

Mitigating Construction Management Risks On Green Projects

By David Blake, Esq., LEED® AP*

Introduction

Despite the current economic recession, green construction continues to flourish. More than ten federal agencies, 30 states and 175 counties, cities and towns either require green construction or provide incentives for it. Further, our federal government recently authorized billions of dollars for energy efficient projects through its stimulus package. For Construction Managers who are currently working in the field of sustainable construction, or are considering doing so, this article identifies five risks you should be aware of and provides strategies for mitigating the same.

Issues

Make Sure Your Schedule Is Green. There are numerous green requirements that can affect the critical path and project completion, such as commissioning and flushing out the HVAC system for two weeks prior to occupancy. Failure to include these items in your schedule could result in costly delays. You can mitigate this risk by working with the architect during the preconstruction phase to understand the green processes that are being considered for the project and then including those activities and their proper durations in the CPM schedule.

Identify Green Products With Long Lead Times. Certain sustainable products are in high demand and low supply, which results in long lead times. Construction Managers should identify these items during the preconstruction phase and account for them in the schedule to ensure that they are ordered in sufficient time so as not to delay the project.

Limit Your Coordination and Constructability Review Obligations. Although the architect is responsible for designing the project, Construction Managers typically agree to review the design documents for coordination and constructability as part of their preconstruction services. There is growing tension in the industry as to whether providing this service renders the Construction Manager responsible for ambiguities and other errors in the design documents. Further, because the industry is still on a learning curve with respect to sustainable design and construction, it may be especially difficult for Construction Managers to identify errors with respect to the green components of the design. This risk can be addressed in the contract by including language that limits the Construction Manager's responsibility for errors and ambiguities in the design documents to those it actually discovers.

Hire Trade Contractors With Green Experience. While there is always a risk of defective construction, there is a heightened risk in the area of green construction because many trade contractors have not worked on sustainable projects. A few measures can be taken to mitigate this risk. First, for bid packages that involve green components, identify the minimum level of green construction experience that bidders must possess. Second, require the successful bidder to identify and use specific management personnel that have green construction experience. Third, if the bidders have not worked on green projects, then require the successful bidder to attend certain LEED workshops to acquire a basic level of green construction competence.

Do Not Assume Blanket Responsibility For LEED Certification. There is a risk that the US Green Building Council might not certify the project. Since the reasons for not certifying a project may include areas beyond the Construction Manager's control (e.g., the project was not designed to achieve the requisite number of credits), contractual language that imposes overall responsibility on the Construction Manager for achieving LEED certification should be avoided. Further, the contract should specifically identify the various tasks and issues required for a project to achieve LEED certification and clearly allocate responsibility for each to the party best suited to satisfy the same.

Conclusion

This article touches the tip of the green iceberg, as there are many other contractual and risk management strategies and techniques a successful Construction Manager should employ to protect its rights on a green project. Further, while green construction certainly has its nuances, with proper planning, you can thrive in this growing segment of the construction industry. [CM](#)

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