

## Ask your contractor these 5 questions

Your builder's word can't guarantee quality, but his or her record can

If you're a successful developer, chances are you're busy. Your e-mail inbox is stuffed, your phone won't stop ringing, and stacks of paper accumulate everywhere. And because you can't do everything, you have to make tough choices about how to spend your time.

One of the potential casualties of this time crunch is learning enough about your contractor. But knowing your contractor can be critical to your project's success. Here are five questions you should ask:

### • What's the contractor's work history?

In their proposals, contractors often advertise their successful projects. But what else is there to know? Have you independently verified the contractor's work history?

Many resources are available to help you investigate a contractor's past performance. A low bond rating will tell you the surety industry believes the contractor's performance carries risk. The Oregon Construction Contractors Board has information on state builders, particularly those that have had disciplinary action taken against them. And there are many tools available to check whether a company has been involved in a lawsuit.

Hopefully, you'll confirm your contractor has a super



### CONSTRUCTIVE ADVICE

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job history and an excellent reputation. But better to confirm than assume.

### • Who stands behind the contractor?

More and more frequently, contractors form single-project companies to shield themselves from liability. This may be a wise decision for the contractor, but it's one that carries risks for you.

What assets stand behind the new company? What happens if it goes bankrupt? Is the owner willing to guarantee performance? If so, does the owner have assets to cover performance? Take steps to ensure that if the contractor defaults or goes into bankruptcy, your investment in the project is protected.

### • Who is doing the work?

By the time the project starts, you'll likely have formed business relationships with the key personnel assigned to your project. These people can be critical to the project's success, and you don't want to worry they'll be transferred just as your project kicks into high gear.

As long as they work for the contractor, these key people should work on your project –

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unless you ask that they be replaced. Make sure this is spelled out in the contract.

### • Is the contract signed?

How many construction projects begin without a signed contract? Too often, the time to negotiate contracts is underestimated and the paperwork lags behind the schedule. Once the contractor begins work, however, your leverage evaporates.

If you discover a stumbling block after the project begins – for example, that the contractor insists on a limit to its liability – you may be forced to accept the contract term or fire the contractor. Neither is an attractive option.

To maximize your chance of negotiating a good contract, build enough time into your schedule for contract negotiations and get the contract signed before work begins.

### • What's in the fine print?

Insurance and bonds often comprise the key security standing behind the contractor's work. Care should be taken to confirm the contractor's insurance policies and bonds contain the terms you've bargained for.

Insurance policies often limit or exclude coverage. For

example, some have exclusions that prohibit claims against fellow insureds and therefore prevent claims by an owner added as an additional insured. Keep in mind that an insurance certificate is not binding on the insurance carrier and should not be relied on. Only the mind-numbing job of reading the policies will confirm what the contractor's insurance will – and will not – cover.

Bond forms should also be read carefully, as they also contain traps. For example, the time to bring bond claims may be much shorter than the statute of limitations. Make sure these policies and forms say what you want them to say.

If all goes well, answering these five questions will confirm you've hired a high-quality contractor that will do a great job. But if a problem shakes out, it's best dealt with at the beginning of the project rather than later.

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