Design-Build -
A Brief Summary

The “design build” boom continues and is increasingly prevalent in the residential and remodeling markets. If one simply looks at the number of construction firms that market themselves as “design-build,” you can see that many believe there is value in this delivery method.

Design-build in the remodeling and custom home building sector has not garnered as much attention or research as in commercial projects, but it is prevalent. The Design-Build Institute of America partnered with another research firm to assess the growth and market share of design-build in the non-residential sector. They found that between 2005 and 2009 the non-residential design-build market increased over 10 percent. (See http://www.dbia.org/about/Pages/DBIA-Milestone-Research-Confirms-Design-Build-Growth.aspx.)

Design-build in the residential and remodel industries is a little different. Nevertheless, you know from experience in the industry that the use of design-build in the custom home and remodel industry is growing, and you might even be one of them.

How is design-build different?

The traditional method of delivery of building projects was (1) design; (2) bid; (3) build (aka design-bid-build). The owner would hire a design professional, architect, and/or engineer to design the project and produce the design documents and specifications that are necessary to construct the project. Next, the owner or design professional would disperse those design documents and request bids from building contractors to build the project, as design by the owner’s design professional(s). At this stage, all contractors would be bidding on the same scope of work and information. So contractors were directly competing with each other, primarily by price.

Design-build streamlines this process by joining the design professionals under the umbrella of the design-builder, usually a licensed general building contractor firm. Thus, the homeowner is only contracting with one firm to both design and build their project.

Potential benefits to the owner.

The homeowner is rewarded with a streamlined process for completing his/her construction project. Usually, projects are completed in less time under the design-build structure because the architect and builder are under the same umbrella, and can communicate freely and directly throughout the process. A major source of delays on construction projects are requests for information by contractors to architects. Then ensues the back and forth as to whether such a request was reasonable or necessary, whether the proper channels were utilized. During the process, potential additional costs to the homeowner can accrue for additional architecture fees and/or construction modifications or delays.
Additionally, the homeowner is no longer responsible for cost overruns as the result of missing or incorrect information in the design documents. Because the designer and builder are under the same umbrella, they must correct any design or building errors amongst themselves, and the owner looks only to the one entity for keeping the project moving. Neither the designer or contractor can argue that the other is delaying the project because of missing or incorrect work, so it is the responsibility of the design-build firm to keep the project on budget and on schedule.

Lastly, if there is a deficiency or defect in the project, the owner only has to pursue one party, the design-builder.

**Potential disadvantages to the owner.**

On the down side, the Owner no longer has the design professional to represent its interests with respect to the builder. In the traditional design-bid-build structure, the design professional assists in developing a budget, overseeing the construction (at least that it conforms to the design documents), and assists in assessing payment requests from the builder. The traditional belief is that the design professional is in an informed and independent position so that he/she can represent the owner’s best interests. Under the traditional delivery method, the builder and design professionals act as checks and balances on each other, and the owner loses this under the design-build method. (See California Construction Contracts, Defects, and Litigation, Chapter 3, CEB November 2016.)

**Potential advantages to the design-builder.**

The primary benefits to the design-builder are control, marketing, and potential increased profit margins. On a design-build project, the architect and contractor are aligned. Therefore, the process of designing the project and sharing information is simpler and may result in increased efficiency and profits. With modern green building and smart home technology, the construction and design of a project are more interrelated than ever. A design-build approach can improve efficiency by allowing the designer and builder to work together in the design phase of the project to ensure the design and construction methods complement one another.

Additionally, owners seem to be asking contractors to provide the needed design more and more often, in an effort to save costs by not hiring their own architect. Thus, design-build firms may be satisfying the needs of their clients. Additionally, the design-build firm can differentiate themselves on not only their building expertise, but their design expertise as well.

**Potential disadvantages to the design-builder.**

The primary disadvantage to the design-builder is increased liability. The design-builder is liable for any design defects, in addition to their liability for the performance of the building work and materials. In a traditional design-bid-build project the owner provides an implied warranty to the builder that the plans are free from defect and that the building project can be
constructed completely from those plans and specifications, when the owner provides a set of plans provided by his/her architect. (U.S. v. Spearin (1918) 248 US 132; See also California Construction Contracts, Defects, and Litigation, Chapter 3, Section 3.7, CEB November 2016). If there are cost overruns because the plans were insufficient or the design defective, the building contractor can recover those amounts. Under the design-build method, the design-builder assumes this liability.

**Things to be aware of when the designer and builder enter into contract.**

In the custom home and remodel industries, it is common for the design-build firm to be a licensed general building contractor who hires licensed design professionals as independent contractors for specific projects. This often provides benefits to both the builder and design professional. For example, both are free to work independently of each other on separate projects, but when working together, they are often more efficient than when having to work through the owner. When the designer is hired as an independent contractor to the design-build firm, it is important that those parties have a good contract outlining responsibilities, potential liability, insurance requirements, indemnity, and dispute resolution procedures.

In summary, design-build, is on the rise in most sectors of the building industry and can be a useful delivery method for home improvement projects. However, as with most things, it comes with its own advantages and disadvantages.

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