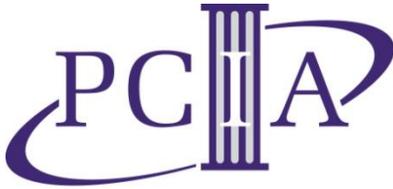


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Integrated Project Delivery: Are You Seeing the Lite?

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Over the past five to ten years, Integrated Project Delivery (IPD) has been touted by many as the project delivery method of the future. Proponents claim that when all key players in the design and construction process are aligned and work collaboratively toward a common set of goals -- from schematic design to project end -- they will all reap the benefits of a higher quality and lower cost project with ample profits all around.

The concept is sound and has been supported by the leading design and construction associations. Both the AIA and the AGC have addressed IPD in their model documents. Many owners, design firms and contractors have adopted the collaborative principles, particularly on large, complex projects. The legal and insurance industries have recognized this trend and have attempted to improve both the relational and insurance contracts that govern IPD to help create seamless project teams.

Implementation of IPD, however, is not always so simple. Traditional project delivery methods such as design-bid-build stress the separation and distinction of roles among the key players. Blurring these lines of distinction through increased collaboration throughout the life of the project can lead to false assumptions, misunderstandings, errors, omissions and broader liabilities. Communication, then, becomes a critical factor in the success of any IPD project.

Despite these drawbacks, IPD shares a distinct advantage over previous attempts at collaborative designing and building. While IPD is not predicated on using high technology, today's advanced software such as Building Information Modeling (BIM) provides a greatly improved platform for enabling true collaboration. Using BIM, team members can share a unified database of project information that can be viewed, reviewed and adjusted by all with three-dimensional graphic representation.

As the design and construction industries wrestle with increased integration, "IPD-Lite" has emerged as a viable form of project delivery, particularly among small and mid-size firms. Owners, designers and contractors are adapting many of the collaborative practices at the core of IPD but maintaining more traditional contractual relationships.

The IPD Basics

The AIA California Counsel defines IPD as follows:

Integrated Project Delivery ("IPD") is a project delivery approach that integrates people, systems, business structures and practices into a process that collaboratively harnesses the talents and insights of all participants to reduce waste and optimize efficiency through all phases of design, fabrication and construction.

IPD principles can be applied to a variety of contractual arrangements and IPD teams will usually include members well beyond the basic triad of owner, architect and contractor. At a minimum though, an Integrated Project includes tight collaboration between the owner, the architect, and the general contractor ultimately responsible for the construction of the project, from early design through project handover.

This definition recognizes that the backbone of IPD success is the collaboration of the design and

construction team, not necessarily the contractual relationship. Successful IPD depends on the willingness to knock down traditional walls and silos. It requires being open with information previously considered confidential as well as accepting constructive criticism from other team members in areas that have long been treated as the lead designer's private domain. And above all, IPD requires trust among all team members.

The IPD Team

The composition of an IPD team will vary depending on the nature and size of the project. However, the core members in virtually all IPD teams are the project owner or client, the lead designer and the contractor. These parties must agree that shared project goals are the overriding concern. They must perceive each other as partners, not adversaries. They must be willing to take constructive criticism from each other and be flexible with their decisions when the other core team members agree on an opinion different from their own.

The owner/client must be clear and consistent with project goals and needs, but must be willing to listen to the designer and contractor when they disagree on the plans, means and methods for achieving those goals. The designer must be insistent on following sound design principles but listen when owners and contractors raise budget or constructability concerns. Likewise, contractors must be willing to revise their construction methods when the owner or designer put up a good argument that an alternative path may more effectively lead to project goals.

Beyond the big three, team members should also include any subconsultant, subcontractor or other party who has a key role in project success. These

parties, which may include interior or landscape designers, facilities managers, maintenance personnel and other stakeholders, should be brought into the decision-making process whenever a question arises regarding their area of expertise.

For some project types, a subconsultant or subcontractor may be a permanent member of the core IPD team. A structural engineer, for example, would be a central player in a bridge or parking garage project. A mechanical/electrical engineer would be a key player in a hospital or clean room project.

Communicate Early and Often

For any collaborative project delivery method to work, parties must communicate early and often. The project team should be formed at the project's inception, as soon as key players are identified. An introductory meeting should be held to discuss the principles of IPD, align goals, define roles and gain commitment to the collaborative approach. A schedule of regular meetings needs to be established and procedures set for calling emergency meetings to discuss immediate project issues and upsets. Web-based videoconferences allow for frequent project meetings among project team members who are geographically dispersed.

The need for open and honest communication should be addressed at the first meeting. The project team should agree to ground rules and procedures for gathering, sharing and using information. It is not unusual for team members to express concerns about sharing sensitive information. Confidentiality agreements can be useful for alleviating such concerns.

Contracts and Compensation

Contracts associated with IPD tend to be more complicated than those used with traditional projects. In the most advanced forms of IPD, the client, design team, contractor and subs are all parties to a lengthy multi-party agreement that shares risks and rewards. Such agreements spell out the roles, relationships, duties, rights and obligations of all parties.

Each party's compensation may be established in this shared document. Incentive pools and team compensation programs such as Gainsharing have been used successfully when inducements are clearly tied to the achievement of project milestones. Collaboration and teamwork increase when all parties can achieve financial gain by bringing in the project on time and under budget.

Needless to say, drafting and agreeing to a multi-party agreement can be a costly and time consuming process. Therefore, these agreements are primarily used on larger projects where most parties have at least a basic understanding of and experience with IPD.

So-called "IPD-Lite" projects use traditional work agreements between parties. In such cases, contract provisions between the client and design firm, the client and contractor and between prime consultants and subconsultants call for parties to commit to IPD principles. Language may also address relationships between parties when they differ from traditional relationships under a design-bid-build approach.

Clear scopes of services become particularly important for IPD projects. Because roles and relationships become blurred in a highly collaborative process, it is

critical that contracts spell out who is responsible for what services being performed. These scopes should be thoroughly discussed by all key team members so that there are no misunderstandings about roles and responsibilities. Being collaborative and open to the suggestions of others does not alleviate each party's full responsibility for the services they are contracted to perform.

Another key contract clause is the one addressing dispute resolution. Logically, contracts for IPD projects will call for nonbinding mediation as the first choice for resolving any project upsets that can't be resolved internally. Nonbinding mediation supports the collaborative nature of IPD and encourages parties to settle disputes quickly and efficiently without expensive litigation.

Some IPD contracts go even further and include specific procedures for resolving disputes internally within the project team before going to an outside mediator, arbitrator or court. Others may include a clause in which all parties agree to waive their rights to litigate against one another. While such language is admirable, it may not hold up in the event of a major project dispute.

IPD and Your Professional Liabilities

The collaborative spirit of Integrated Project Delivery will, in the long run, have a positive effect on professional liabilities. When project team members communicate openly and honestly, have a commitment to common goals, agree to non-litigious methods of dispute resolution and have a financial incentive to deliver a profitable project, they are more apt to resolve project issues and upsets in a quick, amicable manner.

As with any new procedure, however, IPD presents uncertainties that may increase some liabilities in the short term. For instance, care must be taken not to unwittingly take on another party's liabilities when engaged in collaborative efforts and multi-party contracts. Means and methods of construction and job site safety must clearly remain the responsibility of the contractor, even if the designer has offered opinions regarding the execution of his or her design. Client expectations must be carefully managed – a new project delivery method does not automatically result in an error-free project and significant cost savings.

Should a dispute go before a mediator, arbitrator, judge or jury, chances are there will be little precedent to call upon regarding nontraditional relationships or contract language. That makes it difficult to predict how an outside party might rule on a particular dispute.

The professional liability insurance industry is just beginning to respond to IPD with new forms, coverages and endorsements beyond the traditional practice policy. To date, a few insurers have developed project-specific policies that cover the professional liabilities of the entire IPD design team.

In some cases, the "named insured" on these project policies include the owner and the contractor as part of a IPD entity working under a single contract. In this instance, the policy likely includes liability waivers or exclusions and only covers third-party claims from outside the project team. It would not cover claims between the designer, owner, contractor or other named insured. Some insurers will consider limited "rectification" coverage on these policies that can

offset some of the costs of correcting design errors or omissions that are reported in a timely manner.

Underwriting on these IPD project policies have proven to be rigorous and deductibles or self-insured retentions can be high. Hopefully as IPD becomes more prevalent and claims histories are as favorable as expected, insurance policies will evolve with more liberal coverage.

With a well drafted contract, a project team committed to the principles of the collaborative process and an emphasis on shared project goals, Integrated Project Delivery should logically lead to less litigious projects. Redefined roles and redrawn relationships are bound to raise new professional liability issues, but the underlying spirit of IPD appears to be an effective catalyst for litigation-free project delivery.

Can We Be of Assistance?

We may be able to help you by providing referrals to consultants, and by providing guidance relative to insurance issues, and even to certain preventives, from construction observation through the development and application of sound human resources management policies and procedures. Please call on us for assistance. We're a member of the Professional Liability Agents Network (PLAN). We're here to help.

