

Run a Job Smoothly- And Turn a Profit Doing It



The news is everywhere that construction spending is down. Contractors face the [liability issues](#) inherent in having to cut prices while [construction material costs](#) either increase or stay the same. However, [opportunities exist](#) for a construction contractor to turn a profit, even in these seemingly dire times. In order to do so, a contractor must plan ahead, run a project smoothly and professionally, assure that its contracts contain terms that protect it from liability as best is possible in an uncertain world, and assure prompt action to collect should those terms be breached (whether with a lawsuit, [mechanic's lien](#), or, possibly a [Miller Act](#) claim).

One key way to avoid having to pursue this last course of action is to make sure that you, as a general contractor, subcontractor or supplier, run your portion of the construction job smoothly. Good relationships with those both up and down stream can go a long way toward heading off problems before they blossom into legal action. The [construction guidelines](#) published by a coalition of the [AGC](#), the [ASA](#) and the [ASC](#) are a good starting point for advice on this topic.

Another way to both avoid problems and protect yourself as a construction professional is through the use of [escalation clauses](#) in your construction documents. These clauses allow a subcontractor to pass on an increase in materials cost to a general contractor (or a GC to an Owner) under certain circumstances. As my good friend Scott Wolfe, Jr. of the Wolfe Law Group (@scottwolfejr on Twitter) points out at the [Construction Law Monitor](#), absent such a clause in your contract, you (as the down stream construction company) will likely have to eat any increased costs under a fixed price, lump sum contract. Of course, an escalation clause is just one protection that you can build in to your contracts and a [knowledgeable construction attorney](#) can help you incorporate others.

Finally, make sure that all of the details are hammered out up front in the contract documents. In Virginia, the [contract is king](#) and (absent some clearly illegal provision) the contract will be enforced as written. Many problems will be avoided by clear contract drafting that assures that all parties know the deal before the project starts. Surprises cause litigation much more often than clear contracts, even in claims situations.

Taking these relatively simple steps should help you concentrate on completing the work and making money doing it.

I encourage all contractors and attorneys that read this blog to comment below with their experiences and tips.

Please check out my [Construction Law Musings Blog](#) for more on Virginia construction law and other topics.