



Progressive Design-Build: Involving and Aligning Owners With the Design-Build Team

By David Pacifici | Sunday, November 7, 2021



Many recent public or quasi-public projects that have utilized design-build as a project delivery method have experienced significant insurance claims due to schedule delays or cost overruns. The reason for many of these claims is that design-build entities are required to provide a fixed-schedule and fixed-cost bids based on only schematic design and incomplete knowledge of site conditions. In addition, the owner's priorities as to the

relative importance of different project goals may not have not been clearly communicated in the RFP.

Once the bid is accepted and the contract is fully executed, the design-build entity doesn't have the ability to alter the project scopes, timeframe or the fixed cost due to unforeseen conditions or design changes as design-build contracts strictly limit any change orders. This situation has been exacerbated by supply chain disruptions and material pricing volatility which has rendered any project contingency inadequate, further worsening the situation.

While using design-build provides the owner with certainty regarding schedule and cost for the project, this process can put the design-build entity in a very precarious financial position if there are any design changes or unforeseen conditions discovered after the owner accepts the bid. And, while the contractor should assume some risk on the project, this process unreasonably shifts the burden of much of the financial risk from the owner to the design-build entity.

Given the above, progressive design-build has been gaining in popularity as an alternative to help provide more realistic schedules and cost structures for projects and to keep the financial risk reasonable for all parties. So, what is progressive design-build?

Essentially, progressive design-build is a two-phase process where the project owner/developer engages the design-build team, contractors and design team members early in the process and works collaboratively together to first develop the project's overall design and clarifies the programming and priorities. Once that is agreed upon, the parties mutually develop the project design to an adequate point where a realistic schedule and cost can be developed. Once the specifics are agreed upon, then a contract can be signed.

Phase one involves the selection of the design-build entity which is primarily based upon the qualifications of the design-build entity and their ability to deliver the project. Importantly, the fee to be paid to the design-build entity for both phases of the project are agreed upon at selection; however, the project cost and schedule are not established at the time of the selection. This mitigates the issue of a design-build entity bidding on a project with incomplete plans and specifications.

In phase one, the design-build entity collaborates with the owner and with its own consultants to develop the project's overall design and define the programming. Clear priorities are established and mutually agreed upon with the owner's participation. This process refines the design based on various considerations such as cost, schedule, quality and other items, enhancing the project's transparency with an open-book approach.

At an agreed upon time, when the design is adequately developed, the design-builder will present the owner with a "commercial proposal" to deliver the project in phase two, which is for "final design" and construction. This presents a specific schedule and is on a guaranteed maximum price (not to exceed) cost basis. The consideration to be paid to the design-builder for phase one and two is frequently decoupled from the cost to deliver the project, having been agreed prior to the initial engagement.

Progressive design-build appropriately and reasonably allocates the risk for each party involved in a project. It achieves this goal by providing an opportunity for all parties to have more input earlier in the process which leads to more certainty when it comes to delivering a project on-time and on-budget with everyone earning a reasonable rate of return. After all, isn't that the goal?

About the Author



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