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The Role of the Construction Consultant

Robert S. Bright

In today's challenging business environment and as a result of the impact from poor decision-making and execution of capital project construction, many organizations realize the need for a construction consultant. The role of the construction consultant is not solely technical or financial but also to bridge the gap between competing interests and to bring realism often lacking within an optimistic project team. Although the construction consultant may not be able to identify or resolve all of the issues affecting successful project delivery, the consultant should assist in bringing clarity that will first and foremost enable the business unit or organization to move forward with improved efficiency and understanding by the project team and related stakeholders.

Many project sponsors such as chief financial officers, general counsels, audit committees, and directors and other key project stakeholders that are removed from day-to-day project management often have the need for an independent added assurance that the project is pro-

Robert S. Bright, founder and president of Talson Solutions, LLC, is a capital project consultant and financial specialist with more than 18 years of diversified engineering, project management, litigation, and construction consulting experience. Mr. Bright has assisted major domestic US and international retailers in the development of construction management systems and financial control procedures.

Mr. Bright can be contacted at 215-599-5573 or via email at rbright@talsonsolutions.com

gressing according to plan. Unfortunately, many of these stakeholders are not getting direct answers from the project team or are receiving project updates that are constantly littered with cost, schedule, or design surprises that adversely impact project delivery. The stakeholders often ask themselves: (1) Are they asking the right questions? (2) Are the proper checks and balances or systems in place? or (3) Is the right project team in place to understand and manage the project risk?

Unlike technical consultants that rely on physical laws to answer their questions, the construction consultant relies on his or her vast knowledge and broad range of project experience, combined with strategic business acumen, in order to provide his or her client with independent feedback and recommendations. The consultant's entry into a project may be a contract compliance review, a litigation assessment, a construction management process review, or a simple exercise to postulate where problems may exist.

Understanding the Need for the Construction Consultant

The need for a construction consultant can be defined by a client or business profile that exhibits aggressive strategic initiatives and yet recognizes a lack of expertise both organizationally and systematically to fully implement the initiatives. Many clients are making product and market decisions and not necessarily project management decisions. The investor will understand a good or bad business decision but will not necessarily know if good project management practices support the new initiative. The business and construction worlds know that many projects are successful simply by realistically addressing the day-to-day challenges faced by most projects. Projects are also successful by understanding risks, political or



nonpolitical, that exist in the world of construction and development. The client who does not normally require significant capital outlays in their core business or for whom the project is the first major capital investment in several years is likely to be faced with an unenviable task of managing a design and construction process where a healthy skepticism exists regarding hidden profit centers for architects, engineers, vendors, and contractors.

Unfortunately, while many clients are focused on the “profit centers,” the process of understanding organizational team dynamics, project cost and schedule controls, strategic alternatives, outstanding design issues, market forces, contract issues, and other project risk areas is often ignored due to the lack of specific staff expertise or project team optimism. We have all heard the story of a highly rated operations manager that was recently appointed the project manager in charge of a significant construction project or a team of a highly experienced construction professionals that are working together for the first time. Let’s not forget the story about the rollout of a new financial and project management system that will increase team efficiencies but often lead to the development of ad-hoc reports produced by each project team member. Often, it is the result of the failure of numerous project interfaces or a specific incident in situations similar to those referred to above when the construction consultant is brought in to begin to identify and quantify and to ultimately highlight the organization’s exposure to existing adverse project conditions. The construction consultant’s optimum impact on a project is at a project’s beginning, when a substantial proactive role can be played to assist the entire project team and other stakeholders.

Who Engages the Construction Consultant

In most cases, the construction consultant is engaged by the experienced client that has received a few “project stripes” of their own and is looking to avoid becoming another project fatality. This type of client is aware of business versus project decisions and is typically focused on eliminating surprises and mitigating risks. The client is willing to turn over a few stones knowing that this is best for the project and business unit long term.

The project team is traditionally optimistic and rarely wants an outside party (an internal or external consultant) to analyze their performance or execution plans. However, general contractors and owner’s representatives are limited in their ability to cross over many project areas or business units to fully evaluate the impact of numerous project interfaces and stakeholders. The construction consultant’s clients are counsel, chief financial officers,

audit committees, internal audit directors, project executives, and other stakeholders. Each one of these clients typically has competing interests from the project team. Counsel is initially concerned with the organization’s liability and overall exposure but is sometimes faced with addressing the inevitable questions of what happened and how can we move forward. The chief financial officer is primarily concerned with financial exposure due to missed delivery dates and excessive project costs. The audit committee is focused on obtaining an independent evaluation and the mitigation of project risk. The internal audit team is faced with many challenges as they pursue existing operational inefficiencies and system operational confirmations. Although internal auditors are normally quick studies, many organizations do not have auditors with the core construction competence or the opportunity to provide a meaningful evaluation of project financial and delivery risk.

The Successful Construction Consultant

Successful construction consultants can be judged by the overall impact of the consultants in their critical, but often misunderstood, role. The successful consultant will take the time to understand a project’s history or dynamics and will encourage the client to take step improvements and not achieve the “perfect project” that is cost prohibitive by most organizations. Although the consultant may do an exceptional job identifying project design, organizational, contract, systems, and other risks, the ability of the consultant to provide mitigation opportunities will improve the credibility of the findings and the consultant. For example, the consultant’s comments on the risk of cost overruns are typically tied to cost saving opportunities. As previously mentioned, the construction consultant is a bridge for communication between interested project parties. This bridge should remain open for confidential discussion and the transfer of project information that will stimulate corrective action and awareness. The ability to communicate as a construction consultant will broaden the consultant’s effectiveness and allow all parties to remain focused on the broader and more critical issues such as first production and sales.

The Construction Consultant’s Background— The Right Choice

What does it take to become a construction consultant? This is a simple question but there is no definite answer. There is no certification process or standard education process except the ability to absorb and learn from one’s experience. A formal training in accounting, engineering, communications, strategy, business development,

finance, or project management would be useful. However, the construction consultant should offer his experience (war wounds or project stripes) as the initial platform on which to base any recommendation or project evaluation. The experience of a field engineer or business development manager is just as valuable as a project accountant or expert witness as long as the consultant was exposed to key project situations and team dynamics. A construction consultant must have an understanding of market forces and specific industry knowledge. Domestic and international experience and exposure to numerous industries is a plus for the construction consultant as well. The key characteristic for the construction consultant is his or her ability to separate the forest from the trees and understand the economic and business impact of each issue in the process.

The Construction Consultant and Contract Compliance

The term “compliance” takes on many meanings for the construction consultant. Although the traditional focus of compliance testing is financial matters, the construction consultant should also address technical and project management areas. For example, it does not help to verify the cost of weld types when there is poor weld quality and an inadequate weld inspection program being carried out by the contractor. The construction consultant knows that the petrochemical or energy client is more concerned with the corrective action to the weld program than the additional corrective costs if not paid by the contractor.

The construction consultant understands that true compliance by the contractor allows for full project or job closure and the resolution of open issues. Typically, full contractor compliance would not allow for open change orders or outstanding contract issues resulting in job extension and management distractions by both the owner and contractor personnel. Also, the construction consultant brings to the client knowledge of typical financial (*e.g.*, labor rates and markups) and process (*e.g.*, bidding, lien waivers) issues that traditionally arise in various types of contracts. The issue of hidden profit areas can be quickly diffused by a thorough understanding by both the contractor and owner personnel of actual versus incurred costs or the applicable use and reconciliation of contractual markups. For example, the construction consultant must often explain to many of his owner clients that the payments made against a Guaranteed Maximum Price (GMP) contract should be based on specific subcontractor award values, unless allowed in the contract, and not the schedule of values as initially presented in the GMP award.

Benefits from a contract compliance review conducted by a construction consultant with a wider focus than simply just financial matters include:

1. Additional cost recovery due to inefficient processes
2. Improvement to future contract provisions
3. Increased understanding of change orders and related impacts
4. Reduction of open issues

However, the greatest benefit of a timely compliance review is the creation of a “Big Brother” awareness to owner and contractor personnel allowing for improved contract management and owner-contractor relations.

The Construction Consultant and Project Risk Reviews

Through a systematic approach of documentation review and interviews with key project members, the construction consultant seeks to identify and communicate project delivery risks to his or her client. Red flags are just a normal part of construction. This is done not to alarm or create unnecessary anxiety, but to foster an atmosphere of awareness and open communication with the interested parties. No organization wishes to hear about excessive open design issues or poor contract management possibly resulting in completion delays or litigation without knowing the project can still move forward.

What is project risk? How is project risk tolerance determined? The construction consultant should not attempt to put an absolute definition on either issue for their clients but should tailor their analysis to reflect the potential impact of a finding in each area. For example, does a lack of detailed financial policies and procedures automatically identify a major issue? Not necessarily, if the organization has successfully delivered projects without cost overruns, financial improprieties, or noncompliance to contract. The lack of formal project reporting will prompt the consultant to investigate the flow and analysis of critical financial and technical information. The construction consultant is constantly trying to solve a puzzle by putting together bits and pieces of information until a “risk theme” can be developed.

The consultant may use a variety of tools to analyze risk and possibly subject the project team to the tough questions that project management and various stakeholders were unable to fully develop. One example, which most project personnel have never heard of or used, is the “banana curve” to measure the integration of two key project status components such as cost and completion percentage. Although this tool allows for the measure of dollars to achieve a percent complete, it can-

not be analyzed in isolation and must be measured along with the outstanding issues and future work.

Contingency management is also a very useful area to analyze for project risk. A standard contingency amount (e.g., 10 percent) is usually included in a project's budget. The lack of a systematic approach to develop a project's contingency and a contingency management program for use or draw down of the budgeted amount is an indicator of potential risk. This program would include approval policies, usage curves, and clear definitions for the release of contingency funds. Many discipline managers for engineering, construction, and procurement rarely communicate about contingency believing that the majority of the contingency budget is available for them. During the project, contingency availability should be evaluated against the remaining forecasted expenditures and project progress.

Project risk is also based on the quality of the assumptions that were used to develop the baseline project. Although these assumptions can be constantly measured against actual project events, they are often forgotten until it is time to reconcile a project that is in litigation or to obtain additional funding. It is important for the construction consultant to understand and measure the inherent compatibility between cost and schedule assumptions, including construction execution and procurement. Many experienced project teams are equipped with a Project Execution Plan to help formalize and periodically test key project assumptions.

Contract risk is often misunderstood by many project stakeholders to only be the concern of legal counsel. Fortunately, the construction consultant is familiar with the numerous types of design and construction agreements and is able to analyze whether the current contracts and various provisions are the best fit for the existing project organization and current project status. The construction attorney may argue that it is best to include everything in the contract. This would include the right to audit, reporting requirements, unit rates, markup percentages, list of allowable and unallowable reimbursable expenses, financial procedures, liability, liquidated damages, and many more. Many owner organizations and stakeholders do not understand the impact of project changes and literally believe that a signed GMP agreement means that there will be no change in contract price or project costs and no risk to the owner. The construction consultant rarely finds this to be the case and must remind the client that the GMP only establishes a known threshold based on open design and execution

issues. The sharing of risks is discussed between the owner and contractor but in reality the true project risk rests with the naïve owner.

As previously mentioned, risk mitigation is an important component of the construction consultant's role. It is critical for the construction consultant to offer mitigation recommendations that initiate discussions among the key parties, including contractors and design personnel, and that will eventually lead to action by the project team and other stakeholders. Like all consultants, the construction consultant understands that mitigation recommendations are only recommendations and may therefore not be followed. Mitigation recommendations should raise the sense of awareness that proactive steps can be implemented.

The Construction Consultant and Litigation Avoidance

Disputes and litigation are a cloud that hovers over every construction project. It sometimes does not take more than one dispute to realize that the dispute resolution process is costly, time consuming, and a distraction for senior technical and management personnel. In addition, long-term personal and business relationships are sometimes bruised beyond reconciliation as a result. The construction consultant is well aware that "an ounce of prevention is worth a pound of cure" in construction disputes. For the inexperienced developer or owner, there are numerous telltale signs that occur prior to the filing of a formal dispute. These signs may include outstanding change orders due to price and schedule disagreements, design conformance, nonpayment to subcontractors, extensive nonconformance work, and documentation suddenly appearing more formal. Another sign may be an excessive number of unresolved Requests for Information that are being used to document the project progress and not for clarification or new information. Once again, the construction consultant analyzes this data like another piece of a complex puzzle in order to provide an opinion on the potential for a project dispute. If the potential for dispute resolution exists, the construction consultant will advise his or her client to immediately prepare for litigation because the client is already a few steps behind the contractor or opposing party. This preparation would include engaging specialized litigation support resources.

The Construction Consultant and Retail Construction Management

The specialized retail construction management market is dominated by short development periods (less than one year), evolving store designs and an extensive number of logistical interfaces including landlords, real estate

agents, vendors, manufacturers, and contractors. This activity is then overshadowed by aggressive announcements of new store development and store makeovers to the investor market and retail world. The construction consultant knows that the games have just begun and the measure of success is based on the number of timely store opening and sales. In the retail world, very few CFOs or real estate vice presidents wish to tell the CEO and/or Board chairman that their targets will be missed.

Unfortunately, many market announcements are made without knowledge of the internal capacity and current readiness of an organization. The construction consultant is ready to assist in identifying store development disconnects that could adversely impact store delivery. It is not uncommon for the retailer's real estate department to evaluate a new store location based on historic capital costs and an existing design without confirming the validity of these assumptions and costs with the store planning and construction group, which may be designing and constructing a new prototype store at much higher cost. Also, many internal retail reports are not designed to quickly measure store construction trends such as the number of delayed construction starts or increasing dollars per square foot costs. An introduction of new reports such as an Exception Report by the construction consultant may initially discourage the retailer that has been using the same reports for the past 5 to 15 years. Project managers are often faced with trying to construct a new store without landlord-approved drawings or an agreed possession date. The construction consultant must be persistent in presenting new methodology to the retailer, knowing that implementation time is crucial to a successful store delivery.

The construction consultant is able to understand and attempt to bridge any gaps that exist between the real estate, finance, construction, planning, and store operations groups. The client is also made aware of the project

risk resulting from inaccurate cost data and reporting systems. Listed are just a few of the questions asked by stakeholders whom experienced the results of poor store development planning and execution:

- Will the rapid reduction of cash flow continue?
- Was the additional workload a burden to the staff?
- Why were there instances of double payments to contractors?
- How can we get key vendors aligned with our schedule?
- Will we continue to build/develop new designs without realistic budgets?
- Why was inventory shipped to stores before construction was complete?

Final Thoughts

Construction consultants play a unique role in many projects and at various project phases as they understand that the primary task is to simply move the project team and related stakeholders towards clarity and improved overall execution. Tremendous benefits can be gained by the experienced client wishing to engage the consultant in the client's search of an independent assessment of the facts combined with meaningful recommendations. Although numerous benefits can be gained by an organization engaging a construction consultant, these benefits can be limited by a wait-and-see approach. Similar to the early procurement of critical and long lead materials for a complex project, the consultant should be engaged in a timely manner in order to offer maximum benefits at lower costs. Red flags are raised not to cause alarm but to facilitate discussion and close the gap between the project stakeholders and reality. Whether the consultant conducts a contract compliance review or analyzes the construction management process, the consultant is constantly aware of the bridge that they are creating for project personnel and other stakeholders.

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