

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

- Legislature Home
- House of Representatives
- Senate
- Find Your District
- Laws & Agency Rules
- Bill Information
- Agendas, Schedules, and Calendars
- Legislative Committees
- Coming to the Legislature
- Legislative Agencies
- Legislative Information Center
- Email Updates (GovDelivery)
- View All Links

RCWs > Title 39 > Chapter 39.10

[Complete Chapter](#) | [RCW Dispositions](#)

Chapter 39.10 RCW

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.
- [39.10.340](#) General contractor/construction manager procedure—Uses.
- [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.
- [39.10.385](#) 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—Prebid 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.
- [39.10.903](#) Part headings and captions not law—2007 c 494.
- [39.10.904](#) Effective dates—2007 c 494.
- [39.10.905](#) Severability—2007 c 494.

NOTES:

Reviser'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 [43.131.408](#).

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.”*

CAPITAL PROJECTS ADVISORY REVIEW BOARD (CPARB)

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

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

DESIGN-BUILD BEST PRACTICES GUIDELINES

PUBLIC WORKS IN WASHINGTON STATE REGULATED BY RCW 39.10

REVISE PER SHB 1295!

REVISED

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



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

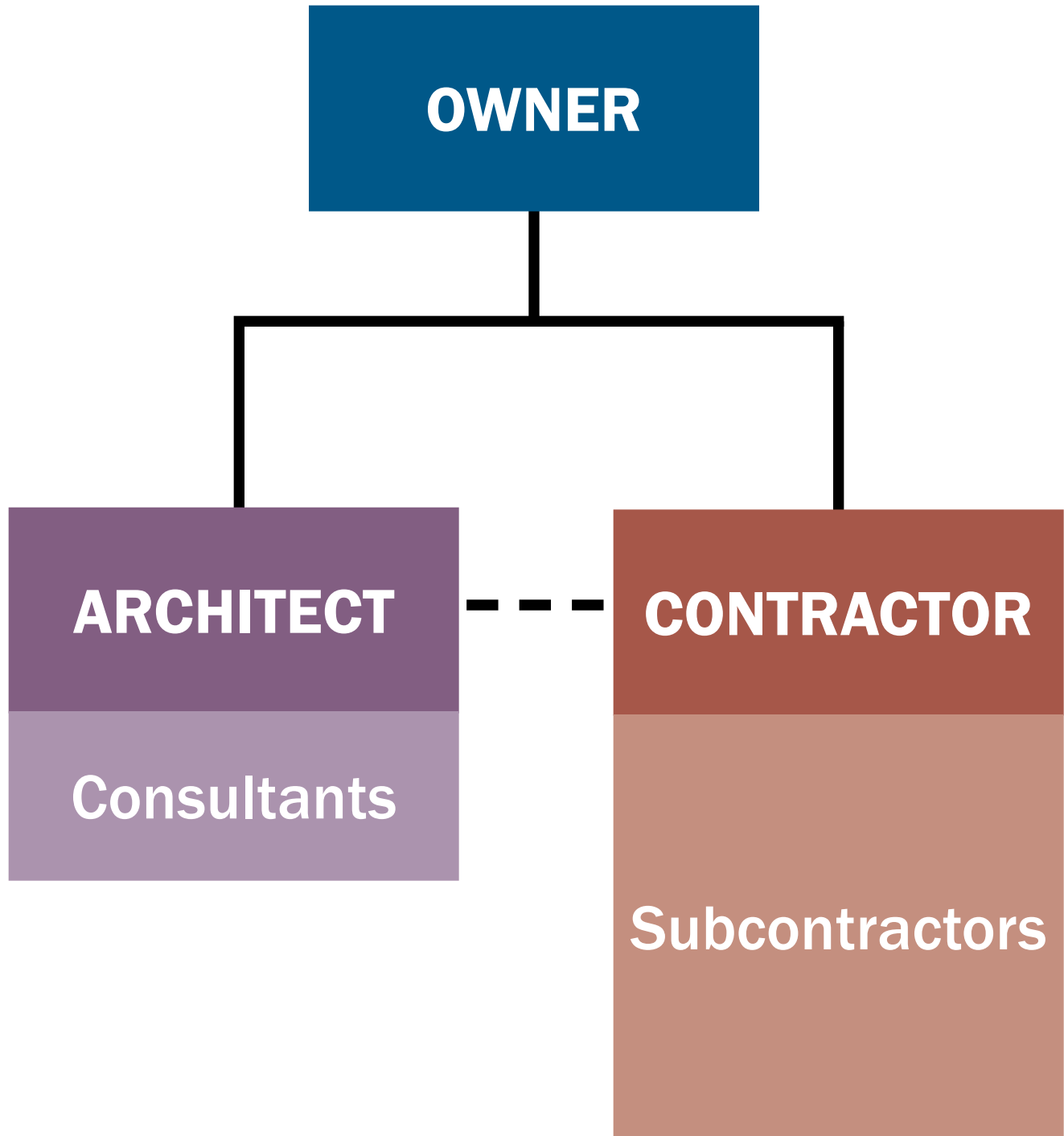
GC/CM

- Public body selects design team based on qualifications
- Public body selects general contractor based on qualifications and fees

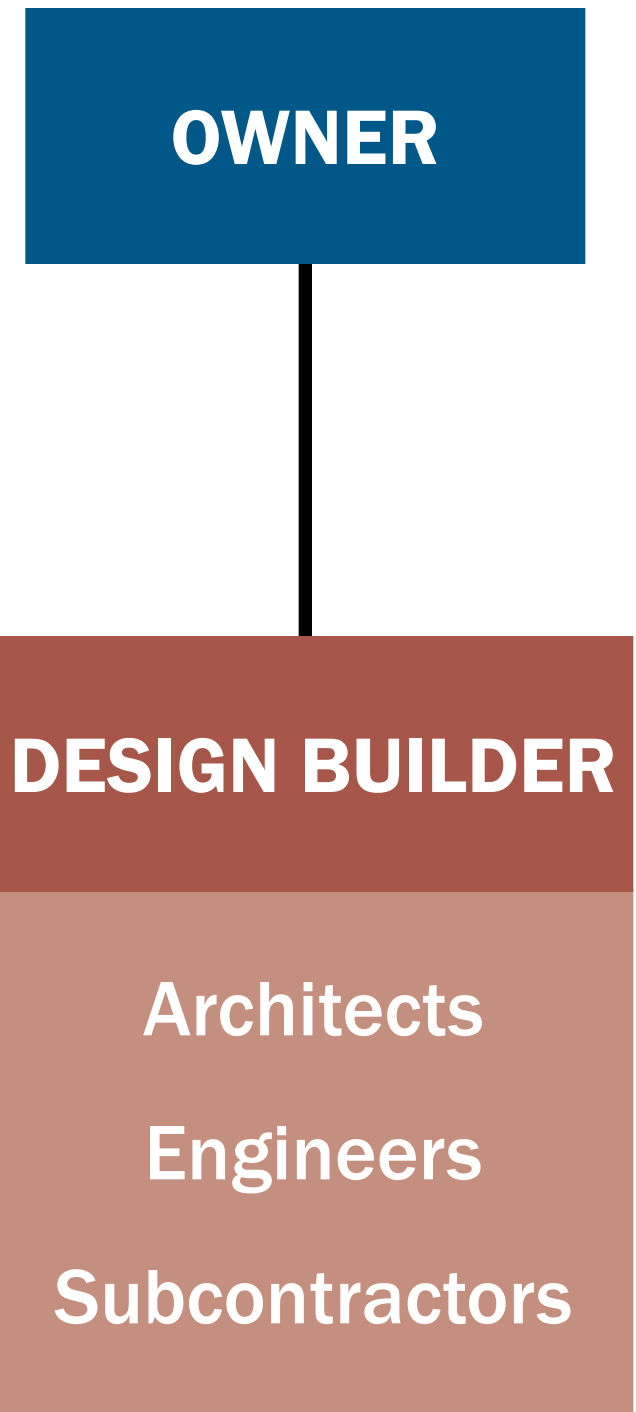
DESIGN-BUILD

- 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



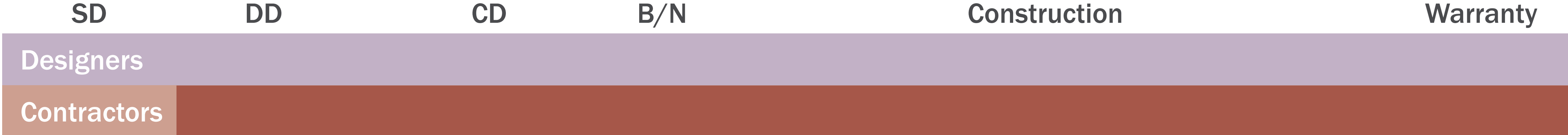
DESIGN-BUILD

INTERDISCIPLINARY TEAMWORK

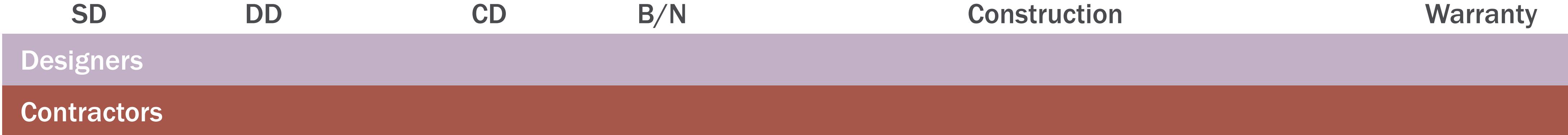
DESIGN-BID-BUILD



GC/CM



DESIGN-BUILD



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

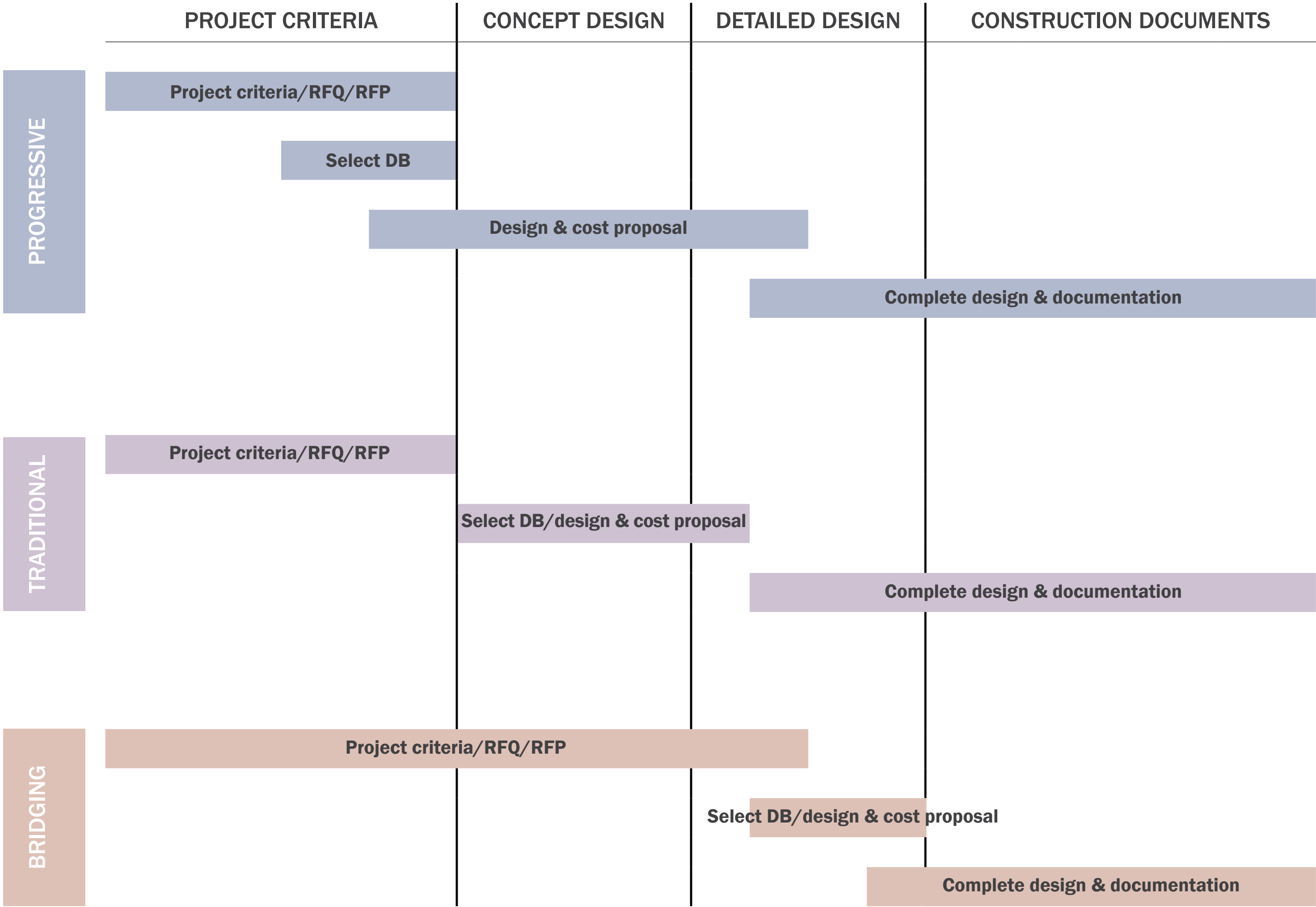
DESIGN-BUILD

- 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



DESIGN-BUILD TYPES

CONTRACT SCOPE & PRICE

PROGRESSIVE

Established after design-builder is selected

TRADITIONAL

Established at time design-builder is selected

BRIDGING

Established at time design-builder is selected

SELECTION CRITERIA

PROGRESSIVE

Qualifications typically play a larger role in team selection.

TRADITIONAL

Design proposal is key in some selections, cost in others

BRIDGING

Selection is typically focused on cost

PROJECT CRITERIA DOCUMENTS

PROGRESSIVE

Project description, target budget and schedule.

TRADITIONAL

Project scope, budget and schedule must be aligned before team selection. Project criteria are typically performance requirements

BRIDGING

Project scope, budget and schedule must be aligned before team selection Project criteria are typically prescriptive

OPPORTUNITIES

PROGRESSIVE

Increased opportunity for design-build / owner engagement before final design and contract amount are established

TRADITIONAL

Allows owners to choose amongst alternate proposal for design, cost and value

BRIDGING

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

OWNER RISKS

PROGRESSIVE

Lack of competition for contract price; no cost certainty at the time the design-builder is selected

TRADITIONAL

Additional costs for project criteria and honoraria; limited engagement between owner and design-builder during concept development

BRIDGING

Owner responsibility for content of bridging documents. Prescriptive solutions may reduce opportunity for innovation and integration

D-B LEVEL OF EFFORT/RISK TO COMPETE

PROGRESSIVE

Limited scope of technical approach design concept and cost or price related factors reduces level of effort and risk to compete

TRADITIONAL

Proposal requires significant effort - significant risk for design-builder to propose cost based on a preliminary design

BRIDGING

Proposal requires a significant effort

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.

GRADING SELECTION CRITERIA

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.

		criteria weight	Project Delivery Method options			
		1 = less important	Score 1 to 3 (3 = most appropriate)			
selection criteria		2 = more important	DBB		GCCM	
			score	sub-tot	score	sub-tot
primary						
1	Complexity & Innovation	2	1	2	3	6
2	Cost	2	3	6	2	4
3	Risk	2	1	2	3	6
4	Contractor Experience and Competition	2	2	4	3	6
secondary						
5	Schedule	1	1	1	2	2
6	Level of Design	1	1	1	2	2
7	Agency staff experience/availability	1	3	3	2	2
8	Oversight & Control	1	2	2	3	3
	Total			21		31

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

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?
- 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?

GC/CM BEST PRACTICES

LESSONS LEARNED

- What was your worst GC/CM experience?
- What was your best GC/CM experience?

SECTION 4: **QUESTIONS & ANSWERS**