



IPD and Public Infrastructure: A Bridge Over Troubled Water

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The Louisville and Southern Indiana Ohio River Bridges Project is currently one of the largest public infrastructure projects in America and continues to move toward construction. However, one of the major issues that must be decided before construction can commence is determining what delivery method will be used on the project. On September 13, 2011, the Louisville and Southern Indiana Bridges Authority issued a Request for Information (“RFI”) to aid in its selection of a delivery model and financial plan for the project.

Namely, the Bridges Authority sought input on the following questions:

- What schedule savings might be achieved if the project were procured under a single design-build contract rather than a traditional design-bid-build delivery approach?
- If the project is procured on a design-build and/or concession approach, what is the appropriate number of qualified bid teams that the Authority should accept on the “short list” in order to maintain competitive interest in the project?
- What specific provisions should be included to enable the Authority to procure early works packages for certain critical path elements through a traditional design-bid-build contract with an option to assign that contract to the successful bidder on the design-build or concession contract that would be procured later?
- Under a design-build-finance delivery approach, what would constitute appropriate milestones for partial payments during construction, and how should the final completion trigger for payment be defined?
- What types of guarantees and assurances will lenders expect from developers/concessionaires?

- How important are payment and performance bonds versus other forms of completion assurances in order to secure attractive lender commitments?

While all of the questions posed are important, the RFI does not request comments on other important project delivery options; specifically, Integrated Project Delivery (“IPD”). IPD is a relatively new construction delivery method that encourages cooperation, discourages litigation, and produces timely and cost-effective results. IPD is able to produce such results by joining the major players in a construction project (*i.e.*, the owner, designer, and contractor) to a single contract; thereby increasing communication amongst the parties, streamlining the movement of labor and materials, and aligning the incentives of the various parties. In the United States, the private-sector has grown increasingly interested in the use and implementation of IPD. In contrast, the American public-sector has shown a great deal of skepticism towards IPD, and many states (such as Kentucky) have enacted laws which prevent utilizing the method on public projects.

Using IPD on the Louisville and Southern Indiana Bridge Project could save taxpayers millions of dollars and deliver the project in a timely and efficient manner. The Bridges Authority would be wise to examine the benefits offered by IPD. Furthermore, state legislatures should re-evaluate the policy rationale behind the prohibition on IPD, since it helps circumvent many of the issues which can cripple the effective delivery of a construction project. For major public infrastructure undertakings, such as the Louisville and Southern Indiana Bridge Project, IPD represents a bridge over troubled water.