CAPITAL PROJECTS ADVISORY REVIEW BOARD (CPARB)

Stadium Developer Model Task Force

Report to the Washington State Legislature

September 2009

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Stadium Delivery Model Task Force
Report to the Legislature
October 2009

Executive Summary

Late in 2008, at the request of key legislators, the Capital Projects Advisory Review Board (CPARB) voted to form a Stadium Task Force. The Task Force's charge was to evaluate the delivery method used on the University of Washington's (UW) Husky Stadium for application by other public owners.

After deliberation, the characteristics of the UW's Stadium Delivery Model (model) were delineated as:

- Suitable for complex projects.
- A single contract between the public owner and developer (with the developer at risk).
- An early selection of the development team.
- A best value selection process (cost is not the sole criterion).
- The development contract in two stages (a predevelopment/design phase and a construction phase).
- The development team determines the project scope.
- An early determination of project cost.
- A team development of cost effective design.
- An early involvement of contractor(s).
- Cost risk and responsibility lies with the Development Team.
- Schedule risk and responsibility also lies with Development Team.

During various meetings, the perspectives of each stakeholder group were explored to identify the full spectrum of risks and benefits of this model.

Owner's Perspective

This model afforded the owner the following advantages: the early selection of the team, the collaborative approach and the team development of scope, schedule and budget, all of which gave significant value to this model.

The Architect/Designer's Perspective

The model was deemed a wise use of public funds, but it was thought that the focus should be on overall project cost not just initial expenditure. There was some concern about the qualification based selection; it was seen as not as open and inclusive to all contractors.

Finally, there were concerns that the delivery speed in this model would be cancelled by the state's biennium funding cycle. A study of integrated project delivery by CPARB to allow for a collaborative process is recommended.

General Contractor's Perspective

Compared to Design/Bid/Build: The model provided more time to plan the project, less bureaucracy and paperwork. There is less subcontractor performance risk due to best value selection. The most collaborative team environment is possible, given the ability to choose your partners in design and construction. This is viewed as a quicker process (shorter project delivery duration). Further, it was believed that this model will result in fewer Requests for Information (RFIs), which in turn will lower staff and administrative costs. Since the general contractor and subcontractors are more involved in the design, it is anticipated that a more efficient and constructible design will be produced. However, the model was seen as a "resource gamble" during predevelopment period and may limit competition, since only the most qualified contractors can participate (due in part to the marketing expertise and resources needed to participate).

Compared to General Contractor/Construction Manager (GC/CM): The model creates less bureaucracy and paperwork. There is less subcontractor performance risk, due to best value selection in the model, whereas GC/CM subcontractors are selected on basis of price. The contract terms are more negotiable, with a quicker process (shorter project delivery duration). A collaborative team environment is more likely given the ability to choose your partners. However, it could be a resource gamble during the predevelopment period and the predevelopment period makes it difficult to plan resource distribution.

Compared to Design/Build**:** The model creates less bureaucracy and paperwork. It provides a potentially shorter selection process and cost and the contract terms are more negotiable. However, it could be a resource gamble during predevelopment period and the predevelopment period makes it difficult to plan resource distribution.

Compared to 63-20**:** No differences noted.

Subcontractor's Perspective

This model supports methods that encourage construction projects that effectively use taxpayer dollars. The "stadium" model should include procurement and contract protection for general and subcontractors. It should encourage, not discourage, general contractor competition. This model may not be appropriate for all public owners.

The CPARB Project Review Committee (PRC)-type determination is advised and it is recommended that a Task Force be appointed to review this project at every stage, both to document its success and, perhaps inadequacies and also to bring to CPARB a review of the full scope of this process when the project is completed before it is even contemplated for use by other public agencies. This project (Husky Stadium) should be considered a pilot program, subject to analysis and review.

Labor's Perspective

Currently, the UW has its own rules (WACs) adopted which allow it to utilize this hybrid process on Husky Stadium. The law does not allow this process to be adopted by other agencies unless there are some new rules or legislative revisions. This would have to fall under the category of alternative bidding, but it is not covered under Design Build (DB) or GC/CM.

Best Value Contracting is not a method supported by Labor. It is an exclusive method which narrows the field of potential bidders and reflects equal opportunity bidding on Public Works Projects.

Best Value Contracting does not allow for the open and inclusive methods considered for public contracting – for generals and subcontractors (subs). While it is true that the greater risk at the outset is assumed by the developer, this shift in risk can also be made using the current alternative bidding processes. A hybrid is not necessary here.

The perspective provided by contractors claiming less subcontractor risk through best value selection is dubious. This position serves more as a denial of opportunity for all interested subcontractors to participate in the process, which might, produce a better result.

Best Value is a subjective concept. Other subs may have better, more creative ideas that will not be admitted into the process under the Best Value criteria. Resources and resource distribution may be directly affected by funding, unless funding has been fully dedicated and allocated in advance of the project. Otherwise, the state's budget allocations and cycles may affect funding for the project.

There is currently nothing in the law that would require such projects to be reviewed by any committee to determine whether the public agency has the ability and wherewithal to successfully perform a project under this process. Current law only requires review of DB and GC/CM. Since the PRC has turned down public agencies' requests for approval of the use of alternative processes, it would be erroneous to assume that any public agency, just by "wanting" to utilize this type of process is actually "qualified" to use it.

A Task Force should be appointed to review this project at every stage, both to document its success and, perhaps inadequacies and also to bring to CPARB a review of the full scope of this process when the project is completed before it is even contemplated for use by other public agencies.

This should be considered to be a pilot program subject to analysis and review.

Conclusion

In conclusion, the CPARB Stadium Task Force made two recommendations:

1. The completed Husky Stadium project is used as data for future recommendations and to streamline existing alternative procurement methods. At the close of the 2009 Legislative Session, no funding was identified for the Husky Stadium project, and it was unclear that the project will actually happen. At the July 2009 CPARB meeting, it was agreed that CPARB should table discussion of the study until fall 2009, when more clarity on the project may be available. At that time, it may be appropriate to look at what kind of data should be collected to provide decision support information for use of this delivery model as an alternative procurement method.

2. A task force is appointed to look at the Integrated Project Delivery approach.

Characteristics of the UW Husky Stadium Development Team Model

PROJECT DESCRIPTION

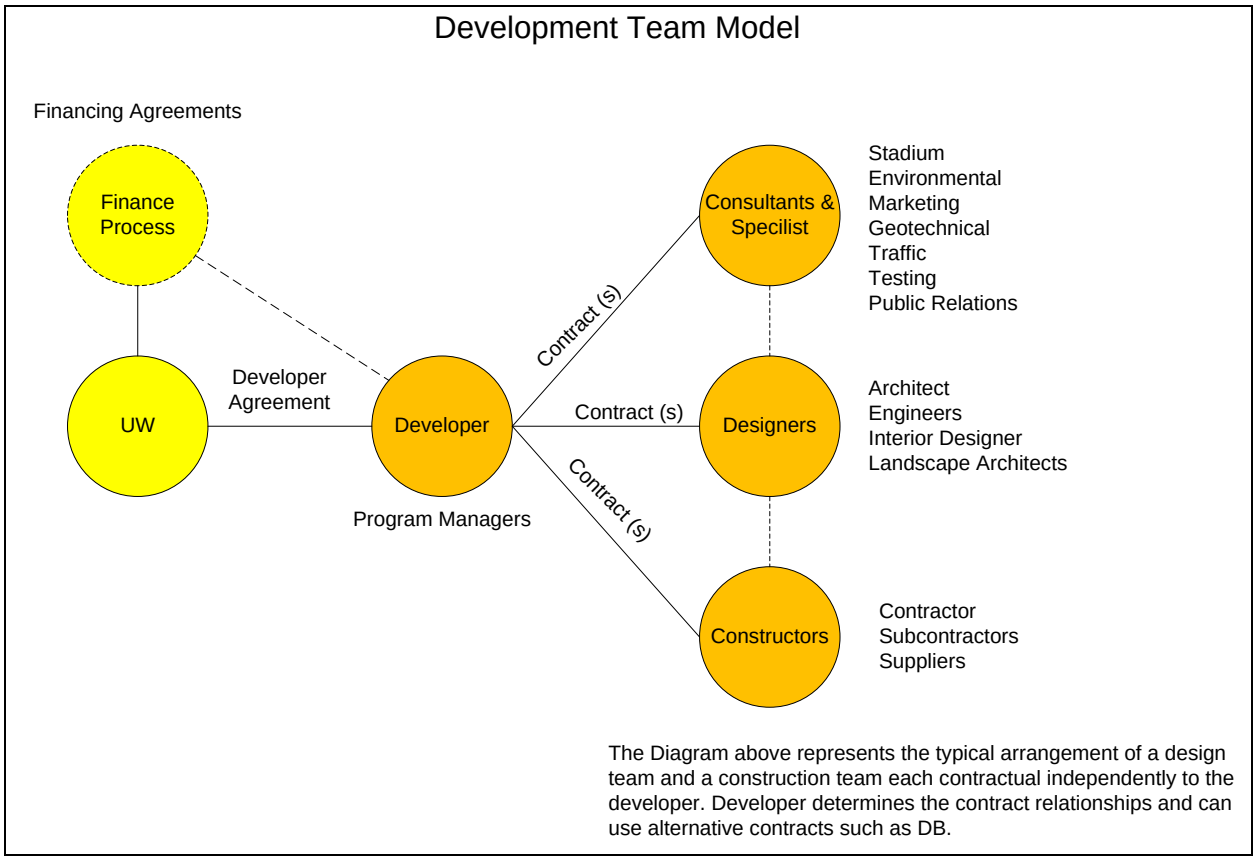
Husky Stadium Renovations: The UW desires to renovate and make improvements to the venerable 90 year old Husky Stadium. The project will entail demolition and relocation of the stadium's original lower seating bowl and significant renovation and upgrades to other areas of the stadium. The primary goal of the project is to improve the fan and student experience by bringing all stadium services up to today's industry standards, while ensuring that the stadium retains its iconic features and continues to serve both the university and the state of Washington, as it has for the last eight decades.

Football Operations and Support Building: Provide a football operations and training building of approximately 70,000 gross square feet. The main intent of this building is to maximize the student-athletes time, provide the optimal training and learning environment, and assist in recruiting the best talent. The facility would typically include the following areas: main entry lobby with displays; coaches offices; video support; team locker room; player lounge; recruiting lounge; athletic training/sports medicine facility; equipment room; weight room; plyometric areas; speed conditioning tracks; team meeting/position rooms; academic facility; dining services; and coaching/staff locker areas.

CHARACTERISTICS

Complex Project

- Complex renovation of existing football stadium.
- The physical access to the site and occupancy, limited and set based on Husky Football Season and advantages of not requiring moving games out of Husky Stadium during any football season (or part of season).
- The stadium master planning process has identified six potential locations for the Football Operations and Support Building.
- High level of site coordination required with the adjacent Sound Transit Project.
- State funding was not approved in 2008 Legislative Session and the UW is still in the process of developing funding support for the project. Project scope, possible phasing options, and project schedules will ultimately be determined by available funding.
- A limited group of firms have the expertise needed for this type and size of project.
- Project budget of $300 million in 2009 dollars.



Single Contract between the UW and Developer (Developer at Risk)

- Similar to 63-20 or Build to Suit (BTS), but does not include any requirements for financing, leasing, and or land transactions in the developer's scope of work.
- UW is responsible for funding, land, building ownership and operation.
- Developer is responsible for program management to include: programming to maximize stadium revenue, scope development, planning, and permits.
- Developer is responsible for contracts between the architect(s), general contractor(s), other consultants, and subcontractors.

Early Selection of Development Team

- The Development Team (DT) can be chosen during the pre-design process to assist the UW in the up-front planning, scheduling, and permitting.
- Fast procurement process allows the DT to be on board by November 2008 to assist in lobbying for appropriation during 2008-2009 Legislative Session of the Washington State Legislature.

Best Value Selection Process

- "Best Value" – The Owner makes the award to the firm deemed to have submitted the best value proposal. The Owner uses weighted criteria to evaluate a combination of total cost and other factors in the selection. An actual offer of a contract is subject to negotiation between the Owner and Proposer.
- Request for Proposal (RFP) focuses on demonstrating "value added" and is an important criterion in the selection process.
- Request for Qualifications (RFQ) and RFP combined in one step.
- Selection process is quick and is not scope dependant (3 months for a complex $300M project).
- Cost of responding to RFP less than responding to DB RFQ and RFP.

Development Contract in Two Stages

- Phase 1- Predevelopment Reimbursement Agreement
  - Total established predevelopment budget of $3M maximum.
  - Schematic Design Phase deliverables leading to a "GO / NO GO" decision on whether to proceed (33.33% of budget) by January 15, 2009 (4 months from signing contract).
  - Design Development Phase deliverables leading to a Guaranteed Maximum Price negotiation (66.67% of budget) at contract. Deliverable due May 15, 2009 (8 months from signing contract).
- Phase 2 - Development Contract
  - Guaranteed Maximum Price
- Allows Owner to continue to evaluate financing alternative before entering into a Development Contract.

Determine Project Scope with the Development Team

- Allows maximum delivery of scope possible for a not to exceed $300M figure.
- Early integrated design work will allow the most cost effective project to be presented to the state.
- Investigation of existing conditions will benefit from having all the various design and construction members available at the beginning.
- Scope of the project can be determined with the DT, rather than before selection.
- The DT needs to work with intercollegiate athletics to finalize the proposed location for the Football Operations and Support Building and develop this facility to integrate, both functionally and physically, into the overall stadium work.

Early Determination of Project Cost

- The guaranteed price can be contracted in the middle of the design phase.
- UW can be integral with scope and cost decision making.
- Construction phases can be started early to save overall project time.

Team Development of Cost Effective Design

- The DT (developer, contractors, and designers) can work together to come up with the most cost effective solutions.
- Subcontractors doing the work can be part of the design and constructability reviews.

Early Involvement of Contractor(s)

- Allows contractors to be part of the design team early in the process.
- Contractors can order long lead items such as elevators and mechanical equipment.
- Allows early involvement of subcontractor and the use of DB subcontracts.
- Contractors and subcontractor can be selected on best value and not limited to a conventional public procurement process of low bid.
- Construction contracts must meet RCW 39.08, 39.12, and 60.28 (bonding, prevailing wages, and liens).

Cost Risk and Responsibility with Development Team

- The DT will have more responsibility for change order costs.
- Errors and emissions will be the responsibility of the DT.
- The DT can be responsible for existing conditions analysis during predevelopment.

Schedule Risk and Responsibility with Development Team

- The physical access to the site and occupancy set based on Husky Football Season.
- Developer holds permitting responsibility.
- Developer responsible and coordination of the design and construction schedule.
- Coordination of multiple, concurrent construction projects occurring in the vicinity.
- Responsible to coordinate work with Sound Transit per terms of the Memorandum of Agreement and the Master Implementation Agreement with the UW November 24, 2008.

Comparison with Other Delivery Methods (Pros and Cons)

Stadium Development Model Comparison to -		Design-Bid-Build	GC/CM (CM at Risk)	Design-Build	Public Private Partnerships (63-20)
OWNER	PROS	Familiar delivery system	Allows for collaboration between design team, owner and GC	Brings designer and builder together to develop most cost effective project	In those appropriate circumstances, allows public owners to take advantage of efficiencies established by private owners
	CONS	Has limitations with projects that have complex programs or schedule constraints	Limited opportunity to bring subcontractors on board during design Has high level of administrative work, and may not be most efficient delivery method for smaller projects that also have complex programs or tight schedules	Owner is not given opportunity to engage with designer and builder team to collaborate. Currently legislated selection process could be more efficient, less costly to owner and participants	delivery method – benefits and pitfalls still not fully understood
DESIGNER	PROS	Familiar delivery system	Familiar alternative delivery system	Familiar alternative delivery system	No differences noted.
		Qualification based selection process of the design team by the Agency.	Qualification based selection process of the design team and partially for the builder by the Agency.	Closest model, with some modifications requried, to a fully integrated project delivery model.	
		Agency gets a customized design, with direct collaboration with the design team from predesign thru occupancy	Agency gets a customized design, with direct collaboration with the design team and the builder from schematic design thru occupancy		
		Does not rely on a third party developer to deliver on the promise of high quality design and construction.	Does not rely on a third party developer to deliver on the promise of high quality design and construction.		
			More predictability regarding the quality of construction and the outcome of the delivery process.		
	CONS	Agency / Designer / Builder collaboration early on is not possible	Agency can't select designer and/or builders based on qualifications, independent of developer proposed teams	Agency does not get direct collaboration with the design team and the builder from schematic design thru occupancy, without going thru the developer.	Agency does not get direct collaboration with the design team and the builder from schematic design thru occupancy, without going thru the developer.
		Increased risk to all stakeholders, during different phases, for different reasons	Does not rely on a third party developer to deliver on the promise of design and construction quality.	Nearly duplicate process to the Stadium Development Model, in particular if the Developer is not financing the project	Nearly duplicate process to the Stadium Development Model, in particular if the Developer is not financing the project
		Builders are selected based on a public low bid, with no qualification based selection criteria			

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Comparison with Other Delivery Methods (Pros and Cons)

Stadium Development Model Comparison to -		Design-Bid-Build	GC/CM (CM at Risk)	Design-Build	Public Private Partnerships (63-20)
DESIGNER (cont.)		Unqualified builders performing less than high quality work is a possibility.			
BUILDER	PROS	1. More time to plan the project 2. Less bureaucracy and paperwork 3. Less subcontractor performance risk due to best value selection Most collaborative team environment possible – choose your partners 4. Contract terms are more negotiable 5. More flexibility on retention requirements 6. Quicker process – shorter project delivery duration 7. Less expensive for the owner due to contractor involvement in design evaluating best value alternatives 8. No change order requests for non owner initiated changes 9. Fewer RFI's – lower administrative costs 10. Less risk for the owner 11. Earlier confirmed development cost for the owner 12. GC & Subs more involved in the design = more efficient & constructable design 13. Less Owner administrative costs 14. Private investment in a public project, freeing up public money for other things 15. Owner gets predevelopment services for less than market rates 16. Potential for lease-back	1. Less bureaucracy and paperwork 2. Less subcontractor performance risk due to best value selection 3. Contract terms are more negotiable 4. More flexibility on retention requirements 5. Quicker process – shorter project delivery duration 6. No change order requests for non owner initiated changes 7. Less risk for the owner 8. Earlier confirmed development cost for the owner 9. Less Owner administrative costs 10. Private investment in a public project, freeing up public money for other things 11. Owner gets predevelopment services for less than market rates 12. Quicker process – shorter project delivery duration 13. Aggressive developer mentality results in lower costs. 14. Potential for lease-back	1. Less bureaucracy and paperwork 2. Potentially shorter selection process and cost 3. Contract terms are more negotiable 4. More flexibility on retention requirements 5. Earlier confirmed development cost for the owner 6. Private investment in a public project, freeing up public money for other things 7. Private investment in a public project, freeing up public money for other things 8. Owner gets predevelopment services for less than market rates 9. Aggressive developer mentality results in lower costs. 10. Potential for lease-back	1. Financing costs less 2. Non-profit participation not required 2. Non-profit participation not required
		1. Resource gamble during pre-development period 2. Limits competition - only most qualified contractors can participate 3. Requires marketing expertise and resources to participate	1. Less owner input into design 2. Resource gamble during pre-development period 3. Not enough margin incentive for the developer, given the risk	1. Additional layer of fees for development services 2. Resource gamble during pre-development period 3. Not enough margin incentive for the developer, given the risk	1. Less margin opportunity for development team.

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Comparison with Other Delivery Methods (Pros and Cons)

Stadium Development Model Comparison to -		Design-Bid-Build	GC/CM (CM at Risk)	Design-Build	Public Private Partnerships (63-20)
BUILDER (cont.)	CONS	4. Not enough margin incentive for the developer, given the risk 5. Negative incentive for developer to reduce cost – their fees are reduced 6. Developer's up-side margin potential is limited 7. Predevelopment period makes it difficult to plan resource distribution, as large number of staff are committed to the project and can't be invested elsewhere. If the project does not go forward other opportunities are lost. 8. Less owner control of the delivery process	4. Negative incentive for developer to reduce cost – their fees are reduced 5. Developer's up-side margin potential is limited 6. Predevelopment period makes it difficult to plan resource distribution, as large number of staff are committed to the project and can't be invested elsewhere. If the project does not go forward other opportunities are lost. 5. Less owner control of the delivery process	4. Negative incentive for developer to reduce cost – their fees are reduced 5. Developer's up-side margin potential is limited 6. Predevelopment period makes it difficult to plan resource distribution, as large number of staff are committed to the project and can't be invested elsewhere. If the project does not go forward other opportunities are lost. 7. Less owner control of the delivery process	
SUBCONTRACTOR	PROS				
	CONS	Limits numbers of available subs Limits GC competition More subject to abuse & favoritism Opens oportunity for owner to penalize GC & subs on other projects	No subcontractor protections in place linits GC and sub competition	No sub or GC protections in place Needs PRC scrutiny	Devleoper has less "skin in the gane" (land or money)
PUBLIC	PROS	Familiar delivery system Open & public process for the bidding and construction phases	Familiar alternative delivery system, although missunderstood by many Somewhat open & public process for the bidding and construction phases	Familiar alternative delivery system, although missunderstood by many	Nearly duplicate process to the Stadium Development Model, in particular if the Developer is not financing the project
	CONS	Leads to disputes and potentially more costs to the Public for a given project.	Leads to higher costs to the Public for a given project	No differences noted.	No differences noted.
	PROS				

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Comparison with Other Delivery Methods (Pros and Cons)

Stadium Development Model Comparison to -		Design-Bid-Build	GC/CM (CM at Risk)	Design-Build	Public Private Partnerships (63-20)
LABOR	PROS				
	CONS				

- Currently, the UW has its own rules (WACs) adopted which allow it to utilize this hybrid process on Husky Stadium. The law does not allow this process to be adopted by other agencies unless there are some new rule or legislative revisions. Currently this would have to fall under the category of alternative bidding, but it is not covered under DB or GCCM.

- Best Value Contracting is not a method supported by Labor. It is an exclusive method which narrows the field of potential bidders and reflect equal opportunity bidding on Public Works Projects. Best Value Contracting does not allow for the open and inclusive methods considered for public contracting – for Generals and Subs.

- While it is true that the greater risk at the outset is assumed by the developer, this shift in risk can also be made using the current alternative bidding processes. A hybrid is not necessary here.

- The perspective provided by contractors claiming less subcontractor risk through best value selection is dubious. This position serves more as a denial of opportunity for all interested subcontractors to participate in the process, which might, produce a better result. Best Value is a subjective concept. Other subs may have better, more creative ideas that will not be admitted into the process under the Best Value criteria

- Resources and resource distribution may be directly affected by funding, unless funding has been fully dedicated and allocated in advance of the project. Otherwise, the State's Budget allocations and cycles may affect funding for the project.

- There is currently nothing in the law that would require such projects to be reviewed by any committee to determine whether the public agency has the ability and wherewithal to successfully perform a project under this process. Current law only requires review of Design Build and GCCM. Since the PRC has turned down public agencies requests for approval of the use of alternative processes, it would be erroneous to assume that any public agency, just by "wanting" to utilize this type of process is actually "qualified" to use it.

A Task Force should be appointed to review this project at every stage, both to document its success and, perhaps, inadequacies, and also to bring to CPARB a review of the full scope of this process when the project is completed before it is even contemplated for use by other public agencies. This should be considered to be a pilot program, subject to analysis and review.

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Project Thresholds

If a public body was ever allowed to use the UW's Stadium Delivery Model (model) for procurement, the following criteria should be used:

The UW's RFP and the administrative regulations (WAC 478-350-010, et. seq.) authorizing the UW's procurement method make it clear that although this model is driven by several factors**,** of paramount importance is speed of project delivery. Delay in delivery is assumed to have a significant adverse effect on the UW.

> **Threshold 1:** Project delivery to be accomplished on an extremely fast track. Effects of delay in delivery can be substantiated and are significant.

The complexity of the project, together with the unusual expertise required of the developer's team, are cited as other reasons to use this model. There is little question that the stadium project presents unique challenges to the developer.

> **Threshold 2:** The project must be abnormally complex requiring specialized expertise for all design and construction phases.

> **Threshold 3:** There are few companies which have the necessary expertise to submit a proposal to be the developer.

> **Threshold 4:** The Owner has no in-house capability to deliver the subject project.

> **Threshold 5:** The project budget dollar amount to be determined by CPARB.

At this point funding is uncertain. That is, whether there will be funding is not clear and the sources of such funding are not yet determined. The predevelopment, development, and construction phases are to be aligned with or timed to the complex funding scenario.

> **Threshold 6:** Funding for the project is has not been approved and sources of funding are not confirmed. Yet, waiting for funding decisions, if funding is approved, could have a substantial impact on the date of project delivery. Sequential phases of the proposal must be capable of being performed as funding is available.

One factor in the analysis in this model is the desire to coordinate its project with the Sound Transit project immediately adjacent to the stadium area. There may be outside circumstances which impact the decisions relative to the project under consideration.

Threshold 7: Exigent circumstances exist (such as effects on the timing of project delivery, coordination with other agencies working in affected areas, plans other agencies may have for nearby areas which effect the subject project, or other similar reasons) which will have adverse consequences on the project or its cost.

The model (as reflected in the WACs and the RFP) states that existing procurement methods can be by-passed "under certain circumstances." A finding by the university president that such circumstances exist is all that is required. Yet, at least to some, existing delivery methods may be sufficient to meet the unique issues the Owner believes it has which would justify use of the model.

Threshold 8: There must be a finding by an independent body that no existing delivery method would reasonably satisfy the Owner's requirements.

Threshold 9: No other existing procurement method meets the other threshold requirements.

Threshold 10: The public body seeking to use this delivery method did not create the circumstances causing it to meet the threshold criteria through its own lack of diligence.

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STADIUM TASK FORCE REPORT

February 12, 2009

Charge:

Evaluate delivery method used on UW Husky Stadium for application by other public owners.

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Task Force Members

Contractors:	Van Collins
	Rodger Benson
	Dennis Greenlee
Subcontractors:	Ed Kommers
	Larry Stevens
CMs:	Darlene Septelka
Designer:	Norm Strong
Labor:	Dave Johnson
Owner:	Olivia Yang

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Characteristics of Stadium Delivery Model

- Complex Project
- Single Contract between the Public Owner & Developer (Developer at Risk)
- Early Selection of Development Team
- Best Value Selection Process
- Development Contract in Two Stages
- Determine Project Scope with the Development Team
- Early Determination of Project Cost
- Team Development of Cost Effective Design
- Early Involvement of Contractor(s)
- Cost Risk and Responsibility with Development Team
- Schedule Risk and Responsibility with Development Team

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Owner's Perspective

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Owner's Perspective

- Early selection of team
- Collaborative approach
- Team development of scope, schedule, budget

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Architect's Perspective

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Architect's Perspective

- Support wise use of public funds but focus on overall project cost not just initial .
- Qualification based selection not as open and inclusive.
- Delivery speed in this method will be cancelled by state biennium funding cycle.
- Recommend study of integrated project delivery by CPARB to allow for collaborative process.

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General Contractor's Perspective

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Compared to Design/Bid/Build

PROS

1. More time to plan the project
2. Less bureaucracy and paperwork
3. Less subcontractor performance risk due to best value selection
4. Most collaborative team environment possible – choose your partners
5. Quicker process – shorter project delivery duration
6. Fewer RFI's – lower administrative costs
7. GC & Subs more involved in the design = more efficient & constructable design

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Compared to Design/Bid/Build

CONS

1. Resource gamble during pre-development period
2. Limits competition - only most qualified contractors can participate
3. Requires marketing expertise and resources to participate

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Compared to GC/CM

PROS

1. Less bureaucracy and paperwork
2. Less subcontractor performance risk due to best value selection
3. Contract terms are more negotiable
4. Quicker process – shorter project delivery duration 5. Most collaborative team environment possible – choose your partners

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Compared to GC/CM

CONS

1. Resource gamble during pre-development period

2. 2. Predevelopment period makes it difficult to plan resource distribution

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Compared to Design/Build

PROS

1. Less bureaucracy and paperwork
2. Potentially shsorter selection process and cost
3. Contract terms are more negotiable

CONS

1. Resource gamble during pre-development period
2. Predevelopment period makes it difficult to plan resource distribution

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Compared to 63-20

PROS & CONS

1. No differences noted

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Subcontractor's Perspective

- Support methods that encourage construction projects that effectively use taxpayer dollars.
- "Stadium" Model should include procurement and contract protection for general and subcontractors.
- Model use should encourage not discourage GC competition
- Model may not be appropriate for all public owners. Suggest PRC type determination.

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Labor's Perspective

- Currently, the UW has its own rules (WACs) adopted which allow it to utilize this hybrid process on Husky Stadium. The law does not allow this process to be adopted by other agencies unless there are some new rule or legislative revisions.
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State of
Washington
House of
Representatives

July 7, 2008

Mr. Robert Maruska, Chair
Capital Projects Advisory Review Board
c/o Nancy Deakins, Coordinator for CPARB
Department of General Administration
Post Office Box 45848
Olympia, Washington 98504

Dear Mr. Maruska:

On June 12, 2008, the University of Washington's (UW) Board of Regents approved a rule to establish procedures for using an alternative contracting method to expedite the construction/remodeling of Husky Stadium. (WAC 478-350-010 through 478-350-050, attached). We understand that this proposed alternative contracting method was not brought to the Capital Projects Advisory Review Board for review and approval.

Chapter 39.10 RCW establishes a policy for awarding public works contracts using alternative contracting methods, rather than the traditional design, bid, build method in which the contract is awarded to the responsible bidder who submits the lowest responsive bid. The legislative intent is "to authorize the use of certain supplemental alternative public works contracting procedures, to prescribe appropriate requirements to ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures" (RCW 39.10.010).

Originally established in 1994, Chapter 39.10 RCW was intended to allow public entities to use alternative contracting procedures under certain circumstances following processes established by law. The contracting procedures authorized by law include a design-build method, a general contractor/construction manager method, and a job order contracting method. In the enabling legislation, the University was specifically listed as a public agency authorized to use these new, alternative works contracting methods.

In 2005, the Capital Projects Advisory Review Board (CPARB) was created to evaluate public capital projects construction processes and to advise the Legislature on policies related to alternative public works delivery methods (ESHB 1830). Specifically, the Board must (1) develop and recommend criteria that may be used to determine effective and feasible use of alternative contracting procedures; (2) develop and recommend policies to enhance the quality, efficiency, and accountability of capital construction projects through

the use of traditional and alternative delivery methods and make recommendations for expansion, continuation, elimination, or modification of alternative public works contracting procedures; and (3) evaluate the potential future use of other alternative contracting procedures.

Pursuant to Chapter 39.10 RCW, we are requesting that CPARB evaluate the UW's proposed alternative contracting method for the construction/remodeling of Husky Stadium, and, if it determines that the method is a feasible and effective procedure, to "prescribe appropriate requirements to ensure that such contacting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures." We also request that you provide us with written comments explaining your conclusions at your earliest convenience.

Sincerely,

Bill Fromhold

BILL FROMHOLD, Chair
Capital Budget Committee

Timm Ormsby

TIMM ORMSBY, Vice Chair
Capital Budget Committee

Sam Hunt

SAM HUNT, Chair
State Government & Tribal Affairs Committee

Kathryn M. Haigh

KATHY HAIGH, Chair
Appropriations Subcommittee on Education

Enclosure

Appendix B

Stadium Delivery Task Force

Meeting Notes, October 8, 2008
Attendees: Darlene Septelka, Rodger Benson, Van Collins, Norman Strong, Dennis Greenlee, Ed Kommers, John Palewicz, Dave Johnson

1. The charge from the legislature to this task force is to evaluate this procurement model (pros and cons) and talk about whether this model should be more widely used by other public agencies. To that end, Darlene has agreed, with assistance from John Palewicz, to put together first draft of characteristics of this procurement method for further discussion at our next meeting October 24, 10am to noon. The plan is to have a report to legislature by February 2009. The report would include a description of procurement model characteristics and discussion of pros and cons of these characteristics.

2. Discussion highlights and observations:
   - All agreed that given time constraints and unique of husky stadium project, there are no objections to the use of this model to this project. Labor has requested that the project consider use of an apprenticeship program

   - It was noted that the procurement model looks very similar to those used in 63-20 projects. (for clarification: the husky stadium project is not a 63-20, and does not include any requirements for financing or land transactions in the developer's scope of work.)

   - Those with concerns and opposition to procurement models used in 63-20 are the same for this model. These concerns are that, for projects funded with public monies, contractors and subcontractors want access to the work: opportunity to bid. The perception is that developer models narrow the pool of bidders substantially. There is also a concern that transparency of process and accountability are compromised in these models.

Prepared by Olivia Yang

Appendix C

Stadium Delivery Task Force

Meeting Notes, October 24, 2008
Attendees: Darlene Septelka, Rodger Benson, Van Collins, Norm Strong, Dennis Greenlee, Ed Kommers, John Palewicz, Dave Johnson

Darlene prepared first drafts of flow chart and characteristics for this method, based on her reading of the husky stadium RFP. UW is requested to review/comment on Darlene's draft.

After discussion, agreed on the following format for report, with the following authors assigned)

1. What is this method?			
	1.1 Process flowchart (first draft done/UW, all review)		
	1.2 Characteristics (first draft done/UW, all review)		
	1.3 Comparison to other (GCCM, DB, DBB, 63-20) (Darlene)		
	1.4 Pros and cons of method		
		For Designer (Norm)	
		For Builder	
			General (Van/Rodger)
			Subcontractors (Ed/Larry)
			Labor (Dave)
		For Owner (Olivia/Darlene)	
		For "General Good" (all)	
2. When to use: thresholds (Dennis)			
3. Conclusions			
	3.1 "yes/no/conditions"		
	3.2 How could other existing procurement be modified to meet this need, so that this is not required		

Next meeting is December 18; all agreed that meeting in November is needed. Olivia will try to find a date.

Prepared by Olivia Yang

Appendix D

Stadium Delivery Task Force

Meeting Notes, November 24, 2008
Attendees: Van Collins, Larry Stevens, Dennis Greenlee, Darlene Septelka ,
Rodger Benson, Norm Strong, Dave Johnson, Ed Kommers,

Here are my notes from our meeting November 24. Please let me know if I misstated or left something out. Have a good thanksgiving.

1. Material sent in/presented by task force members: Darlene (comparison of stadium delivery method to design bid build, alternative procurement and 63-20), Dennis (thresholds for use of stadium model) and individual stakeholder pros and cons.

2. All will review material, and develop pros and cons, from each stakeholders perspective, of stadium delivery compared to design-bid-build, alternative procurement and 63-20. Circulate to other members of task force by December 5. Darlene has developed spreadsheet format for this comparison (sent out end of day November 24).

   Olivia will gather up December 5 material, as well as material presented November 24 and send to Searetha/Nancy for distribution and discussion at December 11 CPARB meeting.

3. During meeting, all agreed on four distinguishing characteristics of stadium delivery model: transfer of risk from owner to developer, need for/availability of specialized expertise (by developer team) not found in owner, elimination of current public works requirements to procurement of subcontract work, speed of delivery.

4. Ed stated his concerns that this delivery may allow greater potential for fraud, waste and abuse.

5. In discussion of thresholds, along with thresholds drafted by Dennis, Ed felt that public owner should demonstrate that benefit to public is so great that it compensates for cons of this delivery method.

6. Conclusions: discussion of possible modifications to design build, to allow for most of benefits of stadium delivery model (streamline selection, as currently practiced, one-step selection) may be more viable to private sector concerns. Integrated project delivery was also discussed as possible alternative.

Prepared by Olivia Yang

Appendix E

Stadium Delivery Task Force

Meeting Notes, December 18, 2008
Attendees (by phone): Larry Stevens, Rodger Benson, Dave Johnson, Darlene Septelka, Norman Strong, Dennis Greenlee, Olivia Yang

1. Discussion around what the conclusions of the task force report should say. All agreed that while the pros and cons of the different procurement methods could be different and based on each stakeholder's perspective, the task force conclusions should represent consensus of task force members.

2. Olivia offered to draft conclusion based on discussion.

   DRAFT:
   "Task Force recommends that the completed UW Husky Stadium project be used to develop information on how well the developer model would work.

   Until such time, the Task Force recommends that the existing alternative procurement methods (Design Build and GC/CM) be evaluated for ways they could be streamlined or changed (including borrowing components from one, for use in the other). There should also be discussion on the Integrated Project Delivery method, which is now becoming more widely used by private owners.

   The Task Force also recommends that information about similar developer, or other three-part agreement projects in other states or by private owners, be gathered, to further inform the above discussion and evaluation."

3. All agreed to comment on the draft conclusion above. Olivia will be on vacation beginning December 22, 2008 until January 2, 2009. Olivia will gather comments to draft as basis of report back to CPARB.

4. Olivia will ask Kathleen to schedule another meeting in January, 2009, to complete the Task Force report. Target submittal time is February, 2009. Everyone is encouraged to complete their respective sections, and to review the other sections for comments/edits.

Thanks all, happy holidays!

Prepared by Olivia Yang

Appendix F

Stadium Delivery Task Force

Meeting Notes: January 16, 2009
Attendee: Larry Stevens, Rodger Benson, Darlene Septelka, Norm Strong, Dennis Greenlee, Olivia Yang
Absent: Dave Johnson

The purpose of the meeting was to prepare for presentation to CPARB, February 12, 2009 and to finalize report.

Action:

1. All agreed that each stakeholder representative will speak about the stadium delivery method, from their perspective; send bullet points to Olivia by January 23, 2009 for incorporation into PowerPoint. Ed completed his during the meeting. Rodger, Dennis and Van will discuss and turn something in as joint "General Contractor" perspective. Olivia will call Dave.

2. Olivia will draft executive summary for task force review.

Discussion:

Ed proposed that we act proactively on the issue of flexibility in construction procurement and that CPARB support a new task force to look at Integrated Project Delivery (which is one of the recommendations of the task force). All were in support and this will be proposed to CPARB during February 12, 2009 meeting.

Prepared by Olivia Yang