

SAFETY FIRST



WITH TAMMY K. CLARK



Construction Headaches: Owner-Supplied Contractors (Part 1B)

In Part 1A, we continued with the series, “Construction Headaches”, and delved into the topic of “Owner-Supplied Contractors”. Access Part 1A [here](#). In Part 1B, we examine the risks and liability owners are taking on by choosing to bypass the GC/CM relationship by hiring contractors directly. It is important for the GC/CM project team to understand these risks in order to have intelligent, proactive conversations with owners. If you can explain to them the risks and liabilities that they will be taking on by not giving you the full project contract, they will be much less likely to do so. Getting in front of this problem is critical. But how can a construction management firm do so? First, it is important to understand the problems owners create for themselves when they take ownership of their own project by hiring contractors directly.

When an owner hires a GC/CM firm, they turn over the ownership of their property to the construction firm during the course of the construction project. This is why the term, “owner turnover” marks the stage at the end of the project when the GC/CM firms gives the “ownership” of the property back to the owner. This is a legally-recognized position of ownership from a liability standpoint. When the owner chooses to bypass this relationship, they retain ownership of their

property, even throughout the construction phase. This makes them directly responsible and liable for all safety and compliance behaviors of their contractors. The firm that was hired to manage the project is no longer responsible for the safe and compliant work of the contractor, the owner is. In this manner, owners unknowingly become the “controlling contractor” to direct-hire contractors, according to regulatory language. Owners simply do not understand the risks and liability associated with taking on this role. With a direct contract, the controlling contractor is directly liable for their contractor in the same manner a GC/CM firm is held responsible for the contractors on their projects. OSHA cites accordingly; everyone in the chain of command receives a citation for a subcontractor’s violation, due to the multi-employer language in OSHA standards. If owners truly understood this risk, they would let the GC/CM firm assume all risk and

liability for the management of the project, as that is a major responsibility of the management firm.

When an owner hires contractors directly, those contractors are not concerned with the GC/CM firm’s schedule, safety/compliance requirements, coordination/sequencing meetings, or other company requirements, because they are not hired by that firm. Of course, this leads to extreme headaches for the project management team (specifically the site Superintendent), disruption of the project schedule, poor morale, hostile relationships on site, and inefficiencies. All of this results in extended schedules, missed deadlines, finger-pointing, decreased profits, and unsafe, non-compliant projects. And who is responsible? Everyone. The GC/CM firm is responsible for what happens on *their* site, despite who is under their contract. The owner is responsible for *their* contractors. The contractors are responsible for *their* own employees and subcontractors. This is the multi-employer noose, and everyone is being hanged. The owner does not see the day-to-day disruptions, missed deadlines, work that must be re-done due to the lack of communication, and ultimately, reduced profits, so he has no idea that he has created his own problems. Stay tuned for Part 1C, realistic solutions.



Tammy K. Clark is a construction industry Safety & Quality Consultant with over 20 years experience as a business owner, consultant, educator, and speaker. Tammy has worked with renowned clients nationwide. She is a member of ASSE, former Chair for the NAWIC National Safety & Health Awareness Committee, and was nominated as one of the Grand Rapids Business Journal’s 50 Most Influential Women. You can contact Tammy at tammy@tammykclark.com or visit her website; www.tammykclark.com.