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Finding The Right Contractor

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(This article is part one of a two-part series on finding the right contractor.)

The successful completion of a healthcare construction project will depend heavily upon the choice of the right contractor. How do you choose that contractor from a sea of wagging tongues, each claiming that they are the best?

You begin by applying the criteria that you would use to fill most needs. First identify the experience that will be most relevant to meeting your project's needs. So, if you are expanding your hospital, you eliminate contractors who are principally engaged in road construction. How do you **find out about their expertise**? You ask all of the perspective bidders to fill out a pre-qualification statement, which requires that they detail their experience over the last five years. You want to be sure that their knowledge is relevant to your needs and their experience is current.

Once you have taken a careful look at their experience, you want to insure that the size of your intended project is in line with the size of similar projects that the contractor has handled in the past. If your project is a \$500,000,000 modernization project, you do not want someone whose experience is limited to \$5,000,000 code compliance upgrade projects. If your project is a \$5,000,000 code compliance project, you do not want someone whose experience is primarily with \$500,000,000 jobs with the overhead structure that accompanies such experience.

You also want to ask about members of the contractor's team that would be assigned to your project in the event that the job is awarded to them. You should ask specifically for the resumes of the people who will serve as project executive, project manager and the superintendent. You will want to meet with these people before any final decisions are made.

If you are looking at a job that is still many months away from construction because design work and/or fundraising has just begun, the contractor will probably not be able to realistically commit individuals to your job. In that event, you should ask for resumes of the pool of individuals from whom your project manager and your superintendent would be chosen.

Another critical concern is the **contractor's financial capacity**. Financial capacity will tell you a lot about the contractor's ability to underwrite the working capital needs of your project. Larger contractors will have audited financial statements that they can submit to you. This becomes particularly important in large hospital projects, such as HUD insured projects that require bonding. In order to obtain a bond, contractors must have a balance sheet that will convince a surety company to issue the bond. You can save



who's who

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law fields for over 33 years. Prior to joining DeForest & Duer where he headed the construction and real estate department for many years before joining Anderson Kill & Olick, P.C., Mr. Cullen was Assistant Counsel to the New York City Educational Construction Fund. He is a partner or director of numerous real estate entities.

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significant time and expense by eliminating contractors early in the evaluation process who do not have the bonding capacity for the size of any project that will require a bond.

In the New York area, there are well-known contractors who have anemic balance sheets. Sometimes this is because they ran into a rough patch or because they empty the business' cookie jar at the end of each year, leaving the company with very little net worth. Contrary to what you might expect, there is no direct correlation between famous names and healthy balance sheets.

Expect resistance. Companies that are privately owned often do not wish to disclose their financial status. They may require that you sign a confidentiality agreement if they agree to release their closely guarded information.

What about **PRICE**? Price, of course, is very important. Most healthcare projects are executed through the construction management form of contracting. This means that the construction manager ("CM") at one level acts as agent for the owner and obtains subcontractors to carry out the necessary work. At another level, the CM takes on a degree of risk because the CM is required to give a guaranteed maximum price. At that point, the interests of the healthcare client and the CM diverge.

One of the factors that can influence price significantly is the absence of numerous large and experienced subcontractors in some specialty trades, even in an area like New York. For example, if you require the services of a large HVAC trade contractor who can handle complicated hospital venting, cooling and air purification systems, you will discover a short list of such contractors. Lack of significant competition at the high end of some specialty trades drives costs higher.

The CM's own cost structure will also materially affect pricing. Some CM's will quote a reasonable fee but expect the owner to pay for a significant number of home office employees, in addition to employees dedicated to work at the project site. Other CM's have very generous compensation and benefit arrangements with their senior personnel that they seek to have the owner underwrite. These "reimbursable expenses" are typically obscured in early "General Conditions" project budget lines. The CM's staffing and reimbursement policies should be explored in depth early in the evaluation process. ■

(To be continued in the Autumn 2004 issue.)

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As April 15th draws near, Mary E. McGuire, an Enrolled Agent, and Phillip J. Benoit, a Certified Public Accountant, would appreciate the opportunity to assist you with your tax returns. If you would like to learn more about our services, please call Mary at 212-278-1801 or Phil at 212-278-1348.