

## Contracts

### **Hensel Phelps - GC**

- The main contract for the construction of the building was a lump sum contract given to the GC on a best value decision process
- Hensel Phelps bid was, in fact, the highest of the bids put in
- The reasoning behind the Best Value selection was mainly due to the historic nature of the project and the emphasis on preservation of the building and its unique materials
- The owner felt that using a lowest bidder selection process would result in a lower quality final product from the desired results
- The project has no OCIP or CCIP requirements, there are insurance requirements, but they are of a standard nature for construction projects and in line with Hensel Phelps's normal insurance requirements, (eg. General Liability, Workers Compensation, etc.)
- The bonding on the project is a little unusual, the GC has a performance bond for 100% of the contract value, however the payment bond is only for 50% of the value of the base contract
- The contract contains no incentives, rewards, shared savings clauses, nor liquidated damages clause

### **Subcontractors**

- The contracts between Hensel Phelps and its subcontractors is a standard lump sum contract used for all of its subs
- The insurance and bonding requirements from the owner are passed on in the same format to all of the subcontractors
- The contracts follow the same lump sum format as the main contract between Hensel Phelps and Smithsonian for simplicity of management, changing to a different style of contract could lead to a variety of complications

### **Hartman-Cox Associates**

- The contract with the architect was originally on an hourly basis, with the architect submitting a log of the hours spent by themselves as well as the consulting engineering firms
- The contract was amended later to change to a lump sum contract due to the excessive tracking work needed by both the architect and the owner in order to maintain proper billing procedures

### **Bovis Lend-Lease**

- The contract with the Construction Management Agency is assumed to be a Lump Sum contract, which would fall in line with the rest of the contract types
- The CM is focused on managing the construction process so the insurance requirements would match those of the contractors and subcontractors, with the exception of liability relating to the work in place
- It is possible that the CM may have Errors and Omissions Insurance due to their involvement in constructability reviews and the potential for liability in that area

## **Appropriateness of Contracts**

### **Hensel Phelps**

- o The lump sum contract, chosen with the Best Value selection method, seems quite appropriate due to the focus of the owner's interests on the quality of the final product
- o Using the Best Value process allows the owner to weight other aspects of the bidding organizations including the experience of the project team and the thoroughness of the construction plan, budget, schedule, etc.
- o Smithsonian Institution has worked with Hensel Phelps on other projects in the past, namely the new National Air and Space Museum at Dulles Airport, which may have influenced Smithsonian's decision to use Hensel Phelps

### **Subcontractors**

- o Due to the size of the project and the complexity, the use of a boilerplate contract simplifies the process to simple modifications from a universal base contract
- o There are obviously some modifications based on scope of work and preferences of subcontractors on certain terms and clauses, however the contracts are very consistent
- o Using a boilerplate contract for all of the subcontractors seems very appropriate considering the number of subs employed on the project and the long duration
- o The contract type also is appropriate because of its alignment with the main contract between Smithsonian and Hensel Phelps

### **Hartmann-Cox Associates**

- o The use of an hourly contract for the design firms seemed very inappropriate
- o The fact that the contract did not match the project was born out when the contract changed to a lump sum partway through
- o The use of the lump sum seems appropriate, again, because of its alignment with the contracts for the rest of the project and the amount of work it saves for both the designer and the owner

### **Bovis Lend-Lease**

- o Using a lump sum contract is the right choice for the construction management firm for much the same reason as for the general contractor, the level of quality requires a knowledgeable and experienced builder

The alignment of all of the contract types saves the owner a considerable amount of work because the system they use to track all of the companies in their employ is all the same format and they are getting billed in the same manner by all parties. The owner is experienced in construction and was pretty wise in their decision for the proper delivery method for the project and the selection process they used in choosing a contractor.