

Design-Build: Solution With Responsibility

The State Has Legislation For Design-Build (DB)



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Introductions

Terry Fielden Role: Moderator/Emcee

- Vice President, Director K12, International Contractors, Inc.
Retired Board Member Naperville 203, 12 years service



James Petrakos, Speaker

-Managing Principal, Co-Owner, TRIA Architecture



Ian Lamp, Speaker

-President, Lamp, Incorporated



Ken Florey, Speaker

- Attorney, Partner, Robbins-Schwarz

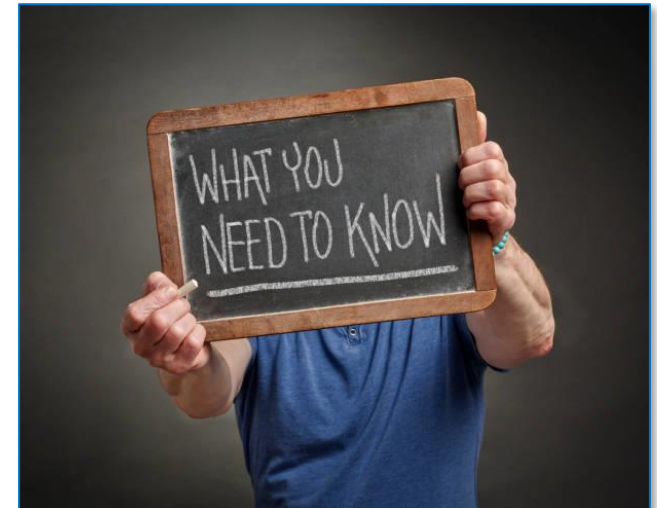


Objectivity



Discussion Points

- Review of Construction Delivery Options
- Risk Protection
- Breaking Down the Design-Build Legislation
- New Design-Build Legislation “How To”
 - Legal Obligations
 - District Responsibilities
 - Architect Role
 - Construction Role
 - Contract Structure
- Potential Advantages / Disadvantages



Review of Construction Delivery Options



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Design-Bid-Build – General Contractor

Delivery Format

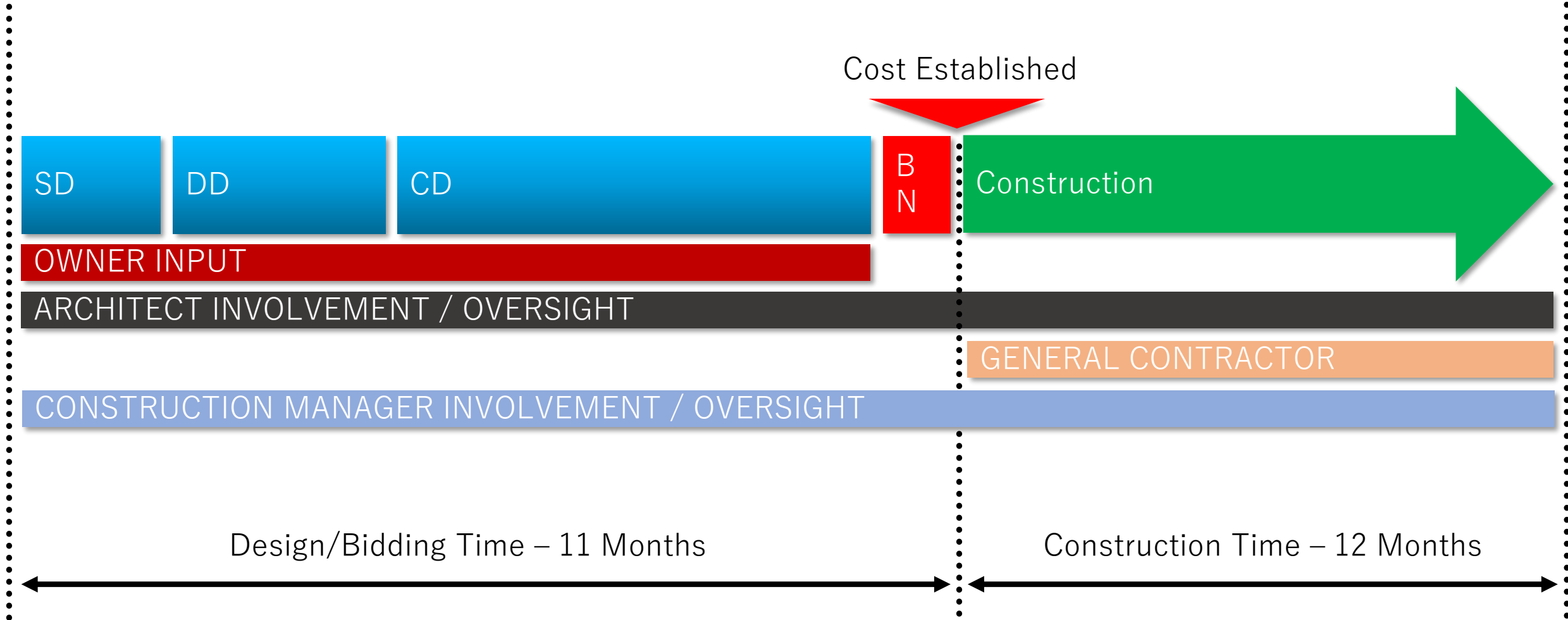
- Architect Programs/Designs
- Awarded To Single Contractor
- Limited Owner Control
- **Subject To Change Orders**

Project Types

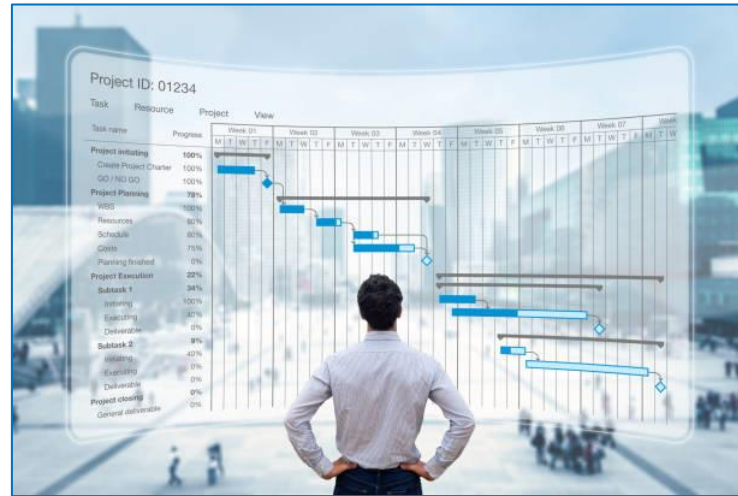
- Small Project Volume
- Non-critical Completion Date
- District Staff Has Experience
- Strong Architect
- Fixed Resources



Design-Bid-Build GC or CM



Design-Bid-Build Construction Management



- **Construction Management (CM at Risk)**

~~**Construction Management (CM Agency)**~~

Construction Management (CM at Risk)

Don't Get Too Comfortable!

Delivery Format

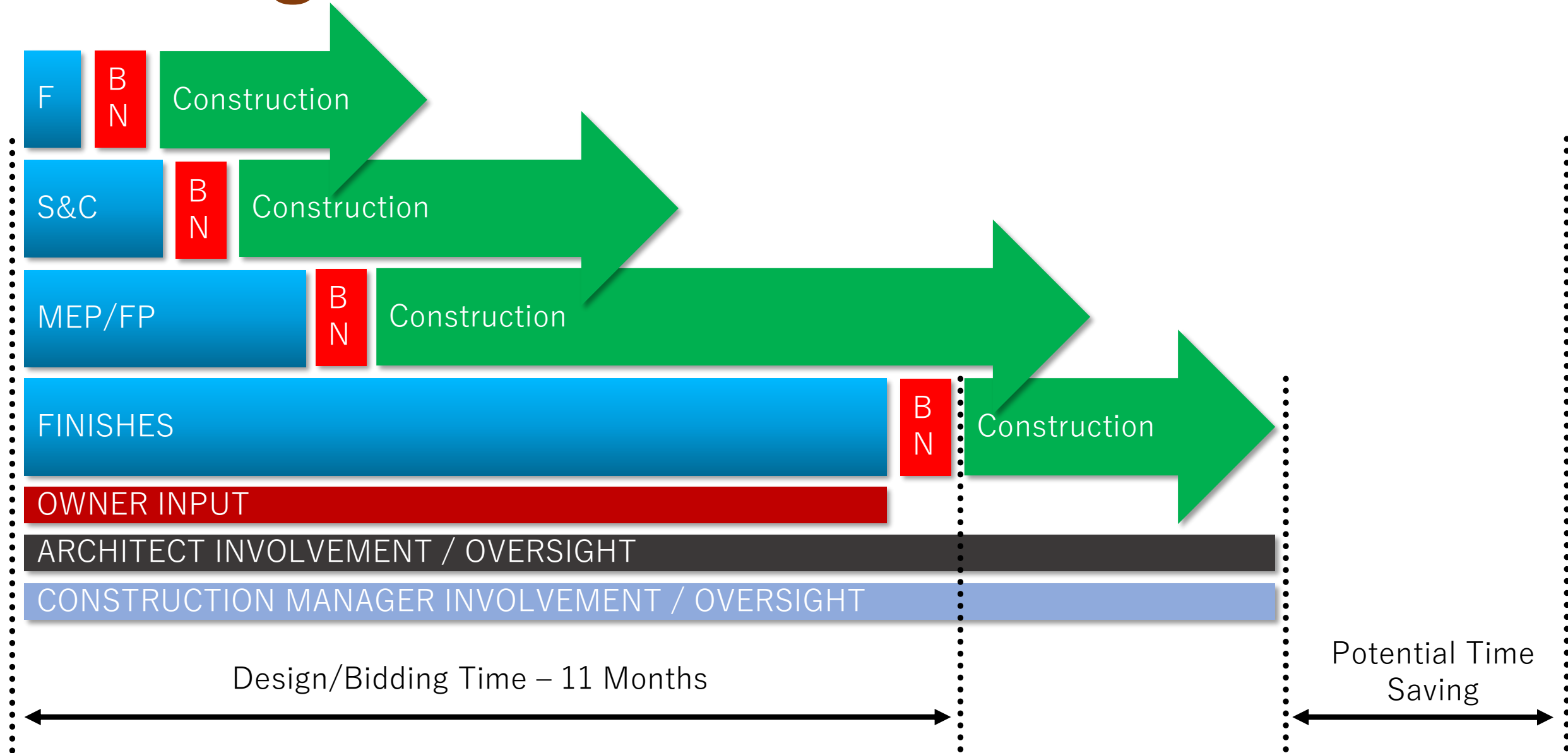
- Architect Programs/Designs
- CM Estimates And Plans Project
- CM Bids Project To Multiple Trades
- CM Enforces Contract And Schedule
- **Subject To Change Orders**



Project Types

- Renovations, Additions And New Construction
- Inexperienced District Staff
- Critical Delivery Date
- Fixed Resources

Design-Bid-Build – CM “Fast Track”



Design-Build (DB)

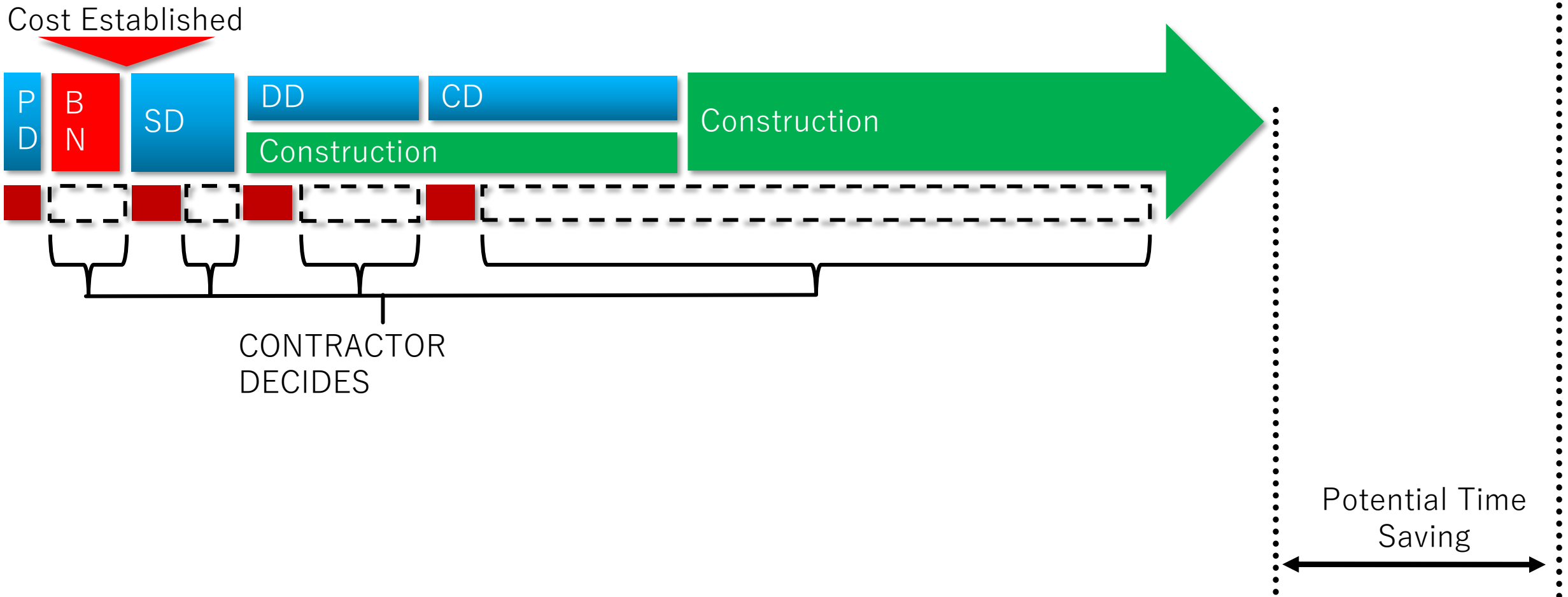
Delivery Format

- District Sets Design/Educational Standards For DB To Achieve
- District Solicits DB
- DB Is Single Delivery Entity: Fully Accountable For Design/Construction
- DB Has Full Control Of Assigned Resources
- DB Procures All Trades/Material/Equipment
- **Subject To Change Orders**

Project Types

- **Process Is New To Illinois For Schools**
- Additions, Interior Upgrades, Etc.
- Experienced District Staff - For Program Creation
- Critical Delivery Date
- Critical Resource Control

Design-Build (DB)



Risk Protection



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Risk Protection



Risk Protection

ALL Delivery Models...
Are Subject to Change
Orders



Risk Protection

Lump Sum Bidding

Change Orders Sometimes Geared For Profit

Architect Has Primary Responsibility To Protect District



Risk Protection Construction Management (CM)

Is Geared Toward Budget And Schedule Control



Architect And CM Have Unique Responsibilities
To Act As A Team For Protecting The District

Risk Protection

Design-Build (DB)

- **Contract Language Is The Key**
- **Writing A Solid And Well Thought Out Program**



- **Use The Original Architect?**
- **Consider An Owners Representative?**

Breaking Down The Design-Build Legislation



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Intended Purpose of New Design-Build (DB) Legislation

- Municipal Legislation First, Then School Amendment



- **(105 ILCS 5/15A-5 new)**

Sec. 15A-5. Purpose. The purpose of this Article is to authorize school districts to use design-build processes to **increase the efficiency and effectiveness** of delivering public projects.

“...Increase The Efficiency And Effectiveness...”

As With Any Legislation:
School Districts Are Still
Responsible



Design-Build (DB) - What's Different?

- DB Entity Owes Delivery Based On Defined District Project Scope And Performance Criteria
- Project Is A Fixed Cost Based On The *Interpretation* Of The Issued Standards
- District Changes/Deviations **Are A Change Order**



“...Increase The Efficiency And Effectiveness...”

"Scope and performance criteria" means the requirements for the public project, such as the intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, and other programmatic criteria that are expressed in performance-oriented and **quantifiable specifications and drawings** that can be reasonably inferred and are suited to allow a design-build entity to develop a proposal.



Design/Build “Definition”



(105 ILCS 5/15A-10 new)

Sec. 15A-10. Definitions. As used in this Article:

"Design-build" means a delivery system that provides responsibility within a single contract for the furnishing of architecture, engineering, land surveying, and related services, as required, and the labor, materials, equipment, and other construction services for the project.



Design-Build (DB) - What's Different?

Design Is Controlled By Two Architects



District Sets Standards

**District Sets All
Standards/Resources To Be
Achieved/Maintained By The
DB**



Design-Build (DB) - What's Different?

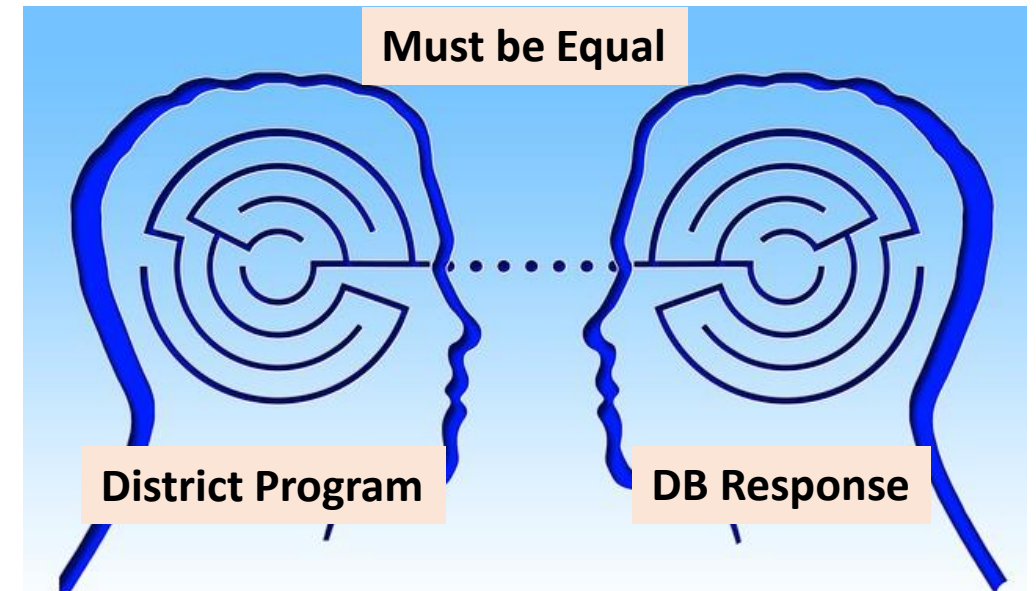
Design Is Controlled By Two **DISTINCT** Architects

Architect #1 For Program

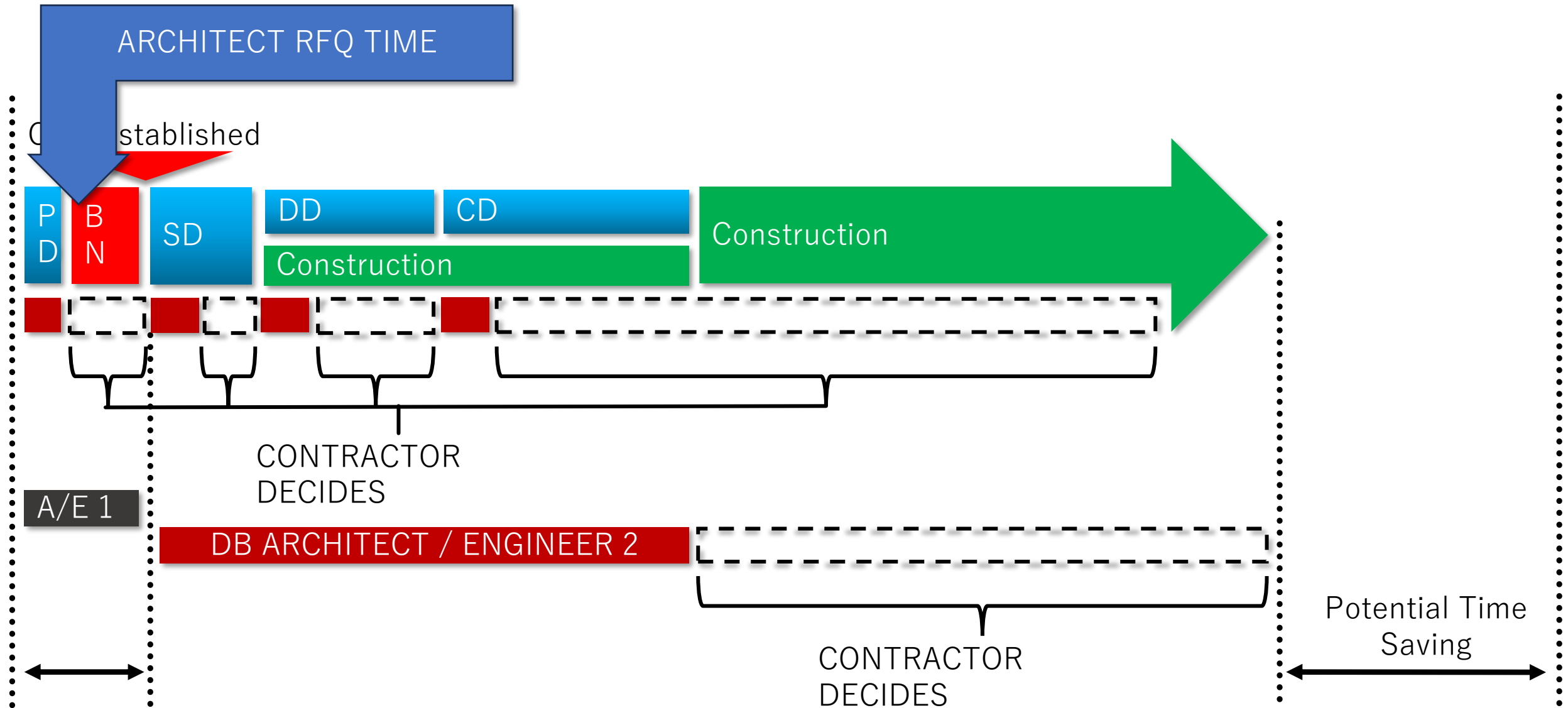
Is Required To Ensure District Specified Standards Are Clear And Complete

Architect #2 For DB Entity

Is Required To Ensure District Specified Standards Are Achieved And Building Code Is Satisfied



Design-Build (DB) Version



Tale of Two Architects

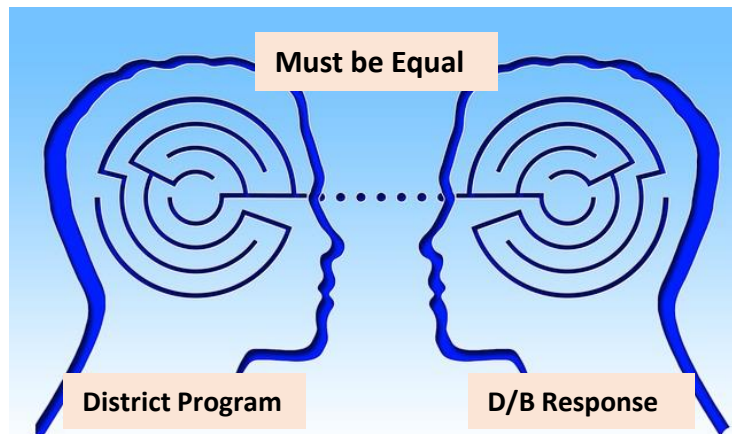
Challenge Questions for District:

How?

How will the design support your learning program/needs?

What?

What process will you utilize to determine your needs?



Who?

Who will you involve in the process to determine your needs?

When?

When will you know the extent of the design?

New Design-Build Legislation “How-To”



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Design-Build (DB) – “Selection”

Phase One



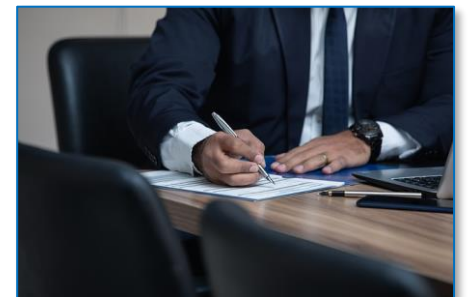
(105 ILCS 5/15A-20 new)

Sec. 15A-20. Development of scope and performance criteria.

(a) **The school district must develop, with the assistance of a licensed design professional or public art designer**, a request for proposal, which must include scope and performance criteria. The scope and performance criteria must be in sufficient detail and contain adequate information to reasonably apprise the qualified design-build entities of the school district's overall programmatic needs and goals, including criteria, general budget parameters, schedule, and delivery requirements.



Attorney Writes



Design-Build (DB) – “Selection”

Phase Two

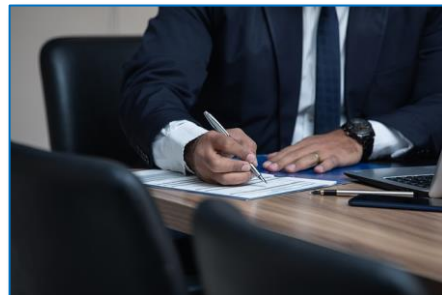


(105 ILCS 5/15A-25 new)

Sec. 15A-25. Procedures for selection.

(a) The school district must use a 2-phase procedure for the selection of the successful design-build entity. Phase I of the procedure must evaluate and shortlist the design-build entities based on qualifications, and **Phase II** **must evaluate the technical and cost proposals.**

Attorney Writes



Design-Build (DB) RFP Issuance / Development

- **District Hires Entity To Set Program And Design Standards**
- **Entity That Sets Standards Cannot Submit As D/B**
- **Time Limitations Are Set For Responses**



Design-Build (DB)

RFP Issuance / Development

- **Strict Records Must Be Kept On The Process**
- **D/B Must Commit Staff And Designers To Project**
- **MBE/WBE Requirements**



Design-Build (DB) RFP Issuance / Development

Matrix To Review Qualifications



Law Sets Minimum Qualification
Criteria



Is Design-Build (DB) Right for You?

- District Experience With Design And Construction
- District Architect/Artist Available To Set Program
- Willing To Be “Hands Off” In The Process
- BOE Willing To Accept The Associated Risks
- Funds Available With Reserve



Presenting Design-Build (DB) To The BOE

- Why Is DB The Best Option For Delivery?
- Assuring Resource Control
- Delivery And Quality Assurance
- Who Bears The Responsibility?



Design-Build (DB) Contract Considerations

- **Sample Contract**
- **Examples In Illinois**
- **Finding The Legal Expert**
- **D/B Contract Terms Will Need Clearly Defined Accountability**
 - **Checks And Balances**



Potential Advantages / Disadvantages



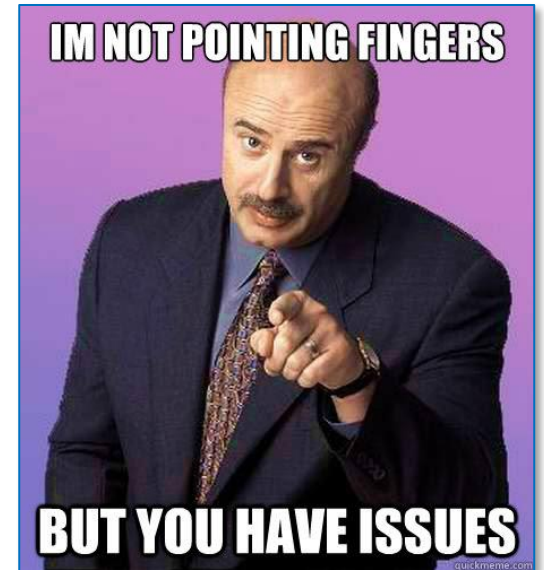
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Design-Build (DB)

**Design And Construction Accountability
Under Single Entity**



Design-Build (DB)

Locked Team Assignment

- The Firms And Players Cannot Be Changed
- People Are Committed For Duration
- Verifying Workload Is Important



Design-Build (DB)

Design Accountability

District Is Selecting The Team “As A Whole” With MEP Consultants



Design-Build (DB)

Design Accountability

Design Updates/Reviews

Design Stage Reviews **Are Not Required**

But May Still Be Beneficial



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Design-Build (DB)

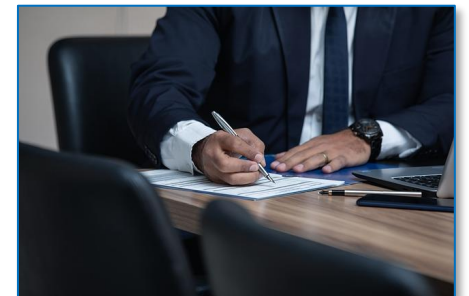
Design Accountability

DB is delivering project to set District Performance Standards



Performance Standards May Not Equal Visual/Curricular Expectations

Attorney Writes







Design-Build (DB)

Construction Accountability

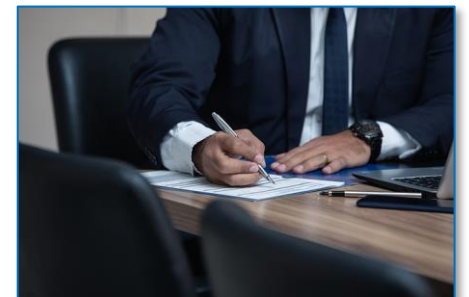
The D/B Must Resolve All Internal
Or External Construction Issues:

Details???

Except Of
Course



Attorney Writes



Design-Build (DB)

Fiscal “Responsibility”

DB Is Required To Deliver The “District Program” For The Approved Budget

Error In Program = More Money,
Unknown Substitutions



Design-Build (DB)

Fiscal “Responsibility”

Semi-competitive Bid Process.

D/B Selects The Trades And Can
Negotiate To Meet Their Number

Attorney Writes



D/B Is “Not Required” To
Share Savings-contract Terms Can Add

Design-Build (DB) – As Constructor

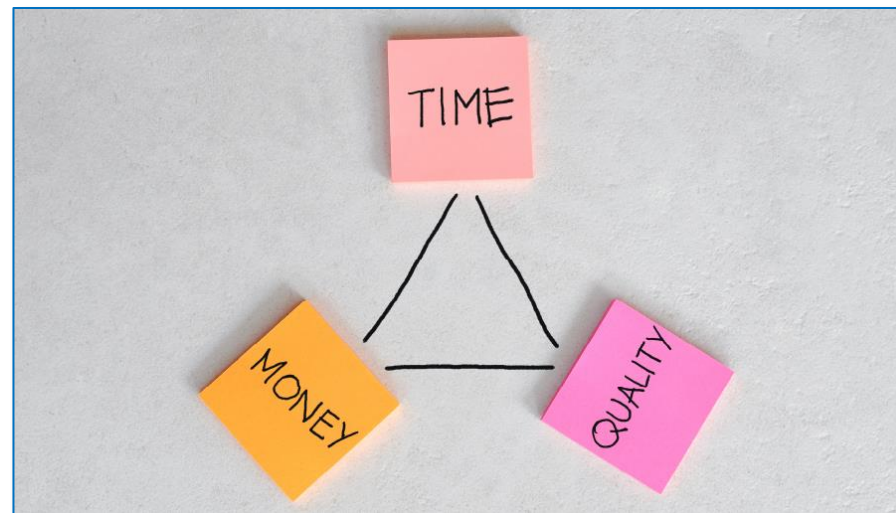
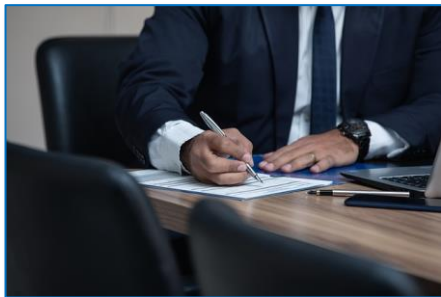
Delivery

DB **Must Achieve** Opening Date
- Save Force Majeure

Compliance

DB Owns **MBE/WBE Goals** Set By District.

Attorney Writes



Additional Resources

<https://www.ilga.gov/legislation/fulltext.asp?DocName=&SessionId=112&GA=103&DocTypeId=SB&DocNum=1570&GAID=17&LegID=&SpecSess=&Session=>



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Additional Resources

<https://www.elrodfriedman.com/news-and-insights/procedures-for-selection-and-approval-of-design-build-entities/>



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Thanks For Attending!!!



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Questions and Answers

We thank you for your time!



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