

CLIENT NEWS BRIEF

New Law Continues Availability Of Design-Build Construction Delivery Method To Community College District But Also Imposes Additional Labor Requirements

While a new law ensures that community college districts may continue to utilize the design-build construction delivery method for another ten years, it also imposes additional labor requirements on all design-build projects.

Design-build is a construction delivery method by which an owner retains a single entity to provide architectural, engineering, and construction services under a single contract. Design-build also allows owners to award projects on a “best value” basis, meaning the project owner can consider factors other than price. These features are intended to expedite project completion, reduce design and construction costs, and avoid project disputes. In 2007, community college districts were given statutory authority to award design-build contracts. This authority initially expired in 2014, but was subsequently extended to January 1, 2020. Assembly Bill (AB) 695 extends this statutory authority to January 1, 2030.

While community college districts can take advantage of the design-build method for at least another ten years, AB 695 also imposes a significant new restriction on design-build projects. Specifically, any contractor seeking to be prequalified or shortlisted for a design-build project must provide an enforceable commitment to the district that the entity and its subcontractors at every tier will use a “skilled and trained workforce” to perform all work for the project. These “skilled and trained workforce” requirements mandate that all workers performing work in a designated apprenticeable occupation have certain levels of on-the-job experience and that certain percentages of the workforce be graduates from an apprenticeable program for the applicable occupation. The contractor is also required to provide monthly reports to the project owner that demonstrate compliance with these requirements. The only exception to these skilled and trained workforce requirements is if the district or entity enters a project labor agreement covering the project.

While the addition of the “skilled and trained workforce” requirement creates some new complexities, it is not necessarily a surprise. The legislature has already extended these same requirements to design-build projects for K-12 school districts and all lease-leaseback projects (see [2015 Client News Brief No. 8](#); [2015 Client News Brief No. 71](#); and [2016 Client News Brief No. 63](#)). On a positive note, recent legislation has also shifted much of the burden for compliance with these requirements to subcontractors and shifted the risk for noncompliance away from the project owner (see [2019 Client News Brief No. 2](#)).

If you have questions regarding the design-build construction delivery method or the new labor requirements, or if you have any planned or anticipated construction project and would like to discuss delivery methods, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our [podcast](#), follow us on [Facebook](#), [Twitter](#) and [LinkedIn](#) or download our [mobile app](#).

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