Collaborative ‘IPD-ish’ Project Delivery using Design-Build, P3 or CM at-Risk: the Einstein Approach – DRAFT – for AIA CCA Knowledge Community 2015

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EXCELLENCE BEYOND EXPECTATIONS

Legacy of adversarial risk shifting vs. collaborative risk management: 50 years of construction productivity in decline*

Owners Will Demand New Thinking…

Funny (unless you are an Owner) but…

"Original Contract"

...too often true
“Insanity: doing the same thing over and over again and expecting different results.”

—Albert Einstein

Why Collaboration is elusive:

Just calling a random group of participants with conflicting financial interests a ‘team’ is not enough to achieve productive overall collaboration toward a common goal.

Adversarial provisions (even in CM at-Risk and Design-Build) are hold-overs from old risk-shifting design-bid-build delivery and are simply not working. Owners ultimately have to pay more because of the resulting inefficiency.

Our Industry’s future is Technology-Driven

Integrated Project Delivery, IPD

BIM Model Development
CM and Design-Build are evolving into IPD and beyond—to include financing, operations in P3

“The significant problems we have cannot be solved at the same level of thinking with which we created them”

—Albert Einstein

1. Establish a shared-mindset in both Design-Build and CM at-Risk
   • Actual ‘teamwork’ requires trust, qualifications and shared mutual interests, not traditional I-win-you-lose hidden profit or self-protective risk-evasion
   • So: who takes the risk, who benefits? Is the project a Team effort or a group of individuals competing against each other?
   • Answer: the Owner benefits, and should pay the fair costs; let designer and builder collaborate with Owner to professionally manage uncertainty as a real Team, not as risk-shifting financial opponents
2. Team selection: Return to Brooks Law QBS on all projects (in D-B and CM-R)
   • Performance-based RFP in D-B (no FREE design, avoid bridging) limit number of firms
   • Approach-based proposals with proposed fee (for CM in CM-R; fees for both designer and builder in D-B) in sep. sealed envelope
   • Short-list three CMs or D-B teams max.; interview all key members, select best qualified (then open fees, and negotiate)

3. Whole ‘team’ must have the same financial objectives to be a Team
   • Set open-book GMP early (can be at D-B and CM-R selection) to match Owner’s budget—not a lump-sum price
   • Professional CM/D-B fee replaces hidden-profit mark-ups that invite disputes, corner-cutting, inferior substitutions and inflated claims due to lack of financial transparency
   • Fair market-rate fees align the interests of owner, designer and builder as a team

4. Financial transparency is crucial in any delivery method
   • Open-books-only policy—Owner sees all subcontractors and invoices, gets all that they pay for (but not something for nothing)
   • Guaranteed Maximum Price includes CM/GC fee and a funded Contingency for unknowns (including E&O by A/E and GC)
   • Reconcile CM/D-B’s budget during design via Independent Cost Estimates to minimize wasteful redesign
5. Liquidated Damages for late completion are not in the Owner’s interests

Unintended real-world consequences of LDs include:

- Higher sub bids to cover uncontrolled risk
- Self-protection = slower, less teamwork (D-B shifts risk of LDs onto subcontractors)
- Fear trumps subs’ concerns for work quality
- Rush to avoid LDs cuts performance
- LDs are virtually never paid, but induce blame and increase everyone’s legal costs
- Incentives for on-time completion do work

None of the preceding IPD-ish actions are radical or untried, but all must be applied together (one conflicting interest can defeat the best of intentions)

- Without transparency and actual teamwork, project delivery can become an adversarial struggle, inefficient and unproductive
- Disputes and claims result from doing the same thing over and over again but expecting different results…

QUESTIONS?

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* Slide 2, industry productivity study
- Per compiled Government data in “Labor-Productivity Declines in the Construction Industry: Causes and Remedies. Another Look” by Dr. Paul Teicholz, Stanford University, see full documentation at http://www.aecbytes.com/viewpoint/2013/issue_67