

Engaging a design and construction team

How you get there is as important as where you are going.

By Angela Stephens and Matt DeVries



In April, *Medical News* focused on various elements of health IT from the good, the bad and even the confusing. Whether you are dealing with new construction or renovations of existing health-care facilities, technology and innovation continue to improve the landscape of healthcare construction. In the end, you want a facility that optimizes energy efficiency, while at the same time has the right equipment that seamlessly integrates your IT department, medical providers and end-users. In the construction industry, the project delivery system you choose is just as important to the process as the design and construction criteria you choose.

Types of Project Delivery

The generic term “*project delivery system*” describes how the participants are organized to interact, transforming the owner’s project goals and objectives into a finished facility. The delivery method you select can have a significant impact on the costs and schedule of your project. Therefore, before you hire an architect you need to consider which delivery method will best suit your needs. Some of the primary methods include:

- **Design-Bid-Build** Under this traditional construction delivery method, you will hire an architect to develop a complete set of plans, and once they are complete, the architect will assist the owner in hiring a contractor. The benefit of this method is that your contractor should be able to give you a lump-sum price for the work contained in the plans. However, there are disadvantages to this method. Those include the concern that the design documents may not be complete or may contain errors

which will result in change orders during the project. Additionally, the overall construction process is lengthened because the contractor is not brought on board until the design is complete.

- **Construction Management At Risk (CMAR)** This delivery method has been around as long as design-bid-build, but it is just starting to become more commonly used. Under the CMAR delivery method, the contractor is brought on board at or near the same time as the architect. The contractor reviews

the plans as they are being developed, provides input on how the design will impact the budget, suggests ways to reduce costs, and begins planning for the construction phase. The early involvement of the contractor can help save construction costs and reduce the overall schedule of the project. As an example, this method was recently used on the construction of the KFC Yum! Center in Louisville, Ky., which came in under budget and on schedule (with a schedule that already had a decreased overall schedule).



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Construction Contracts

There are two main forms of standard construction contracts: American Institute of Architects (AIA) contract documents; and the ConsensusDOCS, created by a coalition of designers, owners, contractors and suppliers. Both AIA and ConsensusDOCS have what are called families of documents for each delivery method. For example, the AIA design-bid-build family of documents contains an owner-architect agreement, an owner-contractor agreement, a set of standard terms and conditions which will apply to all parties on the project, and a contract between the contractor and subcontractor. This family of documents is coordinated and is meant to be used together.

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- **Design-Build** In the design-build delivery method, the owner contracts with a single entity that agrees to conduct both the design and construction of the building. This single entity may be a construction company that has an architectural team on staff, or it may be a joint venture between an architect and contractor. The benefits of design-build include the owner managing one contract as compared to two and the ben-

method that is right for your project, you need to select a team that has experience with the chosen delivery method. Then, the most important task is to get the right set of contracts in place. Not all contracts are equal or suitable for every delivery method. The relationships and responsibilities of the parties will be very different depending on what delivery method you choose.

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What Next?

The next step is to modify the contracts to suit your particular design and construction needs. Once you have selected the delivery method and selected a family of documents to use, don't stop there. Many of the standard contracts are drafted to favor either the architect or contractor. Below is a list of just a few of the contract clauses that owners should look out for and consider:

- **Waivers of consequential damages:** Consequential damages are those damages like profits you may lose if your building is not completed on time. Many standard contracts waive these damages, which could mean that if the project is delayed you will not be able to recover those costs.
- **Liquidated damages:** These types of damages involve an agreement on a specified amount of money (i.e. \$5,000 per day) if the project is not completed by a certain date. If completion of your project by a certain date is critical, owners should include a liquidated damages clause in the contracts. This clause should be carefully drafted with thought

given to the schedule and what will trigger the liquidated damages clause.

- **Retainage:** Most contracts allow owners to withhold a certain percentage of the amounts earned by the contractor for work performed. These amounts are used to ensure the work is completed and any defective work is corrected. Owners should consider how much they want to (and are allowed by law to) withhold.

As you look to design and construct a new facility, or undertake a major renovation of an existing facility, the success of the project will often be tied to the overall process by which the project is designed, constructed and/or maintained. In the end, it is always important that the contracts be carefully reviewed, as they will determine what

happens if a change needs to occur or claims are made during or after the project.

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Three contract clauses owners should watch for:

- 1) Waivers of consequential damages
- 2) Liquidated damages
- 3) Retainage

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efit of having a contractor work with the architect at an early stage to reduce costs and the construction schedule. The disadvantages of the method include the lack of checks and balances that an independent architect and contractor would have on one another during the project.

- **Integrated Project Delivery** This new project delivery method, also known as IPD, is starting to be used by many large hospitals on complex projects. Under IPD, the owner, architect, and contractor enter into a three-party agreement whereby all parties agree to share the risks and rewards of the project. For example, if the costs come in under budget the parties are rewarded with sharing the savings. If the project comes in over budget, the parties agree to share the costs. Additionally, under a "true" IPD agreement all three parties agree at the outset not to sue one another. The benefits of IPD include a team approach to a project rather than the silo effect that can happen in design-bid-build. The disadvantages include the risk of having a claim arise under which you cannot sue the other party.

Contract Documents

Once you have selected the delivery

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