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## Fast-Track Projects

When Time Is Money

By Tom Owens | PLAN

Time is money. At least that's what many project owners believe. The faster a project gets completed, they reason, the less time and money is spent on construction, and the sooner the income generated by the new facility starts flowing in.

Many project owners who share this philosophy are adapting a demanding project delivery and scheduling technique known as fast-tracking. A fast-track project differs from the traditional, linear design-bid-build project delivery method. The latter theoretically has each step or phase of the project complete before the next one begins.

With a traditional project, the lead consultant renders a set of drawings and completes the design plans based upon the owner's goals and objectives. Then, the contractor armed with the completed plans, bids on and builds the project to completion. Everything is done in consecutive order with each step executed and completed before moving on to the next.

With the fast-track technique, that all changes. Design and construction are often executed simultaneously in an attempt to eliminate downtime and speed up project completion. For instance, a project's lead consultant (and its subs) may develop a set of plans for the

foundation of an office building and parking garage based on the preliminary and incomplete plans for the rest of the building. The contractor then begins constructing the foundation while the architect moves on to design additional elements of the building, such as curtain walls, the superstructure and the HVAC system. The consultant creates separate "bid packages" of design elements and hands them off to the contractor for construction as each package is completed. The order of the bid packages will be determined by the dependencies of the design elements.

Fast-tracking can eliminate substantial downtime for the contractor, as they no longer have to wait for the lead consultant to complete the entire set of plans before they can begin constructing. In cases where fast-tracking is highly successful, the project may be 40-50% constructed by the time the designs are fully completed.

It is easy to see why building owners would be excited about a fast-track project. However, as with many other innovative project delivery systems, client expectations need to be managed. There is no guarantee that executing a fast-track project is going to result in time or cost savings. In fact, a poorly executed fast-track project will likely result in scheduling

delays, as well as increased design and construction costs.

With fast-track, it is not unusual for constructed portions of the project to have to be partially deconstructed and rebuilt as subsequent portions of the project are completely designed. For instance, a nearly completed foundation may need to be modified to accommodate an unanticipated change to the structure above. That's why design firms need to proceed cautiously before signing up for a fast-track project. The below are some recommendations to strongly consider before fast-tracking.

### Choose Your Client Carefully

Fast-tracking is for the benefit of the client, period. There is no major advantage to either the design team or the contractor for working on a fast-track project. Having to design and construct a project on a very tight schedule and outside the normal sequence of a traditional project demands extreme coordination, and presents far more risks than benefits. Choosing the right client, therefore, is crucial to reducing liabilities.

When considering a fast-track project, investigate the potential client's history with this type of project delivery and scheduling method. Does this client have a successful history of fast-tracking? Is this its tenth fast-track project, or its first? Does the client leave a trail of litigation with fast-track projects? What is the client's objective when using fast-track? Is fast-track simply a cost-cutting measure? Is the client trying to reduce material and labor costs? Is it attempting to quicken the inflow of revenues generated by the project? Has the client been successful in achieving these objectives in the past?

Do you have a history with this client? Have they shown they are reasonable to work with? Have

you ever had claims or serious project upsets with this client? How were they resolved? Realistic client expectations are key to successful fast-track projects. Explain to the potential client that you cannot guarantee time or cost savings, and fast-tracking entails substantial risks of increased change orders, rework, project delays, and other setbacks. Explain that such setbacks are part and parcel of the fast-track method, and do not necessarily indicate design errors or omissions. If you do not come away from client meetings comfortable that they truly have realistic expectations, then this might be a project you decide to forego. That is a business decision only you can make.

### Consider the Contractor

Investigate the contractor selected by the client for the fast-track project. What is its history of fast-tracking? You probably do not want to be the guinea pig for a contractor with zero experience with the fast-track methodology. Has the contractor been involved in a fast-track project with this client before? Was it successful? An experienced and reliable contractor is a major key to fast-track success. It is best that the contractor be selected early on in the project planning since it will likely be involved in bid package development and execution. The contractor must truly understand its role in fast-tracking and be able and willing to work shoulder to shoulder in concert with the design team to successfully execute a demanding schedule and get any delays back on track.

Contractors on fast-track projects must be excellent communicators who converse with the design team and the client on a frequent basis. Moreover, they must be extremely organized so that they are prepared to accept and execute the bid packages as soon as they are ready.

## Consider the Project

Fast-track lends itself best to nontechnical, run-of-the-mill commercial, educational, government and residential projects. It does not always lend itself to complex, one-of-a-kind, high-tech buildings such as state-of-the-art medical and scientific facilities (though it has been used successfully in such facilities by skilled and experienced fast-trackers). Be aware that with complex projects, any rework that results from the fast-track process can be extremely expensive and time consuming. You generally do not want an overly tight, out-of-normal-sequence schedule on a complex project. That may result in forced errors as design consultants and contractors struggle to keep up with the owner's timeline.

## Consider Your Firm

Do not forget to give your own firm a thorough examination when considering a fast-track project. Are you adequately staffed to handle this type of project? Does the project type match your capabilities and expertise? Do you have the necessary project management skills to devote to a fast-track project? Do you have the subconsultants necessary to help you deliver a quality project in a consolidated amount of time? Be very realistic when performing this self-evaluation, especially if this is your first fast-track attempt.

## Draft a Strong Contract

Assuming the client, the contractor, the project, and your internal capabilities all lend themselves to a successful fast-track project, you'll want to ensure that your contract with the client provides adequate protection against the added liabilities you will face. In fact, the contract should specifically address fast-tracking in a separate clause. This fast-track

clause should clearly spell out that:

- The fast-track methodology is at the request of, and purely for the benefit of the client/project owner.
- The client recognizes that fast-track projects have inherent risks because of the abbreviated time frame for project completion that this project delivery method demands.
- The client also recognizes that cost and time savings are not guaranteed, and that fast-tracking is susceptible to cost overruns and project delays not caused by a consultant's negligence or errors.
- The client agrees to waive all claims against the design consultant for any design changes and construction modifications, including rework, due to the owner's insistence on using the fast-track project delivery and scheduling method.
- The client agrees to indemnify and hold harmless the consultant against damages, liabilities and costs arising out of the project except for those attributable to the consultant's sole negligence or willful misconduct.
- The client agrees to compensate the consultant for any and all additional services that must be provided to modify plans and documents in order to meet the client's scheduling and other demands imposed by the fast-track methodology.
- The client agrees to hold the consultant harmless from any design changes that the client may authorize without the consultant's approval.

Other client contract clauses that should be included for fast-track projects include:

**Standard of Care.** Make sure your standard of care clause establishes the fact that your performance will be measured against other consulting firms who perform their services under the fast-track project delivery and scheduling methodology.

**Betterment.** Fast-track projects are especially susceptible to scope creep, since construction commences before design plans are complete and unanticipated needs for revisions may arise. Any additional design and construction elements that increase the function and value of the project should be paid for by the client. Further, the consultant should be adequately compensated for providing additional services that result in betterment for the client.

**Contingency Fund.** Due to the increased risk of project delays and design changes associated with fast-track projects, clients should be asked to add an ample contingency fund to the project budget. That fund should be referenced in the contract, noting that the consultant is not liable for cost overruns except when solely caused by its own negligence, errors, or omissions in carrying out its duties.

**Consequential Damages.** Clients often select fast-tracking because they hope they can begin earning income from their project months before they would on a typical design-bid-build project. The client contract should spell out that the consultant is not liable for any consequential damages that result should the project not be completed according to the condensed schedule. (Note: Consequential damages may not be covered by your professional liability insurance policy.)

**Force Majeure.** A force majeure contract clause essentially states that the consultant will not be liable for damages caused by actions outside of their control, such as bad weather, civil unrest, forest fires and other "acts of god." Because scheduling is so central to fast-tracking, it is important that you discuss this clause with the client and get their agreement that you will not be held responsible for delays resulting from actions or circumstances over which you have no control.

### Seek a Full Scope of Services

One additional crucial contract clause is a detailed and full scope of services to be delivered by the consultant.

Fast-track projects require constant communication and coordination, so that construction and design can proceed simultaneously and harmoniously. Therefore, a representative from the lead consultant should take on the role of a dedicated Project Manager (PM), who will provide full construction-phase services. This should be a consultant's full-time role, and that person should be onsite as frequently as feasible to monitor the schedule and troubleshoot any potential delays.

If the client refuses to include this PM role in your work scope, then you should insist that the contractor or the client provide a full-time Project Manager that assumes responsibility for construction management. In such cases, the client should indemnify and hold harmless the consultant except for those damages attributable to the consultant's sole negligence or willful misconduct.

Fast-track projects can turn out to be a lucrative niche for those consulting firms who gain

experience dealing with and mitigating the increased risks involved. But you must work closely with your legal counsel and insurance agent or broker in drafting rock-solid contracts with your fast-track clients that reasonably limit your liability to your own negligence, errors and omissions. If you cannot obtain the protective contract language you need, or the necessary fees to offset the risks, it may be best to forego a fast-track project.

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