

# Professional Standards of Practice and Contracting Bill of Rights

## Professional Standards of Practice

Specialty trade subcontractors operate in a challenging business environment. Constructing quality buildings on time requires an infinite amount of cooperation between all parties from owners through to field employees. At the same time, each of the parties often has competing interests with other construction team members.

The American Subcontractors Association encourages responsible conduct through adherence by subcontractors to the following standards of practice. These standards represent subcontractor obligations which also are sound business practices that prove to be in the enlightened self interest of prudent subcontractors.

### The Professional Subcontractor will normally:

#### › Prior to bid

- Become familiar with job requirements in sufficient detail to assure that it has the expertise, finances, people and time to complete its portion of the work as prescribed.
- Recognize that not all general contractors and construction managers are the same and plan accordingly to consider such positive factors as efficient job coordination, prompt pay record and competent supervision, and such negative factors as inequitable business practices, unfair contract terms, and lack of competency.
- Provide expertise in its specialty area and point out any serious problems with technical specifications or time allowed for completion, particularly where impact on quality or cost seems inappropriate.
- Seek clarification of any requirements that are unclear, ambiguous or inconsistent so that pricing of the job can be accomplished with as much certainty as possible.
  
- Provide a written confirmation of the scope of work to its customer prior to bid.

#### › During the bid and negotiation stage

- Support a bidding system that deals fairly with all parties and furthers open competition for construction work.
- Avoid practices that might be considered in violation of the letter and spirit of anti-trust laws.
- Sell the merits of its firm by stressing its strong points instead of making any statements that would harm the reputation of a competitor unnecessarily.
- Avoid divulging its price to a competitor or seeking information on a competitor's price directly or through a general contractor.
- Submit bids promptly with the terms of its offer clearly defined, including any obligations of others that are not made clear in the bid documents.
- Negotiate equitable subcontract terms including the subcontractor's performance obligations without waiving

any protections afforded by law or good business practice, and conditioned upon prompt payment as contained in recognized authoritative contract documents such as those published by the American Institute of Architects.

#### › Contract performance

- Assign promptly a qualified field supervisor to participate in coordination of plans for orderly performance of work and to represent the subcontractor through management of its on-site labor, making adjustments to plans and participating in all project meetings.
- Furnish quickly a schedule of values confirming the dollar amounts of subcontractor's work from mobilization services through final adjustment for the customer representative to use in evaluating performance and progress billing amounts.
- Provide specialized expertise in a coordinated approach for solving technical problems related to its work, bearing in mind that the design professional has final responsibility for overall engineering decisions.
- Coordinate the performance of its work to avoid delays, obstruction or damage to itself or to others, with emphasis on informal solutions to problems through mutual exchanges of services and the prompt, fair settlement of any disputes with other contractors.
- Expedite completion of its work by all reasonable means, but minimizing major scheduled overtime programs because of counter-productive, inherent efficiency losses when overtime is used for extended periods.
- Assure that all of its invoices and change order requests are presented on time with complete documentation to meet project payment requirements and thereby promote orderly payment procedures and prompt receipt of remittances for its work each month.
- Treat its own subcontractors and suppliers as it wishes to be treated by processing their billing and change orders promptly and passing on progress payments without delay.
- Maintain safe, clean work places for its field employees and assure compliance with the letter and spirit of laws relating to working conditions, equal employment opportunities and pay practices.
- Provide timely notice of delays, interferences, damages and other factors that will become claims if prompt corrective action is not taken.
- Upon completion, prepare its own punch list

## Contracting Bill of Rights

We the General Contractors, Subcontractors, Design Professionals and Construction Industry Suppliers of these United States of America, in Order to form a more perfect

# Professional Standards of Practice and Contracting Bill of Rights

Construction Industry, establish Fairness, ensure Equality among all Construction Industry Businesses, provide for the Welfare of the Workers, promote quality construction, do ordain and establish this Contracting Bill of Rights.

Articles proposed by the General Contractors, Subcontractors, Design Professionals and Construction Industry Suppliers, to be ratified by the United States Congress, the legislatures of each of these United States, regional and local lawmaking bodies, and other appropriate entities and become law.

## Article the first

All General Contractors, Subcontractors and Design Professionals shall provide a work environment intended and designed to attract and retain an adequate and trained workforce, including providing a living wage and appropriate benefits, skill and career training, and a safe and healthy work place.

## Article the second

No Owner, General Contractor, Subcontractor, Design Professional or Construction Industry Supplier shall shift risk to another that it can better mitigate control or manage itself.

## Article the third

All Owners, General Contractors, Subcontractors, Design Professionals and Construction Industry Suppliers shall strive to avoid disputes.

## Article the fourth

The laws of a State shall take precedence and be enforced on all construction contracts for work performed in that State. Furthermore, all suits brought in construction contract disputes for work performed in a State shall be filed in an appropriate Court of Law where the project is located, and venue shall not be changed without the prior express agreement of all parties to the suit.

## Article the fifth

No Owner, General Contractor, Subcontractor or Design Professional shall receive or provide a bid and subsequently disclose that bid to another with the intention of enticing that party to lower its bid or awarding the contract for a lower bid to other than the original low bidder.

## Article the sixth

All General Contractors, Subcontractors, and Design Professionals shall be entitled to full and prompt payment for all work properly performed, for all materials properly stored, and for all services properly provided.

Furthermore, any contract clause that abridges or waives such entitlement to full and prompt payment is against public policy.

## Article the seventh

Any General Contractor, Subcontractor, or Design Professional not paid promptly for work properly performed, for all materials properly stored, and for all services properly provided shall have the right immediately to suspend performance until full payment has been received including for all reasonable costs incurred due to suspension. Furthermore, that General Contractor, Subcontractor, or Design Professional shall have the right to be paid for all reasonable costs of re-mobilization.

## Article the eighth

Any contract provision that prevents a General Contractor, Subcontractor, or Design Professional from reasonable compensation for delays caused by the Owner or another party to the construction contract is against public policy.

## Article the ninth

An Owner or User of a building, structure or improvement to real property shall not be permitted beneficial use of that building, structure or improvement until all General Contractors, Subcontractors, Design Professionals and Construction Industry Suppliers that have provided labor, material or construction services have been paid in full.

## Article the tenth

All General Contractors, Subcontractors, and Design Professionals shall be awarded attorney fees, and other costs associated with enforcing the rights provided for under this Bill of Rights.

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