

**Testimony From
Empire State Chapter of the Associated Builders and Contractors
Presented To
Joint Legislative Hearing on Economic Development
Tuesday, March 12, 2013**

Subject: Design Build

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Good afternoon to everyone. Thank you for the opportunity to speak today about Economic Development plans included in the proposed state budget. My name is Joshua Reap; I am the Director of Government Affairs for the Associated Builders & Contractors, which represents hundreds of construction contractors and firms which service the industry. These same companies employ thousands of workers across this state, from Buffalo to Montauk.

The Associated Builders & Contractors is encouraged by the proposed expansion of design-build to include more state entities and vertical construction –that is, the building of structures such as office buildings, police barracks and a host of other state and municipal projects. Design-build allows for more innovation at a time when state agencies and authorities need another resource in their toolbox. Design-build by is no means the panacea for the challenges faced by New York, but design-build does provide another delivery method that gives public owners the flexibility they need. I would like to note that design-build still provides the quality, safety and benefit to the public fisc that this state’s competitive bidding laws mandate.

Contrary to some statements, design-build does not bypass competitive bidding laws. What we have learned from New York’s use of design-build so far is that the process has followed industry standards. Most design build projects are broken out into a format such as 60% price and 40% technical which is scored objectively and the award is given to the “best value” contractor. Design-build teams are shortlisted and compete voraciously towards winning a project.

No labor protections are circumvented. In fact, contractors must and do follow all of the laws that are in place to protect workers on the job site. On jobs that utilize design-build, all contractors are subject to existing prevailing wage rate laws and must supply certified payrolls to the owner agencies to prove their compliance. Again, I would like to stress that design-build is about adding another resource to the toolbox for our government to use.

All safeguards including transparency, fairness, and oversight exist in design build. As public work jobs, these projects are subject to the state’s Freedom of Information Law just like procurements bid in traditional fashion. Public owners and

contractors realize this, which ensures an objective scoring process as well as transparency from start to finish.

Another benefit of design-build is that this method shifts project liability onto the project design-build team until the owner takes final possession. Even then insurances for the design and the ongoing maintenance are guaranteed through contract performance bonds, warranties, "errors and omissions" insurance, and the professional liability insurance carried by design-build teams.

Last year New York joined some twenty four states which have been using this tool for some time. This is a good thing. In New York, design-build has worked for the few state agencies that have used it, and it will work for the others poised to benefit from this legislation.

In closing I will note that design build is growing in use because it works. Design build increases opportunity, maximizes the use of state dollars, and demands more out of the private sector to deliver results for the public. I would respectfully caution this legislative body against adding any changes to design-build that would diminish its effectiveness. As presented in this budget, the ABC supports design-build as it is poised to be applied fairly and in the spirit of the state's existing labor and competitive bidding laws.