

The VOICE

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ECONOMIC BOUNCEBACK OR DOOMSDAY DANGER

Predicting the Unpredictable for 2012

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By Matthew DeVries

Competition in the construction arena has resulted traditionally in an environment where you do whatever you can to make the deal happen, to keep the project going forward and to minimize the risk of loss. In a technology-driven world, we see that the modern construction project, its players and its tools are constantly evolving. From business development efforts, to assigning risk through contract documents, to the ultimate design and performance of the work, the construction industry's future success will depend on *collaboration*.

Working Together

The word *collaboration* has different meanings to different people. To my six young children, it means cleaning up the playroom as quickly as possible before dinner to ensure a bowl of ice cream at meal's end.

For construction Owners, it means something similar—getting the finance, design, construction and operation teams to work together to ensure a high-quality, safe, timely and on-budget project. On a construction project, with so many players involved and a host of circumstances that can dramatically affect an Owner's return on investment, success ultimately depends on how well those parties work together through those circumstances.

Collaborative Networking

Already the next generation of leaders in the architecture, engineering and construction (AEC) industries are communicating and networking differently. Through Tweets and Facebook posts, information and data are being transmitted more quickly with less formality than ever before. Business development, networking efforts and global research now occurs from behind the office desk and on a Smartphone through online networking solutions and professional association groups.

Indeed, members of the Construction Users Roundtable (CURT) have formed a professional group on LinkedIn® to help make connections and share best practices in the industry. Albert Schwartzkopf, Chairman of the CURT LEAN Construction Committee, recognizes the benefit of these types of collaborative networking activities: "...member organizations can use the CURT network to develop their own best practices. Through studying, sharing and developing new ideas, CURT is able to grow its members' ability to execute construction and lead by example" (*The Voice*, Summer 2010, at 21). Networking that once began with a handshake and occurred exclusively in person now starts with a click of a mouse and develops through online activities and communications.

Still not convinced? Have you visited CURT's website recently? Last summer, the

portal at www.curt.org was updated in an effort to better communicate with members and the industry as a whole. The new site improves its search features, provides easier access to meetings, workshops and training seminars, and facilitates communication and information sharing among members. The site is also cutting edge with a scrolling bar of member Owners and embedded video messages from CURT leaders. And, of course, there is an archive of electronic versions of *The Voice* from the past couple of years.

Collaborative Contracting

Since funding for private construction projects remains tight, the team that an Owner must assemble to begin and successfully complete its projects is comprised of more members than just the prime design professional and the prime construction contractor. Early involvement of all major design professionals and all major trade contractors and suppliers, and full collaboration among those team members, is essential for success in the current economy.

How do the parties allocate risk in this promising era of collaboration? As Owners sit down to negotiate a construction contract, collaborative form documents published by ConsensusDOCS in 2007 and the American Institute of Architects (AIA) in 2008 provide a good framework for collaborative contracting.



Win-Win Collaboration: The Future of Networking, Risk Allocation, Design and Construction

Specifically, ConsensusDOCS 300 is a tri-party agreement that binds the Owner, designer and contractor at the inception of the project, requiring them to collaborate in the planning, design, development and construction of the project. They share the project risks and rewards differently than the traditional project. Likewise, the A295 (General Conditions for Integrated Project Delivery) and the C195 (Single Purpose Entity Agreement), both published by AIA, institute an integrated process rather than a risk allocation process. Negotiation in contracting will continue to be a necessary process, even where the parties agree to share certain risk in a collaborative arrangement.

Collaborative Design And Construction

Technology has improved a project's successes and minimized the potential mishaps throughout the design and construction process. For example, use of project management tools such as building information modeling (BIM) and project delivery methods such as integrated project delivery (IPD) and lean project delivery

(LPD) allow for such early involvement and enhanced collaboration. BIM can benefit Owners by offering better design quality, better performing systems, schedule compression and cost-savings from early detected design changes and conflicts. Similarly, IPD and LPD are focused on the project as a whole and reward the collaborative efforts of the whole team, who may often share in those cost-savings.

In addition, innovative technologies such as cloud computing, iPads and other tablet computers are becoming more commonplace on the jobsite. Immediate access to project specifications, revised drawings and field instructions allow Owners, designers and contractors to better communicate with each other throughout project performance. In many instances, collaboration through tablet computing significantly reduces requests for information (RFIs) and change order requests, as well as saving numerous hours in response time.

Win-Win Collaboration

In the end, collaboration on a construction project means many different

things—whether you are talking about networking activities, contract documentation, or the design and construction process. A \$320 million hospital project recently highlighted in *Engineering News-Record* showcased an “unprecedented” 11-partner IPD team that has kept the project on budget and scheduled to be complete six weeks early. As the industry embraces IPD and new technologies to enhance collaborative efforts, our projects will see more successes like this hospital in Castro Valley, California. Collaboration can result in a win-win for all parties. ●

Matt DeVries is a member of the construction service group of Stites & Harbison PLLC and is the founder of www.bestpracticesconstructionlaw.com, a construction-related blog focused on transportation, health care and sustainable design and construction. DeVries represents Owners, contractors, subcontractors and sureties in construction disputes.

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