



October 24, 2003

Interim Report: Use of Design-Build for K-12 School Construction

L E G I S L A T I V E A N A L Y S T ' S O F F I C E



Background

Chapter 421, Statutes of 2001 (AB 1402, Simitian), authorizes school districts to enter into “design-build” contracts for the delivery of design and construction services for projects whose costs exceed \$10 million. This authority allows school districts to obtain these services using an alternative construction delivery method without complying with competitive bidding requirements. State law requires construction contracts to be competitively bid—a method known as “design-bid-build.” Chapter 421 allows school districts to award construction contracts using a process which considers factors (usually called “qualifications”) other than the lowest price in awarding a contract. Districts that use this design-build authority are required to submit specific information about their projects to the Legislative Analyst’s Office (LAO) upon completion of construction. Chapter 421 directs the LAO to prepare an interim and final report based on this information.

What Is Design-Build?

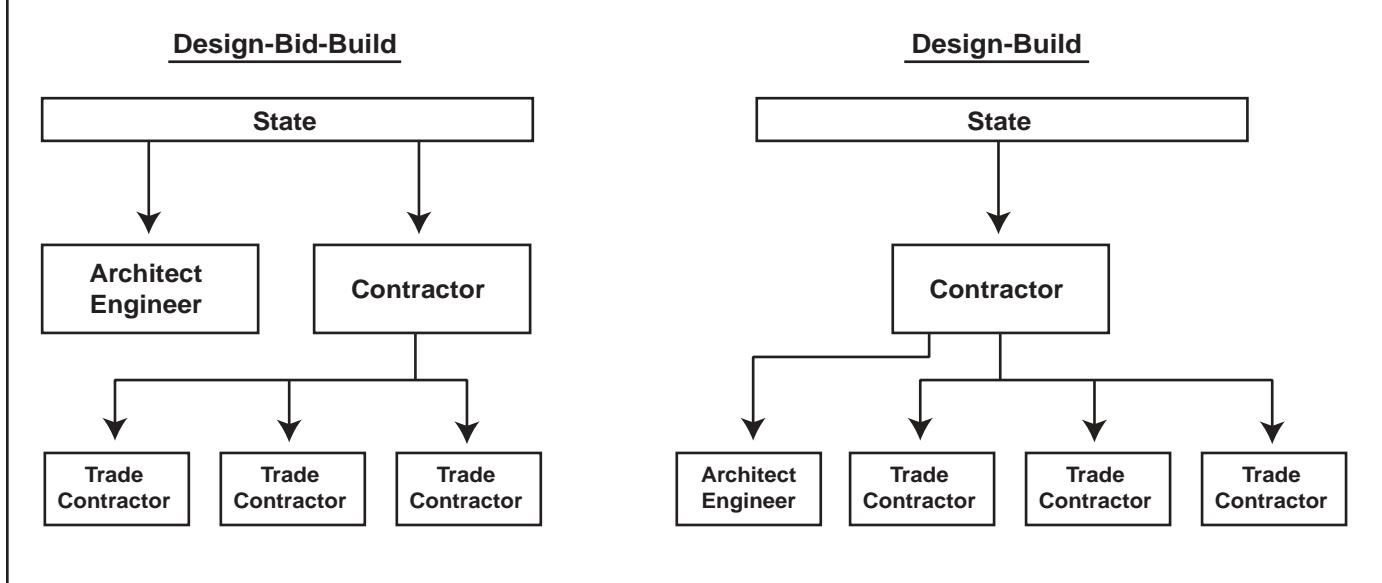
Design-build is a construction delivery method in which both the design and construction functions are provided by a single entity—the “design-builder.” Design-build changes the fundamental relationships among the school district, designer, and builder. A design-build entity is usually a construction contractor with an architectural engineering firm (the designer) as a subcontractor (or sometimes a joint venture partner). Only one contract exists between the district and the design-builder, as compared to the design-bid-build approach, in which there are separate contracts with an architectural engineering firm and with a construction contractor (see Figure 1). This method shifts control over design issues, schedules, materials, and methods of construction from the district to the design-builder. Unlike design-bid-build contracts, which are awarded by districts using competitive bidding, design-build contracts are awarded on the basis of qualifications.

Reporting Requirements

This interim report is prepared pursuant to the requirement of Education Code Section 17250.45, which directs the LAO to submit an interim report to the Legislature by January 1, 2004, and a final report by January 1, 2006. The reports are required to contain an evaluation of specific information to be submitted by school districts which use the new design-build authority.

Figure 1

**Contractual Relationships Under
Design-Bid-Build and Design Build**



Chapter 421 requires that the reports include at least all of the following information as to each district design-build project:

- The type of facility.
- The gross square footage of the facility.
- The company or contractor to whom the contract was awarded.
- The estimated and actual length of time to complete the project.
- The estimated and actual project cost.
- A description of the relative merits of a project procured pursuant to this chapter and similar projects procured pursuant to other provisions of this code.
- A description of any written protest concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protest.
- Other pertinent information that may be instructive in evaluating whether the design-build method of procurement should be continued, expanded, or prohibited.
- Any Labor Code violations discovered during the course of construction or following completion of the project, as well as any fines or penalties assessed.

Findings to Date

As of October 1, 2003, no districts had reported to the LAO that they are using the design-build authorization provided by Chapter 421. This does not mean, however, that school districts are not using this new design-build authority. This authority was granted beginning in January 2002, and school construction projects can take three to four years to complete. Thus, we would not expect to receive any post-construction reports from districts until at least sometime in late 2004.



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