



Designer-Led Design-Build Overview

Written By:

Mark C. Friedlander

t 312.258.5546

mfriedlander@schiffhardin.com

SCHIFF HARDIN LLP

6600 Sears Tower

Chicago, Illinois 60606

t 312.258.5500

f 312.258.5600

www.schiffhardin.com

Design-Build is here to stay

The popularity of design-build construction as a project delivery method is growing rapidly. Its growth is fueled by owners who are attracted to its single-point responsibility and shortened project delivery times. Traditionally, however, contractors have dominated the lucrative position of prime design-builder, employing the design professional as subcontractor.

A/E's lose opportunity

The A/E usually has the initial relationship with and trust of the owner, who would like to rely on the A/E to see all aspects of the project through to completion — even construction. But most design professionals have been taught not to assume any of the risks associated with construction and do not know how to structure their practices to take advantage of the significant opportunities and profits involved in running a construction project without undue exposure to risk.

The advantages of design-build

As a design-builder, you can:

- Earn profits during the construction phase that dwarf design phase profits.
- Increase your market share by being able to offer potential clients a guaranteed price and schedule early in the design phase.
- Maintain control of the project so that the completed structure is what you designed.
- Increase your profits during the design phase by eliminating unnecessary work.
- Avoid the expense of nuisance worker injury claims against your design firm.

The Design-Build Program

Mark Friedlander has developed a Program appropriate for virtually every design professional firm, from major international A/E's to small architectural offices specializing in single family residences. The Program provides the documentation and structure necessary to enable an A/E to perform as a design-builder without diminishing its traditional design services.

The Design-Build Program consists of:

- Preliminary consultation regarding the nature of the A/E's practice and the feasibility of becoming a design-builder.
- A memorandum identifying and describing the advantages and risks of the Program, with suggestions for maximizing benefits and minimizing risks.
- Legal services to establish and incorporate the construction company to be affiliated with the design professional.
- A short but thorough Addendum to any A/E's usual design agreement to enable the A/E's construction company to guarantee the construction price and schedule.
- A fair but protective model construction contract for the construction company to enter into with owners who desire a design-build project.
- A Master Subcontract Agreement for the construction company to sign with a strategically allied general contractor.
- A half day of consultations with Mr. Friedlander regarding the theory and implementation of the Program.
- An analysis of the laws and regulations of all 50 states with regard to the feasibility and legality of design-build construction.

Years of experience

Mark Friedlander, a partner in Schiff Hardin's Construction Law Group, is an Adjunct Professor at the Architecture School of the University of Illinois at Chicago and is Chairman of the Professional Practices and Contracts Committee of the Design-Build Institute of America. He is one of the country's most respected and experienced lawyers regarding design-build projects, and one of the few who focuses primarily on issues unique to design professionals. Mr. Friedlander is a graduate of Harvard Law School and is among the most sought-after teachers and speakers to lawyers, design professionals and academia on the law of design-build construction. He has written extensively on design-build and other issues of construction law in books, periodicals and newsletters for both lawyers and the design industry.

Low one-time cost

Although the Design-Build Program is the result of many months of research, drafting and testing, it is priced at only \$9,500, plus expenses. It would cost the typical A/E firm many times this amount to assemble comparable documentation and analysis — and from sources with far less expertise and experience. For A/E's who are intrigued by design-build but do not know whether it is feasible for them, Mr. Friedlander will provide preliminary feasibility consultation and analysis of up to two hours for the sum of \$1,000, which can be applied against purchase of the Program.

To purchase the Program, or for further information, please contact Mark Friedlander via email at mfriedlander@schiffhardin.com, call him at 312.258.5546 or write to him at Schiff Hardin LLP, 6600 Sears Tower, Chicago, Illinois 60606.

About the Author

Mark C. Friedlander is a partner in the Construction Law Group at the law firm of Schiff Hardin LLP. He obtained his B.A. from the University of Michigan in 1978 and his J.D. from Harvard Law School in 1981. He is currently an adjunct professor at the University of Illinois at Chicago School of Architecture and a lecturer at Northwestern University's Engineering School, and had lectured at the Illinois Institute of Technology School of Civil Engineering from 1987-89, at the Engineering School of the University of Wisconsin in 1988 and 1990, and the Architecture School of the Georgia Institute of Technology in 1997-98. Mr. Friedlander concentrates his practice in construction law and litigation with particular emphasis on design-build methods of project delivery.

About Schiff Hardin LLP

Schiff Hardin LLP was founded in 1864, and we are Chicago's oldest large law firm. In the past 140 years we have grown to more than 325 attorneys, with additional offices in New York, New York; Washington, D.C.; Lake Forest, Illinois; Atlanta, Georgia; and Dublin, Ireland.

As a general practice firm with local, regional, national, and international clients, Schiff Hardin has significant experience in most areas of the law. For more information visit our Web site at www.schiffhardin.com.

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