



American Subcontractors Association, Inc. Subcontractor's Negotiating Tip Sheet Ambiguities or Inconsistencies

Sample Language

ASA Recommends:

Delete such language.

What You May See in the Wild:

"In the event of any conflict between any of the work requirements contained in the Subcontract Documents, the Subcontractor shall be required to comply with the most stringent or expensive such requirement."

Impact on the Subcontractor

- Subcontractor may be required to comply with language, even broad language, at a far higher price than it expects.
- The owner and general contractor may be rewarded for sloppy specifications and related requirements.

Negotiating Tips

When the GC Says: "The plans and specifications are complex and lengthy; certainly there are going to be internal inconsistencies."

The Sub Should Say: "We're fully committed to providing a first-rate job. But you have to take responsibility for the plans and specs that you provided to us. I can assure you that we'll notify you of any conflicts as soon as we become aware of them."

When the GC Says: "That's fine. But this provision gives us a way to resolve the inevitable inconsistencies."

The Sub Should Say: "It's too much to ask that we always provide the most expensive alternative if there is some ambiguity or inconsistency. We need to delete this provision."

When the GC Says: "This is standard industry practice."

The Sub Should Say: "Neither ConsensusDocs nor AIA documents address ambiguities in this way."

Additional Resources:

ASA Subcontract Addendum (2011). Available to ASA members at www.ASAonline.com.

ConsensusDOCS Form 750, Standard Agreement Between Constructor and Subcontractor (2012). Available at www.ConsensusDocs.org; ASA members can get a 20 percent discount by entering ASA100.

American Institute of Architects Form A401, Standard Form of Agreement Between Contractor and Subcontractor (2007). Available at www.aia.org/contractdocs/.