

## Overcoming Challenges in Public Projects

BY RACHEL LEBEAUX

Learn how your A/E firm can surmount the difficulties that arise in public-sector projects.

### EXPERIENCED A/E FIRM LEADERS KNOW

that unique challenges present themselves in public-sector projects. Funding sources can seemingly vanish overnight, voters can turn down a proposed site plan, and public agencies can try to turn liability over to the contractor; the list goes on and on.

To offset such challenges, A/E firm leaders must exercise patience, convince public clients to see them as partners rather than just contractors, and spell out the terms of agreements carefully so that disputes do not become publicly embarrassing or costly to the firm.

Stephen Lucy, principal at Jaster-Quintanilla (Austin, Texas)—a 110-person firm offering structural and civil engineering and land surveying services to public and private clients in the higher education, K-12, municipal/governmental, health-care, water/wastewater infrastructure, and power markets—says that the firm gets approximately 70% of its work for public-sector clients.

Lucy says that the biggest issue facing public clients today is the rapid escalation in construction costs, which is hard to predict when project budgets are established as part of a capital improvement planning process.

When such escalation occurs, “because the funding sources are typically bond funds that were approved by voters or state legislators, our public clients have limited ability to increase construction budgets and thus must reduce project scope to fit within the budgets or reallocate funds,” Lucy says.

There are some cases in which project budgets can be augmented, but doing so typically requires the reduction or elimination of other projects to cover more critical or urgent work, he says.

For example, the new downtown campus for the Tarrant County College District in Fort Worth, Texas originally had a construction budget of \$165 million that has since increased to \$195 million. Accordingly, construction of two buildings in the facility has been deferred until additional funding can be obtained [at time of original publication], necessitating consolidation of functions within other portions of the project, Lucy says.

Other public entities, such as water utilities, rely on revenues generated from water and sewage fees. However, “the funds may go into general revenue accounts

for the municipality and may not be available for use on water or wastewater capital improvement projects,” Lucy says. “Thus, as funding becomes critical for other municipal projects, the water utilities may have to cut back on their capital projects.”

In addition, since revenue depends on water usage, funding may be affected if rainfall varies significantly year-to-year, Lucy explains. Since Texas has experienced a wet year and water usage and revenues are down, anticipated funding is not available and capital projects are being pushed back to the next fiscal year.

Lucy says that the best way for firms to counter such public-sector volatility is to diversify their work within that sector. “In areas of the country experiencing population growth, such as Texas and the southwestern United States, there will be continued need for public investment in infrastructure and other public services.”

In addition, understanding the needs and missions of public clients and adapting to meet those needs and acting as an extension of their staff can make the A/E firm an asset to the client.

For instance, “many public clients are embracing LEED® (Leadership in Energy and Environmental Design) due to the desire of the public to be more sustainable and good stewards of the environment,” Lucy says. While this may increase initial costs, the long-term benefits outweigh the short-term adverse impact on project budgets. “Assisting the client in obtaining these goals in creative ways and being an advocate for the client in representing the benefits to the public can allow the client to obtain funds to complete needed projects.”

Above all, Lucy stresses the importance of patience. Firms that are successful in the public sector must understand that those clients cannot react as quickly to changing market conditions as private clients. “As sources of funds can change, project schedules also change. Those firms that are patient and diversified can adjust to these changes and excel in the public market.”

### Closely Examine Liability Lingo

Jose Villalobos, president of V&A Consulting Engineers (Oakland, Calif.)—a 29-person firm specializing in corrosion control, coating management, and condition

assessment, with a special focus on the preservation of public-works infrastructure and facilities in the water, wastewater, and transportation industries—says that 80% of the firm’s work is public.

According to Villalobos, “the primary challenge facing consultants in dealing with the public is the shifting of responsibility from the agency to the consultant.” The firm sees more and more contracts that are not covered by errors and omissions insurance, he says, increasing the possibility that the firm could be left shouldering unanticipated costs.

Design professionals scored a victory in this area at the beginning of 2007 when the state of California passed AB 573, which limits the amount of liability an agency can pass on to its consultants for defects that are not the result of the designer’s negligence or willful misconduct.

In order to avoid such conflicts, V&A Consulting Engineers has worked with public agencies to modify the language in contracts to reflect what the firm can and cannot insure. “Basically, consultants can be insured for errors of omission that are the result of negligent acts. Consultants cannot insure ‘all acts,’ which is what we find in many public-works contracts,” Villalobos says. “We would recommend that all design professionals review their contracts before they sign them to make sure they are not assuming uninsurable risks.”

Villalobos advises firm leaders to discuss this matter with the agency’s project manager to come up with a solution acceptable to both parties. **MSC**

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### **Tactical Toolbox**

Tackle the pitfalls of public projects with the following tips in mind:

**Patience is paramount.** Funding may not be available when you anticipate it. Voters may not like your proposed building. Take these setbacks in stride and simply accept that they are part of the frustrations of having thousands of tax-paying “clients” to answer to.

**Partner up with your public client.** Help your client sell the positives of your

work to the public. You’re more likely to complete the project at hand and be first in line the next time the agency has more work in your field.

**Monitor contracts closely.** This is a given in all of your projects, but remember that these contracts with public-sector clients are public documents that anybody can view and potentially find fault or liability in. Don’t give them that opportunity!