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How a Badly Needed New Firehouse Proved the Danger of Low Bids

A few years ago, a group of business and tradespeople in a small but growing Midwestern U.S. town needed a bigger firehouse. They understood from personal experience how the world works, but under pressure from the town they opened the project to all bidders with no prequalification process.

The low bidder, at \$2.5 million, was a contractor with a reputation for being difficult to do business with. I have been in construction almost 60 years and have had too much experience with low bidders to let one near my property. The firehouse project is an example of why.

Scheduled as a 12-month job, the project began with difficulties over building department inspections, work that had to be torn out and lots of arguments. The volunteer inspector for the fire company and the architect's inspector were intimidated by, and no match for, the overbearing and aggressive contractor, who claimed that with a lump-sum contract he could build it as he saw fit and that the owner's only concern should be the finished product. Grievances built up while new work was put in place on top of work not yet accepted.

Among many other problems, there were notices that walls were in the wrong location and that the elevator did not fit in the shaft. Just about everyone threw up their hands. The owner should not have continued to make progress payments, but each time it tried to stop, the contractor threatened to abandon the project and sue. As the project

fell further and further behind schedule, the owner's desperate need for a bigger firehouse worked in the contractor's favor. In effect, the town became a victim because its own contractual deadline requirement impeded its bargaining power with the contractor.

When the building was completed, the municipality refused to issue an occupancy certificate because of the many defects. Suffice it to say, the project was delivered six months late, and an independent consultant's estimate to correct the deficiencies, needed for the occupancy permit, exceeded \$1.5 million.

Windows Improperly Installed

How can that cost be so high? Keep in mind it is usually more costly to take something out and repair or replace it than to just put it in new. In this case, over 50 windows that had been improperly installed had to be corrected. That fix alone was priced at \$240,000.

The main electrical panel, which was fully wired, was undersized and had to come out and be replaced. The main staircase in the firehouse was 5 in. from the correct location. Even the roof had to come off and be replaced.

That's not the end of the story. The fire company used all the funds it had, along with the building funds raised over years,

for the construction project. Now, it is struggling to make the mortgage payments on the millions borrowed, and there is no money to make the repairs needed for a certificate of occupancy. Then there is the question of whether the fire company can continue to pay its lawyers.

Apparently none of the parties to the contract understood there was a bond or what it was for. Now it may be too late, depending on the notice provisions.

Unfortunately, the nightmare does not end here because there was another huge consequence caused by the low-bid process. The actual events I have described happened in 2014, and in 2015 the project was delivered supposedly ready for occupancy. As I write this in 2018, no one has occupied the facility or can use it for any purpose. All the while, ongoing carrying costs continue for insurance and security.

The old joke that the bidder that makes the most mistakes gets the job no longer is amusing because it is way too close to the truth. Low-bid doesn't work. Notice that I do not blame the low bidder. A sophisticated buyer of construction services would say he performed in a predictable manner. Using an appropriate best-value contractor selection, the consistently poor performance history would have been discovered and the contractor would have been screened out at the pre-bid stage.

The big question is: Do you want the low bidder anywhere near your project? ■

Thomas C. Schleifer, PhD, is a turnaround expert and former professor at Arizona State University. He serves as a consultant to sureties and contractors and can be contacted via his blog at letstalkbusiness.net.



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If you have an idea for a column, please contact Viewpoint Editor Richard Korman at kormanr@enr.com.