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## ALTERNATIVE METHODS

Design-build is just one of the methods that can replace the design-bid-build method. This section looks at other alternatives.

### Construction management

Construction management or 'at-risk' construction management describes a situation in which the construction manager or CM, a general contractor, engages trade contractors or subcontractors, but also provides 'front-end' services.

In general, design professionals do not assume the at-risk construction manager role. General contractors typically have the experience to supervise the trades and the ability to obtain surety bonds when required by clients. Even though CMs are involved in the design process, design professionals should remember that they have the sole responsibility for the completeness and adequacy of their designs. Before accepting value engineering or other suggestions for revisions, they should be prepared to accept legal responsibility for their designs.

### Agency construction

Under agency management, or agency CM, construction managers perform purely advisory or professional services as representatives and agents of the client. Either a design professional or a general contractor can provide agency CM services. Typically, the agency CM has a direct agreement with the client, independent of the design professional, contractor and any trades.

Design professionals in projects where the client has engaged an independent agency CM directly should be sure roles and responsibilities are clearly defined in their respective agreements with the client and in the general conditions of the construction contract. These documents should clearly state who has the final authority over things like design decisions, shop drawing review, observation of construction, review of payment requisitions and communications with the contractor.

The design professional should be especially alert to the implications of a client engaging a CM without first addressing the relationship in the professional agreement between the client and design professional. There can be substantial rewards for design professionals who successfully expand their practices to include agency or at-risk CM projects, but they also introduce new sources of risk. Agency CM services bring the design professional greater liability exposure for safety, construction means and methods, constructibility, scheduling and cost-related issues.

Most professional liability insurance policies for design professionals cover claims that arise from a design professional's agency CM services. However, the policies generally do not cover claims for non-professional advice or services, which could include the actual performance of construction work by the construction manager or others directly retained by the construction manager.

### Project management

Project management describes a range of consulting services, from project conception, through design and construction, to occupancy and facilities management. The design professional in the project manager role performs

tasks associated with management of the design team, without engaging any construction contractors or performing any actual construction.

Clients contract directly with project managers to represent them and act as their agents. Typically, project managers provide a broader scope of services than they would under the traditional prime consultant role, including such tasks as definition of program, development of conceptual design, and pre-design phase, design phase, construction phase and post-construction phase services. The project manager may act as an extension of the client's staff, working on general management issues and program, site, scheduling and budget services.

### **Bridging**

Bridging describes arrangements under which clients retain design professionals reporting directly to them, while another design professional is part of the design-build entity. Risk management issues will vary depending on which party the design professional has reached agreement.

### **Design professional as consultant to client**

In this independent role under the design-build approach, the design professional should clearly define the review of design or construction documents in the agreement with the client. Under no circumstances should the design professional stamp or seal construction documents prepared by the design-builder. If the independent design professional imposes design preferences or judgments on the design-builder, it may be construed as assuming some level of responsibility for the design.

The design professional should only review drawings or other submittals if required, and review should only be performed after the design-builder has reviewed and stamped the drawings or submittals. It should be made clear that the review is only being done at the request of and for the benefit of the client.

### **Design professional as consultant to design-builder**

Under this arrangement, the design-builder's design professional can assume a significant amount of liability for any deficiencies in requirements received from the client's design professional. If the design-builder's design professional has any reservations about the requirements, they should not be incorporated into the final design and construction documents.

The design-builder's design professional should not expect the client's design professional to assume any liability for errors, omissions or other deficiencies in the design and construction documents. During construction, the design-builder's design professional should have the primary, if not exclusive, communicative and administrative role in the project.

The design-builder's design professional should not accept any directions from the client's design professional that it considers ill advised. The design-builder cannot avoid liability and responsibility by pointing to design changes or decisions imposed by the client's design professional.