

# Getting Into Light Commercial Work

by Bob Kovacs

**H**ave you ever been walking through a shopping mall where a new store was being built and wondered what it would be like to do that kind of work? Like residential work, commercial jobs have their challenges and rewards, but the work isn't for everyone. The goal of this article is to discuss some of the differences between the two, so you can look at commercial work with a more educated eye. For our purposes, we'll define light commercial as retail fitouts and small office spaces.

### A Gaggle of Clients

On residential projects, you typically work for homeowners. But on a commercial project, your "client" may be a group of people. Even on a small office fitout, you may be dealing with a facilities manager, the purchasing and accounting departments of the company that owns the property, and the end user of the space. Each of those parties has different needs.

The facilities manager wants the work to be completed with minimal disruption to normal operations, which may mean limiting disturbance to the immediate area of work or working only during off hours to avoid noise, paint fumes, and other annoyances. For example, say you need to shut off the water in order to tie in your client's new water line. You can't just do that to a ten-store strip mall in the middle of the afternoon, or you'll have nine angry tenants beating on the door. If the project requires connections to existing utilities and there are other tenants in the building, plan on spending some night or weekend hours on the job to avoid conflicts with those other tenants.

The purchasing and accounting departments want to get the best price possible for the work and to limit the amount of effort required to process

your invoices. They may look at the project simply as additional work for their personnel and treat it as a hassle.

The end user, who some may consider the "true" client, since he will be using the space on a daily basis, will usually want the space built yesterday and think you should deliver a Cadillac product on his Chevrolet budget.

### Architect and Other Parties

While architectural services for residential projects usually stop once the plans are sealed and delivered, architects on commercial projects often take on a larger role during construction. They may approve invoices for the owner, review change orders, review and approve shop drawings and submittals for materials, and perform inspections on behalf of the owner. While some contractors see this as impeding their work, it can be helpful to develop a good relationship with the architect — not only because she may be approving your invoices, but also because it may lead to more work in the future.

**Landlord.** One of the most important people you'll run across (especially in his mind) is the building owner or landlord, unless the client happens to own the building you'll be working on. While you aren't contracted directly with the landlord, your client (his tenant) is. The tenant's lease documents may contain provisions regarding who can work on the premises, as well as when and how the work is to be done. Be sure to review any lease requirements pertinent to the construction process before signing a contract.

You may also find yourself dealing with property management firms; structural, mechanical, and electrical engineers; fixture and furniture companies; and real estate brokers. Be sure to establish the proper "chain of authority"

between yourself, the client, and all these parties before construction begins. Determine who can request changes to your work, where to send invoices, what you have to provide in the way of shop drawings and product submittals, and who will be approving your work and authorizing payments.

### Unions

Another party you may encounter on a commercial project is the local union delegate, or "business agent." This person's job is to get her union members employed on as many construction sites as possible, and she may drop by to say hello and offer her services. While unions frequently get bad-mouthed, they do have advantages, such as being able to get ten carpenters on a job in a day or two with a quick phone call. That beats having to place an ad in the newspaper and spend two weeks interviewing 100 candidates.

Especially if you're working within a shopping mall or a large office complex, be sure to find out before bidding if union or prevailing wage labor is required. If you don't know up front, and you find out after you've signed a contract, the possible additional cost can quickly erode your profits. If you find yourself doing an increasing amount of commercial work, and if using union labor would help you get more, look into signing an agreement with the local union hall. But first make sure you understand all of the costs for fringe benefits, etc., as well as the by-laws you'll be expected to abide by regarding working hours, overtime pay, foremen, and so forth. Also, if you plan to use union labor for work you typically perform with your own crews, try to use union subcontractors as well. There's nothing that requires that, but it certainly makes the job run smoother.

## Sign Here

On most commercial jobs, with the exception of very small projects where the architect plays a limited role and the owner is either a sole proprietor or a partnership, the contract for your services may take a different form than you're used to. Rather than you providing your contract for the owner to sign, you'll find that you're being asked to sign someone else's contract. Many commercial projects use standard contracts prepared by organizations like the American Institute of Architects (AIA), which aren't subject to much modification. While it may seem awkward being asked to do business under a contract that you didn't write, rest assured that the AIA contracts have been used on thousands of projects, and though some say they tend to protect the architect more than anyone else, they really are fairly decent contracts. Pay a few bucks to your attorney to go over the contract with you if you have any reservations.

**Bonding.** When you review the contract (preferably before preparing your estimate), check the insurance requirements. Besides higher coverage amounts, you may be asked to provide additional types of coverage or to post a bond. While some states require residential contractors to be bonded, it's far more common in commercial work to be required to post a "payment and performance bond." This protects the client if you fail to complete the work, fail to pay your subcontractors or suppliers, or fail to honor warranty requirements. The coverage typically costs a percentage of the dollar value of the work.

**Additional insurance.** Also check the contract for "additional insured" requirements. You may be required to name the landlord, the architect, the property management company, and a host of other characters, as well as the client, as covered parties on your insurance policy. Check with your insurance agent before submitting

your proposal — some companies will not list architects, consultants, or others who don't have a material interest in the project as insureds.

## Check, Please...

Unlike the typical residential project, where you normally bill the client after a fixed item of work is completed (or started), commercial jobs often work on a monthly billing cycle. Once a month, you'll assemble an invoice for work performed, based on percentages complete in various work breakdown categories. The invoices, along with lien releases and any other "backup" required by the contract, will usually be approved by the architect and sent on to the owner for payment. Here's the kicker: Many contracts are written with a 30-day pay schedule, meaning the owner has up to 30 days to pay, with the clock starting after receipt of the invoice from the architect. This can wreak havoc on your cash flow if it catches you by surprise.

This is not to say that you can't arrange more favorable payment terms. You may be able to arrange weekly billing and seven-day payment terms. However, 30 days is more the norm for commercial projects, and the bigger the job, the more likely that will be the case.

You may want to structure your payments to your subcontractors the same way. The subcontractors usually don't receive their payments from you until you are paid by the owner (commonly known as "pay when paid"). If you start paying your subs as soon as they present an invoice, you'll find yourself funding the entire job out of your pocket, rather than just funding payroll for your own employees (which can be tough enough if you're in a tight cash-flow position already). Most subcontractors performing work on commercial projects are used to this arrangement, so it shouldn't come as a shock.

**The dreaded "R" word.** You may find a retention clause in the contract. Basically, that means that a percentage

of the contract value is held back from each progress payment until the end of the project, to ensure that the contractor completes the work. It's typically 10%, but it's sometimes negotiable. The percentage withheld could be reduced at some point during the project: It might drop to 5% when the job is 75% complete, for example. Again, be sure to read the contract terms and also make sure that your subcontractors are working under the same terms.

**Liquidated damages.** The contract may also contain a clause penalizing you a fixed amount per day for every day you're late in completing the work. It's one thing to be a couple of weeks late on Mrs. Jones's remodel, but when your client's new store opens a week late or his employees can't move into their offices on time, it can become a huge deal. Advertising dollars may have been spent, leases terminated, stock shipped, movers scheduled, and who knows what else, based on your committed completion date. All of those items cost your client, either directly or indirectly. Having been on projects where completion dates have slipped even as little as one day, I can tell you that you'd better be ready for an extremely upset client. Watch for a liquidated damages clause, and make sure you can meet the schedule before you sign a contract.

## Unfamiliar Codes

In some locales, it may seem like commercial projects are built to an entirely different set of rules than residential. In actuality, the codes are largely the same, but many portions aren't applicable to single-family residences. You'll find references on the plans to occupancy loads, egress requirements, and tenant separations. You may be required to provide emergency lighting, panic hardware, and fire-rated assemblies that you never dealt with on a residential job. All of those items relate to life safety, the primary purpose of the codes.

**Party walls.** Because adjacent commercial spaces typically share walls and floors, you'll have to build fire-rated party walls and separation assemblies. Those assemblies usually carry UL designations, and there are strict requirements for their construction, including specific materials, fastening schedules, special sealants and caulks, and details for penetration of pipes, wires, and ducts. Some architects detail the specifics of the assembly on the plans, while others simply reference the UL number. In the latter case, ask the architect for a copy of the UL spec or buy the UL book. Be sure to account for those requirements in your proposal. Fire-rated wall, floor, and ceiling assemblies can cost two to three times what a standard assembly costs, especially when the rating is two or three hours.

**Fire protection.** Sprinkler systems and fire alarms are common in commercial work. You hire a specialty contractor for the sprinklers, as they require calculation for flow and pipe sizing, which is not always provided by the designer. Most plumbing contractors don't do sprinkler work because they don't have the staff to perform the calculations.

Fire alarm systems can typically be wired by an electrical contractor, but the devices themselves (smoke detectors and signaling devices) are usually supplied and programmed by a fire alarm company. Often the building owner will specify that a particular fire alarm company must be used to program the new devices into the main alarm panel; be sure to check that out before bidding.

**ADA requirements.** Though it has yet to have much impact on residential work, the Americans with Disabilities Act is law in commercial spaces. You may be familiar with the oversized stalls in public restrooms, but the ADA affects many aspects of commercial spaces that may be less obvious, including the slope of sidewalks, the clear areas at doors, and the width of aisles and corridors. While the architect may place some

generic details on the drawings regarding clearances, it's best to have your own working knowledge of the ADA when you get into commercial work. The standards can be confusing at times (and every building inspector seems to interpret them differently), but whatever you do, don't take them lightly. If ADA calls for a 60-inch inside dimension for a toilet stall, and 18 inches from the wall to the centerline of the toilet, the dimensions better be 60 and 18 inches — not  $59\frac{3}{4}$  and  $17\frac{3}{4}$  inches. I've seen more than one bathroom torn out and rebuilt because someone forgot to account for the  $\frac{3}{8}$ -inch thickness of the wall tile. You can guess who paid for the blunder (here's a hint — it wasn't the owner or the architect).

### **New Subs, New Materials**

You use different materials and different subs on commercial projects. Some are due to code requirements — for example, you can't use PVC piping or nonmetallic sheathed electrical cable in a return air plenum (due to toxicity during a fire). Others, such as suspended acoustical ceiling tile (ACT), relate to the nature of commercial space: ACT allows access to all the mechanical and electrical systems above it while providing some acoustical damping between floors.

You'll also find differences in a number of trades — metal studs instead of wood, drywall "stood up" instead of "railroaded" to eliminate butt joints, carpet glued down instead of padded and stretched over tack strip, and vinyl base in place of wood. While there are definitely subs who specialize in commercial work, a lot of projects can be handled by the subs you already use. Just make sure they understand what's required of them.

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