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## Project Delivery Methods: A Bird's-Eye View

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For centuries the ability to construct sophisticated structures has been the yardstick for measuring civilizations. Naturally, as our knowledge and capacity to build has evolved and developed over the ages, the methods of project delivery have similarly progressed.

From Design-Bid-Build to CM-at-Risk and Design-Build to Integrated Project Delivery, each method developed to fit a very specific need—but each carries its own set of inherent risks and rewards. In this article we explore key aspects and differences among the various delivery methods that are commonly used in today's construction industry, and provide guidance related to the obligations and risk profiles of the parties involved. Ideally, contractors and construction managers may refer to the advice provided herein when determining whether a proposed delivery method properly fits the requirements of the project under consideration.

### Design-Bid-Build

The first step in the Design-Bid-Build method involves the Owner hiring an Architect to prepare complete project designs. Contractors then bid on the completed architectural drawings, usually on a stipulated sum basis. Because of the ease by which these stipulated sum bids can be compared, this delivery method has been a mainstay of public contracting for decades.

With few exceptions based on state legal requirements, the Owner of a Design-Bid-Build project warrants the design documents provided to the Contractor. Mistakes and oversights in the design resulting in changes to the work usually entitle the Contractor to additional time and compensation on the project. This places the Owner in the middle of the Contractor and the Architect in the event of a dispute, and can result in the Owner affording the Contractor relief for delays and costs caused by the Architect's errors and omissions, sometimes with only limited ability to recoup such losses from the Architect.

The Design-Bid-Build method is not the most time efficient means of getting a completed structure to market or delivered to its end user. Because designs must be substantially completed before the project can be sent out for bid, there is a natural lead-time that occurs before the Contractor can ultimately be selected. Absent from this model is the early-stage collaboration that is found in other delivery methods, which we discuss below. Because the Contractor is engaged late in the overall process, the Contractor's value engineering and constructability analyses will not occur until the end of the design process, possibly leading to further delays.

### **Construction Manager (“CM”) at Risk**

In contrast to the Design-Bid-Build method just discussed, the CM-at-Risk project delivery method endeavors to streamline project delivery and reduce costs by involving the CM early in the design phase of the project. The Owner is still responsible for hiring the Architect directly, but the CM, typically engaged earlier on in the process compared to the Contractor under the Design-Bid-Build method, is responsible for reviewing the Architect’s designs for purposes of constructability and to provide feedback about cost reduction measures that can be integrated into the design to achieve project savings.

While the CM should generally not be responsible for design under this delivery method, they are often called upon to notify the Owner and Architect if they discover any errors or omissions in the Architect’s, or other design professionals’ work. At various intervals during design development, the CM will provide estimates of their anticipated costs during the construction phase of the project, thereby allowing the Owner to evaluate its budget and assess its cost reduction options.

Once the designs are sufficiently refined and the owner approves same, the CM will provide a price – often on a cost-plus basis with a Guaranteed Maximum Price (“GMP”) (although it is not uncommon for these contracts to contain options to proceed on a pure cost-plus or stipulated sum basis as well).

If the cost-plus basis with a GMP is selected by the parties, the CM bears the risk of excess costs when costs exceed the GMP, unless the overrun is the Owner’s fault or otherwise excused by the contract terms. Often these projects will allow for shared savings if the cost of the work falls short of the GMP.

### **Design-Build**

The Design-Build project delivery method provides the Owner with a one-stop-shop for design and construction services. Rather than hiring an Architect directly, the Owner hires a “Design-Builder” who is responsible for performing construction services and also for retaining the services of a qualified and properly licensed Architect to perform the required design services for the project. The effect is that the Owner shifts its design responsibility to the Design-Builder, and any costs impacts due to errors and omissions in design are the Design-Builder’s responsibility. The Design-Builder can only look to its design consultant(s) for any recompense. The extent to which both design and construction risk is allocated to the Design-Builder under this method is often one of the lead factors in the negotiation of a final agreement between the parties.

Unlike the Design-Bid-Build and CM-at-Risk delivery methods, instead of providing designs, the Owner supplies the Design-Builder with a program of design parameters or requirements that must be included in the project’s ultimate design. The Design-Builder will provide the Owner with increasingly refined design documents and pricing information at agreed-upon intervals. This phased design process allows the Owner to evaluate the design and price in a manner similar to a CM-at-Risk.

Design-Build project delivery is gaining acceptance by public entities in the United States. However, as price certainty can be given only when the design is near completion, the Design-Build method usually functions best when the Design-Builder is selected on the basis of qualifications as opposed to price. This can make it difficult to comply with bidding requirements and in many jurisdictions enabling legislation is required for Design-Build to be used on public projects.

### Emerging Delivery Methods

In addition to the tried-and-true delivery methods detailed above, the construction industry has continued to explore and develop alternative delivery methods by, in part, taking what can be considered the best parts of these proven methods and expanding on certain efficiencies. An example of the continued innovation in this area is Progressive Design-Build. Here, the Owner engages the Design-Builder at the earliest stages of project development and the design is thereafter developed jointly by the Owner and Design-Builder in a step-by-step progression. Typically, once the design reaches between 50-75% completion, the Design-Builder issues a GMP. Another variation on the design-build theme gaining traction is Public-Private Partnerships (“P3s”). The P3 delivery method combines Design-Build project delivery with options for financing, operation, and maintenance of the project. This method has been utilized for both civil and social infrastructure projects across the United States.

The latest example of a delivery method geared towards greater collaboration among the parties is Integrated Project Delivery. This structure is quite unique in that the parties, rather than finding ways to shift risk on to one another, instead share and manage both design and construction risk as a team throughout the design and construction process.

### Conclusion

Construction is not for the faint-of-heart; general contractors and construction managers must be accustomed to accepting calculated project risks. The contractor that embarks on a new project without a clear understanding of the delivery method, including the contractor’s obligations and associated risk profile involved, does so at their peril. Among the riskiest decisions a contractor can make is the misguided assumption that project delivery methods are interchangeable. They are not. For everyone in the construction industry, staying informed regarding all aspects of the ever-changing world of project delivery should be a top priority and best practice.

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