



REALITY CHECK



Volume 00-01, Issue 5

Delaware Chapter ASPE

FEBRUARY 2001

Bruce Gollicker, Editor, Pyro-Tech Fire Protection

ASPE Mission Statement

The American Society of Professional Estimators serves construction estimators by providing education, fellowship, and opportunity for professional development.

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REALITY CHECK is published by the American Society of Professional Estimators Delaware Chapter, Inc., which is solely responsible for its content.

President's Message

February's Message

With the inauguration of the new administration, parts of the economy seem to be slowing down. Various economic estimates indicate the economy will slow down from 2% to 8% from last year.

With a declining market, companies vie to keep their share of a smaller pie. Since no one wants to take a smaller piece of the pie, the economic pressure

drives job prices down. The key to staying in business is to win profitable jobs. Pressure to make profit spawns innovative ideas to cut cost. It also creates tighter bids with greater risk.

We, the estimators need to identify all the ways a job can be done faster and cheaper. In addition, we need to help management make informed decisions by clearly apprising them of the profit and loss potential of each bid.

All this adds up to more work and more pressure on the estimators. How we handle the pressure will affect our company's health and our personal health.

Not only do we need to be careful of the company's risks; we also need to be careful of our own personal risks. We don't do our companies or our families any favors by working ourselves into a hospital or worse.

So, in the midst of all these pressures, it is important to find ways to maintain a balance between work and family. In the coming months I hope you will find your chapter meetings are a valuable resource of estimating ideas, a place for relaxation and a relief from stress.

Also, ASPE offers the Standard Estimating Procedures (SEP) manual, a library of technical papers on estimating and access to other estimators in our trades, whom we can talk freely to because they are in different geographic areas.

Ed Alexander, President

ASPE Delaware Chapter #75

American Society of Professional Estimators

Bid Shopping and Bid Peddling

The American Society of Professional Estimators in its Code of Ethics has stated that bid shopping and bid peddling are unethical and are not to be practiced by members of the society.

BID SHOPPING

Bid shopping, as defined in Canon #5 of the Code, occurs "when, after the award of the contract, a contractor contacts several subcontractors of the same discipline in an effort to reduce the previously quoted price."

In other words, if a prime bidder attempts to compel a sub-bidder to lower a previously quoted bid price, that is bid shopping. Bid shopping may occur either on bid day or after bid day; either before or after the award of the contract.

In addition to price information, the status of a sub-bidder's competitive position or technical scope are equally sensitive. Legitimate practice precludes use of this information in haggling, trickery, or coercion of any kind. During contract negotiation, sub-bidders should not be advised, nor should they inquire, of the other bidder's price or scope, nor of any changes that would be required to qualify them as the successful sub-bidder. After sub-bidder commitments are made, or within a reasonable time after prime contract award, sub-bidders should request. And should be advised of their competitive position, both in price and scope.

Owner's Participation

Bid shopping is not confined to prime bidders and sub-bidders. Some owners also participate by encouraging prime bidders to bid shop and by bid shopping themselves. Ethical contractors will propose value engineering to lower their bid. They will not engage in bid shopping. Owners will protect the confidentiality of prime bidder's value engineering ideas and all other pre-award submissions.

Bid Peddling

Bid peddling, defined in Canon #7 of the Code of Ethics, occurs when a sub-bidder "approaches a general contractor who has been awarded a project with the intent of voluntarily lowering the original price below the price level established on bid day. This action implies that the subcontractor's original price was either padded or incorrect."

When sub-bidder lowers a price to get closer to or below the legitimate price, that is bid peddling. Whether or not the low price bidder has a contract, whether or not the action occurs before or after bid time, it is bid peddling.

Comparable Price

"Price" here means "comparable price", the price which accurately reflects to the prime bidder a scope of work comparable to the other sub-bidders in the trade. It is the prime bidder's responsibility to understand the complete scope of

work being bid by the sub-bidders, and to determine the value of adjustments to a sub-bidder's price which must be made to compare it with other prices. In this way, sub-bidder prices are judged "apples to apples."

When negotiating a contract, it is the sub-bidders responsibility to provide accurate prices for legitimate scope additions and deletions, where necessary, -not to use such pricing as an opportunity to bid peddle.

Excerpt taken from: *American Society of Professional Estimators Bid Shopping and Bid Peddling*



PROFESSIONAL PRACTICES

"WORK BY OWNER"

By Dave Wyatt, *The Construction Specifier*, June 2000

Occasionally, an architect must incorporate work by the owner into construction documents, either performed directly by the owner's personnel or by separate contract executed by the owner. Such situations usually involve a unique aspect of the project in which the owner has special knowledge and over which the owner wishes to exert special control. Architects who design for retail clients are familiar with the associated challenges. Examples include equipment unique to the owner's operation, such as medical equipment, retail specialties, and corporate imaging products (e.g. signage) with which the owner has had a high level of experience. Regardless of the owner's experience level, the A/E and the contractor for the remainder of the project must manage a unique set of responsibilities when the owner intends to perform a portion of the work.

There are a few points to consider for successfully incorporating requirements for work by the owner into the construction documents and ensuing coordinated execution of the work.

Both AIA and EJCDC General Conditions preserve the owner's rights and responsibilities for separately contracted work. AIA A-20101997, Article 6, refers to such work as "construction by owner or by separate contractor." EJCDC 1910-8 Article 7 uses the term "other work." It is important to review those rights and responsibilities recognizing how they will effect the project team members.

By performing or contracting a portion of the work separately, the owner can exercise greater control over a key aspect of the project than the ordinary bidding public may be able to perform satisfactorily. The owner's incentives for performing work are similar to those listed in the *Manual of Practice* for procurement contracts (see *SP/080 Procurement Specifying*), including

Controlling quality in a key aspect of the work, in which the owner may benefit from in-house expertise or separately-contracted specialists outside of the general contractor's range of abilities. This strategy also can serve an owner's long-term operations by allowing greater control of manufacturers and model numbers of building components with high maintenance requirements.

Controlling the cost of a key portion of the work, in which the owner may secure uniform pricing through a prior agreement with another contractor, thereby stabilizing a portion of the owner's budget for the project. Beneficial financial effects are also realized by reducing the burden of performance and payment bond requirements on the prime contractor when a portion of the work is performed by the owner.

Controlling scheduling of a key portion of the work, in which long-lead times or expected shortages of certain materials or services may motivate the owner to contract separately from the rest of the project. With some retail clients, scheduling is an important consideration, often more important than cost given the competitive cycles of retail dynamics.

Work by owner can present a series of drawbacks impinging upon the incentives described. In exchange for the greater control of cost, quality, or scheduling, the owner automatically assumes

greater responsibility for coordination of that portion of the work with other contracts to ensure its success. Many A/Es, wishing to uphold a client relationship, reluctantly accept project management tasks associated with work by owner; however, the owner must be apprised of their contractual responsibilities in this area. Furthermore, if work by owners is delayed for lack of performance on the part of the owner, the contractor for the remaining work of the project can make legitimate claims for delays, a provision of AIA and EJCDC General Conditions. This can be remedied with a contract modification adjusting the contract time in favor of the contractor, but further compliances can develop if the contract provides bonuses for early completion. Yet another drawback is the owner often pays a higher cost for enhanced quality, priority scheduling, or a long-term pricing arrangement. Finally, contractors on the remaining portions of the project often include costs in their bids for anticipated problems when dealing with unknown coordination challenges. With experienced clients, these considerations are often well-understood. The A/E must also understand them, along with their greater implications in terms of time and budget so decisions can be made.

Work by owner can be performed preceding, concurrent with, or following the work of other contractors engaged for the greater portion of the project. Because timing of the work will affect other construction operations, these variables must be evaluated by the A/E during design, and the effects measured and accounted for in the documents for the project so bidding and construction can proceed in a functional manner. The most difficult coordination challenges occur for all contractual parties when work by owner is performed concurrently with the contractor.

To be successful in accounting for work by the owner in the contract documents, each primary team member must fully understand where responsibilities interface and how they can be effectively managed for a successful project.

Owner responsibilities

Owner responsibilities in implementing work by owner include the following:

1. Providing sufficient information about the work to be performed so design can progress accordingly. This demands a thorough transfer of cost and application information to

the A/E so budgets and design phase deliverables can be produced according to the Owner-A/E agreement. Face-to-face meetings with the owner's product representatives and technicians must be accounted for in the design schedule for effective direct transfer of this vital information. Requirements for temporary facilities and controls, impact of work restrictions, as well as technical construction processes must be communicated to the A/E for incorporation into the greater project design.

2. Timely scheduling of submittals and processes to ensure uninterrupted progress of the work.
3. Proper performance of the work and contiguous work can be properly performed.
4. Documenting nonconforming or incomplete work by other contractors that has a detrimental effect on the owner's work.
5. Participation in contract closeout procedures including transfer of operation and maintenance data, start-up and demonstration procedures, punch lists, final cleaning, and warranty compliance.
6. Response to warranty issues during the correction period following Substantial Completion.

A/E Responsibilities

A/E responsibilities include:

1. Incorporating information provided by the owner into the project design and accounting for owner's work in the project budget. Considerations for proper incorporation of owner's design information may include contiguous requirements as following:
 2. Structural requirements
 3. Blocking/support/attachment requirements
 4. Substrate requirements
 5. Utility service requirements
 6. Utility service requirements
 7. Temporary facilities and controls (e.g. temporary protections, hoisting, access to work site, storage, etc.)

8. Environmental requirements
9. Contract closeout requirements.

All of these will impact design, project cost, and scheduling. They must therefore be clearly addressed in the drawings and specification.

1. Coordination of Information: Clearly investigate, understand, and define where work by the contractor ends and work by owner begins, and its effect on contiguous work. This is an area where misunderstandings or incomplete information can contribute to errors and omissions in documents. A gap in information or logic will result in requests for interpretation, compromised schedules, and contract modifications. However, if the receipt of information is timely, complete, and the manner of presentation is reviewed by the project manager and the owner before it is issued to the bidding public, the chances for success are greatly enhanced.
2. Establishing uniform terminology when detailing or describing work by owner in bidding documents. Confusion can occur for bidders when the phrases "not in contract", "by separate contract", or "work by others", are used interchangeably. In place of these, the phrase "work by owner" should be used uniformly throughout the documents and clearly defined in Section 01100-Summary.
3. Ensuring compliance with the prevailing code. In some instances, work the owner proposes to perform may not comply with prevailing codes, laws, and ordinances. Inasmuch as the A/E is responsible for document preparation and general code compliance as a standard of professional care, this can be an aspect of considerable concern.
4. Clear definition of responsibility in traditionally problematic issues. An example is final cleaning. If multiple contractors working in different phases are responsible for final cleaning, the A/E's burden for inspection will be exponentially greater than if one contractor is designated for this task.
5. Complete communication of the above requirements to the Contractor so project coordination is an achievable, profitable goal.

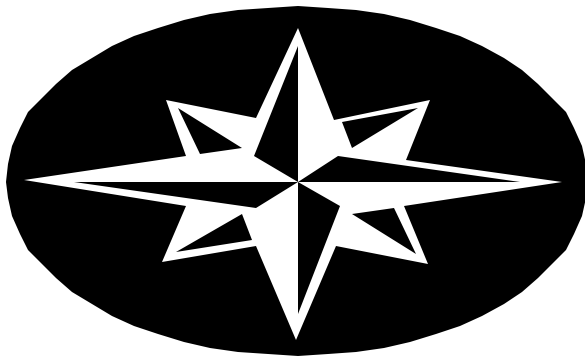
Contractor Responsibilities

Contractor responsibilities in implementing work by owner include:

1. Project coordination, including coordination with interfacing work by the owner. This includes obtaining sufficient information about the work perform the remainder of the project, increased communication with other contractors or owner personnel, and incorporating new information into coordination drawings and schedules, all preventive steps ensuring proper performance.
2. Proper performance of work under the contract to enable subsequent or contiguous work by owner to proceed.
3. Providing reasonable access to the work and attendant cooperation with other contractors. This is a basic provision of the referenced general conditions.
4. Documenting incomplete or nonconforming work by owner personnel or contractors.

Conclusion

When the owner performs work on a project, a high level of administrative and coordination effort is required of some project team members. Whereas work by the owner provides some measure of cost, time, or quality advantages, it also provides greater responsibilities for results normally the responsibility of the contractor. The contractor will also have to consider pricing the responsibility of coordinating work with parties it has no contractual leverage. The A/E bears an additional burden, because clear document preparation is the first step in ensuing work by owner is properly incorporated into the larger project.



MEMBERSHIP MEETING MINUTES

The January meeting for the general membership of ASPE Delaware Chapter 75 was called to order at 6:35 pm, January 25, 2001. A quorum was recognized.

The meeting was well attended by the general membership, due in part by the program scheduled for the evening. Total attendance was 55.

Delaware Chapter Ed Alexander made opening remarks. Ed noted that all proceeds from tonight's meeting would go to the education scholarship fund. After brief opening statements, all members introduced themselves, and the company they were representing.

ASPE CHAPTER BUSINESS

ASPE Chapter president, Ed Alexander, stated that the next ASPE general membership meeting will be held at 5:30 pm on Wednesday, February 7, 2001 at the Christiana Hilton. The program will be a joint meeting between ASPE Delaware and ASHREA Delaware. Mr. Howard Venzy who will discuss "Mediation in the Construction Industry in the New Millennium" will present the program for the evening.

Jeff Coopersmith, Finance, reported the current account balance of \$4981.46, excluding tonight's proceeds. Also, the winner of the 50-50 raffle was Joe Lesniak III (\$48.00), a 1099 will be forwarded.

PROGRAM

Rich Murphy, Ethics Chair, introduced fellow Chapter members: Jim Connell and Bruce Gollicker (Jeff Coopersmith volunteered for special effects engineer). This group has developed several skits to share with the membership. One skit deals with the ethical pitfalls of the design build process and the other will be a parody about construction management process and the role of the design team.

The general meeting was adjourned at 8:40 pm.



ASPE January BOARD MEETING

The December meeting of the Board of Directors of the American Society of Professional Estimators, Delaware Chapter 75, was called to order at 6:15 p.m. on Wednesday, January 17, 2001.

Meeting Attendees:

Ed Alexander , Chairman	Anne Jacobi
Jim Connell	Wayne Shannon
Buzz Kingsley	Rich Murphy
Bruce Gollicker	Mike Giofre

Other attendees: Wilson Davis

Location: Dining Room at Christiana Hilton, Newark, Delaware

General Business

1. Upcoming Board Meetings: Feb 19th, Mar 19th, Apr 16th, May 21st, Jun 18th.
2. Internet planning committee request for information updates was discussed.
3. Rich Murphy, Jim Connell and Bruce Gollicker were commended for their upcoming skit.

Committee Updates:

Public Relations Committee

No Report

Certification/Recertification Committee

No report.

Program Committee

Need programs for March, April, May of 2001.

Golf Outing Committee

No report submitted

Newsletter Committee

Issued on schedule.

Membership Chair

Dave Brown's "wanted" fax poster has generated over two dozen requests for ASPE chapter information.

Finance Committee

Jeff Coopersmith submitted a report that our account at Wilmington Trust has a current balance of \$4955.46, including \$24.00 from December's dinner meeting, which was a great success. Jeff also requests that all members try to provide additional raffle prizes

Education Committee

No report submitted.

Planning Committee

Mike Giofre requests all committee chairs follow up to October's meeting regarding strategic planning.

Archives/Legal Committee

No report submitted.

Awards Committee

No report submitted.

By-Laws Committee

No report submitted.

Ethics Committee

See above.

Faxing Committee

Invitations faxed out on schedule.

Nominations Committee

No report submitted.

Standards Committee

Have received information from the National Standards Board and are getting additional volunteers to help process it.

Student Committee

No report submitted.

Web Site Committee

Web site is under construction. See above.

The meeting was adjourned at 6:30 pm.

A Good Sign

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2001 Annual Convention

Wyndham Atlanta Hotel

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2001 Annual Convention

Wanted: Additional raffle prizes. Wouldn't it be nice if we had 2nd, 3rd, etc. prizes for our monthly raffle? Some suggested items are sports tickets, shirts, and hats, booze, discount certificates, etc.

ASPE Delaware Chapter Advertising Rates

Size	(1) Month	(3) Mths	(6) Mths	(9) Mths	(1) Yr
Business Card	\$7	\$20	\$38	\$54	\$70
(2) Bus. Card	\$13	\$38	\$68	\$95	\$120
1/3 Page	\$20	\$60	\$105	\$150	\$190
1/2 Page	\$26	\$80	\$140	\$195	\$240

Newsletter Reminder Notes:

Copy must be submitted in Windows 95, Word 6.0 or earlier format, by e-mail, hand delivered on disk or is ready to scan.

All submissions must be received on or before the first of the month.

Got Something to Say? We want to hear your editorials, comments, and stories. If you run across an interesting article that would benefit the membership, please submit it to Bruce Gollicker, Pyro-Tech, fax (410) 392-8113. Deadline for submission is the last Friday of the month.



**We know you're busy,
So as a reminder.....**

Unless otherwise noted, *Chapter meetings* are the **Second Wednesday** of each month. *Board Meetings* are the **Second Wednesday** of each month. Deadline for submission to the Newsletter is the last **Friday** of each month.



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Earl J. Pearce II
President

PROFESSIONALISM

Education, Ethics, Standards, Certification, Fellowship ... these lead to the ultimate goal --- Professionalism. We think you'll agree ... If all estimators were more professional, budget and other problems of the construction industry would be greatly reduced. Join us today!

**Have Your Product/Service Recognized by
76 Estimators in
50 Delaware Market Companies**

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