

THE CONNECTICUT LAW TRIBUNE

DECEMBER, 2006 • \$10.00 • WWW.CTLAWTRIBUNE.COM

ALM

Hiring Construction Managers Easier Said Than Done

Finding the right match is a project's cornerstone

By **JEFFREY M. DONOFRIO**

A facility owner, whether public or private, has several primary areas of concern for every construction project: budget; design; schedule; and risk assessment. Construction management tailored to the planning, design and construction process can be effective, regardless of the chosen contract form or project delivery method.

Construction management has been successfully utilized by owners who do not have the staff expertise or personnel necessary to deal with the responsibility of managing complex projects. Initially, the owner must decide the role of the construction manager: will the construction manager be an advisor or the constructor? Will the construction manager hold the trade contracts? Is the construction manager contractually obligated for the successful completion of the work? Is the construction manager guaranteeing the cost of the work and the schedule?

Once the owner determines whether it will utilize a construction manager/advisor (also known as agency construction management) or a construction manager/constructor, the owner must identify the pre-construction and construction phase responsibilities of the construction manager. A construction manager with relevant

experience can assist the owner in the pre-design planning stages to evaluate the feasibility of certain construction practices, select delivery systems, prepare cost estimates, evaluate potential sites, undertake value engineering, assist in the selection of design professionals and consultants, assist with project financing efforts, assist in moving the project through any regulatory approval processes and help prevent costly mistakes. Constructability reviews and preliminary scheduling and budgeting can significantly reduce costs down the road. Construction managers can also help "fast track" items prior to the completion of the design.

During the design phase, a construction manager with relevant experience can provide input into the design process, budgeting, scheduling, cost estimating, design review, refinement of scope and value engineering, all of which can be advantageous to the owner.

During the construction phase, depending upon whether it has been selected as an advisor or as the constructor, a construction manager coordinates its efforts with the owner and design professional and often relieves the designer of the scheduling, estimating and administrative responsibilities which would otherwise fall within the designer's scope of services if a construction manager was not engaged. A construction manager can provide construction inspection and surveillance support, project control, change order review, and a variety of related services to assist the owner.

In the construction phase, a construction

manager should continue to work with the design team to consider value engineering proposals, requests for substitutions and any alternates under consideration; process applications for payment from trade contractors and consultants; update the project schedule; maintain project correspondence; handle submittals; conduct progress meetings and take/prepare/circulate minutes of same; review, update and compare costs of construction with the project budget; consult with the owner with respect to claims, requests for changes, requests for information and disputes; provide periodic progress reports to the owner; manage on-site quality control; assemble, manage and provide operation and maintenance manuals, waivers and releases, warranties and insurance policies.

Defining Qualifications

Once the owner has identified the role and responsibilities for its potential construction manager, the selection process can begin. There are several factors that will affect the construction manager selection process. Whether the owner is a private concern or a public entity will have a significant impact. In addition, a particular project may require that certain services and expertise of a construction manager are of paramount concern to the owner (e.g., experience with concurrent multi-site projects, knowledge of local conditions or a specialized building type).

Various resources, such as the Construction Management Association of America, online at www.cmaanet.org, provide information to assist the owner in selecting a construction manager. While preparing a request for proposals or a similar document, the owner should also identify potential construction manager candidates. Depending upon the type of project and how unique/complex/dif-



Jeffrey M. Donofrio is the managing partner of Ciulla & Donofrio, LLP in North Haven. He represents owners and contractors in connection with public and private projects.

difficult it really is, the owner should consider pre-qualification of construction management firms based on their prior experience with similar projects, as well as key proposed project staff qualifications.

The request for proposals should describe the services needed in detail, request the construction manager's qualifications and explain the selection process (i.e., qualitative, quantitative, lowest fee, etc.). The qualification requirements of the construction manager should be tailored for each individual project but generally, the RFP should include the following:

- a description of the owner, the architect and the project;
- project schedules, milestones and estimates;
- a project budget;
- requirements of the construction manager (construction manager's role and responsibilities, the scope of services to be provided during the pre-construction, design and construction phases of the project);
- a list of information required from the construction manager (i.e., qualifications statement, related experience, an AIA 305 and/or a GSA Standard Form 330, a description of how services will be structured to ensure timely, cost-effective delivery, a compensation/fee proposal broken down by type of service, resumes of individuals within the staffing plan, identification of all consultants that the construction manager proposes to utilize on the project and their relationship to the construction manager);

- a list of any exclusions or conditions; and
- a compensation form requiring breakdown of the proposed fee and itemized reimbursables.

Owners should identify the form of the anticipated owner-construction manager contract within the RFP so that there is a clear understanding by the construction manager candidates of the nature of the proposed relationship, including the types of risks and how the risks are contemplated to be borne by the parties. Providing the aforementioned information usually helps expedite negotiations between the owner and the selected construction manager.

Choosing The Best

Once the proposals are received, the owner begins the evaluation of the submitted proposals. The owner's review should include interviews of select construction management firms, wherein the firms are invited to present their qualifications, their understanding of the project and explain why they represent the best choice for the project. Many owners utilize quality-based selection, which is not price-determinative, as the method by which they select a construction manager. In the QBS selection process, compensation frequently is discussed only after the most qualified construction manager has been identified. To this end, the owner may consider utilizing a two part RFP: in part one, the owner seeks to identify the technical expertise, experience and qualifications of the construction manager and in part two, the construction

manager sets forth its proposed fee.

During the interview process, in addition to discussing the proposal submitted by the prospective construction manager, the owner should require prospects to discuss their view of their role during the design, pre-construction and construction phases of the project; should require that personnel that the prospect proposes to assign to the subject project participate in the interview (the project executive, project manager, superintendent, project engineer and estimator) and discuss how the prospect intends to meet the budget, quality and schedule requirements of the project.

The owner should take the time necessary to speak with owners of other projects managed by the prospects in the previous five years. Moreover, the owner should visit some of the projects managed by the prospects and discuss with the owners of those projects the weaknesses/deficiencies of the prospects (i.e., "what would you have done differently?"). This information is not only helpful in selecting a construction manager, but also assists the owner in customizing the contract documents.

Public and private owners are exposed to budget and schedule pressures on every project. By investing the appropriate amount of time and effort into the construction manager selection process, owners can increase the likelihood of a successful project, decrease tension and anxiety and limit surprises. ■