



## **CHOOSING THE RIGHT CONTRACTOR FOR YOUR HOME IMPROVEMENT PROJECT**

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Most people have learned, either first hand or by hearing stories from others, that choosing the right contractor to remodel ones home or build an addition can be fraught with peril. Choose the wrong contractor, and your project can be delayed, abandoned, suffer from poor workmanship and possibly leave you with red ink and obligations to pay subcontractors who may have placed liens on your home.

It's for these reasons that making the ultimate choice as to who will perform the work on your home is extremely critical. Once undertaken, it is difficult to switch contractors mid-project or get out from under a project you discover to be over-budget or otherwise unsatisfactory. Therefore, in choosing a contractor there are a number of rules of thumb which should be followed.

### ***The Cheapest Price is Not Always the Best Choice***

The well-worn adage that you get what you pay for frequently applies when hiring a contractor. Often times, the cheapest contractors are only cheap in their opening price before you learn of details that weren't originally negotiated or discussed. In addition, cost cutting with such contractors is often most apparent in the crews hired to perform the work, the adequacy of the contractor's insurance, and the manpower available to handle problems. To keep prices low, a cut rate contractor may use crews with little or no experience based upon the premise that an experienced supervisor or job foreman can rein in such workers, keep them on schedule and maintain quality of work.

The problem is, such contractors are often chasing new dollars in the form of other jobs. It's commonplace for this business model to fail as the supervisor for the unskilled employees is often called upon to bid and supervise other jobs the contractor is desperately trying to obtain while your job is still in progress. The result is often shoddy workmanship, lack of communication and poor sequencing between various trades who are required to work in a specified order.

This is why sometimes paying more can yield benefits, especially if the more expensive contractor has a crew that has worked together for a significant period of time and contains more skilled employees who can generally be counted on to be capable of solving issues as they arise in the workplace. Of course, the mere fact that a contractor charges more is no guarantee that any of these positive attributes discussed will be found to exist. For this reason, it's important to thoroughly discuss these issues with any prospective contractor before deciding to retain them.

### **Verify That the Contractor is Licensed**

Naturally, it is critical to insure that the contractor hired for the job is licensed. Usually a licensed contractor will be eager to provide you with his or her licensing information. At that point, you can simply go on the Contractors State License Board website at [www.cslb.ca.gov](http://www.cslb.ca.gov) to confirm that the license is valid and in good standing. In addition, be sure to confirm that the license is in the name of the entity with whom you are signing a contract; the "sharing" of licenses is fairly commonplace in the industry. If you discover that a contractor you've worked with is unlicensed, you are not required to pay him or her any money despite the fact that he or she may have performed substantial work on your home. In addition, if you discover they have worked without a license at

any time during the project, you may be able to recover some or all of the monies paid during the unlicensed period, even if they performed work in exchange for that payment. Finally, be certain that the contractor bidding the job has the proper type of license. Only a general contractor's license allows a contractor to retain other subcontractors to perform work.

### **Insurance**

In addition to licensing, it's also important to verify the existence and scope of insurance. All licensed contractors are required to maintain a bond. However, this bond has very limited protection for the homeowner and typically only allows payment of \$7,500.00 under limited circumstances such as abandonment of the job. Critically, the bond does not cover poor workmanship or other ordinary breaches of contract by the contractor. Consequently, the bond affords very little protection for the homeowner.

All contractors are also required to have workers compensation insurance. The only exception is when a contractor claims to have no employees. In that instance, the contractor is not required to carry workers compensation for himself. However, it is commonplace for contractors to claim that they have no employees in order to avoid the high expense of workers compensation insurance.

If a prospective contractor claims he is not required to have workers compensation insurance, you may rightly wonder who is protecting you in the event that their employees are injured while working on your home. Undoubtedly, the licensed contractor will argue that these are independent contractors for whom he is not required to obtain such insurance. In California, this claim is generally untrue for workers who obtain wages from the contractor. Only independent subcontractors, who also should be

required to maintain their own license and insurance, are properly characterized as truly independent from the general contractor. Accordingly, you should seek verification of such insurance from the general contractor, if possible.

Although not required, you should also ask any candidate whether they carry commercial general liability insurance. Commercial general liability insurance contains broader protections for the homeowner, especially in the event that a dispute arises between the contractor and the homeowner concerning damages caused by contractor negligence. Although no insurance policy covers bad workmanship *per se*, damage caused by such bad workmanship such as water intrusion entering through a poorly constructed roof is covered under such policies. Typically, the contractor who comes in with a higher bid should be expected to carry such insurance. If not, it would be advisable to look elsewhere if the contemplated work is substantial. Additionally, it is always critical to request that the contractor name you as an additional insured on their commercial general liability policy. Typically, the insurance company will do so at no, or minimal, cost. As a result of being named as an additional insured on your contractor's insurance policy, you will enjoy all the same benefits as if you purchased the policy yourself and become what amounts to a "named insured" on that policy.

### **Home Improvement Contracts**

As a result of some fairly recent state laws, contracts for home improvements have now become highly regulated and contractors who perform such work are now required to adhere to a strict set of requirements in providing such contracts. For example, all such contracts must be in writing and must include the price that was agreed upon for the work. Any job costing over \$500.00 requires a written home improvement

contract. If the contract calls for a down payment before work starts, the payment cannot exceed \$1,000.00 or ten percent of the contract price, whichever is less. The contract must also include a payment schedule and explain what services and materials are to be provided in exchange for the payment. In most cases, the contractor is required to provide you with a three-day right to cancel the contract and must also include starting and completion dates.

Under California law, the contractor must also provide a document entitled “Notice to Owner” which describes mechanic’s liens and ways to prevent them. Liens can be placed on your home by unpaid laborers, subcontractors or those who provide and deliver materials even if it was the general contractor’s duty to pay them.

Home improvement contracts also require that any modifications or changes to the contract must be in writing. This is always a good practice. It is also important that both the contractor and the owner be required to sign on any work orders, changes or modifications to make sure the work is authorized and the price for such additional work is agreed to in advance. Change order work is one of the chief areas leading to disputes between parties to home improvement contracts.

Although not required by law, it is a good idea to strongly consider the insertion of an attorney’s fees provision in a home improvement contract. If a dispute arises between the homeowner and the contractor, the prevailing party, in addition to obtaining their damages, may also receive attorney’s fees. This is especially important for homeowners who might otherwise be discouraged from pursuing claims against their contractors for shoddy work out of concern that the cost for doing so might equal or exceed their damages suffered, thus rendering recovery impractical.

### **Review of Contract by Attorney**

Although most people would rather not become involved with attorneys, it is better to do so briefly, before any problems arise, than after the fact. It's always a good practice to first review a contract before signing it and have an attorney, familiar with contracts and construction law, also give the contract the once over. Experienced attorneys can do much more than tell you if you have a good or bad contract. They can help a consumer consider aspects of proposed work which may not have been considered or discussed and concerning which the contract may be silent or deficient. A little review can save of mountain of grief after the fact.

### **Monitoring of the Work**

One of the single biggest problems in home improvement work is lack of adequate supervision. Typically in the early phases of the contract, often during framing and the pouring of concrete, a supervisor will be present. However, once the initial structural work is performed, it's not uncommon for those who are actually running the job to become less involved and provide less interaction with the owner to monitor the progress. This usually results in a lack of quality control and coordination which is essential to the timely and proper performance of construction work. The project manager, general contractor or supervisor is essential to insure that each trade shows up to work in a timely fashion, completes their job in a proper manner and allows the next tradesman to come on to the job with the jobsite ready for him or her to complete their work. For example, if an electrician is called to the jobsite to perform finished electrical work and the appliances have not yet been delivered to the jobsite, then the work cannot be performed. This can result in additional costs. Similarly, if a contractor does not

perform or complete his work, when the next person, such as a painter, comes on the jobsite, he will be unable to properly perform his or her work because of, for example, failure of other contractors to have properly followed the plans and specifications.

Quality supervision is imperative to insure that each tradesman is not only responsible for the work they perform when they're on the jobsite but that they can be called back if necessary to timely repair or perform additional or corrective work which can become necessary as a result of a number of circumstances during the building process. As long as there is an orchestra leader, if there is a problem, it can usually be quickly resolved without substantial delay.

Having proper supervision is also critical in insuring that the job is being performed in accordance with the plans prepared by the architect. When a crew is sent without a proper understanding of the architectural plans, mistakes are made and those mistakes can have repercussions for other workers who later come onto the site to perform their operations. Accordingly, when considering a contractor, you should obtain adequate assurances that the project manager or supervisor will be visiting the jobsite multiple times a week, or daily, not just at the inception of the work but throughout the project until completion. This should be written in the contract itself. It is also helpful in this regard to have weekly meetings with such supervisory personnel to keep abreast of what's going on with the work.

When all of the above steps are followed, there is a much greater likelihood of timely and proper building practices. Good and experienced contractors are not afraid of adhering to the above-outlined requirements. It is only those contractors who are reluctant to do so who can give the entire industry a bad name. Those contractors may

bid their jobs for less money, but can cost you a substantially greater amount of frustration and costs in the long run.

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