CAPITAL PROJECTS ADVISORY REVIEW BOARD

ALTERNATIVE PROJECT DELIVERY IN WASHINGTON STATE

DES CLIENT WORKSHOP

12 JUNE 2019
AGENDA

0. INTRODUCTIONS
1. ALTERNATIVE PROJECT DELIVERY IN WA STATE
2. SELECTING A PROJECT DELIVERY METHOD
3. BEST PRACTICES
4. Q & A
SECTION 1:
ALTERNATIVE PROJECT DELIVERY IN WASHINGTON STATE
ALTERNATIVE PUBLIC WORKS CONTRACTING PROCEDURES

Sections

39.10.200 Finding; Purpose; Intent.
39.10.210 Definitions.
39.10.220 Board—Membership—Vacancies.
39.10.230 Board—Powers and duties.
39.10.240 Project review committee—Creation—Members.
39.10.250 Project review committee—Duties.
39.10.260 Project review committee—Meetings—Open and public.
39.10.270 Project review committee—Certification of public bodies.
39.10.280 Project review committee—Project approval process.
39.10.290 Appeal process.
39.10.300 Design-build procedure—Uses.
39.10.320 Design-build procedure—Project management and contracting requirements.
39.10.330 Design-build contract award process.
39.10.350 General contractor/Construction manager procedure—Project management and contracting requirements.
39.10.360 General contractor/Construction manager procedure—Contract award process.
39.10.370 General contractor/Construction manager procedure—Maximum allowable construction cost.
39.10.380 General contractor/Construction manager procedure—Subcontract bidding procedure.
39.10.390 General contractor/Construction manager procedure—Alternative subcontractor selection process.
39.10.390 General contractor/Construction manager procedure—Subcontract work.
39.10.400 General contractor/Construction manager procedure—Prized determination of subcontractor eligibility.
39.10.410 General contractor/Construction manager procedure—Subcontract agreements.
39.10.420 Job order procedure—which public bodies may use—Authorized use.
39.10.430 Job order procedure—Contract award process.
39.10.440 Job order procedure—Contract requirements.
39.10.450 Job order procedure—Work orders.
39.10.460 Job order procedure—Required information to board.
39.10.470 Public inspection of certain records—Protection of trade secrets—Protection of proposals submitted by design-build finalists.
39.10.480 Construction of chapter—Waiver of other limits and requirements.
39.10.490 Application of chapter.
39.10.900 Captions not law—1994 c 132.
39.10.901 Severability—1994 c 132.
39.10.902 Public headings and captions not law—2007 c 404.
39.10.904 Effective date—2007 c 494.
39.10.905 Severability—2007 c 494.

NOTES:

Revisor's note—Sunset Act application: The alternative public works contracting procedures are subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.407. RCW 39.10.200 through 39.10.905 are scheduled for future repeal under RCW 43.131.406.
RCW 39.10

RCW 39.10.200

- Recognizes that the traditional process of awarding lump sum contracts for public works to the lowest responsible bidder is an objective method of selecting a contractor but indicates that under certain circumstances alternative contracting methods may best serve the public interest.

- Authorizes the use of alternative contracting procedures, prescribes requirements to ensure that such procedures serve the public interest, and establishes a process for evaluating them.

- Footnote indicates that alternative contracting procedures have been successful due to statutory requirements, “as well as countless hours of dedicated work by numerous stakeholders over many years.”
39.10.220 & 230

• CPARB recommends policies to the legislature that enhance the quality, efficiency and accountability of capital projects through the use of traditional and alternative delivery methods

• 23 members, 15 appointed by Governor
  - Public owners (DES, higher ed, school districts, ports, cities, counties & hospital districts)
  - Contractors & subcontractors
  - Construction trades labor
  - Architects & engineers
  - Private industry
  - House & Senate Republicans and Democrats

• Appoints Project Review Committee members

• Communications and dialogue amongst stakeholders is the key to the CPARB’s success
PROJECT REVIEW COMMITTEE

RCW 39.10.240 & 250

• Membership reflects the composition of CPARB

• Certifies or renews certification for public bodies to use design-build or general contractor/construction manager contracting procedures, or both

• Reviews and approves the use of the design-build or general contractor/construction manager contracting procedures on a project by project basis for public bodies that are not certified
ALTERNATIVE PROJECT DELIVERY TYPES

DESIGN-BUILD

GENERAL CONTRACTOR/CONSTRUCTION MANAGER (GCCM)

JOB ORDER CONTRACTING
**DESIGN-BUILD**

**RCW 39.10.300**

- Public bodies may utilize design-build procedure where the total project cost is over $2 million and at least one of the following applies:
  - Design-build is critical to developing the construction methodology for highly specialized construction activities, or
  - Opportunity for greater innovation or efficiencies between the designer and the builder, or
  - Significant savings in project delivery time would be realized.

- Parking garages are allowed regardless of cost
- Portable facilities and pre-engineered metal buildings do not need approval by the PRC
- Operations and maintenance services for up to 3 years
- A demonstration project for operations and maintenance services for longer than 3 years
GC/CM

RCW 39.10.340
Public bodies may use GC/CM where at least one of the following applies:

• Implementation of the project involves complex scheduling, phasing, or coordination, or
• Construction at an occupied facility which must continue to operate, or
• The involvement of the GC/CM during design is critical to the success of the project, or
• The project encompasses a complex or technical work environment, or
• The project requires specialized work on a building that has historic significance, or
• The project is a heavy civil construction project.

JOB ORDER CONTRACTING (JOC)

RCW 39.10.420
Public bodies may use a job order contract when it benefits the public by:

• effectively reducing the total lead-time and cost for the construction of repair and renovation projects through the use of unit price books and work orders thereby eliminating time-consuming, costly aspects of a traditional public works process that requires separate contracting for each small project.
RESOURCES

CPARB COMMITTEES
• Design-Build Statute Review Committee
• GC/CM Committee
• JOC Evaluation Committee

EDUCATION & GUIDELINES
• CPARB Design-Build Best Practices Guidelines
• AGC Foundation GC/CM and Design-Build Workshops
• DBIA Certification
| INTRODUCTION |
| Why Best Practices? |
| Executive Summary |
| D-B TYPES |
| Statutes |
| D-B Types |
| EVALUATING THE USE OF D-B |
| Tools & Statutes |
| Owner Needs & Goals |
| D-B PROCUREMENT |
| Project Criteria |
| Solicitation |
| Selection |
| ENCOURAGING COMPETITION |
| Challenges |
| Opportunities |
| Competitive Advantage |
| AFTER D-B TEAM SELECTION |
| Final D-B Agreement |
| Contract Execution |
| Design & Construction |
| APPENDIX |
| Committee |
| Bibliography |
| RCW 39.10 |

REVISE PER SHB 1295!
SECTION 2:
SELECTING A PROJECT DELIVERY METHOD
WHY ALTERNATIVE PROJECT DELIVERY?

- Value versus lowest cost
- Contractor and subcontractor selection criteria includes qualifications
- Interdisciplinary teams
  - Collaboration/innovation/integrated design
- Cost certainty
- Risk transfer
CURRENT TRENDS

DESIGN-BUILD

- DES
- Washington State University
- University of Washington
- Central Washington University
- Western Washington University
- Port of Seattle
- Sound Transit
- Issaquah School District
- City of Bothell

GC/CM

- DES
- Western Washington University
- Port of Seattle
- Sound Transit
- Seattle School District
- Mount Vernon School District
- Chelan County PUD
- Grant County Public Hospital District
- Port of Port Townsend
DELIVERY TYPE COMPARISON

DESIGN-BID-BUILD (RCW 39.04)
  • Public body selects design team based on qualifications
  • Lowest responsible bidder is awarded lump sum contract for construction

GC/CM
  • Public body selects design team based on qualifications
  • Public body selects general contractor based on qualifications and fees

DESIGN-BUILD
  • Public body selects design-builder based on qualifications and cost or price-related factors
  • Contract may be lump sum or guaranteed maximum price (GMP)
CONTRACTUAL RELATIONSHIPS

DESIGN-BID-BUILD & GC/CM

OWNER

ARCHITECT
Consultants

CONTRACTOR
Subcontractors

DESIGN-BUILDER
Architects
Engineers
Subcontractors

DESIGN-BUILD
# INTERDISCIPLINARY TEAMWORK

## DESIGN-BID-BUILD

<table>
<thead>
<tr>
<th>SD</th>
<th>DD</th>
<th>CD</th>
<th>B/N</th>
<th>Construction</th>
<th>Warranty</th>
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<tbody>
<tr>
<td>Designers</td>
<td>Contractors</td>
<td></td>
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</tbody>
</table>

## GC/CM

<table>
<thead>
<tr>
<th>SD</th>
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## DESIGN-BUILD

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<th>B/N</th>
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<td>Contractors</td>
<td></td>
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</tr>
</tbody>
</table>
GC/CM

- Select GC/CM no later than completion of schematic design
  - GC/CM selection may occur earlier, may proceed design team selection
  - Selection criteria may be weighted towards price, qualifications or anywhere in-between

- GC/CM acts as both a construction manager and general contractor
  - Preconstruction services include cost estimating, scheduling, value analysis, constructability review, site investigation

- Maximum allowable construction cost (MACC) is negotiated when construction documents are at least 90% complete

- EC/CM & MC/CM
  - Mechanical and electrical subs may be selected based on criteria similar to GC/CM
  - Minimum subcontract amount is $3 million
GC/CM

- Subcontracts are bid
  - M & EC/CM are an exception
- GC/CM can bid and self-perform up to 30% of MACC
- Project can be expedited and/or phased (mini-MACCs)
- Early procurement of bid packages is allowed
- GC/CM manages subcontractors, change orders
- GC/CM may be terminated if a MACC cannot be agreed upon
GC/CM

- Statutory requirements are detailed, complex
- 9 sections of RCW 39.10 are related to GC/CM
  - .340 Uses
  - .350 Project management and contracting requirements
  - .360 Contract award process
  - .370 Maximum allowable construction cost
  - .380 Subcontract bidding procedure
  - .385 Alternative subcontractor selection process
  - .390 Subcontract work
  - .400 Prebid determination of subcontractor eligibility
  - .410 Subcontract agreements
DESIGN-BUILD

- Statutory requirements are limited
- 3 sections of RCW 39.10 are related to design-build
  - .300 Uses
  - .320 Project management and contracting requirements
  - .330 Contract award process
- 3 types of design-build procurement
  - Progressive, traditional, bridging
- Lack of constraints, wide range of options
  - “The Wild West”
DESIGN-BUILD

- Design-builder manages entire design and construction team
- Bidding of subtrades is not required, contractor may self-perform some or all of the work
- Selection criteria may be weighted towards price, qualifications or anywhere in-between
- Honoraria for unsuccessful finalists are required for all design-build selections
  - Note change to statutory language to increase fairness to competitors
### DESIGN-BUILD TYPES

<table>
<thead>
<tr>
<th>Method</th>
<th>Project Criteria</th>
<th>Concept Design</th>
<th>Detailed Design</th>
<th>Construction Documents</th>
</tr>
</thead>
<tbody>
<tr>
<td>PROGRESSIVE</td>
<td>Project criteria/RFQ/RFP</td>
<td>Select DB</td>
<td>Design &amp; cost proposal</td>
<td>Complete design &amp; documentation</td>
</tr>
<tr>
<td>TRADITIONAL</td>
<td>Project criteria/RFQ/RFP</td>
<td>Select DB/design &amp; cost proposal</td>
<td></td>
<td>Complete design &amp; documentation</td>
</tr>
<tr>
<td>BRIDGING</td>
<td>Project criteria/RFQ/RFP</td>
<td>Select DB/design &amp; cost proposal</td>
<td></td>
<td>Complete design &amp; documentation</td>
</tr>
</tbody>
</table>

Timelines for the three methods of procurement tend to be very different. The chart indicates the relative points in time for design-build team selection, development of the design and cost proposal and completion of design and documentation for construction. However, the transition between phases of the project is variable, particularly for progressive and bridging procurements as indicated by the overlapping bars in the schedule.
## DESIGN-BUILD TYPES

### CONTRACT SCOPE & PRICE

<table>
<thead>
<tr>
<th>PROGRESSIVE</th>
<th>TRADITIONAL</th>
<th>BRIDGING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Established after design-builder is</td>
<td>Established at time design-builder is</td>
<td>Established at time design-builder is</td>
</tr>
<tr>
<td>selected</td>
<td>selected</td>
<td>selected</td>
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</tbody>
</table>

### SELECTION CRITERIA

<table>
<thead>
<tr>
<th>PROGRESSIVE</th>
<th>TRADITIONAL</th>
<th>BRIDGING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Qualifications typically play a larger role in team selection.</td>
<td>Design proposal is key in some selections, cost in others</td>
<td>Selection is typically focused on cost</td>
</tr>
</tbody>
</table>

### PROJECT CRITERIA DOCUMENTS

<table>
<thead>
<tr>
<th>PROGRESSIVE</th>
<th>TRADITIONAL</th>
<th>BRIDGING</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project description, target budget and schedule.</td>
<td>Project scope, budget and schedule must be aligned before team selection. Project criteria are typically performance requirements</td>
<td>Project scope, budget and schedule must be aligned before team selection. Project criteria are typically prescriptive</td>
</tr>
</tbody>
</table>
### Opportunities

<table>
<thead>
<tr>
<th>Progressive</th>
<th>Traditional</th>
<th>Bridging</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increased opportunity for design-build / owner engagement before final design and contract amount are established</td>
<td>Allows owners to choose amongst alternate proposal for design, cost and value</td>
<td>Owner involvement and design control - horizontal projects may use prescriptive project criteria due to the complexity of land use requirements, alignments, systems operation and federal requirements</td>
</tr>
</tbody>
</table>

### Owner Risks

<table>
<thead>
<tr>
<th>Progressive</th>
<th>Traditional</th>
<th>Bridging</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lack of competition for contract price; no cost certainty at the time the design-builder is selected</td>
<td>Additional costs for project criteria and honoraria; limited engagement between owner and design-builder during concept development</td>
<td>Owner responsibility for content of bridging documents. Prescriptive solutions may reduce opportunity for innovation and integration</td>
</tr>
</tbody>
</table>

### D-B Level of Effort/Risk to Compete

<table>
<thead>
<tr>
<th>Progressive</th>
<th>Traditional</th>
<th>Bridging</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limited scope of technical approach design concept and cost or price related factors reduces level of effort and risk to compete</td>
<td>Proposal requires significant effort - significant risk for design-builder to propose cost based on a preliminary design</td>
<td>Proposal requires a significant effort</td>
</tr>
</tbody>
</table>
DELIVERY METHOD EVALUATION CRITERIA

AGENCY PREPAREDNESS

• Experience with project delivery methods and/or availability of consultant resources
• Capacity of agency to manage the project, negotiate contract amount
• Ability of agency to make critical decisions

AGENCY CONTROL/RISK ALLOCATION

• Level of control over design and construction
• Assignment of risks to the party that can best manage them

LEVEL OF DESIGN

• Percentage of design completion at the time of contract award

SCHEDULE

• Certainty of funding, sequence of capital allocations
• Target dates for substantial completion and owner occupancy
DELIVERY METHOD EVALUATION CRITERIA

TEAM SELECTION
• Contractor and design team selected separately or together
• Availability of qualified contractors and designers

COMPLEXITY & INNOVATION
• Level of complexity technical issues, innovation, project phasing
• Benefits of teamwork

COST
• Budget constraints, cost estimating, value analysis, timing of construction contract award

PERFORMANCE INCENTIVES & GUARANTEES
• Early completion incentives, energy performance guarantees, etc.
CRITERIA WEIGHT AND SCORING TABLE

Eight criteria are weighted based on importance to this project, and DBB and GC/CM are scored in each category for a weighted total. A higher score indicates a method preference. Maximum points possible is 48.

<table>
<thead>
<tr>
<th>selection criteria</th>
<th>criteria weight</th>
<th>Project Delivery Method options</th>
<th>score</th>
<th>sub-tot</th>
<th>score</th>
<th>sub-tot</th>
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<tbody>
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<td></td>
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<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1 Complexity &amp; Innovation</td>
<td>2</td>
<td>DBB</td>
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<td>2</td>
<td>3</td>
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<tr>
<td>2 Cost</td>
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<td>GC/CM</td>
<td>3</td>
<td>6</td>
<td>2</td>
<td>4</td>
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<tr>
<td>3 Risk</td>
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<td>2</td>
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<td>6</td>
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<td>4 Contractor Experience and Competition</td>
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<td>5 Schedule</td>
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<td>1</td>
<td>2</td>
<td>2</td>
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<tr>
<td>6 Level of Design</td>
<td>1</td>
<td></td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>7 Agency staff experience/availability</td>
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<td>3</td>
<td>3</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>8 Oversight &amp; Control</td>
<td>1</td>
<td></td>
<td>2</td>
<td>2</td>
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<td>21</td>
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<td>31</td>
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</tbody>
</table>
SECTION 3:
BEST PRACTICES
ENCOURAGING COMPETITION

• Increased focus on business equity and diverse business inclusion in alternative public works
• Public bodies should consider strategies that encourage competition
  - Provide advance notice of design & contractor selection processes
  - Broaden selection criteria
  - Limit exclusivity amongst consultant and contractor teams
  - Unbundle the work
  - Create small project opportunities
ENCOURAGING COMPETITION

INCLUSION REQUIREMENTS

• New statutory requirements for design-build:
  - RFQ evaluation factors shall include proposer’s past performance in utilization of OMWBE certified businesses, to the extent allowable by law
  - Design-builder must submit inclusion plans for under-utilized firms as subcontractors and suppliers including OMWBE-certified businesses, veteran-certified businesses, and small businesses as allowed by law
  - Design-builder must track and report to the public body its utilization of OMWBE and veteran-certified business

• Comparable requirements for GC/CM will be included in future legislation
DESIGN-BUILD BEST PRACTICES

SELECTING A DESIGN-BUILD TYPES

• How do you select a design-build type?
• Are there hybrid design-build types - can you get the best of multiple approaches?

SELECTION PROCESS

• What are the keys to running a fair, transparent selection process?
• How do you weight the selection criteria in terms of qualifications and cost?
• Who is on the selection panel?
DESIGN-BUILD BEST PRACTICES

PROPRIETARY MEETINGS

• What are your goals for proprietary meetings?
• Who attends them?
• Are they scored as part of the selection process?

COST OR PRICE RELATED FACTORS

• Are cost or price related factors scored with the rest of the RFP or separately?
• Are they opened in public?
DESIGN-BUILD BEST PRACTICES

TEAMING
• How do contractors and design professionals create teams?
• How long does this occur in advance of the RFQ?
• Do you develop specific teaming agreements prior to the pursuit or use a DBIA form?
• Who bears the cost of the competition?

HONORARIA
• What level of work is required to compete?
• How do you align the honoraria level of effort to compete?
DESIGN-BUILD BEST PRACTICES

VALIDATION PHASE
• What is a validation?
• How does it differ in progressive, traditional and bridging procurements?

CONTRACT TYPES
• What are the pros and cons of lump sum versus GMP agreements?

CONTINGENCIES
• Are budget contingencies different in design-build than other delivery types?
• Who manages the risk contingency in the design-build contract?
DESIGN-BUILD BEST PRACTICES

AFTER CONTRACT AWARD

• What is the owner’s role after contract award?
• How does the risk transfer effect owner, designer and contractor relations?

TEAMWORK

• What is the role of the design manager?
• How does the design team’s role change as a result of the unique contract relationships?
• What is the role of the design team during construction administration?
DESIGN-BUILD BEST PRACTICES

LESSONS LEARNED

• What was your worst design-build experience?
• What was your best design-build experience?
GC/CM BEST PRACTICES

SCHEDULE

• When do you recommend selecting the GC/CM?
• What are the pros and cons of having the contractor on board at the beginning of design?
• How about the MC/CM and EC/CM?
GC/CM BEST PRACTICES

SELECTED PROCESS

- What are the keys to running a fair, transparent selection process?
- How do you weight the selection criteria in terms of qualifications and cost?
- Who is on the selection panel?
- Do you conduct interviews? What role do they play in the selection?
GC/CM BEST PRACTICES

CONTRACTS
• What is the relationship between the MACC, specified general conditions and negotiated support services?
• What is the GC/CM risk contingency?

COST & SCHEDULE CONTROL
• What are the benefits of GC/CM for schedule and cost control?
• Are there strategies to increase cost certainty?
GC/CM BEST PRACTICES

TEAMWORK

• What are the strategies that bring designers and contractors together as a cohesive team?
• Do the design and contractor meet regularly during design? Does the owner participate?

SUBCONTRACTS

• What are the pros and cons of
  - Pre-bid eligibility selection criteria for subcontract packages?
  - Early bidding/award of subcontract packages to bring other members of the construction team on board during design?
LESSONS LEARNED

• What was your worst GC/CM experience?
• What was your best GC/CM experience?
SECTION 4:
QUESTIONS & ANSWERS