The last two decades have seen a steady rise in the popularity of the design-build method of project delivery, due in large part to the desire of project owners to limit their exposure to designer-contractor conflicts, and to both accelerate and streamline the process of taking a project from initial planning through construction by utilizing a single designer-constructor team. Much has been written about the risks and rewards of design-build, particularly about issues that span jurisdictional boundaries. However, since many states and provinces regulate both designers and builders, the formation of a design-build entity can be a complex undertaking; a company or joint venture that can legally practice in the design-build arena in one jurisdiction may well violate a host of licensing and corporate formation limitations in another. In addition, in the public sector, many jurisdictions explicitly embrace the use of design-build on public projects, while the procurement laws of others effectively prohibit it. In an effort to assist the construction practitioner in navigating this minefield of statutes and regulations, in early 1997 the Project Delivery Division of the Forum on the Construction Industry published The Design/Build Process, a survey of the laws of our 50 states, the District of Columbia, and the more populous Canadian provinces as they affect the design-builder. In 2000, the treatise was updated, expanded, reformatted, and renamed The Design/Build Deskbook. Just four years later, the process was repeated and, in 2004, the third edition was published.

Although the pace of adaptation of design-build laws and regulations has slowed since the early years of this century, the changes have continued nonetheless. State and provincial legislatures continue to rewrite their public procurement codes to welcome, if not encourage, the use of design-build in public procurement. Other jurisdictions continue to take a more cautious approach, permitting the use of design-build on select projects, categorized by their type, their budget, or both. Still other jurisdictions remain silent on the subject. In addition, the adoption and evolution of new forms of contract and insurance products have continued apace. In view of these changes, it has once again become clear that it is time to thoroughly update this resource.

As we did with the first three editions, we caution readers not to turn immediately to the chapters that concern them, and recommend that you first read the introduction. There, the underlying issues common to all jurisdictions are discussed and the format for each ensuing chapter is explained.

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In addition, the introduction contains maps indicating which jurisdictions share similar laws on several relevant topics.

Of course, the meat of this survey is in the chapters themselves, each prepared by prominent construction lawyers from across the United States and Canada. Editorial assistance has been provided by the Steering Committee of the Project Delivery Division of the Forum, which focuses on alternative project delivery systems. The Forum is indebted to the hundreds of lawyers who contributed their time and energy, as authors or editors or both, to make this treatise a reality. And we are similarly indebted to Vickie Starr and Drew Thompson of Woods & Aiken LLP, who, through tireless effort, coordinated the edits and formatting of every chapter of this edition. As a result of these labors, this treatise should provide a primary reference on design-build for construction professionals and lawyers alike.

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