

CONSTRUCTION MANAGEMENT PRESENTER: PAUL BONACCORSI

- Paul Bonaccorsi is the originating Principal of WLC Construction Services, Inc., an established firm that is now 8 years strong.
- Started with WLC Architects, Inc. in 1986 designing schools and public works projects.
- In 1998, began a strong interest in total project problem solving and felt the team approach, from funding, to design, and all construction-related issues could be made simpler and better for the Client.
- Paul is currently on his 23rd year of designing and building schools and is an Officer of the ACCM (Association of California Construction Managers) that works hard for K-12 School Districts.

AN INTRODUCTION TO WLC CONSTRUCTION SERVICES, INC.

- WLC Construction Services, Inc. (WLCCS) is primarily a multi-prime Construction Manager (CM) with some project management services and will be beginning to provide at-risk delivery methods in 2009, when appropriate.
- The majority of WLCCS's multi-prime completed and current projects have been with WLC Architects, Inc. It is a team approach for the Client and is challenging and transparent in all aspects of the project delivery methods. There is no finger-pointing, only solutions.
- WLCCS believes that the multi-prime delivery method is the best mix of lowest possible bids with District control and flexibility.

INDEMNIFICATION FROM A CM POINT OF VIEW:

- Write a fair and insurable indemnification clause in contracts.
- A fair clause is making every consultant and Client responsible for their actions and related legal costs.
- If fair language, trust is gained early.
- Unfair example: A modernization and/or working on an existing site and making the consultant responsible for all underground and existing building conditions with little or no accurate as-build drawings, abatement report, soils report, or the last DSA project information, from the last 20-50 years. Then not allowing for costs or time in the contract for investigation to verify conditions for the determined budget and scope.

COMPLETE BID DOCUMENTS FROM A CM POINT OF VIEW:

Some things to avoid:

- Bidding before local agency approvals.
- Unrealistic project and construction schedules.
- Little or no District staff input.
- Avoid late changes in Construction Document Phase, near DSA approval (making late changes creates construction change orders).
- Large addenda and many addenda.
- Putting projects on hold then rushing a project back out to bid after a long period of waiting.
- In the new grant program, DSA approval governs funding, so try not to have DSA approval be the only governing task before bid. Rushing creates an incomplete bid set and funding tool.
- CM observation: The same bid set can be complete for one contractor and not another. Sometimes, there are different agendas by each contractor.

COMPLETE BID DOCUMENTS FROM A CM POINT OF VIEW:

Some things to work towards:

- State and local agency approvals prior to bid.
- Realistic project and construction schedules.
- Have a Plan 'B' schedule. Must plan for the unforeseen.
- Include more Client input from the District by using or developing standards and programming, and do not forget staff input.
- District should be more involved with local agency requirements.
- Agency approval comment: The District's consultant is just another consultant to the City or utility company without the face of a Client representative. The Client being involved shows how important this project is to the District.

STATE AGENCY CHECKPOINTS FROM A CM POINT OF VIEW:

- In general, I think the State does a pretty good job of enforcing codes, and I like the State's plan check process over most cities and counties.
- Is the State consistent? Not really, and needs improvement.
- DSA challenge is to adjust to all of the new delivery methods while maintaining their strict and necessary safety and inspection standards.
- DSA's role is fire, life, and safety, not quality control of the bid documents.
- Just because a project is DSA approved, it does not mean it is ready for bid or to be submitted to OPSC for final funding.
- More focus needs to be put on local agency approval also. Much of the funding, through additional State grants, are generated by the local, not State, approvals.

PERFORMANCE AND PAYMENT BONDS:

- Performance and payment bonds are required for public projects and contracts.
- All bonds must be California admitted.
- Discrimination of bonds with an independent ratings service is prohibited.
- Cost of bonds average about 1-3% of the contract amount.
- Performance and payment bonds guarantee that all suppliers and labor is paid on a project for completion.
- CM observation: In the past two years, sureties who issue the bonds have been more involved in reviewing all submitted bids to verify the contractor's bid is good and they will bond the project. If the low bid is too low, the contractor may not be responsible because it cannot obtain a bond due to the surety being deemed too risky.

IMPLEMENTING PERFORMANCE AND PAYMENT BONDS

- Surety bonds are a tool to minimize contractor default rates.
- Project bonding.
 - Typically the GC, or at-risk contractor, is the only contractor required to bond the project.
 - In a multi-prime scenario, all trade contractors are required to have bond.
- Additional risk management suggestions.
 - For at-risk contracts, require all subcontractors to bond. Suggested minimum limits should be 50-150k. It is an additional cost to the project.
 - Require contractors to self-perform contract work it has a license for.
 - Make sure all bonds, GCs, and subcontractors, are in effect for duration of project.
- With credit markets tight in today's world, Clients need to watch for:
 - Fronting - An unqualified contractor forms an arrangement for another contractor to bid or bond the project for a fee. The fronting contractor usually is not qualified for the type of work or is propping up a very weak contractor for a large financial reward.
 - Unauthorized bonds - A contractor or agent will issue bonds with the knowledge and/or approval of the surety.
 - Altered bonds - Unauthorized changes, usually in the amount of coverage.

BONDING CONSIDERATIONS FOR DELIVERY METHODS

- Owners rarely understand that a subcontractor's failure can cause the default of a GC. In such cases, the GC's failure then impacts the entire contract, even causing the failure of other subcontractors.
- Under an Agency CM multi-prime arrangement with bonded bid packages, the default of a subcontractor will not cause the failure of the CM. Damage can be contained to that specific subcontractor and its surety. This is one reason why sureties favor bonded bid packages .
- Public owners who have had high contractor failure rates have seen significant reductions in defaults after implementing a subcontract bonding policy. Bonded bid packages have also helped to reduce defaults by improving the cash flow cycle for subcontractors.
- Under Agency CM multi-prime projects, subcontractors no longer have to wait extended periods for payment and yield to unreasonable requests by GCs who are withholding payment. Owner's have fewer payment related disputes under CM projects, and subcontractor suppliers and subcontractors have better protection from the performance and payment bonds.

MULTI-PRIME DELIVERY METHOD

- This construction delivery method is a decision to manage risk with an experienced CM from the beginning of the project and to protect the District's interest, not the contractor's interest.
- Public agencies should use a delivery method to obtain the lowest responsible bid.
- Multi-prime is one very good way to obtain the lowest bid from all local trades in the vicinity of the project.
- The additional liability in the multi-prime method that differs from a general contractor bid is:
 - The multiple trade contracts held by the Owner and managed by the CM.
 - The additional related closeout paperwork.
 - The CM properly scoping each trade's responsibility.
- The protection of the multi-prime delivery method is:
 - The integration of the contractor's input and assistance early in the project as well as after the bid.
 - All of the trades are required to qualify for their own performance and payment bond.
 - The CM works for the District.
 - The CM prepares the schedule for bidders and manages the construction and project schedule.
- The District, as a developer of the new or existing school project is liable for all project costs, no matter the delivery method. So it is essential for the District to pick the most cost effective way to manage that risk and keep the project in their own control for best results.

TYPICAL PROJECT LIABILITIES

- District, staff, consultants, and (if local funds) community vision.
- Defined budget and scope.
- Defined project schedule.
- Defined construction schedule.
- Final project costs.
- Final construction costs.
- For multi-prime, add trade contractor's scoping.
- Funding and maximizing the State's fair share of the project.
- Complete bid documents representing the District's goals.
- Construction of design is per bid documents, quality, and completeness.
- In multi-prime, add multiple trade contracts which the CM manages.
- Project change orders.
- In multi-prime, add more paperwork for changes.
- DSA and OPSC project closeout.

PROTECTIVE MEASURES

- Define the perfect Team: The District, A & E team, and CM team. Hopefully there are not any personnel changes by any of the team members.
 - One main District contact person, ideally empowered for financial and program decisions, or can obtain answers quickly.
 - One contact person for the consultants.
- Pre-construction services.
 - Clear definition of services of each team member, no duplications unless necessary for quality control.
 - In multi-prime, this service is flexible based on project size and complexity.
- Traditionally, the CM is hired early with the A & E team and is part of the budget, scope, and District's vision. If the CM is hired later, their vision may not be the same.
- Project and construction schedule. Obtain buy-in from all team members to production and review times and agreed upon agency time frames. The agency time frames are estimates and production times are commitments.

PROTECTIVE MEASURES CONTINUED...

- Total Team agreement on budget/estimates and planned cost and schedule contingencies.
- District contingencies are a must for success. Again, this is District controlled money, not the Architect, CM, or contractors in the multi-prime delivery for their own use.
 - Early in the project, have design contingencies and reduce as design is completed. Start with 10% at schematic and 0% after all approvals.
 - Construction contingency for project. 5% is a good number to use. Higher percent for remodels.
 - Construction cost index, quarterly increases to mid-point of construction. Depends on economy. Old average was 1.5% per quarter.
 - Soft cost contingencies. Suggest 3%.
 - And total project contingencies. Suggest 2%.
- Continually monitor State and local funds to make sure they match original projections of the State and local shares.

PROTECTIVE MEASURES CONTINUED...

- Use the CM and its trades for quality control of the bid set and coordination of disciplines and systems, estimate, and construction schedule.
- Verify that all quality comments were addressed and are complete before DSA approval. If after DSA approval then an addendum will be issued.
- Prior to DSA submittal walk the District through each room and specifications to confirm if finishes are what they want. I suggest color selection at this time.
- DSA closeout: Make sure each team member completes all paperwork to obtain DSA approval in a timely manner. I suggest walking in as much as possible or as allowed by the local DSA office.

WARRANTIES FROM A CM POINT OF VIEW

- Develop a communication tool for repairs per District staff.
- Develop time allowed for repairs to occur.
 - For example, only after school hours.
 - OR anytime, but a staff member must be made aware of repairs occurring.
- Owner should keep staff educated the maintenance of all systems to avoid additional costs from contractors or voiding the warranty.
 - This can be as simple as using the correct filters on the AC and actually changing filters.
 - Keeping roofs free of debris.
- Communicate immediately, in writing to the contractor, of warranty issues, do not wait until the last minute.