
**DESIGN-BUILD AND LEASE-LEASEBACK ALTERNATIVE
PROJECT DELIVERY METHODS**

Disciplines: ALL**History:**Revised 08/20/19
Last Revised 01/19/17
Original Issue 12/02/16

Division of the State Architect (DSA) documents referenced within this publication are available on the [DSA Forms](#) webpage.

PURPOSE: The purpose of this Interpretation of Regulations (IR) is to define procedures for alternative contracting methods to the traditional design-bid-build process for construction of California public school and community college projects. These procedures ensure that the contracting entity's (builder) actions comply with the requirements of the Education Code and the administrative regulations of the DSA.

BACKGROUND: The Field Act was written in a time when almost all construction of California schools and community colleges was achieved by a single contract to an architect or structural engineer, followed by a single contract awarded by low bid to a single general contractor. This approach to project delivery has been called the traditional approach or the design-bid-build approach. Recent revisions to the kinds of construction delivery methods allowed for school districts and community colleges pose challenges to the interpretation of the Field Act. Legislation that falls within the boundaries of the Education and Public Contract Codes has introduced variations in how construction is managed and bid to avoid conflicts of interest.

School districts are using Design-Build (DB) and lease-purchase models, including Lease-Leaseback (LLB), for alternate delivery of their projects. Each of these alternative delivery methods contemplates that the DB or LLB builder is engaged in advising the district during the design phase. School districts considering these methods are advised to consult legal counsel.

1. DESIGN BUILD:

1.1 General: DB is a project delivery method allowed to public school and community college districts by Education Code Sections 17250.10 and 81700. Under DB, a team including a contractor, architects, and engineers undertakes the design and construction requirements of a project to the school or community college district, including both the design and construction of the building in the contract cost. The district typically assumes ownership of the building upon completion of construction.

The design professionals are contracted and paid by the DB team, usually led by the builder. However, the designers remain obligated to perform their duties in accordance with the California Code of Regulations (CCR), Title 24, Part 1, the California Administrative Code (CAC) to fulfill the requirements of the Field Act. This professional responsibility, along with DSA's oversight of construction, lessens the concern for any potential conflict of interest by being in the employ of the builder.

For projects using an DB method, the following procedures shall be met.

1.2 Procedures:

- **Limitations on Scope of Services:** The DB builder shall not participate in selecting, negotiating and administering contracts of project inspectors, special inspectors and laboratories as defined by Sections 17311 and 81703(c)(2)(A) in the Education Code. The project inspector, special inspectors and laboratories shall be employed directly by the district and shall work under the direction of the project design professional in general responsible charge and under the supervision of DSA. The DB builder shall not

DESIGN-BUILD AND LEASE-LEASEBACK ALTERNATIVE PROJECT DELIVERY METHODS

provide direction that results in the designers, project inspectors, special inspectors or laboratories being unable to comply with CCR, Title 24, and to verify the construction is in accordance with the DSA-approved construction documents.

The design professionals shall participate in the selection, approval and supervision of the project inspectors and special inspectors in accordance with the requirements of the CAC.

- **Contract Information:** The DB builder as the General Contractor and the individual design professionals shall be identified on the form *DSA 102-IC: Construction Start Notice/Inspection Card Request*.
- **Signature Authority:** The DB builder does not have signature authority to sign DSA administrative forms on behalf of the district.
- **Verified Reports and Inspection Cards:** Project design professionals, inspectors, the laboratory manager, and the DB builder as contractor for the project, shall sign and submit a verified report at required stages of completion of construction.
- **Costs of DB Builder:** Costs of the DB builder, excluding the costs of design by the design professionals, performing construction tasks as the contractor shall be included in the form *DSA 168: Statement of Final Actual Project Cost*.
- **Distribution of Construction Documents:** The DB builder as the General Contractor and design professionals shall be included in distribution of construction documents and be listed on the form DSA 102-IC.

2. LEASE-LEASEBACK:

2.1 **General:** LLB is a project delivery method allowed to public school and community college districts as defined in Education Code Sections 17400 et seq. and 81330 et seq.

When project design professionals are contracted and paid by an LLB entity, the designers remain obligated to perform their duties in accordance with the CAC regulations to fulfill the requirements of the Field Act. This professional responsibility along with DSA's oversight of construction lessens the concern for any potential conflict of interest by being in the employ of the builder.

For projects using an LLB method, the following procedures shall be met.

2.2 **Procedures:**

- **Limitations on Scope of Services:** An LLB entity shall not participate in selecting, negotiating and administering contracts of project inspectors, special inspectors and laboratories as defined by Sections 17311 and 81703(c)(2)(a) in the Education Code. The project inspector, special inspectors and laboratories shall be employed directly by the district and shall work under the direction of the project design professional in general responsible charge and under the supervision of DSA. The LLB entity shall not provide direction that results in the designers, project inspectors, special inspectors or laboratories being unable to comply with CCR, Title 24, and to verify the construction is in accordance with the DSA-approved construction documents.

The design professionals shall participate in the selection, approval and supervision of the project inspectors and special inspectors in accordance with the requirements of the CAC.

- **Signature Authority:** The LLB entity does not have signature authority to sign DSA administrative forms on behalf of the district.

DESIGN-BUILD AND LEASE-LEASEBACK ALTERNATIVE PROJECT DELIVERY METHODS

- **Verified Reports and Inspection Cards:** Project design professionals, inspectors, laboratory manager, and the LLB entity's contractor for the project shall sign and submit a verified report at required stages of completion of construction.
- **Costs of LLB Entity:** Costs of the LLB entity, excluding the costs of design by the design professionals, performing construction tasks as the contractor shall be included in the DSA 168.
- **Distribution of Construction Documents:** The LLB entity as the General Contractor and the design professionals shall be included in distribution of construction documents and be listed on the form DSA 102-IC.

REFERENCES:

California Government Code,
Section 4525 et seq.

California Education Code,
Sections 17250.10, 17297, 17307, 17311, 17400, 35160, 81133(c)(5),
81330 et seq., 81700, and 81703(c)(2)(A)

California Code of Regulations (CCR) Title 24
Part 1: California Administrative Code
Part 2: California Building Code

This IR is intended for use by the DSA staff and by design professionals to promote statewide consistency for review and approval of plans and specifications as well as construction oversight of projects within the jurisdiction of DSA, which includes State of California public schools (K–12), community colleges and state-owned or state-leased essential services buildings. This IR indicates an acceptable method for achieving compliance with applicable codes and regulations, although other methods proposed by design professionals may be considered by DSA.

This IR is subject to revision at any time. Please check DSA's website for currently effective IRs. Only IRs listed on the webpage at <https://www.dgs.ca.gov/dsa/publications> at the time of project application submittal to DSA are considered applicable.