



SHEAR BULL



Palm Beach County Roofing & Sheet Metal Contractors Association

Affiliate of FRSA and NRCA

March 2014 Volume 27 - 3



March Program

Study by Oak Ridge National Laboratories

Sealed Attics and Spray Foam Insulation Problems in Hot and Humid Climates

*Dr. Sudhir Railkar,
a roof technical expert*

March 26, 2014

6:00PM-7:00PM - Networking

6:30PM - Check-In

7:00PM - Dinner Meeting

Place: Holiday Inn
1301 Belvedere Rd
(At I 95 Exit 69)
West Palm Beach, FL 33406

Contact: Ron Frano 655-5393
rfrano@pbcroofers.com

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THE ESCALATING COST OF Construction & Combating Price Increases

by Trent Cotney, *Trent Cotney, P.A.*

of the increased charges to the Prime Contractor/Owner upon request. As an additional remedy, if the actual cost of any line item increases more than 10% subsequent to the making of this Agreement, Contractor, at its sole discretion, may terminate the contract for convenience.

How can a roofing contractor protect itself from labor and material price increases on a project? The roofing contractor should first consider the payment method on a project. The ideal way to combat a cost increase is to perform the project on a cost plus basis. In other words, the roofing contractor's payment is based on the actual cost plus a certain amount for profit and overhead. Although this payment method may be preferable, it is often difficult to obtain cost plus contracts given the desire for owners and prime contractors to have a fixed price.

Accordingly, the roofing contractor should consider adding additional terms to its contract to protect it from labor and material price increases. The roofing contractor's contract should include a price acceleration clause which consists of the following:

If there is an increase in the actual cost of the labor or materials charged to the Contractor in excess of 5% subsequent to making this Agreement, the price set forth in this Agreement shall be increased without the need for a written change order or amendment to the contract to reflect the price increase and additional direct cost to the Contractor. Contractor will submit written documentation

There are three components to the price acceleration clause. First, the price acceleration clause provides that the roofing contractor may adjust the contract price to reflect the revised actual cost of the labor and materials. Generally, assuming the contractor is using its own labor force, there should not be a significant enough increase in labor costs to warrant an adjustment of the contract. As a result, the price acceleration clause is primarily limited to increases in materials over the course of a project.

The second component of the price acceleration clause is providing the prime contractor or owner with documentation supporting the claim for additional compensation. By doing so, the roofing contractor is providing the prime contractor or owner with evidence of the increase in actual cost.

The third and final component of the price acceleration clause can be a termination for convenience provision if the price of any single item increases by more than 10%.

Continued on page 3

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MESSAGE FROM THE PRESIDENT

You know spring is right around the corner when the Daytona 500 has run, the Olympics are over, NHRA's Drag Racing season is under way and the Boys of Summer are in town to warm us up for the Baseball season. This is the time of the year that roofing starts to ratchet up from, after the Holiday season hangover, and the phones start to light up with customers wanting to get started with that roofing project that they have been putting off. This may also include Roofing Companies acquiring new hires, office personal, supervisors, foreman, estimators, and roofers. Using E-Verify will assure you get legal workers, and keep in mind when looking at new personal that you remember our returning men and women of the military who have a disciplined work ethic and great organizational skills. Working with Helmets To Hardhats, www.helmetstohardhats.org, which is affiliated with the center for Military Recruitment, Assessment and Veteran Employment, where you can get on their registry filling out the H2H forms to show the available positions your company needs. You can also search there data base to find qualified people.



The forecast for the US Construction Market for 2014 excepts the new single family and multifamily residential construction volume up to 28% and 38% respectively and Metal Roofing demand will continue to advance.

Our program this month will feature Dr. Sudhir Raikar who will present his findings from a study and testing done in conjunction with Dr. William Miller at the Oak Ridge National Laboratories on the problems with Sealed Attics and SPF Insulation in attics in hot and humid climates. Hope to see everyone there and remember to call a fellow member to come or bring in a perspective new member.

Respectfully Submitted
Joe Byrne

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THE ESCALATING COST OF Construction & Combating Price Increases *Continued...*

Although disfavored, a termination for convenience clause may allow the roofing contractor to escape a contract if the cost of materials has increased exponentially or the materials themselves have become difficult or impossible to find. Generally, this last component is removed because of the uneasiness prime contractors and owners have with the idea of a termination for convenience.

A roofing subcontractor may find it difficult to include the price acceleration clause in its contract with a prime contractor because both the owner and the prime contractor are looking for fixed prices prior to the start of the construction. In that situation, the roofing subcontractor may buy and store materials prior to the start of construction to avoid increases and may request a deposit to purchase the requested materials depending on the nature of the job. To the extent that a roofing contractor adds a price acceleration provision to their contract, the roofing contractor should consider requesting that the prime contractor add a similar provision in its contract to allow the prime contractor to seek additional funds from the owner for any labor or price acceleration that occurs. Roofing contractors should also use common sense with regard to providing firm bids for

contracts for projects that may not begin construction for more than three months from the time the proposal is submitted. Under those circumstances, the roofing contractor faces additional exposure to the increase in the cost of labor and materials. Therefore, estimating those jobs appropriately can make or break a roofing contractor.

Author's note: The information contained in this article is for general educational information only. This information does not constitute legal advice, is not intended to constitute legal advice, nor should it be relied upon as legal advice for your specific factual pattern or situation.

Trent Cotney is Florida Bar Certified in Construction Law and represents the interests of the roofing industry. He is a member of the National Roofing Contractors Association (NRCA), General Counsel and a director of the Florida Roofing Sheet Metal and Air-Conditioning Contractors Association (FRSA) and a director of the West Coast Roofing Contractors Association (WCRCA). For more information, contact the author at 813-579-3278 or visit www.trentcotney.com.

Industry Websites

- ASTM - www.guidance-inc.com/~roofroof/
- American Consulting Engineers Council - acec.org
- American Institute of Architects - aia.org
- American Society of Civil Engineers - asce.org
- Building Officials Association of Palm Beach County - www.boapbc.org & www.boapbc.org/links
- Cedar Shake & Shingle Bureau - www.CEDARBUREAU.org
- Construction Industry Management Council (CIMC) - www.cimcpbc.com
- Construction Specifications Institute - <http://www.csinet.org>
- Copper Development Association - <http://www.copper.org>
- Division of Workers' Compensation - <http://www.wc.les.state.fl.us/DWC/>
- Florida Roofing, Sheet Metal & Air Conditioning Contractors Association - www.Floridaroof.com
- Galvalume Sheet Producers - www.steelroofing.com
- National Roofing Contractors Association (NRCA) - <http://www.nrca.net>
- National Society of Professional Engineers - [nspe.org](http://www.nspe.org)
- Roofing Contractors Association of South Florida (RCASF) - www.rcASF.org
- Roofing Industry Education Institute- <http://members.aol.com/RIEIROOF/classes.htm>
- Roof Tile Institute - www.rooftile.org
- Sheet Membrane and Component Suppliers to the Commercial Roofing Industry (SPRI) - www.SPRI.org
- Sheet Metal and Air Conditioning Contractors' National Association (SMACNA) - <http://www.smacna.org>
- The Council of American Building Officials (CABO) - <http://www.cabo.org>



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FEBRUARY 26th MEETING
- for all pictures visit
[www.pbcroofers.com/events-calendar
/new-february-program-pictures](http://www.pbcroofers.com/events-calendar/new-february-program-pictures)



From networking events, informative meetings, and website listings,
membership has it's benefits.
Invite your friends, colleagues and acquaintances to join.





April 2014

Su	Mo	Tu	We	Th	Fr	Sa
			1	2	3	4
			CIMC 7:45 AM			
6	7	8	9	10	11	12
13	14	15	16	17	18	19
			BCAB 2:00PM			
20	21	22	23	24	25	26
			GOLF TOURNAMENT			
27	28	29	30			



Upcoming Event!

GOLF TOURNAMENT

April 23rd, 2014

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Executive Director
rfrano@comcast.net