



Preliminary Report

Alternative Public Works Contracting Procedures Sunset Review

The Legislature should continue the alternative public works contracting statute. Alternative delivery methods are widely used, and CPARB has created a forum for stakeholders to continually improve project delivery.

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September 2020

Public Works

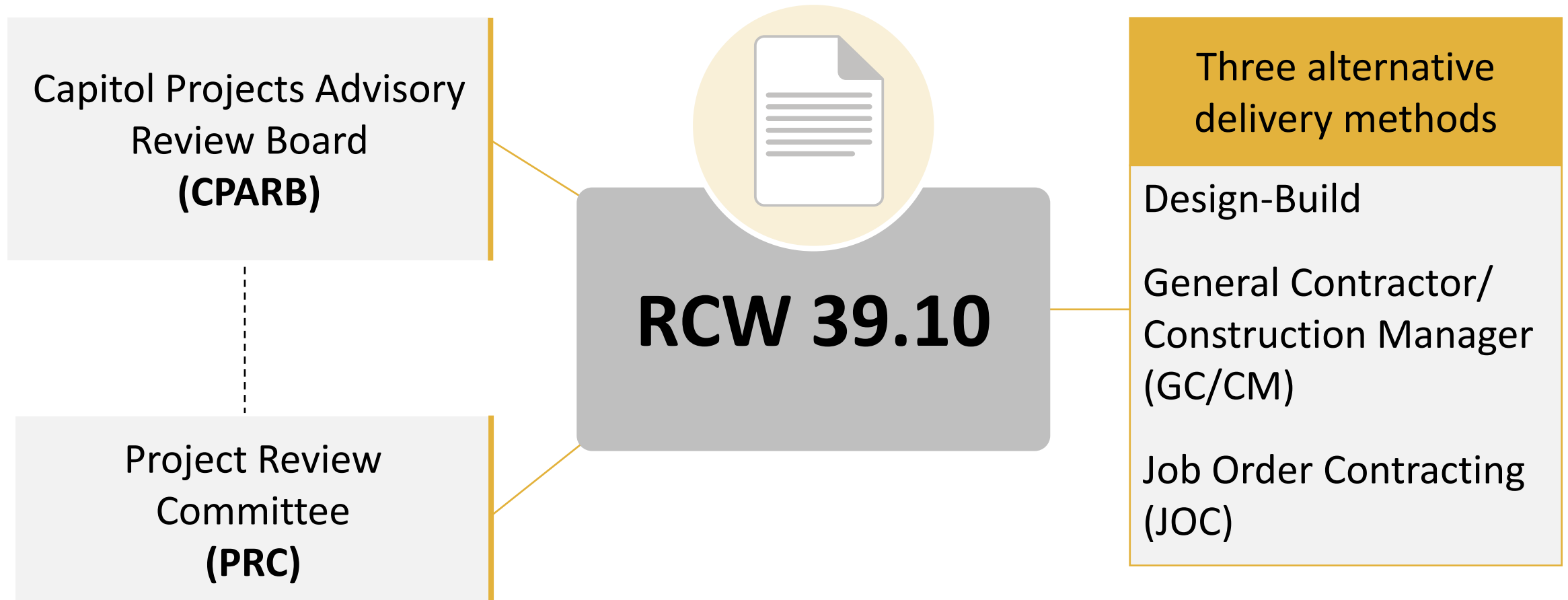


Using alternative contracting methods is a **common and accepted practice**



At least some use is authorized by the federal government and **all 50 states.**

Alternative Public Works Contracting Statute



This is JLARC's second sunset review

RCW 39.10 is scheduled to sunset June 30, 2021.

Sunset Act directs JLARC to review statute in the year prior to its termination date.

JLARC is directed to recommend to continue, modify, or terminate.

Today's Presentation Will Cover:

- 1 Overview of methods and stakeholder perceptions
- 2 CPARB, PRC, and staff support
- 3 Implementation of prior recommendations
- 4 Sunset review answers four key questions

Method of contractor selection differs

Traditional public works contracting

Contractor selected based on **lowest responsive bid** from **responsible bidder**.

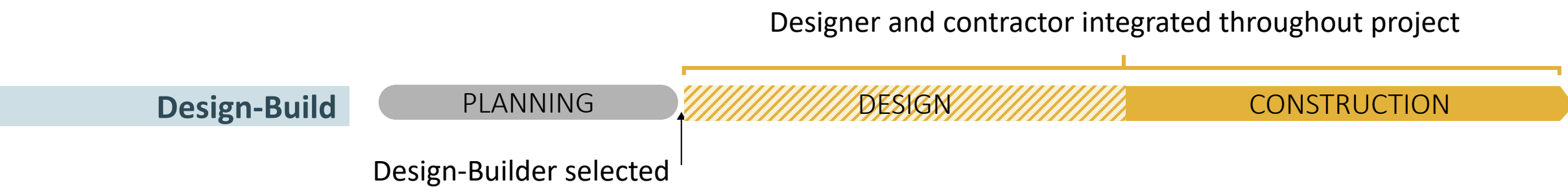
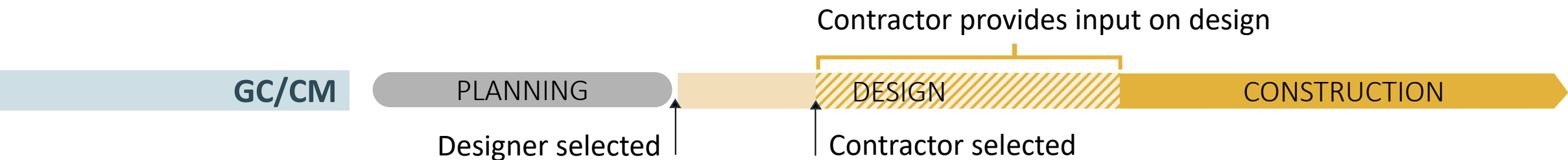
Alternative public works contracting

Contractor selected based on **qualifications and price factors**.

Phases of construction are distinct in traditional method

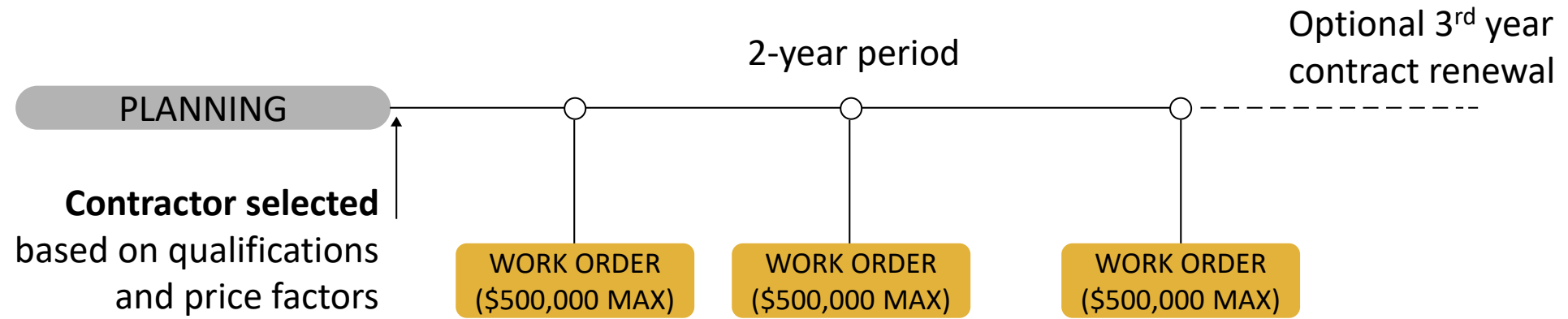


Design and construction are integrated in GC/CM and design-build



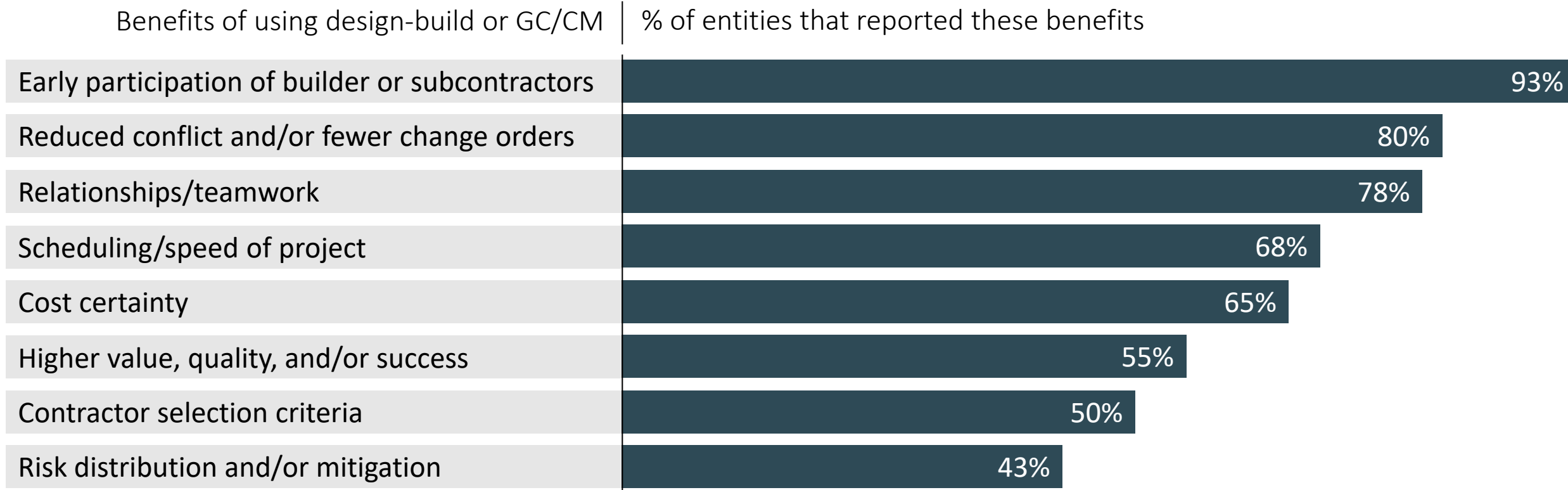
Job Order Contracting

allows one contract for multiple projects



\$4 million per year max
(\$6 million for Department of Enterprise Services
and large cities and counties)

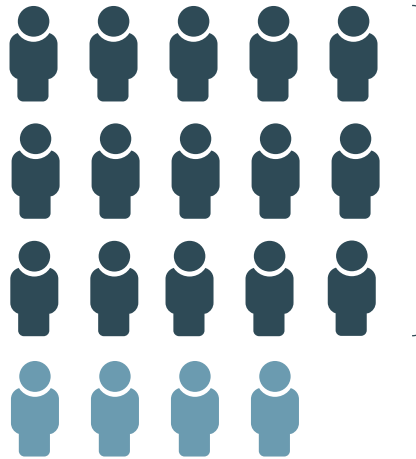
Stakeholders and experts report **advantages**



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CPARB created to evaluate public works and advise Legislature

CPARB membership



Appointed by **Governor**

Appointed by **other bodies**

Appointed by **each major caucus**
(nonvoting)

CPARB has engaged stakeholders

11 committees with representatives from:

29 private businesses

19 public bodies or public owner associations

4 labor associations

3 private organizations

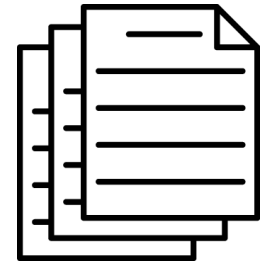
CPARB has worked to improve public works contracting



CPARB has developed and recommended policy changes to the Legislature.

*Example: Heavy Civil GC/CM
(authorized by HB 2208)*

CPARB has studied and shared public works information with the Legislature and stakeholders.



*Example: Local government public works
(requested by ESSB 5418)*

The Project Review Committee makes decisions on applications to use design-build and GC/CM

PRC membership

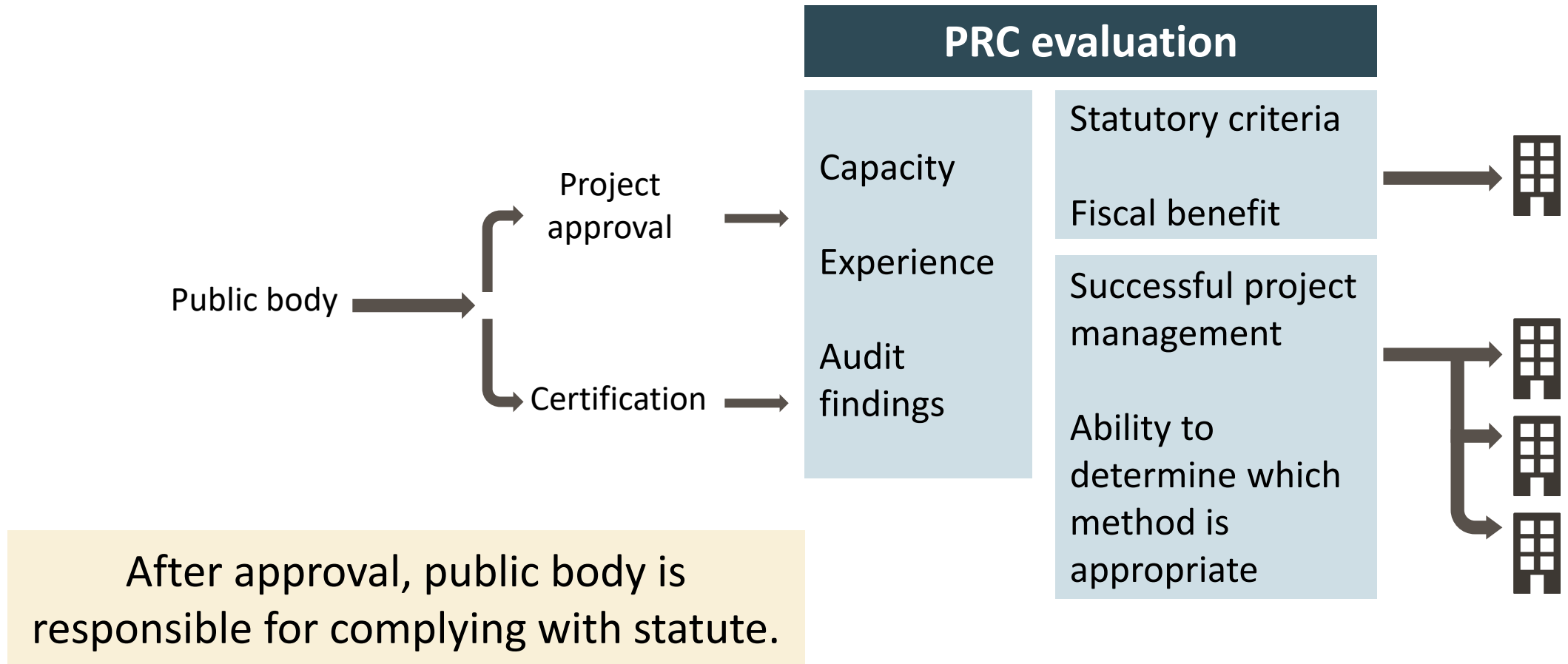
Public owners

- Cities
- Counties
- Higher education
- Ports
- Public hospitals
- School districts
- State
- General public owner

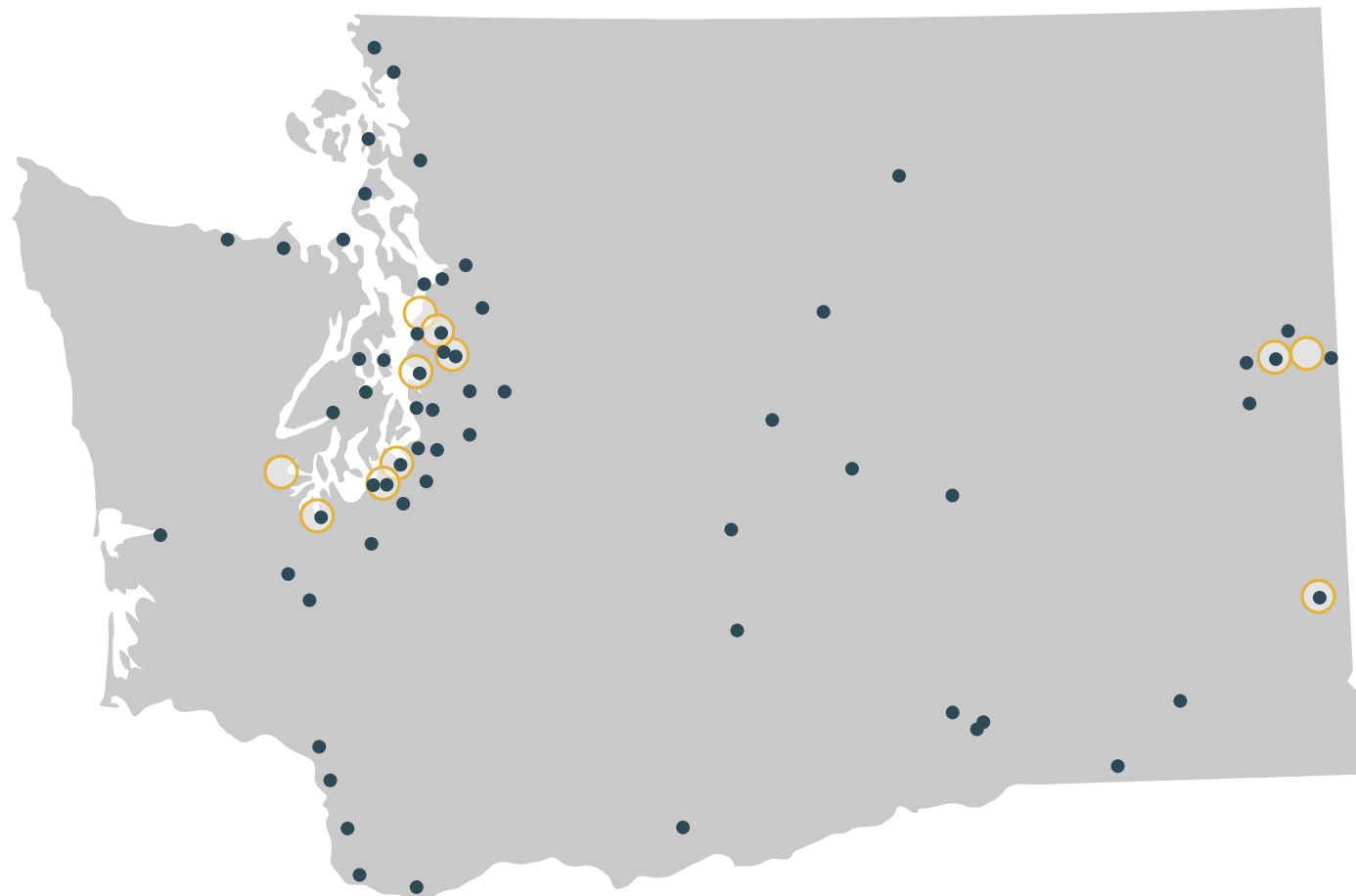
Industry stakeholders

- Construction managers
- Construction trades labor
- Design industry – architects
- Design industry – engineers
- General contractors
- Minority/Women businesses
- Private sector
- Specialty/subcontractors

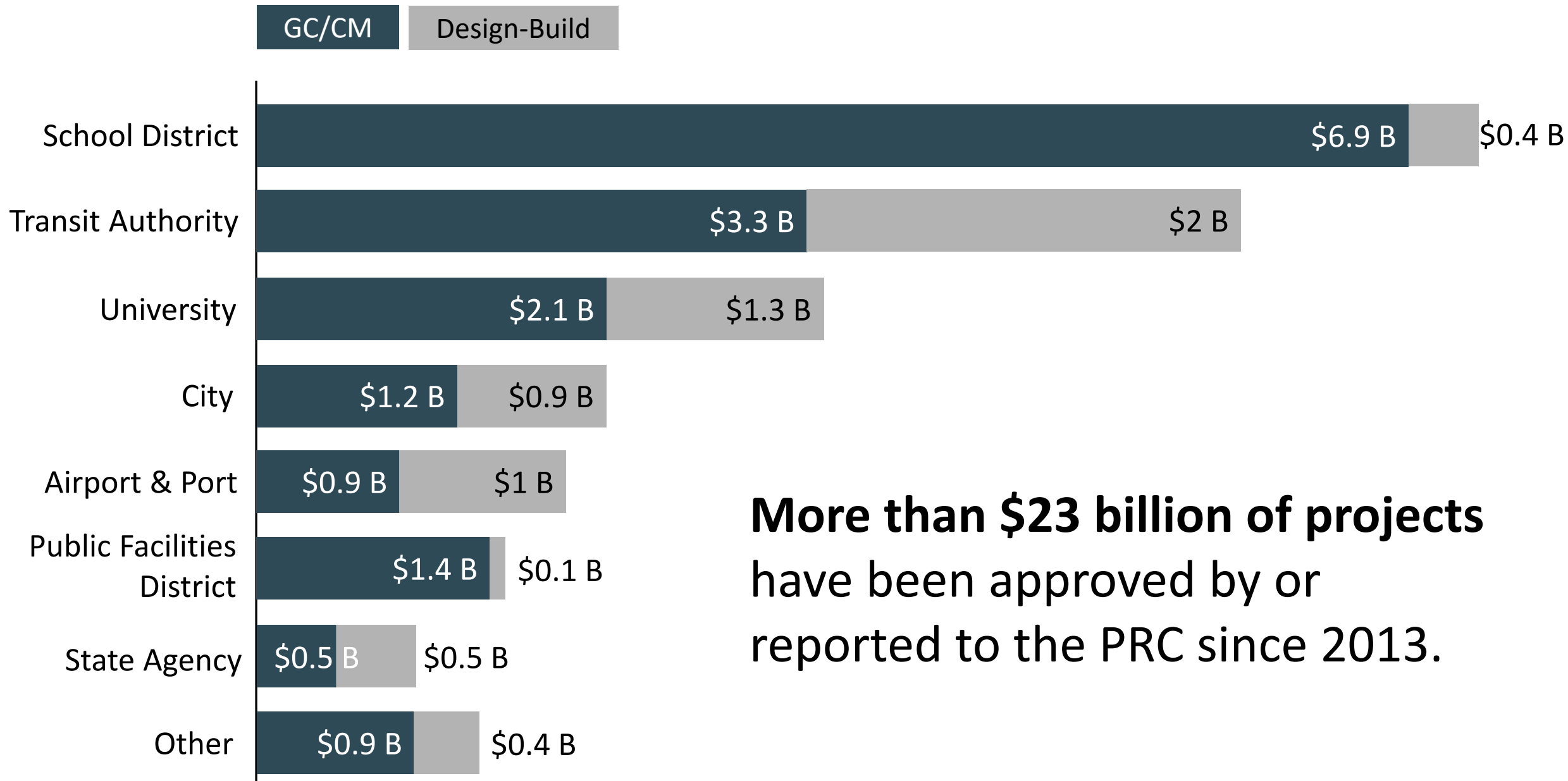
The PRC maintains a thorough process for approving projects and certifying public bodies



Since 2013, the PRC has approved **179 projects** and **38 certifications or recertifications**



- Certified Public Bodies
- Project Locations
(There may be multiple projects per data point)



More than \$23 billion of projects
have been approved by or
reported to the PRC since 2013.

There are some gaps in data collection and record keeping

Open Public Meetings Act requires public deliberation and public action.



Schedules
published in
advance



Agendas
posted



Minutes
recorded

Activities are public and transparent, but some practices were not compliant with the Open Public Meetings Act.

CPARB, the PRC, and DES are aware of these issues and have stated that they intend to address them.

Statute requires public bodies to report job order contracting information each year

List of work orders issued.

Cost of each work order.

Subcontractors hired under each work order.

There are gaps in JOC data collection and record keeping.

CPARB does not use much of the data collected.

JOC's statutory reporting requirements may not align with CPARB's primary duties or interests.

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CPARB has acted on **two of three** recommendations from 2013 review

Refocus data collection.



Collect information on GC/CM subcontractor awards and payments.



Revise JOC reporting.



1 Overview of methods and stakeholder perceptions

2 CPARB, PRC, and staff support

3 Implementation of prior recommendations

4 **Sunset review answers four key questions**

Sunset review answers four key questions

1. Has the use of RCW 39.10 complied with legislative intent?

Yes

2. Does the alternative process provide for efficient and economical public works construction, with adequate cost controls in place?

Yes

3. Has CPARB achieved expected performance measures?

Yes

4. What would be the effect of termination?

**Termination of
CPARB and PRC.**

**In general, public bodies could not use
design-build, GC/CM, or JOC.**

**Stakeholders oppose
termination.**



Legislative Auditor's Recommendations

- 1** The Legislature should continue the alternative contracting methods in RCW 39.10.
- 2** CPARB should evaluate which JOC data it needs to perform its functions and propose appropriate modifications to the Legislature.



Next Steps

Proposed Final Report | **December 2020**



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