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School Procurement

By Earl Harper

This is a historic period for players in the school construction sector. There is now an abundance of funding available to make improvements to the physical plants and facilities at our nation's schools. The race is on for districts and various entities to reach out and qualify for this money.

However, this economic-stimulus momentum poses the threat of haste, a dangerous rush through the procurement process that could: 1) result in uncompleted projects and cost overruns, 2) cause widespread criticism and negative scrutiny, and 3) mean a prohibition and halt of similar support for many years to come.

It is critical that titleholders at school districts in business operations, procurement or buildings and grounds undertake a careful examination of the contractors and building trades enterprises they are engaging. They need to make sure these vendors and service providers have the performance capacity, credit scores and financing capacity to handle the work.

Contractors and subs who have been working under rigorous cost accountability the past several years may be tempted by laxity, in their hurry to get at the pot of public works funding. Not adhering to the business discipline they have followed in the recent difficult period could pose a latent threat to their finances. Because of this latest massive public works initiative, many of the highest quality contractors are already at capacity with work orders.

Be wary of contractors and subs coming in extremely low on bids in order to walk away with the job — figuring that they are going to make up what they are missing on the back end through change-orders. While this sounds professionally demeaning and unethical, school officials can easily get drawn into becoming the unwitting victims. Sadly, this scenario can get further complicated through local politics, where contract decisions and monetary commitments are then made on the basis of who knows who.

A key integrity safeguard for school procurement officers means using a construction risk-management strategy that evaluates a contractor’s ability to perform on a project. If the contractor is capable of doing the work, the next important question is: Where will the contractor get the working capital and cash flow necessary to pay for labor, materials and all related costs while it is waiting to get paid by the school district or general contractor?

The general contractor and its subs are financing a project and usually they are not going to get paid for 45 to 60 days after they physically start construction. Bid bonds, payment, and performance bonds should be required. Bonding through a surety brings about the performance evaluation along with a guarantee of the work according to the terms of the contract.

A designated construction risk manager, employing a funds control disbursement system, must keep close tabs on the project’s production schedule. This administrator has to evaluate all invoices against the project’s schedule of values to insure that funds are only advanced on specific budgeted job costs.

Checks are written here for payroll, benefits, taxes, and every deduction and job specific overhead for insurance, trailer rental, portable bathrooms, and other similar costs. Every item gets coded and every time funds are disbursed, the disbursement is debited against the cost codes in the budget and the *schedule of values.*

Funds control provides an extremely high level of certainty to owners, general contractors, subcontractors, sureties and lenders that project funds and advances pay budgeted job costs and nothing more. As the job gets started, disbursement is cost projected over a number of weeks.

Why wouldn’t a contractor or sub want to do this? Because of the controls that ensure that the money only goes to pay the specified allocated items, defined according to the project. There are easy temptations to use the funds for something else — steel instead of concrete or a different job.

In the past, general contractors have given their subs money and autonomy to buy whatever they want. Temptation and weakness to use this money for something else does not necessarily appear to be wrong, but it can severely undermine the project in question for which a contractor or sub has received money.

In today’s environment, a factor using a funds control program should not have a problem with a surety being in first position with receivables. The factor will have already paid the people that have any rights to file a claim against the bond for the project. The factor is really helping to perfect the payment bond, working hand-in-hand with the surety.

All public works projects over $25,000 require bonding from sureties, which are required to be first in line on receivables. How factors advance becomes the issue. Factors using funds control people can advance because they have control mechanisms in place to assure that all of the lien-holders are paid. Factors can work well with the surety because of the control mechanism on bonded public works.

Factors are able to allow sureties who have disbursement programs, the financial administration on the projects they finance. Sureties will generally not issue a bond to a contractor who lacks adequate working capital. Many times a sub cannot qualify for bonding without a factor, especially since banks will not finance a sub when a surety is involved.

According to recent studies, the average age of school buildings in America is 42 years old, with 45 percent built between 1950 and 1969, and more than 60 percent reporting at least one serious maintenance problem. This economic stimulus allocation poses an enormous, rarely seen opportunity. It would be a national tragedy if school administrators waste it. It will be a profound contribution to our economy if school administrators properly use and demonstrate value for what is now available, to its fullest extent.
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