

Alternative Public Works Contracting Procedures

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State of Washington

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Experience

- Registered **Architect** with 15 years at NBBJ Architects
- 21 years with the UW **Capital Projects Office**
- 24 GC/CM and DB **projects**, \$1.2 billion
- **Project Review Committee (PRC)** 9 years, past Chair
- **AGC class** on GC/CM and DB instructor/panelist
- **CPARB Subcommittees** for DB and GC/CM reauthorization and Best Practices

RCW 39.10

Alternative Public Works in Washington

- First authorized in **1991** for Department of Corrections
- **Expanded** to other agencies over time
- Re-authorized in 2021 until June 30, **2032**
- RCW **sunsets** if not re-authorized

RCW 39.10

Contracting Procedures Allowed

1. General Contractor/Construction Manager (**GC/CM**)
 - **Original** (mostly vertical construction)
 - **Heavy Civil** (mostly horizontal construction)
2. Design-Build (**DB**)
 - **Traditional** (Competitive or Best Design/Best Value)
 - **Progressive** (Qualifications Based Selection)
3. Job Order Contracting (**JOC**)

RCW 39.10

Project Review Committee (PRC)

- CPARB appoints **30 members** of industry professionals
- **Approves** Public Agency use of GC/CM and DB projects
 - Appropriate **use** of GC/CM or DB
 - Ability of Agency to successfully **manage** the project
- **Certifies** Public Agencies for 3 years use
- **Public meetings** every 2 months

GC/CM

Definition

- *“A firm with which a public body has **selected** to*
- *provide **services** during the design phase and*
- ***negotiated** a maximum allowable construction (MACC) cost to*
- *act as **construction manager and general contractor** during the construction phase.”*

GC/CM

Must meet one of the following criteria

- ***Complex scheduling, phasing or coordination***
- ***Construction in a facility currently **occupied/in use*****
- ***Design phase **input from GC/CM** is critical***
- ***Complex or technical work environment***
- ***Building has **historical** significance***
- ***Designated as **Heavy Civil*****

GC/CM

Selection Process

- **RFP** (RFQ) to pick qualified firms (5 or less)
 - **Qualifications** and experience to do this project
 - **Scored** by selection committee

- Proposed teams may be **interviewed** (optional)
 - **Scored** by interview committee

- **Fee** (other price related factors) are competitively bid (RFFP)
 - Scored based on sliding scale

- **Highest scoring** firm is selected

GC/CM

Characteristics

- Owner selects the designer and GC/CM **separately** (+/-)
- Owner is able to pick the **team members** to work with (+)
- **Preconstruction** services for (+)
 - estimating, scheduling, constructability, phasing, investigation, value engineering, etc.
- **Major** subcontractors can be picked (+)
 - \$3 million
 - Similar selection as for GC/CM
 - Negotiate and audit this work

GC/CM

Characteristics

- Cost is not known until documents are **90% complete** (-)
- All subcontract work, with exceptions, must be **bid out** (-)
- GC/CM can bid and perform up to **30%** of MACC (+)
- Owner has **separate contracts** with designer, contractor (+/-)
- Project can **start early** with mini-MACCs (+)
- GC/CM **manages** subcontractors, change orders (+)

GC/CM

Characteristics

- *“Heavy Civil construction project means a civil engineering project, the predominant features of which are **infrastructure** improvements.”*
- **Heavy civil** allows up to **50%** of MACC to be negotiated with GC/CM (+)
 - **Fee** for negotiated work part of RFFP
 - Also GC/CM can bid and perform up to **20%** (+)

Design-Build (DB)

Definition and Uses

- *“Means a contract between a public body and another party in which the party agrees to both design and build the facility, portion of the facility or other item specified in the contract.”*
- Total project cost over **\$2 million** (some exceptions)
 - Construction activities are **highly specialized, or**
 - Opportunities for greater **innovation or efficiencies, or**
 - Significant **savings in construction time**

Design-Build

General Process

- **RFQ** to pick qualified firms (5 or less)
- **RFP** is prepared and issued
- **Proprietary** meetings and/ or **interviews**
- **Detailed information prepared** to respond to the RFP
- May include **Prescriptive** and/or **performance** specifications
- May include "**bridging**" design
- **One DB Contract**

Design-Build(DB)

Traditional (Best value/fixed price)

- Finalists (usually 3) submit proposals with **design** and **cost**
- **Selection** is made based on weighted evaluation factors
- Prioritize towards **design** or **cost**
- Law allows choice to be made on **cost only**, if all are qualified
- **Honorarium** paid to proposers not selected

Design-Build(DB)

Traditional Characteristics

- Owner has **multiple** designs with costs to choose from (+)
- Project can benefit from teams' **competitive innovation** (+)
- Owner can benefit from **competitive pricing** (+)
- Owner **prepare and issue** detailed design information (-)
 - **Performance** specifications – encourage innovation
 - **Prescriptive** specifications – get what you want
 - **Bridging** documents – usually 30% to 60% documents

Design-Build Traditional

Traditional Characteristics

- **Honorarium** must be paid to proposers not chosen (-)
 - *“Sufficient to generate meaningful competition”*
 - *“Recognize the effort required to meet criteria”*
 - **Inadequate** compensation for the design-build team efforts (-)
- Project costs are **verified** by the market (+)
- Potential for **disappointment** of the performance design (-)
- Minimal owner **involvement** during competitive design (-)

Design-Build (DB)

Progressive

- Allowed based on **2013** revisions to RCW 39.10
- **RFQ** to pick qualified firms (5 or less)
- **RFP** does not include detailed design information
- **Selection** is made based on weighted evaluation factors
- **“Cost or price-related factors”** must be included

Design-Build (DB)

Progressive Characteristics

- **2** phases of contract
 - **Phase 1** - Preliminary Design (60% +/-) to establish GMP
 - **Phase 2** – Complete Design, Permit, Build
- Team works with owner to **define** and **design** the project (+)
- **Cost** is negotiated between team and owner (+/-)
 - Time and Expensed with Guaranteed Maximum Price (GMP)
 - Lump Sum
 - Combination
- **Off Ramp** between phases (+/-)

Design-Build (DB)

Progressive Characteristics

- Owner **picks** the firm and team to work with (+)
- Owner **does not** need to issue detailed design information (+)
- Owner and team **together** make **design** decisions (+)
- Design work can start **sooner** with the Owner (+)
- Owner and team **together** develop the scope and **cost** (+)
- Project **cost is determined** before design completion (+)

Design-Build(DB)

Progressive Characteristics

- Owner pays much smaller **honorarium** to proposers (+)
- Proposers do not need to **prepare** designs with costs (+/-)
- Owner may not benefit from **competitive** innovation and pricing (-)
- Costs need to be verified and are **harder to defend** (-)
- Construction can **start early** (+)
- **Subcontractor** choice, input, design assist, pricing |(+)

Job Order Contracting (JOC)

Definition

- *“Contract in which the contractor agrees to a fixed period, indefinite quantity delivery order contract which provides for the use of work orders for public works as defined in RCW 39.04.010”*
- General Contractor is selected based on **qualifications** and *“**coefficient** adjustment to the listed unit price book”*
- Design drawings can be **less detailed**
- **Term contract**, with minimum amount guaranteed, with individual **work orders** for each project

Job Order Contracting (JOC)

Characteristics

- Maximum **\$4 million per year (\$6m for DES, larger cities)** for a 2 years plus 1 year terms
- Maximum 3 contracts at a time (6 for DES)
- The cost of work is negotiated based on a **specific unit price book** (such as Means)
- **90%** of work must be subcontracted out

Questions/Comments ?

More Information

- Association of General Contractors (**AGC**)
 - Education Foundation - DB and GC/CM yearly classes
- Design-Build Institute of America (**DBIA**)
 - Classes, Certifications, Publications, Conventions
- Capital Projects Advisory Review Board (**CPARB**)
 - DB Best Practices and GC/CM Best Practices (coming soon)
- Project Review Committee (**PRC**)
- RCW **39.10** and Senate Bill **5032** (changes in 2021)