SAFETY IS EVERYONE’S JOB
CONTRACTING IS EVERYONE'S JOB
The Future of Contracting: Simple is Beautiful

Theme:
Win Together to Share Success NOW!

Year: 2019
Date: Aug. 28-31
Location: The Broadmoor
Colorado Springs, CO
Our presenters

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The Future of Contracting: Simple is Beautiful
The Problem:
Misguided contracting can make already complex projects even more difficult to execute… and destroy value for both owners and contractors
The Solution: Our industry needs to move...

From...

Contracts that are:
- Designed to push off risk
- Unnecessarily complex
- Strictly transactional

To...

Contracts that are:
1. Balanced
2. Simple
3. Driving the right behaviors
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Owner

Contractor
Achieving balance

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“Simple can be harder than complex… but it’s worth it in the end, because once you get there you can move mountains”

Steve Jobs
Co-founder of Apple
What is simple?
Behavior is the best indicator of outcomes

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Overview of concept

<table>
<thead>
<tr>
<th>Structure</th>
<th>Benefits</th>
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<tbody>
<tr>
<td>§ Cost reimbursable (bare cost / no significant profit)</td>
<td><strong>Balanced</strong> – contractor accepts discretionary fee in exchange for “guaranteed” profit and significantly lower cap on liability</td>
</tr>
<tr>
<td>§ Contractor fee / profit</td>
<td><strong>Simple</strong> – no complex formulas and only a few components</td>
</tr>
<tr>
<td>- Fixed monthly fee</td>
<td><strong>Focused on driving the right behaviors</strong></td>
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<tr>
<td>- Quarterly discretionary award based on behavior</td>
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<tr>
<td>- Completion bonus based on final results</td>
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The goal is to ensure that both the owner and contractor are focused on the project and not on the contract
## Implementation details

<table>
<thead>
<tr>
<th></th>
<th>Basis</th>
<th>Timing</th>
<th>Details</th>
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</thead>
<tbody>
<tr>
<td><strong>Completion incentive</strong></td>
<td>Discretionary</td>
<td>At final completion</td>
<td>Based on final results – e.g. safety, cost, schedule, quality, etc. – and other factors considered by owner</td>
</tr>
<tr>
<td><strong>Award fee</strong></td>
<td>Discretionary</td>
<td>Quarterly</td>
<td>Based on mutually agreed-upon scorecard focused on driving the right behaviors for a successful project – e.g. responsiveness, communication, leadership support, progress, etc.</td>
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<td>Any amount not awarded in a given quarter is rolled into the completion incentive pool to give contractor “second bite at the apple”</td>
</tr>
<tr>
<td><strong>Fixed fee</strong></td>
<td>Fixed</td>
<td>Monthly</td>
<td>Includes profit and risk</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Aided by lower caps on contractor liability (i.e. less than fixed fee)</td>
</tr>
<tr>
<td><strong>Cost</strong></td>
<td>Reimbursable</td>
<td>Monthly</td>
<td>Includes work-hours, burdens, overhead, salaries, etc.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>No (significant) profit included here</td>
</tr>
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</table>
Illustrative impact of behavior-focused contracting

Engineering is behind schedule, and the target date for starting construction in the field is approaching. What does the contractor do in each of these contracting scenarios?

**Scenario A: Typical Contract**
- Hybrid contract with some fixed and some reimbursable portions
- Contractor paid based on progress (i.e. earned value)
- There are incentive payments for achieving target dates for key milestones – e.g. mobilizing in the field

  - Contractor will mobilize in order to achieve milestone payment (i.e. needs the cash)
  - This leads to:
    - Inefficient start to construction
    - Need to reschedule / replan engineering – with possible loss of control
    - Decreased productivity
    - Increase in total project cost and schedule

**Scenario B: Simplified Contract**
- Reimbursable contract (see previous slide)
- Limited downside risk for the contractor
- Only incentive is a discretionary fee based on mutually agreed-upon criteria focused on driving the right behaviors

  - Contractor will recommend delaying field mobilization because:
    - It’s the best thing for the project
    - He gains nothing with a premature start
  - Owner rewards contractor’s leadership and decision-making via discretionary fee
Call to Action

What can each of us do to drive better contracting?

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