

Preventing Disputes in the Pricing Phase

We all love new projects. They fill the revenue pipeline, keep valuable staff busy, add to our resume and hopefully, do so at a profit. For general contractors and subcontractors, new projects start with new pricing, a staggering effort often expended "on the come" in hopes of winning the contract. Of course, all of that effort is wasted if they don't "win" and if the project doesn't pencil, nobody wins.

Insiders joke that if you do a great job pricing the work, you won't win the contract. Even in a negotiated project, the pressure to get competitive (low) prices is intense. A project that is over budget means a lot more work to get prices in line or no project at all. For contractors bidding competitively, the only way to win is to offer the lowest price, or at least look like the lowest price.

If a substantial error is discovered after the price has been passed along, the fun part is over. Even if someone is willing to stand behind a mistake in their price, the execution, cost and dispute risk are with you until the warranty period is over - sometimes years later. If they can't or won't stand behind the price, a dispute may already be afoot.

So, to win we need low prices but, to succeed, we need achievable prices.

Even in the best of competitive conditions, incorrect pricing is a clear and present danger for dispute risk - sometimes a quantity or pricing error, other times, the scope is incorrectly or poorly defined. The sheer volume of plans, specifications and references to other standards is intimidating at best. General contractors have engineers to process all this complexity, but most trade contractors are owned and staffed by exceptional tradespeople - they know how to build but are often less skilled at interpreting the documents or qualifying their pricing.

Achievable pricing requires that owners, designers and contractors focus on these core strategies to reduce pricing risk:

- Clearly communicate the scope of the work.
- Collect enough pricing details to confirm the relative value of the work.
- Demonstrate agreement between the scope required and their price.

Sounds simple right? Communication and agreement are simple concepts but the details matter - a lot.

Tips to improve communication about scope requirements & expectations:

- Prepare written instructions for every scope. Assumptions are the mother of disputes and by the time you are negotiating a contract, someone already lost money.
- Make it easy to find information to price the scope you want included. It is naive to think that every contractor will review every document to find scope.
- Collect pricing detail to help evaluate the relative value of the work. Make sure that breakout prices are useful to confirm the work is included and the price is achievable.
- Clearly communicate how you need them to do the work. Describe the approvals, supervision, schedule process, layout, site logistics, and as-built documentation requirements they will need to meet.
- Ask for unit prices for work items that are likely to change in quantity. Make sure to establish reasonable expectations of scale (a fair price to add 1 each is usually not a fair price to add 100 each).

Tips for confirming you are in agreement:

- Include your contract exhibit A (Scope and Price) with your pricing instructions. Be sure to address grey areas such as who is responsible for conveyance, material storage, layout, inspections, cleanup, etc.
- Establish production rates rather than schedule dates or durations. Establishing crew sizes and associated days to achieve milestones will help you evaluate the capabilities of your vendors, communicate expectations and develop an achievable project schedule.
- Call out specifications and details that you would be easy to miss and tough to absorb without changing the price. Prices are always lower in the pricing environment than the contracting or operational environment.

Bonus tip:

- Establish and communicate minimum qualifications for each trade based on the quantity and complexity of the work required for your project. Past performance is the most specific predictor of current capacity / future potential. Are there specific durations you will have to meet? Are multiple crews or specialty equipment required?

The old adage that an ounce of prevention is worth a pound of cure certainly applies to the pricing phase. A redoubled effort towards achieving communication and agreement is the key to reducing pricing risk and disputes. If we can set up a credible understanding of the work we want priced in a competitive environment, the confident and optimistic nature of contractors is more likely to produce the achievable price we need.

Eliminating or reducing pricing errors expedites contract negotiations and helps everyone prepare to perform the work - preserving the bandwidth of your operational teams to focus on production, quality and safety.

This brings us back to what I maintain is the number 1 asset of any project - skilled people with the bandwidth to focus on the task at hand or better yet, planning for the tasks ahead.

END OF SECTION



3R **Pricing Phase Resources:**

An effective pricing phase aligns the owner's requirements, contractor's expectations and the price to achieve them. Errors and omissions become contracting, cost, execution and schedule risks. These Pricing Phase Resources assist the owner, design team and contractor to ensure communication and agreement between the scope and pricing.

- **Sample Scope Instructions & Tips** - Example structure and best practices for preparing trade-specific requests for pricing / bids. [Click here](#)
- **Bid Form Examples** - Example structure and best practices to secure trade-specific pricing detail and actionable unit prices. [Click here](#)
- **Technical Support** - Get 3cd to help your team incorporate and facilitate these documents and procedures for your project. [Click here](#)