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Association update: Design-build process helps manage risk

by Ben Dzioba, Design-Build Institute of America - Upper Midwest Region, Guest Commentary

One of the major reasons for selecting design-build projects is the ability for owners, designers and contractors to manage project-related risk. As a project moves through the five phases of the project-management process (initiating, planning, executing, monitoring and controlling, and closing), there are different opportunities to identify, mitigate, document and transfer risk. It is important to remember that many risks are not realized as part of the project and that risks that do occur can have both negative and positive impacts to the project.

When the project sponsor elects to initiate a project, there are a large number of risks and unknowns associated with that undertaking. As the project progresses, the risks typically become smaller and better defined as data is collected and the project scope is refined. On a traditional project, the owner mitigates as many of the risks as possible during the planning phase, prescribing specific solutions to minimize and alleviate the risk to an acceptable level for the owner to bear. Once the design is complete, the owner accepts the design and then procures a contractor to perform the desired work in accordance with the accepted plans.

In the traditional process, the owner acts as an intermediary between the designer and the contractor and accepts the liability void created between these two entities. Through this method, the owner assumes a large potential for risk and bears a significant burden of proof. Besides the increased risk, the owner will typically incur costs to review designs prior to procuring a contractor and administer the project to manage unmitigated risk. This situation puts the owner in a scenario of potentially high risk with little ability to ultimately manage that risk.

The solution is simple: An alternative form of delivery is necessary to leverage the capabilities and strengths of all parties. The best management practice for allocating risk involves allocating risk to the party that has the best ability to manage, price and cover that risk. For many project types, the contractor and designer are best able to meet these requirements. Therefore, on projects of this type, the best solution is to procure a single team for the design and construction of the project. This solution has led to the development and implementation of the design-build delivery method.

By its very nature, the design-build process is an exercise in risk management. The owner requests an end product with performance specifications that the design-build team must now design and construct. On a traditional project, any variation from the original plan would likely result in a claim for compensation. In contrast, on a design-build project, the design-build team is responsible for the costs associated with designing and constructing a solution that resolves the realized risk and meets the contractual requirements of the owner.

In the design-build process, it is critical that the owner defines the risk as best as possible and writes up a contract that clearly defines the risk and the ownership of that risk. Passing on vast quantities of undefined risk may result in higher bids and potential claims against the contract. To prevent this, some owners have elected to manage areas of large undefined risk by acknowledging and retaining risks such as contaminated soils and other events that are outside of the design builder's ability to reasonably control or manage.

The design-build process affords the design-build team the ability to manage the risk and develop solutions that solve the problem, utilizing the strengths of the contractor and designer. By allowing the design-build team to develop the solution, risk can be mitigated in the most advantageous way, resulting in a lower overall risk for the project and implementation of cost effective solutions. Furthermore, the design-build team's planning process becomes the primary time to identify risks and the greatest opportunity for finding innovative methods to mitigate them.

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Most risks that are realized as part of the project are simply opportunities to improve or modify the proposed method, product, or process. In my experience, the teams that are best able to plan and mitigate risk through innovative methods develop a competitive advantage over other design-build teams. The management of risk drives the project to develop the most efficient and well thought out solutions for difficult problems, resulting in a timely and quality product. In addition, the design-build process allows the design-build team to control and manage their quality, cost, and schedule while simultaneously allowing the owner to achieve the desired end product.

Those interested in the design-build process can learn more at the DBIA-Upper Midwest Region program at 7:30 a.m. May 19, at Midland Hills Country Club in Roseville. The topic for this meeting will be "Meeting the ARRA Challenge Using Design-Build Delivery," featuring Jay Hietpas, the Innovative Contracting Director for the Minnesota Department of Transportation. More information and a registration form can be found at www.dbia-um.org.

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