

THE KELLEY SYSTEM OF PAYMENT TO CONTRACTORS FOR ESTIMATING*

SINCE the "Nelson Plan" was conceived, other plans which contemplate payment for estimating have been proposed and put into operation. One of these which has received some attention, particularly in the middle west, is the so-called "Kelley Plan." This is a plan owned and controlled by "The National Contractors' Association, Inc.," a private corporation operated for profit, which acts (1) as organizer in keeping contractors in line as regards charging for estimates on a particular project, and (2) as agent for all contractors bidding on a project, in pooling and dividing the amount charged for estimating.

The plan derives its name from J. J. Kelley, president and chief stockholder of the "association." The chief elements of the plan are briefly as follows:—

Definite Schedule of Charges

A definite schedule of charges for estimating the cost of projects valued at from \$2,000 to \$1,000,000 or over has been established by Mr. Kelley. A contractor, party to the plan, submitting an estimate on a job, adds to his original estimate a sum equal to as many times the cost of estimating that job, as indicated by the schedule, as there are contractors party to the plan bidding on the job. Ordinarily, however, no contractor adds this amount to his bid unless all contractors bidding agree to do so. After the contract has been awarded and the job has progressed to a reasonable stage of completion, the successful contractor pays the total amount which he has added to his estimate, to the local agent of the "association." The agent divides that amount equally among the bidders, except 15%, half of which goes to the local agent and half to the "association" as commissions.

Contractors, party to the plan, must be "members" of the national "association." Membership dues were originally \$10 for life; recently it has been announced that membership is free to any contractor, "general" or "sub," who will agree to adopt the schedule announced by the "association," add the proper amount to each estimate to which the plan is applied, and "divide up" with the unsuccessful bidders if he is awarded the contract.

For example:—Ten contractors, members of the "association," are bidding on a project approximating \$75,000 to build. The average cost of estimating such a job has been set at \$125. Each of the ten bidders then estimates the job in his own way and adds \$1,250 to his bid, or ten times \$125. After the contract has been awarded and the job has progressed to a reasonable stage of completion, the successful bidder pays \$1,250 to the local agent of the "association." The agent gives each of the ten bidders \$106.25, keeps \$93.75 himself, and pays \$93.75 to Mr. Kelley, of the national "association."

Results of Week's Operation

A further example of what this may amount to can be seen from the following figures, given by Mr. Kelley as the results of one week's estimating among "association" members in Toledo from March 16th, 1918, to March 23rd, 1918:—

Total received for estimating	\$6,487.10
"Dues" in "National Association" for 19 members at \$10	\$ 190.00
7½% commission to local agent	486.53
7½% commission to Mr. Kelley	486.53
85% returned to 19 members to cover cost of estimating in amounts varying from \$51 to \$1,095, average \$280.21	\$5,324.04
	\$6,487.10

In favor of the Kelley system are urged most of the arguments advanced in favor of any plan providing payment for estimating, especially that the owner thereby pays for estimates on his job only, that he can have just as many

estimates as he is willing to pay for, and that the contractor thereby gets a fair fee for his professional services.

In contrast to the "Nelson Form" it has been urged by Mr. Kelley that his system encourages competition, which tends to reduce ultimate building costs 10%. An investigation of the operation of the system in one city in the middle west brought out the information that whereas formerly five contractors was the average bidding on work, since the Kelley system has been adopted, the average is nearer twenty.

Weakness in Kelley System

On the other hand, this very fact is urged against this particular system, and it is further stated that it encourages unscrupulous and irresponsible men to enter the field with the purpose of receiving sufficient bidding money to make a considerable profit on estimating without really contracting at all. Various elements in the Kelley system make this appear inevitable.

First, the contractor's fee for estimating is part of his bid on the job, which he controls and pays himself, rather than a separate fee paid by the owner for his services in estimating. This makes it possible for contractors to agree among themselves without the consent of the owner or the architect, to add to their bids a sum equal to the cost of estimating. So long as this is possible, there is bound to exist a tendency to do so secretly, and to "let in" on the job as many as are desired or "the traffic will bear."

With this possible, there is nothing to prevent an unscrupulous contractor from making a rough guess, high enough to insure his bid being rejected, add on the cost of estimating, and receive a share in the payment for estimating.

It is no case to state that the system is designed to be operated in co-operation with the architect and with the full approval of the owner, who would eliminate such a possibility, for, despite the good intentions of the originator and the honesty of most contractors, the actual facts show that the system falls down seriously at just this point.

Investigation in cities where the Kelley system is in operation shows that, while the number of bidders increases on some jobs because the architect is willing to pay for estimates, frequently it increases because he is unaware that he is being charged for the bids.

Accepted More Than Cost

A local agent in one city recently stated that the system did not work on a particular job where the owner took bids directly, as the contractors then had no means of finding out who was bidding in order to line everybody up, and apparently did not care to inform the owner of the plan. In another instance, where two of the announced bidders on a public contract failed to submit bids, their share of the total cost of estimating, instead of being returned to the state, was divided among the remaining bidders, showing clearly that the charge for estimating was being made without the knowledge of the engineer in charge, or else in collusion with him, to the detriment of the state. Where such secrecy is possible, excessive bidding by irresponsible contractors is also possible, and the whole system is thus brought into disrepute. This is the fundamental weakness of the Kelley system.

Other minor elements contribute to establish this fundamental weakness. According to the system, all or none of the bidders on a project must be party to the plan unless undue advantage is given those who do not include a charge for estimating in their bids. This makes it essential to employ a middleman, whose business it is to "line up" all the bidders on a project. The commission of this agent increases directly as the number of bidders increase. No matter how honest, therefore, may be the principles on which the plan is based, it is to the agent's advantage to increase the number of bidders, either as a party to the plan to charge for estimating secretly or in collusion with the owner's representative. The possibility and the actual existence of practices of this sort again bring the plan into disrepute.

*From a report of the "Committee on Methods" of the Associated General Contractors of America.