

JLARC

Alternative Public Works Procedures Sunset Review:

Legislature Should Continue Authority to Use Alternative Procedures

Proposed Final Report

Mark Fleming, JLARC Staff

Joint Legislative Audit & Review Committee

December 5, 2012

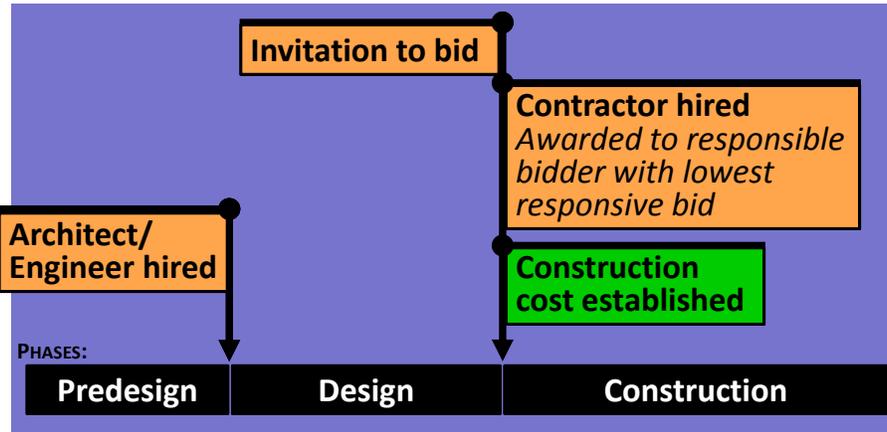
State Law Governs Public Works Construction in Washington

Public Bodies	Largest Construction Programs:
State Agencies	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> Dept. of Enterprise Services </div> <div style="text-align: center;"> University of Washington </div> <div style="text-align: center;"> Washington State University </div> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="text-align: center;"> City of Seattle </div> <div style="text-align: center;"> City of Tacoma </div> </div> <div style="background-color: #1a3d6d; color: white; padding: 10px; margin-top: 20px; text-align: center;"> <p style="font-size: 1.2em;">Current projects total \$2.4 Billion</p> </div>
Higher Ed Institutions	
Local Governments	
Ports	
School Districts	
Special Purpose Districts	

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Traditional Delivery Procedure: Design-Bid-Build

Separates design and construction, used for projects of any size



Source: JLARC analysis of public works contracting procedures.

Perceived Risks of Traditional Delivery

Perceived Risk	Impact
Construction bid price may exceed budget	Construction delay while project is redesigned and rebid
Lack of construction expertise during design	Unforeseen conditions must be addressed during construction
Potential adversarial relationship with contractor	Disputes may arise among parties over responsibility for changes

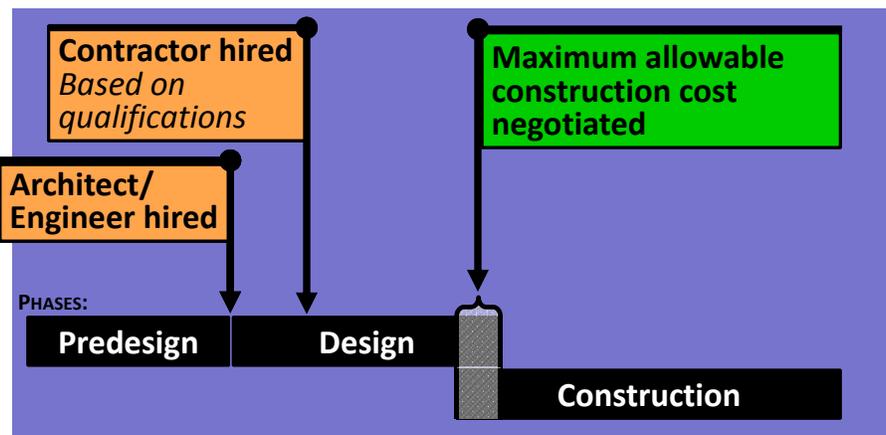
Three Alternative Procedures Attempt to Address Design-Bid-Build Risks

Chapter 39.10 RCW

Alternative Method	Authorized For:
General Contractor Construction Manager (GCCM)	Typically for projects \$10M and above but may be authorized for smaller projects
Design-Build (DB)	
Job Order Contracting (JOC)	\$350,000 or less

Alternative Procedures Differ from Traditional Delivery

Example: GCCM procedure



Source: JLARC analysis of public works contracting procedures.

JLARC Recommends Continuing Authority for Alternative Procedures

- Provide options to manage construction risk
- Project managers value alternative procedures
- Widespread use throughout nation
- Public bodies in Washington follow statutory requirements to ensure public interest
- Answers to sunset questions support continuation

Public Bodies in Washington Follow Statutory Requirements to Meet Public Interest

- Established statutory requirements governing:

PROJECT SELECTION ✓

PUBLIC NOTICE ✓

CONTRACT LIMITS ✓

- Detail to verify compliance with subcontract and contract limits is not always evident
 - ♦ GCCM subcontract limits
 - ♦ Job order contract limits

Capital Project Advisory Review Board Role is to Advise and Recommend

CPARB performs role in several ways:

- Makes recommendations to Legislature on public works and contracting issues
- Organizes task forces and subcommittees to address contracting and public works issues
- Seeks stakeholder input on alternative procedures
- Collects quantitative and qualitative data for analysis
 - ♦ Initiated effort in 2008 to collect data on all public works projects over \$5 million across the state

CPARB Needs to Rethink Approach to Collecting Project Information

- Project data is not likely to lend itself to meaningful comparisons
- CPARB contributes most value as forum for discussion and developing consensus on policy and legislation
- CPARB experience with task forces and subcommittees offers opportunity for timely policy input on issues related to public works construction

Recommendations & Responses

1 The Legislature should

reauthorize the alternative public works procedures, Chapter 39.10 RCW

Agencies Concur:

CPARB

DES

OFM

2 CPARB should

revise job order contract reporting to clearly identify separate contracts with and payments to the same contractor during the July 1-June 30 reporting period

Agencies Concur:

CPARB

DES

OFM

Recommendations & Responses (cont.)

3 Public bodies using GCCM should

obtain information on project subcontract awards and payments and provide a final project report on their GCCM subcontracting to CPARB

Agencies Concur:

CPARB

DES

OFM

4 CPARB should

refocus its efforts and limited resources on collecting information that will more readily assist the Board in developing recommendations to improve public works delivery methods

Agencies Concur:

CPARB

DES

OFM

Contact Information

Mark Fleming, Project Lead

mark.fleming@leg.wa.gov
360-786-5181

Valerie Whitener, Project Supervisor

valerie.whitener@leg.wa.gov
360-786-5191

JLARC

www.jlarc.leg.wa.gov

