

# Q&A

## Questions and Answers on Working with Contractors

### **Why do we need to know about working with contractors?**

The buildings of most the Agency's clients are now a few decades old. Some co-ops own heritage properties that date from the late 19<sup>th</sup> or early 20<sup>th</sup> century. Even if your buildings are newer, sooner or later—probably sooner—you will need to make major repairs or replacements. Even with skilled maintenance staff, outside help for a big project or a specialized job is in order.

Finding a contractor with the right experience is the key to getting the results you're looking for. This Q&A will give you some general guidance on hiring a contractor who can get the job done in the right way.

### **We use contractors all the time. There's nothing to it.**

You're right if you're talking about the plumber you always call when a toilet needs replacing. Routine maintenance is not what this Q&A is about.

Nor do we deal with cosmetic work on units after move-outs: patching, painting, flooring replacement and the like. You may well get trades in to handle these jobs. While you need to be sure your contractors are bonded and have business licences and workers-compensation coverage (more on this later), a co-op can normally get this kind of work done without difficulty.

This Q&A is intended to offer some guidance for larger or more complex projects. These tend to present more risk and require more care from the co-operative.

### **We know our property needs work. Now what?**

Your starting point is making sure you have a clear process in place for making timely decisions about the project. Co-ops that neglect this step may find the board, the staff and the members disagreeing about a process that is already well underway. Your co-operative will need a policy or at least a series of resolutions that set out when an emergency board meeting must be called to decide something and when the power to approve will devolve to the president or a staff person. Your federation will be able to help you with this.

It is important to be clear on when to consult the membership and whether the members will be asked to make final decisions or just to share their views with the board. Always remember that, while the directors need to understand the members' concerns and wishes and communicate clearly about what is going on, the board is responsible for overseeing all aspects of the co-operative's operations.

### **Once we have the governance in place, what then?**

The next task is figuring out just what has to be done. Begin by writing a simple description of the job, one step after another, so that you have a good grasp of the full project.

Working on your property is often an opportunity to add in some green options, such as a better product that will save energy or need replacement less often. This approach calls for some research, but offers better value for the co-op over the long term, even if the material or installation is more expensive at first.

For example, when you have to replace a roof, which is the better choice for your co-op: a roof that will last for 20 years with proper maintenance, or 40 years? Assume that labour makes up half the cost in both cases, and materials for the 40-year roof are 30 per cent more expensive. The longer-lasting option will cost 15 per cent more to start with. But you can protect the environment while saving as much as 40 per cent over the decades to come. While some members may be reluctant to see the co-op invest in a roof that will last longer than they will, the board's duty is to act in the co-op's best long-term interest. If the co-op can see its way to putting on the more durable roof, it should.

From time to time, green-building and energy-efficiency programs are available to lessen the cost of the environmentally wise choice. Try to take advantage of them whenever you can.

**Okay. We have an outline of the project, which now has a new green element.**

Next, you will need to turn your outline into a set of specifications. These are written instructions on how to do the work to achieve a specific result. Specifications should include information on the product type, materials, work methods and quality of work expected for the project. Here is an example:

Replace the roofing shingles on 14 townhouses with peaked roofs, using asphalt shingles made from organic felt and surfaced with mineral granular, or asphalt shingles made from glass felt and surfaced with mineral granular, according to the National Building Code of Canada 2010 standard, CSA A123.1/A123.5 for roofing materials.

**Our co-op couldn't write anything as technical as those specifications.**

Your co-op doesn't have to. Once you've decided what needs to be done, help with specifications is available from technical consultants, such as engineers, building technologists, architects or specialized consultants expert in such things as roofs or elevators. Names may be available from your federation, other co-operatives or the Agency.

Don't forget to check with the Better Business Bureau on all the firms suggested.

**We've talked to a contractor who says he knows how to do the work we need done. Can we skip the specifications step?**

No. Contractors deal every day with property owners who have never heard of specifications. They try to make things easy by claiming they know how to do the work. Don't let them persuade you. If you want to avoid disputes, court costs or paying for the same work twice because it wasn't done right the first time, do not embark on a large, complex or specialized project without proper written specifications.

**What's the next step?**

If the job is large or involves multiple trades, you will want a project manager to look after hiring the sub-trades, applying for permits and managing the different parts of the job. (An alternative is to hire a general contractor who knows how to organize a big project and get it done in the right way.) The project manager will also help administer the construction contract by reviewing and advising on the approval of potential extras and progress invoices from contractors and by dealing with scheduling issues, co-ordination, sign-off and more.

Because this role is so important, the Agency has developed a template for a request for proposals (RFP) for project-management services. You can get a copy from your relationship manager or find it on our client [website](#) (Resources). A request for proposals is meant to attract qualified bidders and make sure all parties invited to bid are getting the same information. Your relationship manager will guide you in completing it and following through with your recruitment process.

If your project is complicated, or even if it isn't, you can hire the Agency's technical staff to write the RFP for you on a fee-for-service basis. Our technical staff can also ask for proposals from qualified consultants, review responses and make recommendations at an affordable cost. Your relationship manager has all the details.

If your project is smaller, you can get good results from a contractor who has completed projects like yours. The firm you choose should be familiar with the methods and materials needed to do the job, what problems to expect and how to solve them.

### **How do we find the right contractor?**

For a job of almost any size, you'll need to get at least three names. Ask for recommendations from people you can trust to be honest with you. The consultant who helps you prepare specifications can recommend firms. Your local federation may also have information on local contractors that have proven to be dependable, good at what they do and fair about the price they charge. You can also get referrals from the local construction association and through contractors' websites.

It is often useful if the project manager or general contractor has done work for a condominium, if not another co-operative, since they will understand that many decisions will be made by the board, rather than by a single individual. Some contractors would be surprised to learn that the board intends to consult residents or offer them choices at key points, even though that could slow the process.

### **What do we do now that we've got some contractors' names?**

Before beginning your project, check with your province or municipality to find out what permits you need. For large projects, your professional consultants or project manager will have this information at their fingertips. The contractor will normally apply for the permits, but it's good for the co-op to know what should be in place so that you can confirm that this was done.

If you are dealing with a bigger project and have no project manager, you will need to prepare a tender package and send it to the contractors that you think might be suitable.

A tender call contains all the details that a contractor needs to prepare and submit a competitive bid. The instructions should be brief and to the point. Describe clearly what the job

is and what a contractor must do to respond. Be sure to give the date and time after which no more bids will be accepted and a date by which you will choose the successful bidder. Include the form of contract you will ask the successful bidder to sign.

As noted earlier, the Agency has developed a template for calls for tenders, which is available from your co-op's relationship manager. If you use the Agency's template as a guide and include specifications for the job, the contractor will have enough information to decide whether they can do the work and meet the deadline for submitting a bid.

In spite of what we said earlier, there are smaller projects that fall between refreshing a unit and, for example, replacing all the windows in your co-op. If your project is expected to cost less than \$10,000, you can phone around for three estimates as long as you are careful to describe the job in exactly the same way to each firm. The estimates should be in writing, even for a small job.

### **How many estimates do we need?**

Get enough to be sure that you can choose the contractor who is right for you. As a general rule, if you included clear specifications with your tender call and the bidders are not proposing changes, three bids should be enough. You should listen to the advice of a professional and choose the bid that offers the best value. Bear in mind that the contractor who submits a very low bid may have made a mistake, may intend to use a cheap product with a shorter life, or may be too inexperienced to estimate properly. When a firm like this finds out it is going to lose money, it will look for ways to cut costs, add extras to the bill, or abandon the job before it is finished.

### **What else do we need to remember about bids and estimates?**

A bid is a contractor's undertaking to complete the project for a given price, based on its understanding of what you want, labour and materials costs, and possible difficulties. The bid should refer to the tender call and the specifications included with it. It should also spell out the full price, including all fees and taxes,

terms of payment, a schedule of work, a list of permits needed, and start and completion dates.

An estimate, on the other hand, is just that. Make sure the contractor gives you a fixed price before you sign anything and that the price is written into the contract. Where it isn't possible to quote a fixed price—perhaps the full extent of the work can't be known before the job gets underway—a firm basis of payment, such as a fixed hourly rate for labour and charge for materials, should be agreed to.

### **How is the Agency involved with our construction project?**

The Agency can give general advice on contracts and descriptions of work and, for a fee, write up your specifications. Our template package will make it much easier for you to issue a tender call and award the contract.

Remember that you need the Agency's approval, on behalf of CMHC, before spending from your capital replacement reserve on items not listed in the agreement. (If you have an approved capital-replacement-reserve plan, you don't need permission to spend on anything that appears in the current three-year period of the plan.)

If the money is coming from a workout loan, the Agency is required to keep a close eye on your project and approve all spending and any changes to the scope of work.

### **Should we do anything else before we sign a contract?**

Before you sign a contract, make sure that the contractor has a fidelity bond and at least two million dollars of general liability insurance in place. Otherwise, if someone gets hurt or the contractor's workers are dishonest, your co-operative will have nothing to fall back on. You should also check to make sure that the contractor has a licence to do business in your area.

You will need to confirm that your contractor has up-to-date coverage for its workers under your province's workers-compensation program. Workers compensation provides no-

fault workplace insurance, including disability benefits and other help for injured workers.

Workers compensation goes by different names. B.C. co-ops should check that their contractors have WorkSafe BC coverage and a valid BC Safety Authority Licence. In Ontario, getting proof of Workplace Safety and Insurance Board (WSIB) coverage before the job starts is required by law. In other provinces, it makes sense to ask your contractor for a Letter of Clearance from the provincial program—or a letter from the program stating that no such letter is needed for your project.

### **A contractor has offered us a deal that we can't afford to refuse.**

If the deal involves paying cash and relying on a "gentleman's agreement" with nothing written down, you can't afford to accept. Not even if the offer comes from the brother-in-law of a long-time member of the Maintenance Committee. If the work is not done right or left unfinished, the co-op is at risk of having to pay to correct a mess. Your insurance may be affected and, depending on provincial rules, the co-op and perhaps the board could be fined and held responsible for costs related to worker injury. This is an offer your co-op needs to refuse, and you should say so loudly and firmly. If this annoys the Maintenance Committee's mainstay, so be it.

### **What should the contract include?**

Anything you believe is part of the job should be in writing. Nothing should be assumed. Standard contract forms are available from the Canadian Construction Documents Committee ([CCDC](#)). For small jobs, you can turn the estimate into a contract by signing it back. CMHC also has sample contract forms for renovation work. A CCDC or CMHC contract form has already been vetted by lawyers, so it needs no further review. However, if you or the contractor has changed anything, ask your lawyer to review and advise on the change.

An important part of any major contract is the bound collection of written documents (sometimes called a project manual) prepared for bidding, negotiating and completing a

construction project, in company with the architect or engineer's drawings and specifications. Together, the contract, the project manual and the drawings have all of the details required to complete a big job.

### **Once the contract is signed, can we just sit back while the work gets done?**

Don't assume things are going according to plan just because you have a sound contract and a good relationship with the contractor. If you don't stay on top of your project, minor errors could become major problems. If the job is large, it's a good idea to get the engineer who wrote the specifications to inspect the work at various stages to ensure that the correct materials are being used and the quality of the work is satisfactory.

If you have a disagreement, be reasonable. Go over the contract and listen carefully to the contractor's explanation. If you're still not satisfied, get a second opinion from a professional, such as your architect or engineer, before taking further action.

### **What are construction liens and holdbacks?**

Workers and suppliers have little protection if a property owner proves unable or unwilling to pay the bill for work on the property. For this reason, contractors and suppliers have a legal right to make a claim on the land—called a lien—after the work has been done and until they have been paid. Laws vary from province to province, but are everywhere intended to protect those whose professional work or materials have added value to the property.

A lien holdback protects the property owner in case a contractor has not paid its sub-trades, suppliers or workers. The property owner holds back a set percentage of the balance owing on the job until the end of the period when a lien could be placed on the property. At that time, the co-op releases the funds it has held back, once it is satisfied that no lien has been registered.

A lien holdback is not the same thing as a holdback for deficient work.

### **How can we be sure that the project has been completed according to the specifications?**

Certification is the process that takes place when a professional acting for the owner declares that the job has reached a certain stage of completion and the contractor should be paid for the work done so far. Your contract should indicate who will play the certifying role.

If the co-op is borrowing money to pay for the work, the lender will require certification of the cost of completing the job before issuing funds to pay the contractor's invoice.

### **Where can I find out more about dealing with contractors?**

Good information is available from many sources, including these:

The Agency for Co-operative Housing's *Request for Proposals Template for Project Management Services* (available from your relationship manager)

[CHF Canada: Keeping the co-op in good repair](#) is an excellent source of information.

Canadian Home Builders Association [Renovating Your Home](#)

Canadian Home Builders Association [Get it in Writing!](#)

CHF Canada's [Capital reserve planning: A guide](#) avoids technical language and is easy to use.

CMHC's [Replacement Reserve Guide](#) has useful information about capital items.

*April 2017*