

15 Contract Strategies That Other Subs Think You Should be Using

Your contract is a sub's first and last line of defense on a project. So we asked 68 subcontractors what they would recommend other subs do to strengthen their contracts. Here's what we heard.

- 1** Have rock solid inclusions and exclusions stated in your scope of work. Preemptive strikes against ambiguity will prevent countless potential disputes.
- 2** If you can negotiate what's in the contract, great. If you can't, read it as thoroughly as humanly possible so that you know what you're getting into.
- 3** You can never be too familiar with the laws and provisions of the area where you're working, especially if it's a city or state you're less familiar with. For example, if one subcontractor didn't know about the 10% increased premiums to have the insurance on their projects in New York City, it could've wiped out their profit.
- 4** If you've had bad experiences with any component of a past project, pinpoint them. Ask the GC to make those provisions very specific in the contract. The more specificity you can front load and agree on, the less likely you are to hammer those things out in the heat of the moment.
- 5** Use field notes that include photos of the work that you did. Indisputable, photographic evidence can make it harder for others to negotiate against you/against their obligation to pay you.
- 6** Build relationships with upper management, rather than just the project management team. For example, developing relationships with people on the finance side can help you more successfully plead your case if you're having financial woes.
- 7** Send the insurance requirements (indemnity clause) to your insurance broker at the time of bid. Insurance agents are happy to review this on your behalf, so it's not even an imposition to ask them. They often come back with valuable feedback on what changes they recommend. This can also elevate your negotiating power with the GC, since your insurance agent is all but requiring you to make the revision.
- 8** Retain a dedicated Contracts Manager, or even one person specifically digging into project labor agreements to review labor escalation clauses.
- 9** Request the prime contract. All contracts are written to flowdown, and you have to know what you're getting yourself into. Reviewing the prime contract enables transparency around what's flowing down to you as the subcontractor.
- 10** If you're not reading through the entire contract, have a document that highlights the specific things you should focus on.
- 11** If your project uses AIA contract documents and the GC does not include the deletions from the form they send you, request a list of what's been deleted and figure out why.
- 12** When redlining the contract, don't just redline and email it back. Call your point of contact first to discuss what you're wanting to redline, then email the documents. This makes it feel less adversarial and positions you as a team player.
- 13** Run both your prime contracts and subcontracts through the software Document Crunch to identify key risks and review their rationale.
- 14** Be prompt and accurate when getting documentation to the GC. This helps you assert that you've "held up your end of the bargain."
- 15** When necessary, be assertive with the GC; communicate that you will not show up to the jobsite the following work day if you are expected to continue to do unpaid change order work with no clarity on when or how much you will be paid. A GC offered this tip, saying this helps them to force the issue with the owner and get things in motion.