



Construction Documentation

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The "One Percent" Roadblock

Closing out a Construction Project

A recent construction project in our area was completed for the owner's use in November 1995. The final completion/final payment occurred more than 15 months later. Ironically, the size of the task of closing out a construction project seems to have little correlation to the size of the project. Getting that last one percent of the job finished and approved can be as agonizing for a \$10,000 project as it is for a \$10 million project. Part of the reason for this dilemma is that there is a vast difference between having the project substantially complete and having it finally complete.

Complete vs. completed

Substantially complete implies that the project is ready for use by the owner. The owner may use or occupy the project; the warranties go into effect and the owner assumes responsibility for the operation and maintenance of the project. But *substantial* does not mean *final*.

There may still be a lot of punch-list items to complete; the contractor may have a number of submittals to make to the owner; and final inspections and paperwork need to be completed before we reach the stage of *final completion*. It is awfully easy for those last tasks to take on a lower priority when the pressure is off to get the owner a useable project.

Closing out a project is a real team effort. It involves product manufacturers, suppliers, subcontractors, the prime contractor, consultants, the architect-engineer and the owner. Most standard General Conditions have very definitive procedures for closing out a project. For instance, the Engineers' Joint Contract Document Committee's (EJCDC) Standard General Conditions of the Construction Contract lists these procedures:

- ▶ Contractor inspects project and prepares a list of items not completed.
- ▶ A/E, contractor and owner inspect the work to verify substantial completion.
- ▶ A/E prepares tentative certificate of substantial completion with attached tentative list of items not completed.
- ▶ Owner approves a tentative certificate.
- ▶ A/E prepares definite certificate of substantial completion with a revised list of items not completed.
- ▶ Contractor submits notice of final completion.
- ▶ A/E inspects project to verify final completion.
- ▶ A/E processes final application for payment and closeout submittals.
- ▶ Owner makes final payment.

If any one of the team members fails to participate in these closeout procedures, the final completion of the project will be delayed, and sometimes for months. Getting out of that limbo between substantial completion and final completion can be hastened by a conscious effort by all team members to see that the punch-list items are completed on a timely basis, and by having the contractor ready at the completion to make some important submittals to the A/E and owner that include:

- ▶ Final application for payment
- ▶ Affidavit of payment of debts and claims
- ▶ Certificates of insurance extending beyond final completion
- ▶ Consent of surety to final payment
- ▶ Releases and waivers of liens
- ▶ Project record documents
- ▶ Special warranties
- ▶ Bonds

- ▶ Maintenance agreements
- ▶ Operation and maintenance manuals

The A/E should also be ready to prepare a final change order, if necessary, to clean up outstanding items that have not been completed, and to make the final inspection and issuance of the final payment. Unless stipulated otherwise by the contract, final payment constitutes project completion.

Closeout conference

An effective way to help assure smooth project closeout is to conduct a closeout conference just before the substantial completion to make sure everyone understands his contractual responsibilities. These responsibilities may have been discussed at the beginning of a project, but months, or even years, can pass before the project nears completion, and it is a good idea to bring the key parties to the table to review those procedures.

A good set of contract documents will define procedures for project closeout. If all parties conduct their operations in accordance with the contract, getting that last one percent of the project completed will be a lot easier.

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