

How to Develop a Win-Win Contracting Format

Or Landfill Gas-to-Energy:
QUALITY...on Time...on
Budget

Keys attributes that are jugular for all projects

1. Quality
2. Schedule
3. Budget

Often a contractor will say:
“pick two of the above”

As an Owner or Developer you need all three so . . .
Where do we go . . .



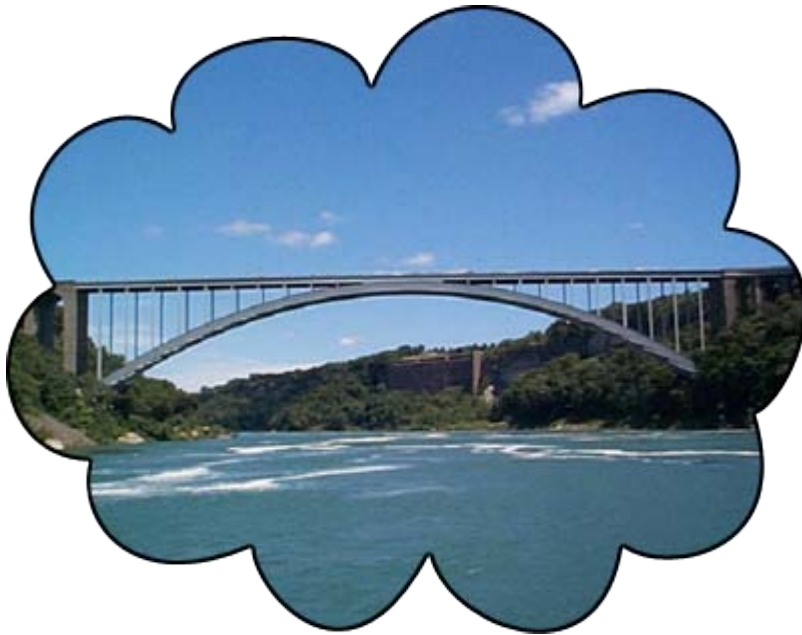
Let's define the attributes required

- **QUALITY:** *Conformance to an agreed set of requirements*
- **SCHEDULE:** *Program of future events and milestones*
- **BUDGET:** *Systematic plan for expenditure with a definite limit*

Quality represents the WHAT in the contract...

What Quality is to one may not be the same as it is to another

Need to define the scope;
CONFORMANCE TO REQUIREMENTS



On time is the WHEN...

Milestone schedule

- Define elements that are critical to success
- Identify external tasks/events
- Contract to the high level milestones



Budget is obviously HOW MUCH...



- Must think in owner terms
- In the end both the Contractor and Owner need to survive
- So don't



Concerns of both parties are much the same;

and both want



EPC Contractor

- Cost of work
- Liability
- Risk
- Profit

Developer/owner

- Meet the proforma
- Liability
- Risk
- Profit

Agreed attributes are the basis for the contract



- Scope
- Deliverables
- Schedule

A turnkey contracting framework provides the basis for a successful project.

- Addresses attributes of Quality and Schedule
- Also addresses common financial concerns of risk, liability and profit



At this point project budget/cost should be addressed.

- Dollars most often become the stumbling point for most contracts
- In any contract or transaction each parties' goal is to maximize their own benefits or more succinctly “win”.
- Compromise can lead to a Lose – Lose situation
- Strive to eliminate the lose

Both contractual parties must win

- Mutual benefit and mutual respect
- Selfish approach is ***win – lose***
- Martyr approach is ***lose – win***
- Think in terms of team; “**we**” not “**me**”



To be successful, both contractual parties must WIN

LOSE - LOSE

- Straight Lump sum tends to encourage change orders
- Unit prices tend to reduce incentive to improve project
- Both formulas tend to increase cost

WIN - WIN

- Balance, Share in the risk and liability when possible
- Share in the project rewards
- Both parties are on the same side of the ledger
- Each party is vested in the others success

Transformation of the turnkey contract and relationship assures success

- Requires that both parties WIN
- Both parties agree and share in the benefits



The WIN - WIN Contracting scenario



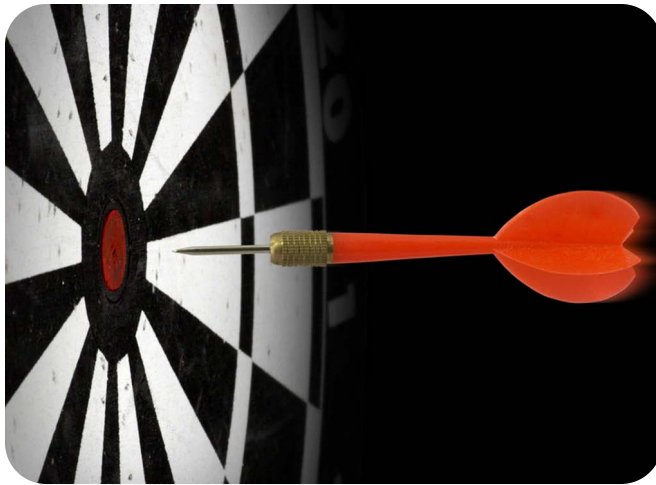
**Target Price,
Guaranteed
Maximum, Shared
Savings Contract**

This Scenario embodies the WIN -WIN contracting scenario

- A “likely” target project cost is developed
- The developer/owner have the project cost (maximum cost exposure) that meets the proforma and they can budget and finance for.
- The contractor has a guaranteed minimum fee for the project
- Both parties have an incentive to reduce project costs and “share” in the savings
- Risk, liability, and PROFIT is shared

Setting the target price and guaranteed maximum are critical

High confidence level



Lump sum market



Major components of the Win - Win Contract

- Scope/Deliverables
- Target Price
 - w or w/o contingency
- Fixed Fee
- Guaranteed Maximum Price
- Shared Savings
 - Agreed split 30/70; 40/60; 50/50; 60/40; 70/30 etc

Win - Win contract is achieved

