

DPRCG 2024 CONVOCATION

Project Delivery Risks: A difference in perspective

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THE VALUE OF
TRUST

Traditional Design - Bid - Build

Risk Allocation

- Design Team - Owner - Contractor (Owner in the middle)
- Contractual
 - Limitations of Liability
 - Waivers of Consequential Damages
 - Waivers of Subrogation
- Potential for more adversity
 - Higher contractor risk to bid to fixed price **on a competitive basis**
 - Owner caught in the middle of contractor and Design Team on E&O changes
- Typically price based

Design / Build

Risk Allocation

- Owner – Design / Build Team
- Contractual
 - Quantities
 - Limits of Liability
 - Delay / LD's
- Expensive pursuits for Design Team
- Gray areas in RFP can lead to Owner – D/B Team Disputes
- Higher Designer risk / risk allocation to Design Team
 - Eliminates Spearin Claims
- Competition / technical & price based

Progressive Design Build (Assuming use of CM for Pre-con Assistance and Evaluation)

Risk Allocation

- Design Team - Owner - Contractor (Owner in the middle)
- Contractual
 - Limitations of Liability
 - Waivers of Consequential Damages
 - Waivers of Subrogation
- More collaborative
- More equitable risk sharing
- Competition / price based

GMP / Lump Sum / Cost Plus

Controlled Risk

- Designer - Owner - Contractor
- Collaborative
- Contractor accepted risk
- Pre-construction participation by all parties reduces unknowns and conflicts
- Higher "known" cost / minimal changes
- Sharing in savings incentives success

Preferences

Legal

- Preference for delivery method could depend on Client (Owner / Contractor or Design Professional?)
- CM at risk with good pre-con involvement most balanced

Contractor

- CM at Risk with a GMP

Designer

- Design / Build with:
 - A good contractor
 - Reasonable Limit of Liability
 - Schedule based
 - Alternative design concepts

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