

7 Rules to Write Tight Subcontracts

A little more time and a few extra steps can help get your subcontracts written tighter, more accurate and totally complete

BY GEORGE HEDLEY — MAY 16, 2018



Whether you are a general contractor or subcontractor, construction should be simple. Hire excellent, well qualified responsible subcontractors or suppliers. Write and execute perfect subcontracts with complete and detailed scope of work descriptions. And then let your project team build the projects without challenges, errors or mistakes. But we all know this doesn't happen very often. So how can you impose foolproof methods to eliminate many of the problems and arguments that occur out on your jobsites?

Starting projects with the right subcontractors with as close to perfect subcontracts as possible will help you make more money, finish faster and reduce field issues. Hiring the right subcontractors is not an easy task and takes concentrated effort. It's easy to gloss over several proposals and hire subcontractors you like or know without doing proper due diligence, scope review or cost estimating analysis. Quick decisions without doing the research leads to disputes, change order requests, late schedules, holes in your budget

and unnecessary conflicts. To get it right only takes a little more time and a few extra steps to make the correct choices and get your subcontracts written tighter, more accurate and totally complete.

Rules To write tight subcontracts

1. Start with successful procurement standards

First, the key to selecting the right subcontractor and writing tight contracts is to have a company standard and policy that everyone follows. This includes scope of work spreadsheets, standard contract formats, quote comparison checklists, standardized approval methods, and detailed descriptions of how you want subcontractors to work with your company to manage and build your projects. Investing in a standardized procurement system will eliminate many problems that occur on jobs including disputes over scope of work, inclusions, exclusions, specifications, schedule and changes.

2. Execute all subcontracts PRIOR to starting your projects

Every job starts in a hurry with little time to plan and procure every subcontract for every trade on the job. Additionally, project managers often make excuses why they shouldn't award subcontracts until later. I disagree! The faster you get every subcontract written and executed the better. When all subcontracts are signed, sealed and delivered, you know your team and can get every player in on the project game plan. This eliminates potential problems such as approvals, shop drawings, material deliveries and scheduling.

3. Help those who help you

When subcontractors help you get awarded the job by offering a low value price, great ideas or value-engineering alternatives which improve your competitive advantage, you are obligated to award them the contract. By treating every qualified subcontractor fairly, not shopping their bids, and awarding subcontracts to the lowest responsible qualified bidder, you'll maintain a great reputation and build a great team of subcontractors for the future.

4. Always award to the lowest and complete responsible qualified bidder

Being the low bidder doesn't qualify subcontractors to be awarded the job. They must also meet the threshold of excellence, project experience, safety record, quality workmanship, adequate manpower, trained field crews, professional supervision and project management, financial and bonding capacity, ease of doing business with, and ability to meet the schedule. In order to

Quote Comparison Spreadsheet - Building Tilt-Up Concrete

<u>Work Description</u>	<u>Bidder 1</u>	<u>Bidder 2</u>	<u>Bidder 3</u>
Base Bid:			
- Building Complete	\$100,000	\$130,000	\$135,000
Qualifications:			
- 6" Slab / 2" Sand	Included	Included	Included
- Welding	\$ 5,000	\$ 8,000	\$ 6,000
- Rebar	\$ 40,000	Included	Included
- Slab Dowels	\$ 3,000	Included	\$ 4,000
- Add Truck Dock	\$ 10,000	\$ 12,000	Included
- Crane	Included	Included	Included
- Caulking	Included	\$ 5,000	\$ 4,000
- Trash Bins & Power	\$ 2,000	Included	\$ 2,000
- Permits & Tests	Excluded	Excluded	Excluded
TOTAL	\$160,000	\$155,000	\$151,000

verify these requirements, you must call several references and review their financials and safety records before you award them a contract that puts your company at risk.

To verify the complete scope of work required and decide which subcontractor has the best and complete proposal, use a 'Quote Comparison Spreadsheet' to compare the total price for each bidder. Review the total cost for each subcontractor with your supervisor before awarding the contract or committing to a contractor.

5. Use Contract Scope Checklists to write complete subcontracts

To make writing complete subcontracts easier, sort all the bids and proposals you have received from subcontractors over the last year or so on all of your projects. Then make a list of all the inclusions and exclusions submitted for each trade. Compile these lists into 'Contract Scope Checklists' to use as templates when writing subcontracts. This will eliminate those items easily forgotten or costly change orders when discovered later out on the job.

6. Make sure you have tight clauses

The problem with most construction disputes are grey areas that weren't clear in the contract and between the parties. Be sure to write exactly what is expected to perform all contractual obligations in your subcontract agreements. Attach all contract documents to the subcontract including your standard subcontract provisions, a complete list of all project plans & specifications, the progress payment billing requirements, and the project schedule. Make sure it's clear the executed subcontract will be the only agreement and all proposals, bids, verbal understandings, or promises are not a part of the subcontract unless they are agreed to in writing by both parties.

Other important project requirements should be written into the subcontract including:

- Price - Subcontract price is fixed through the project completion.
- Change Orders - No extra work will be approved or paid for without prior written approval from general contractor's project manager.
- Schedule - The subcontractor hereby agrees to complete their work on time per the project schedule and as updates are presented.
- Project Meetings - The subcontractor will attend all required construction project field meetings. Failure to attend may result in \$500 charges.
- Clean-Up - The subcontractor will clean up their work on a daily basis and dispose of their own trash off site. The general contractor, after 24 hour notice to subcontractor, may cleanup for the subcontractor and back-charge them.
- Insurance - The subcontractor is required to carry \$___ insurance and name the general contractor, owner and lender as additional insured.
- Authorized Signers - The following persons are authorized to sign progress payment lien releases & agreements by subcontractor:
- Shop Drawings, Samples, & Project Submittals - All shop drawings, samples, and project submittals shall be submitted for approval within 15 days after subcontract

date. The required submittals include the following:

- Project Close-Out - All project closeout documents required including the warranty, as-built drawings & operation manuals shall be submitted to the general contractor prior to payment of the subcontractor's 90% completion payment request.
- Subcontractor Cost Breakdown & Schedule Of Values - The subcontractor shall complete the following scope of work cost breakdown for approval:

<u>Major Work Phases</u>	<u>Labor</u>	<u>Material</u>	<u>Equipment</u>	<u>Total</u>
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
_____	\$ _____	\$ _____	\$ _____	\$ _____
Totals	\$ _____	\$ _____	\$ _____	\$ _____

7. Meet to review the proposed subcontract

After you decide which subcontractor you want to award the work to, and have drafted their subcontract and scope of work with inclusions and exclusions, meet with them in person and review everything required to make the project successful including:

- Price, scope of work, inclusions & exclusions
- Subcontract terms and conditions versus their proposal
- Alternates, substitutions and value-engineering
- Schedule, manpower requirements & liquidated damages
- Safety requirements, jobsite rules, permits, tests and inspections
- Change order markup and standard crew rates
- Required shop drawings and submittals
- Required project meetings, supervision and authorized representatives
- Temporary facilities, power, phone, water, clean-up and trash
- Final punch list and project close-out requirements
- Payment and insurance requirements

Having a subcontract system will improve your bottom-line and eliminate those nasty problems and change orders that occur in the field when you don't have everything covered.

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