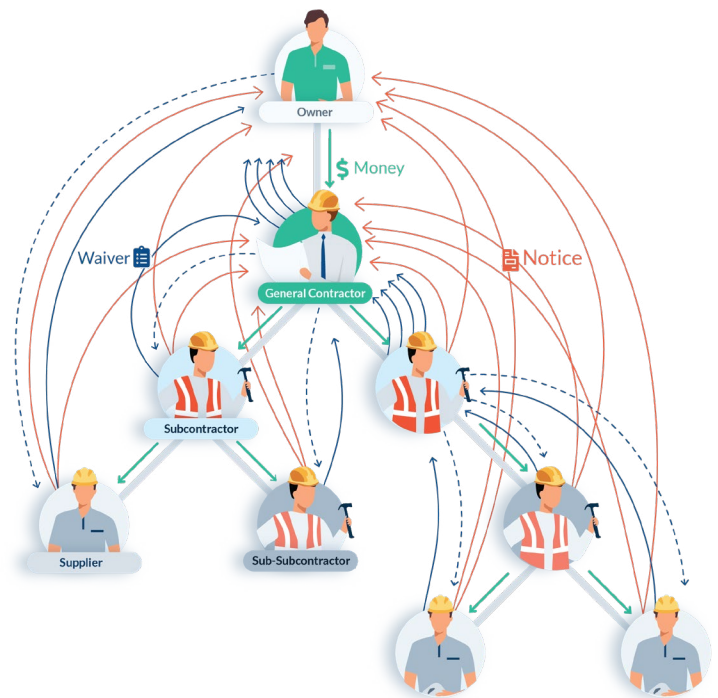
# Three Steps to Get Paid on Every Construction Project

Every year, **\$1 trillion** makes its way through the construction industry. **\$1 trillion**. That's a lot of money changing hands. And in construction, payments are complicated because they're tied to a complex network of laws and paperwork. All this red tape creates a stress-filled nightmare that results in slow pay cycles, bullying, burdensome paperwork, and costly disputes.

At Levelset, we don't want anyone to lose a night's sleep over payment. We're here to help you get payment under control. Let's work together to end the frustration, distrust, and fear that plague the construction industry.

Today, the construction industry is overwhelmed with **frustration, distrust, and lawsuits.**

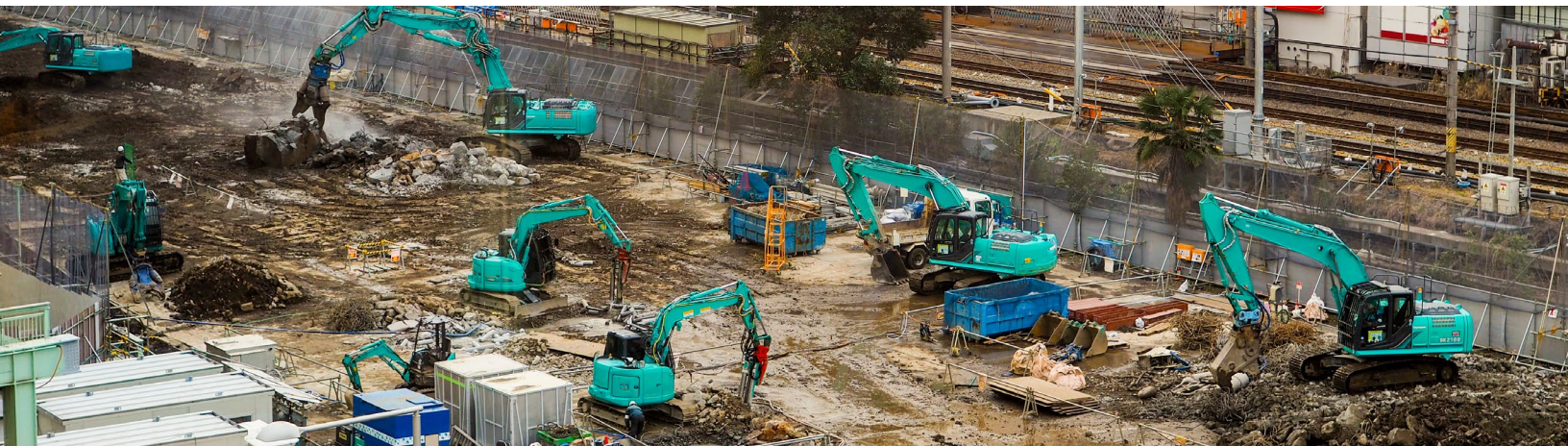
Below, we outline **three steps** to help you improve your payment process for every construction job, no matter where you are in the payment chain. This process focuses on visibility and communication to help you level the path to payment and avoid problems. Learn what you can do to ensure good outcomes and build strong relationships on all your jobs.



**1. Plan Payment** - page 3

**2. Exchange Payment** - page 5

**3. Resolve Problems** - page 8



# Step 1: Plan Payment

Set yourself up for successful payments by following best practices from the beginning.

## Why?

### Remember the golden rule

Just as you'd like transparency, clear expectations, and access to necessary information, others on the job do too! Open communication benefits everyone, whether you're a GC looking to see everyone hired to work on your job, or a supplier who needs information about the project property.

## How?

### Start on the right foot

Simple, straight-forward **contracts** are the first step to starting a job off right. Outlining the project from the beginning helps avoid confusion down the road. With a clear contract in place, expectations are communicated from the start, and the job starts from a foundation of trust.

Before the job even begins, it's important to create a **credit policy** that works for your business. Credit decisions are vital to a business's ability to function smoothly, because they directly impact the bottom line. That means sticking to a well-formed and properly drafted credit policy is of the utmost importance. The best credit policies are well-structured, comprehensive, and consistently followed.

**Project Information Sheet**

Job Name:

Job Type:

Who hired you?



In 2018, **46%** of companies said they had **used a credit line** to cover slow payments.

No matter where you are in the payment chain, collecting key information about the job (like who owns the property, the jobsite address, if there's a lender, and more) at the start of a project can save you time and stress later on. Use a **project information sheet** — also known as a job sheet — to guide which information you collect. Submitting project information sheets to others on the job — whether or not they've been requested — will help provide valuable clarity to those higher up the payment chain and will promote transparency on the job.

## Request the information you need

The best way to get information is to simply ask for it. No matter your role on a job, sending a **request for information** can go a long way toward finding out or confirming who else will be working on a job. Depending on the situation, the party who receives the request might even be required to provide information by law! Regardless of any requirements, most construction businesses are happy to exchange information with others on the job. Once you have a clear picture of the job, you can send visibility docs like preliminary notices to make sure **you're seen**.

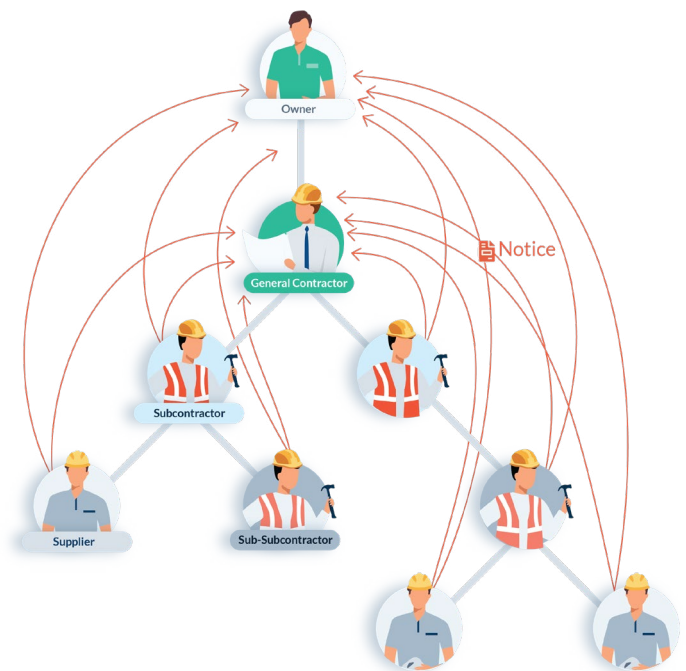
For those higher up the payment chain — like general contractors — something as simple as requesting a **list of subs and suppliers** from your subcontractors to see who *they've* hired helps you start a job on the right foot. Don't hesitate to ask for this information. Most subs are happy to provide clarity, but some states actually require a response. This information can help you stay organized so you know who to get waivers from down the line. You can also reference this information later on to make sure everyone on a job gets paid so you can avoid liens.



## Let others know you're on the job

Everyone should send Visibility Docs like **preliminary notices** to make sure the property owner, GC, and other parties up the payment chain know you're on the job. The information contained in notices is super useful to the parties at the top of a job tree. It's so useful, in fact, that many states actually **require** that subs, suppliers, and even GCs send preliminary notices at the start of a job. Sharing this information helps waivers and payments flow smoothly so you don't run into problems. **Send a notice now.**

**Note:** Sometimes these notices have other names, like Notice to Owner or Notice of Furnishing, and often they're called "prelims" or "lien notices".



# Step 2: Exchange Payment

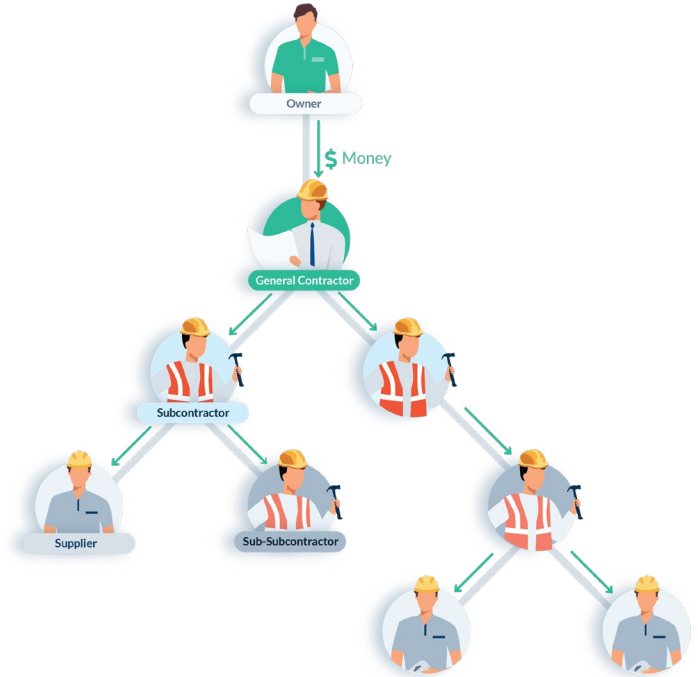
Make payments happen by exchanging the right paperwork, at the right time, with the right people.

## Why?

Paperwork can be a pain, but it's an essential part of getting paid. Documents like invoices, pay apps, and waivers are so closely tied to payments they're almost part of payment itself.

## How?

When utilized correctly, these documents ensure clear communication about payments between the parties on a job.




**Payment Application**

From Contractor:

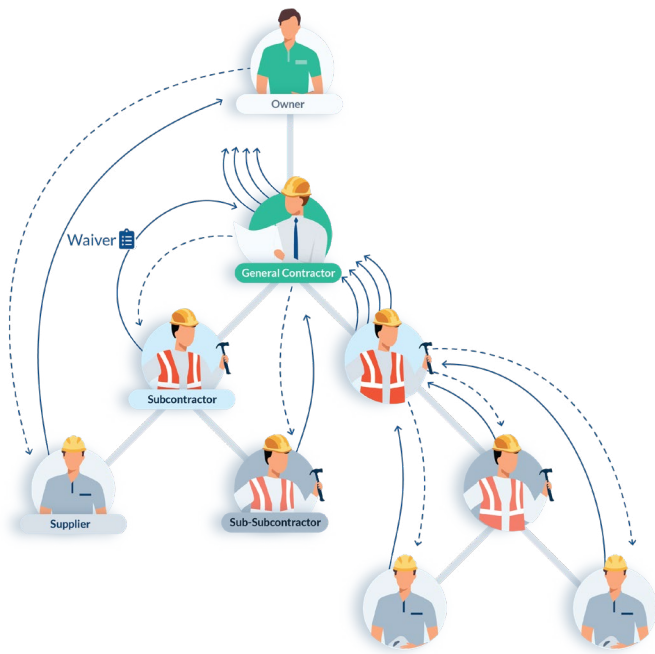
Application Number

Application for Payment



## Get payment details right

**Payment applications** (or Pay Apps) serve as a review of the project's status and justify the applicant's request for payment, and a **schedule of values** is the start-to-finish list of work items on a project with corresponding values. Paying parties typically request these documents from the parties they will be paying. **Send a pay app** through Levelset, or **download** our schedule of values template from [levelset.com](http://levelset.com) to save time getting started.



## Exchange lien waivers

A **lien waiver** serves as a sort of receipt or “proof of payment.” When parties get paid, they sign waivers to acknowledge the payment amount, which releases their right to lien for that amount. Depending on the type of waiver, it may go into effect the moment it is signed, or it may not be valid until the person signing actually gets paid. Waivers can be for progress or final payments. They are exchanged frequently on construction jobs, so it’s important to have a clear process for handling incoming and outgoing waivers. **Exchange a waiver now.**



### Subs & Suppliers

It’s generally safe to sign conditional waivers before payment is received. They don’t go into effect until after payment is made.

Unconditional waivers go into effect as soon as they’re signed. As a result, businesses should be more careful with these.



### General Contractors

It’s best practice to collect waivers from everyone on the job, even if you don’t hire them directly. Using a request for a list of subcontractors and suppliers can help you identify lower-tier subs and suppliers that you didn’t directly hire.

It’s a good idea to send conditional waivers before making payment. Subs and suppliers tend to be less cautious with these. Some contractors prefer to follow up with unconditional waivers after payment is made, as well.

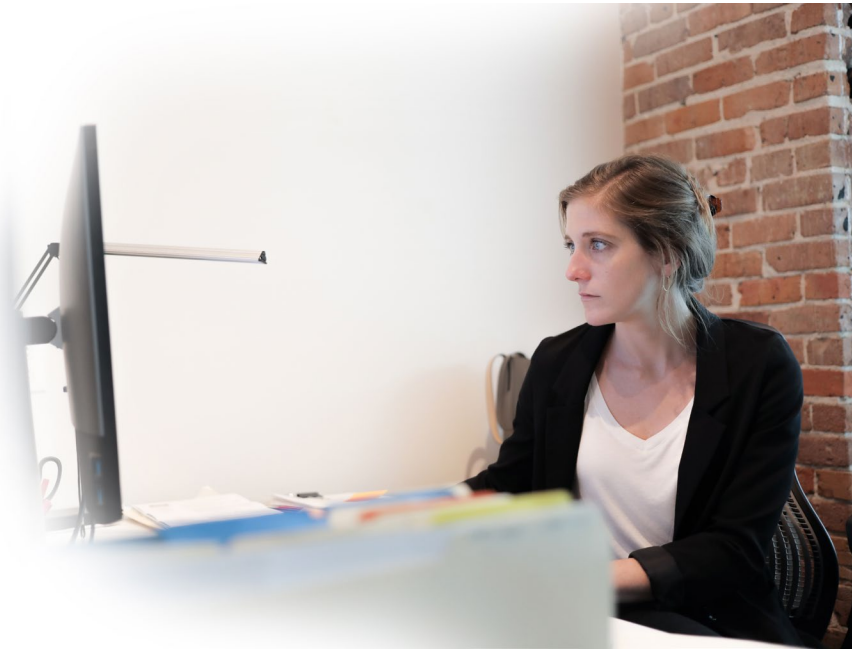
**Only 8%** of construction company owners and managers say their companies always **pay them on time.**

## Communicate about completing work

As the project nears its end, it’s important to determine what needs to be done to close the project out and what will happen when it’s finished. The better communication is at this stage, the less likely it will be that payment disputes arise.

**Retainage** is a percentage of the amount due for the labor or materials furnished to a construction project that is withheld and not paid out until the final completion of the work. Retainage is often heavily negotiated, and many states have laws governing how much retainage can be withheld and for how long.

Because retainage often represents (or even exceeds) a project participant's margin on the job, playing with another party's retainage is a dangerous game. Many payment disputes begin with retainage issues. So, using fair, transparent retainage practices can help smooth exchanges of payment.



A **punch list** is a list of corrections, alterations, or repairs that must take place before a project can be closed out.



### Subcontractors

After completing a walkthrough with the owner, the GC may call certain subcontractors back to the project to correct outstanding issues.



### General Contractors

Generally, the GC will do a walkthrough with the owner to identify any incomplete or non-conforming work and create the initial punch list. Then, they may call certain subs back to the job to complete the punch list.

A **notice of completion** is a document stating that the construction project has been completed. It establishes an official date of completion which starts the clock for several deadlines, including (but not limited to): a date for the release of retainage, warranty periods, and lien claims.

A notice of completion can be used by owners and contractors to create a sense of certainty. Once a notice of completion is filed, they can rest assured that most potential liabilities will be behind them soon. Note, of course, that notice of completion filings aren't available everywhere.

# Step 3: Resolve Problems

Speed up late payments and resolve payment problems when they arise.

## Why?

No one wants to encounter payment problems, but they happen, whether that's getting paid two weeks late or getting burned on a job. For parties near the top of the payment chain, having a lien filed by a subcontractor or supplier can be a huge problem for you and your customer. The best way

to prevent and solve problems is by **directly communicating with other people** on the job. No matter where you are in the payment chain, there are options to resolve the dispute without burning bridges – or risk getting burned yourself.

In 2017 construction disputes took an average of **17.7 months to resolve.**

## How?

Building strong, collaborative relationships with other parties on the project will make everything run more smoothly, and it will help to avoid these disputes in the first place. But there are many ways to solve a payment dispute when they do arise. Payment documents like waivers, notices, and liens come to mind most often. But these should be seen as an aggressive last resort options, not go-to solutions. Being mindful of deadlines and exchanging the legally-required documents is *smart*, but there are better options before going nuclear.

### Talk to other people

Often, non-payment is simply due to miscommunication, and taking a step to communicate about the problem is the first step toward getting it solved. Whether you're the person waiting to get paid, or on the other end, explaining why payment has been delayed, it's better to talk it out than to hide from the problem or summon your lawyer.

Communication doesn't mean shooting one email, sending one text, or even leaving a voicemail – that just looks like communication. Rather, be open and direct.

If that means exchanging a few emails, swapping text messages, or making a phone call – so be it! But both parties should leave every conversation with a clear understanding.

**Talk to Your Project Contacts**

Owner: I got your notice. We paid the GC last week.  
Sub (You): Did he not pay you? 8:44 AM  
Owner: 10:30 AM  
Sub (You): No, I was supposed to get paid by the 15th.  
Owner: I'll tell the GC he needs to get back to me by tomorrow.  
Owner: If he doesn't, I'll cancel the payment and issue a joint check.  
Sub (You): Thanks. I'm happy to send a conditional waiver for the amount.

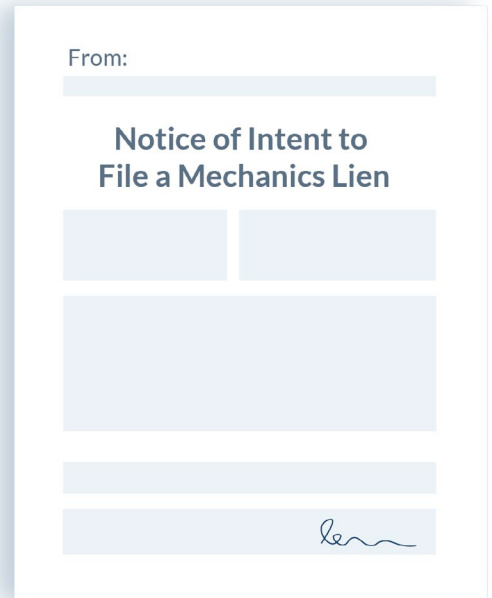
\*Conversation on the Levelset Platform



## Send a Warning

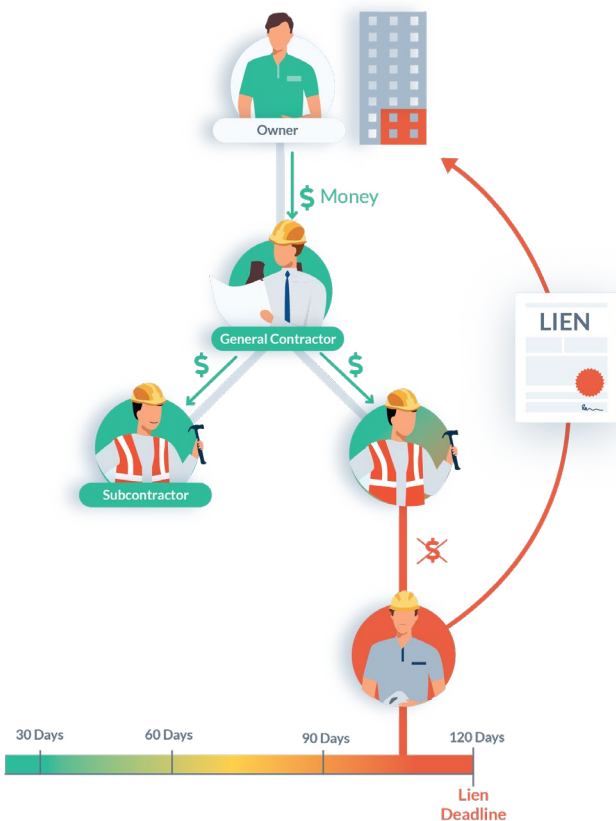
Another good way to prompt payment without burning bridges is sending a **demand letter** or a **Notice of Intent to Lien (NOI)**. These letters are warning shots to let the recipient know (usually the GC, property owner, and/or lender) that there is a payment problem, and if it isn't resolved, you will take further action to secure payment. Demand letters and NOIs carry more weight than a casual email, but they are *not* legally enforceable — so they are a lighter option than filing a claim. Communicating with others in the payment chain to inform them that your payment is late is **often enough to get the ball rolling**. **Send a payment demand now.**

A handful of states actually require that claimants send NOIs before proceeding with a lien claim. **Send a NOI now.**



## File a Claim

Most project participants will be able to file a **mechanics lien** if unpaid on a residential or commercial construction project. Often, preliminary notice must be sent in advance to secure the right to later file a lien. A mechanics lien claim attaches to the property title where the project is located — and it lights a fire underneath the owner and lender (if applicable) to resolve the payment dispute before further action becomes necessary. Ultimately, if a lien claim remains unpaid, a claimant could potentially force the foreclosure of the property. If that becomes necessary, payment would come from the proceeds of that foreclosure. **File a lien now.**



For **public projects**, mechanics lien claims won't be an available remedy — but a payment bond claim might be. On federal jobs, Miller Act claims are often available to secure payment. For jobs owned at the state, county, or municipal level, the given state's Little Miller Act will generally provide the ability to file a payment bond claim to secure payment. **File a bond claim now.**

**Prompt payment** laws set forth specific timeframes when GCs, subs, suppliers, and other parties involved on construction jobs should be paid. Broadly speaking, prompt payment is determined by law — either the federal Prompt Payment Act or an individual state's prompt payment laws. In states where prompt payment laws are present, an unpaid construction business may be able to make a claim for payment under prompt payment laws, and recovery will generally include interest penalties.

## Other ways to get paid

**Alternative Dispute Resolution (ADR)** refers to methods that can be used as an alternative to litigation in order to work out disagreements between parties. An ADR clause refers to provisions in a contract that set out how a dispute between the parties on a construction project will be handled before resorting to more extreme and expensive measures. The most common ADR methods are mediation and arbitration, but dispute resolution boards are a construction-specific option.

No one wants to go to **collections**. It takes forever, damages relationships, and only results in partial payment. If the necessary steps are taken early on a project, ugly remedies like collections can typically be avoided.

Finally, many people **default to attorneys** when they run into a payment problem, but it's a good idea to explore other options first. Lawyers are expensive, and often they charge to do things – like sending demand letters and filing liens – which could have been done without the help of a lawyer. And Levelset is always here to help if you're uncertain about getting started on your own!



# Three Steps to Get Paid on Every Construction Project:

## The SET Method

At Levelset, we refer to this three-step process as the **SET Method**. Following this method can make it easier to avoid the three biggest killers to collaboration and simple payment: fears, frictions, and fires. The framework follows three simple principles: **see everyone** and be seen on the job, **easily exchange paperwork**, and **talk it out**.

We go into more detail about the SET Method in our free **Lienzero eBook**, but the three steps above sum up the driving principle: communication is key when it comes to construction payment.

Instead of **protection**, focus on **collaboration**,  
and instead of **leverage**, focus on **good outcomes**.



### See and be seen on the job

Prioritize visibility from the very beginning of every job. Make sure you can see who else is on the job, and most importantly, make sure they can see you!



### Exchange paperwork easily

Paperwork is part of the game, so make sure you have a process in place that makes it easy to create, send, request, and receive paperwork quickly to speed up payment.



### Talk it out!

Communication is the best way to solve most problems, including payment disputes. Open communication channels to resolve issues and improve business relationships.

By focusing on visibility and communication, you can foster better relationships and reduce stress in every part of the payment chain. If you have questions about the SET Method, or want help setting up an effective process for your business, **reach out to Levelset** for help.