The Risks of Self-Perform

September 26, 2018
About California Drywall

• Founded in 1946
• 3rd generation family business
• About 900 craft employees
• 5th largest Wall and Ceiling and 110th largest Specialty Contractor in USA (ENR)
From Clients to Competitors

History of Self-Perform Drywall in Northern California

• DPR Drywall self-performing drywall for over 15 years
  • DPR self-performed more than 1.3 million craft man-hours in drywall in 2012
  • Authored cover article in February 2013 Construction Dimensions Magazine
    • “The GC Speaks: Why We Self-Perform Your Work”

• 3 leading GC’s start self-perform divisions in 2015
  • Webcor Builders (2nd largest GC in market, $1.21 billion)
  • Swinerton Builders (8th largest, $600 million)
  • Build Group (16th largest, $325 million)
Our Concerns

- Fairness of bid evaluations and awards
- Confidentiality of Bid information
  - 75 years of bidding, setting productions, margins, etc.
  - Concerned that our bids and accompanying documents would be passed on to self-perform division – essentially teaching them how to bid and win work
- Intellectual Property
  - We have systems and processes unique to us. Don’t want to share.
- People
  - The only place self-perform division can get people is other drywall companies
Trying to Work Together

• March 2016
  • California Drywall meets with Webcor senior management to discuss working relationship going forward

• April 2016
  • Webor provides 1st draft of MOU

• May 2016
  • California responds with revised MOU

• July 2016
  • California Drywall makes a corporate decision to not bid drywall scope to self-perform GC’s
April 2016 - Webcor’s MOU

Understandings

1. For every project for which Webcor Builders is soliciting a bid from Cal Drywall, Webcor Builders shall notify Cal Drywall if it intends to bid the drywall & plaster scope of work.
2. Cal Drywall’s proposals shall be analyzed by Webcor Builders in an unbiased manner with utmost integrity and proprietary information shall not be requested from Cal Drywall to make the decision of award.
3. Webcor shall provide constructive feedback for each proposal from Cal Drywall whether or not it’s the low bidder.
May 2016- Our Revised MOU

**Intellectual Property**

The Parties understand and acknowledge that California Drywall will be providing access to proprietary and valuable information that Webcor might otherwise not receive.

**Confidentiality**

1. The parties acknowledge that in connection with submitting bids, California Drywall may disclose to Webcor confidential and proprietary information and trade secrets of the California Drywall.

2. All Confidential Information belonging to a Party is the sole and exclusive property of the Party. A Party may only use another Party’s Confidential Information in connection with performing this MoU according to its objectives, unless the Party that the Confidential Information belongs to agrees otherwise in writing.

3. For the purpose of this agreement Confidential Information shall mean any and all bid information, which is supplied or disclosed, directly or indirectly, in writing or in any other means, by each Party to the other including, but not limited to bid amount, OST and other take-off documents, alternate costs, unit costs, productions, drawings, engineering, engineered details, sketches, designs, materials, value engineering, samples, prototypes, data, the Company’s know-how and construction processes. Beyond this, confidential information’ means any information that: (a) is by its nature confidential (b) is designated as confidential by the Party providing the information or (c) a Party knows or ought to know is confidential.

4. Without affecting clause 2, all Confidential Information of a Party shall be held in confidence by the other Party receiving the Confidential Information to the same extent and in at least the same manner as the receiving Party protects its own confidential or proprietary information.

5. Subject to clauses 2 and 7, no Party shall disclose, publish, release, transfer or otherwise make available another Party’s Confidential Information in any form to any third party and Affiliates without first obtaining the written consent of the Party that the Confidential Information belongs to.

6. A Party may disclose Confidential Information: (a) to its legal or professional advisers to seek legal or professional advice in connection with performing this MoU according to its objectives, and subject to an obligation to keep the Confidential Information confidential (b) to the extent that the Party is required to disclose it under any law.

7. Unless the Parties agree otherwise in writing, immediately on request, or on expiration or termination of this MoU, whichever happens first, a Party must deliver to the other Party that supplied Confidential Information to it all documents and any material in their possession or control that contain that Confidential Information. A Party need not comply with this clause X.6 to the extent that it is required to keep a copy of any Confidential Information by law.

8. In this clause X: ‘Affiliate’ means, with respect to a party, any entity that, directly or indirectly, is controlled by, controls, or is under common control with a party. For Webcor, ‘Affiliate’ includes Webcor’s self-perform drywall unit, Paramount Drywall and all employees who perform work for it. ‘Control’ means the possession, directly or indirectly, of the power to direct or cause the direction of its management or policies, whether through the ownership of a majority of the voting securities, by contract or otherwise.

9. Notwithstanding clause X.8, confidential information shall not include information that: (a) is independently developed or known by the receiving Party, as demonstrated by the receiving Party.

10. This clause X is agreed to be contractually binding, and survives expiry or termination of this MoU.

**Non-Solicitation**

During the Term and for 24 months after any termination of this agreement, neither Party will directly or indirectly, on its own behalf or in the service or on behalf of others, in any capacity induce or attempt to induce any officer, director, or employee to leave the Company.
Independent Drywall Roundtable

- August 2016
  - Invite owners/senior executives of other independent WACA drywall companies to roundtable discussion on self-perform GC’s

- October 2016
  - Present 1st draft of self-perform piece to independent companies to get buy-in and to sign on
2017 - Motivation

Anxiety about high Bay Area building costs fuels a resurgence in 'self-perform' work

Chris Pita, SVP at Webcor
TODD JOHNSON | SAN FRANCISCO BUSINESS TIMES
Final Self-Perform Brochure

Sent out in December
600 Developers
150 Construction Managers
120 Senior Executives at GC’s with whom we work
Why do it?

- Owners were hearing one side (Self-Perform GC) of the discussion
  - Self-performing drywall is better for projects and owners
- Claims that Self-Perform
  - Improves speed/schedule
  - Ensures higher quality product
  - Lowers project cost
  - Improves cost-control
  - Safer
  - Speeds communication
Our response

Schedule
• No guarantee. GC’s back charge us if we don’t meet schedule. Less likely to do it to their company

Quality
• Quality is not subjective. Level 5 is Level 5

Total Cost
• Could be “leveling” in their favor, even if not low

Cost Control
• Not getting coverage actually increases cost

Safety
• Everyone is concerned with safety. Verify via EMR, etc.

Communication
• Lack of transparency

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Self-Perform is Self-Interest

- Conflict of Interest – Self-perform change orders or owners savings?
- Monopolistic Practices
- Increases Owner Risk – Too big to fail
- Trade Experience/Expertise – we have it through decades of experience
- Company Structure – Subcontractors are specialists for a reason
- Budget – Critical of our change orders. What about their own?
- Manpower – Demand for craftsmen is growing. We have them. They don’t
Results thus far

- A handful of calls from owners
  - One asked if we’d audit a self-perform GC’s change order request
- Meetings and discussions with non-self-perform GC’s & CM’s
  - They are using our arguments in their new business pitches
- Helped deter one GC from starting drywall division
- Getting the word out – speaking to groups like this
Since then

• Some other Northern California Independent Drywall contractors have stopped bidding to Self-Perform GC’s
• Webcor hired away a Superintendent and 8 person crew from us
• Getting the word out – speaking to groups like this
A few other observations

2015 study published by FMI

• 45% of survey respondent across the construction industry indicated that they plan to increase the amount of work they self-perform in the future.
• Another 20% responded that they are considering expanding their capabilities.
A few other observations

Swinerton/Webcor JV had problems getting coverage for Oceanwide Center
A few other observations

Webcor investing in technology for Self-Perform Drywall Group

• “We recently built a test lab for them where we’ve actually purchased robots, and we are looking into using them for the taping and sanding operations for our drywall division.”
A few other observations

Self-Perform Case Study present at ASC 53rd Annual International Conference

A Case Study Focused on General Contractors Doing More Self-Performed Work

David E. Gunderson, PhD
Washington State University
Pullman, Washington

Justin Reginato, PhD
Sacramento State University
Sacramento, California

The exiting literature addressing the self-perform versus subcontract option for general commercial contractors is sparse and contradictory. Recent text books indicate that general contractors tend to subcontract virtually all work while recent industry reports reveal that general contractors are increasingly self-performing greater percentages of work. Many variables must be considered by general contractors when deciding to self-perform or subcontract work packages, including risk, fees, schedule, availability of labor and many more. This paper investigates how and why one general contractor decided to increase its level of self-perform work. Using case studies from multiple divisional offices, the scopes of work selected, reasons
From the Case Study

• “This case study may point to a new trend in the commercial construction industry. More general contractors may be self-performing work they previously had done by subcontractors.”

• In a 2015 study published by FMI
  • 45% of survey respondent across the construction industry indicated that they plan to increase the amount of work they self-perform in the future
  • another 20% responded that they are considering expanding their capabilities.”
From the Case Study

• Swinerton’s reasons for doing more self-performed work are very much aligned with the common reasons listed in the FMI study, including increased control over the project schedule and quality.

• In addition Swinerton cited, the opportunity to enhance profit margin is a significant factor.
From the Case Study

- Swinerton’s strategy for avoiding conflict with specialty contractor partners is to not bid against them for metal stud and drywall work on any projects.
- If Swinerton’s estimators send plans and specifications out to metal stud and drywall specialty contractors for bid, Swinerton will not submit a bid to self-perform that scope of work.
  - This strategy is intended to maintain strong relationships between Swinerton Builders and their specialty contractor partners.
From the Case Study

• Swinerton intends to self-perform the metal stud and drywall work on up to 50% of their projects in the Bay Area.

• Swinerton will solicit bids from qualified specialty contractors when the metal stud and drywall work on a project is
  • too specialized (thus posing high risk)
  • the design requires a proprietary system, or
  • the owner requires that three bids be submitted for each work package.
Case Study Conclusions

- Swinerton went through extraordinary efforts to ensure that owners were getting a fair and competitive price for the scopes of work being self-performed,
  - Typically by soliciting competing bids and providing their own bid in a sealed envelope manner.
- Swinerton worked to maintain trust within the subcontracting community.
  - Swinerton would provide closed envelope bids when competing against other subcontractors.
  - Swinerton only pursued self-performing in cases where other subcontractors were unavailable or unwilling to perform the scopes of work.
My Conclusions on Case Study

• Same old claims
  • Better quality
  • Improved schedules

• That said
  • Swinerton (and all Self-Perform GCs) have an academic research paper validating their position
How we can move forward

- Produced a generic version of our brochure that you can use
  - As an association
  - As an individual company
- Created an accompanying web site that you can use and refer clients to
  - www.riskofselfperform.com
Thank you!

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