This old proverb stands as one of the enduring themes that I see in any number of
the construction law cases our firm participates in. There’s always room for preventive
maintenance in your contracts, staffing, and business practices generally. In this column,
I will offer several tips that can help you avoid burning money and other precious
resources on matters that often begin as small oversights, but which can later balloon into
colossal disputes.

• **Sign the contract before you start.** You’d be amazed at the number of people who
leave contracts unsigned. A contract, when properly drafted, helps the parties define their
expectations, limit liability, establish each party's duties, rule out oral agreements or
modifications, and streamline the dispute resolution process. Insist on getting a signed
contract in your file before the first patch of earth is turned.

• **Read and obey the contract.** Contracts often contain a number of requirements that
the parties either ignore or simply neglect, and trouble often follows. If you’re going to
maintain a healthy relationship, read and follow the contract’s specific provisions. For
example, strictly adhere to the notice provisions, get the architect or construction
manager involved in dispute resolution when applicable, get change orders down in
writing and signed by both parties, and terminate only under the proper mechanism and
for the reasons allowed under the contract.

• **Take special care with lien and bond issues.** Think ahead of time and get a legal
description of the project where you’ll be working (you’re entitled to get this from the
owner). Know your deadlines, based on where you sit in the “food chain” of construction
project relationships. Residential projects contain an even stricter set of rules, so be
aware of them, too. Implement a ruthless calendaring system for lien and bond claim
deadlines, and have solid forms handy with the necessary language for such claims. One
blown detail can completely extinguish your rights to a lien or bond claim.

• **Have a document person and a construction person on every project.** Even if it
has to be the same person, don’t let one side of the business fall through the cracks. This
is where contractors and subs sometimes get into the worst trouble, failing to paper things
up and/or neglecting the construction side of the project.

• **Get your subcontractors to sign on to a provision that requires them to live by
your general contract.** This will help you argue later that a sub who causes delays is
liable for liquidated damages, and that the sub agreed to follow the exact project
specifications.

• **Read what you sign.** This may sound like an obvious proposition, but since releases
very often contain blanket provisions, be sure you agree with each and every statement in
the documents you’re signing. On a related note, don’t swear an oath on a pay
application if the statements on it (such as a promise that you’ve paid all prior funds
“downstream” to subs and suppliers) are false. A terrible loss of rights and credibility—and a possible charge of perjury—could very well follow.

• **Protest a subcontractor’s demand within 30 days.** § 53.083 of the Texas Property Code says that, unless a general contractor disputes a sub’s demand to the owner for payment, the owner “shall pay” the money to the subcontractor. Avoid this trap by calendaring this deadline as soon as a sub sends you a copy of its demand.

  Many more tips can come out of scrutinizing a project at the very beginning, but these should offer a good start. If this column seems to be based on simple common sense, that’s only because it is—but the number of contractors and subs we see who don’t take such steps is surprising. Minding your Ps & Qs at the outset and during the project can help you avoid spending money on lawsuits and burning precious energy that could go toward generating receivables for existing jobs and finding new projects. Think them through, and apply them to every project you’ve got, wherever possible. The efforts you sow may reap you a very rich harvest.

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