



BACKGROUND

The party contracting with a project Owner under a design-build contract may take one of several forms. These include, but are not limited to, a construction contractor as the prime contracting entity with the architect/engineer as a consultant to the contractor (“contractor-led”), a design professional as the prime contracting entity with a construction contractor as subcontractor (“designer-led”), a joint venture between a designer and builder, a single-purpose entity created by the design-build team or an integrated design-build organization with in-house design and construction capabilities. On projects of large contract value and in other special situations, the design-build entity may be comprised of multiple construction contractors. In addition, the design-build entity may be led by a developer (“developer-led”). Design-build contracts have been successfully executed under these and other formats.

POSITION

DBIA holds that any of the design-builder organizational forms described above is appropriate and expresses no preference for one over another, provided the following conditions are met:

- A single entity holds the contract with the Owner.
- This entity is contractually responsible for the management and performance of both design and construction and possesses the financial and managerial resources to perform the design-build contract.
- After discussion by the parties, risk for both design and construction is appropriately assigned to the party best able to manage, price or insure the risk.

Successful design-build entities — however organized — structure the design-build team, including the designer, constructor and key subconsultants and specialty contractors, as early in the process as possible and encourage collaboration within the design-build team as well as full and open communication between the design-build team and the Owner.