# Alternative Public Works Processes

WPPA Small Ports Conference

Public Works Intensive

October 24, 2019

# Alternative Public Works Processes

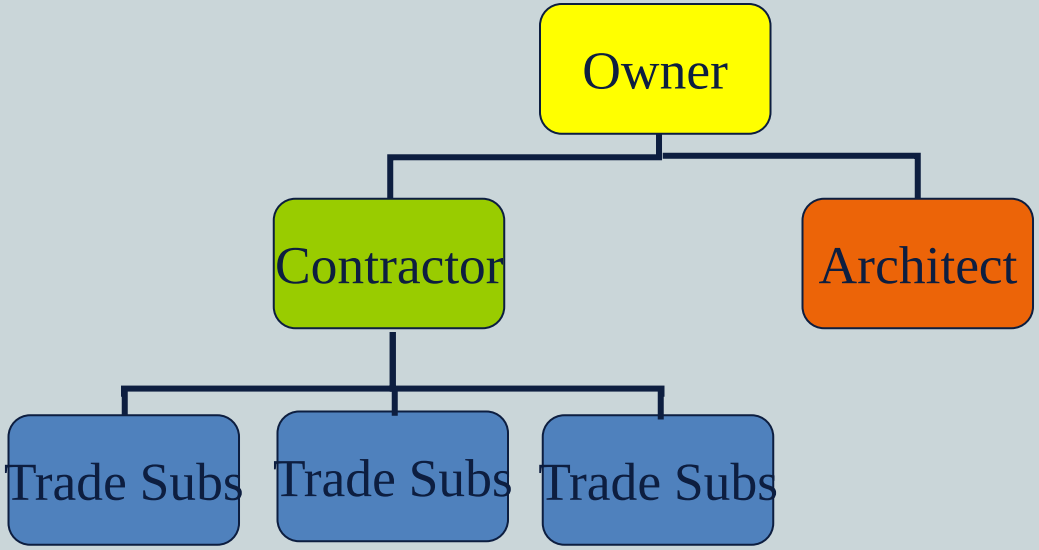
**RCW 39.10.200 Finding—Purpose—Intent.**

The legislature finds that the traditional process of awarding public works contracts in lump sum to the lowest responsible bidder is a fair and objective method of selecting a contractor.

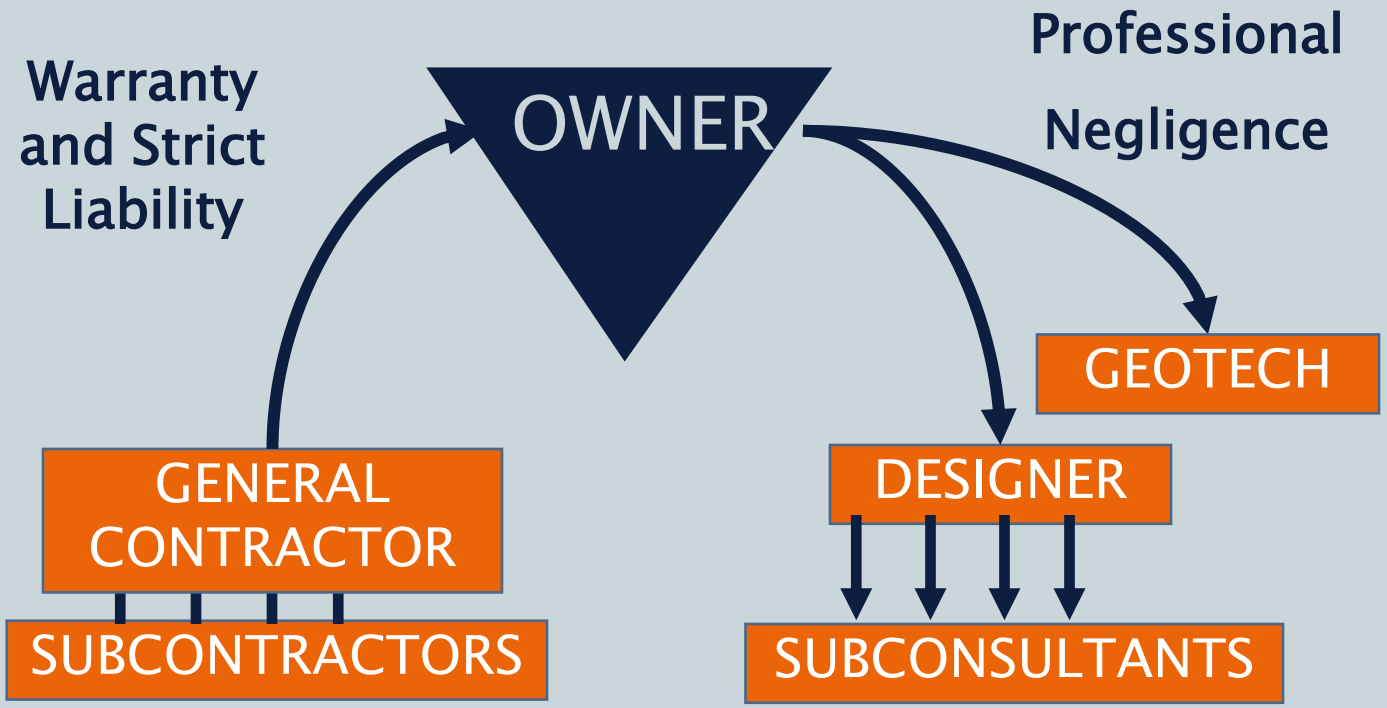
However, under certain circumstances, alternative public works contracting procedures may best serve the public interest if such procedures are implemented in an open and fair process based on objective and equitable criteria.

“requirements to ensure that such contracting procedures serve the public interest, and to establish a process for evaluation of such contracting procedures.”

# Traditional Design-Bid-Build



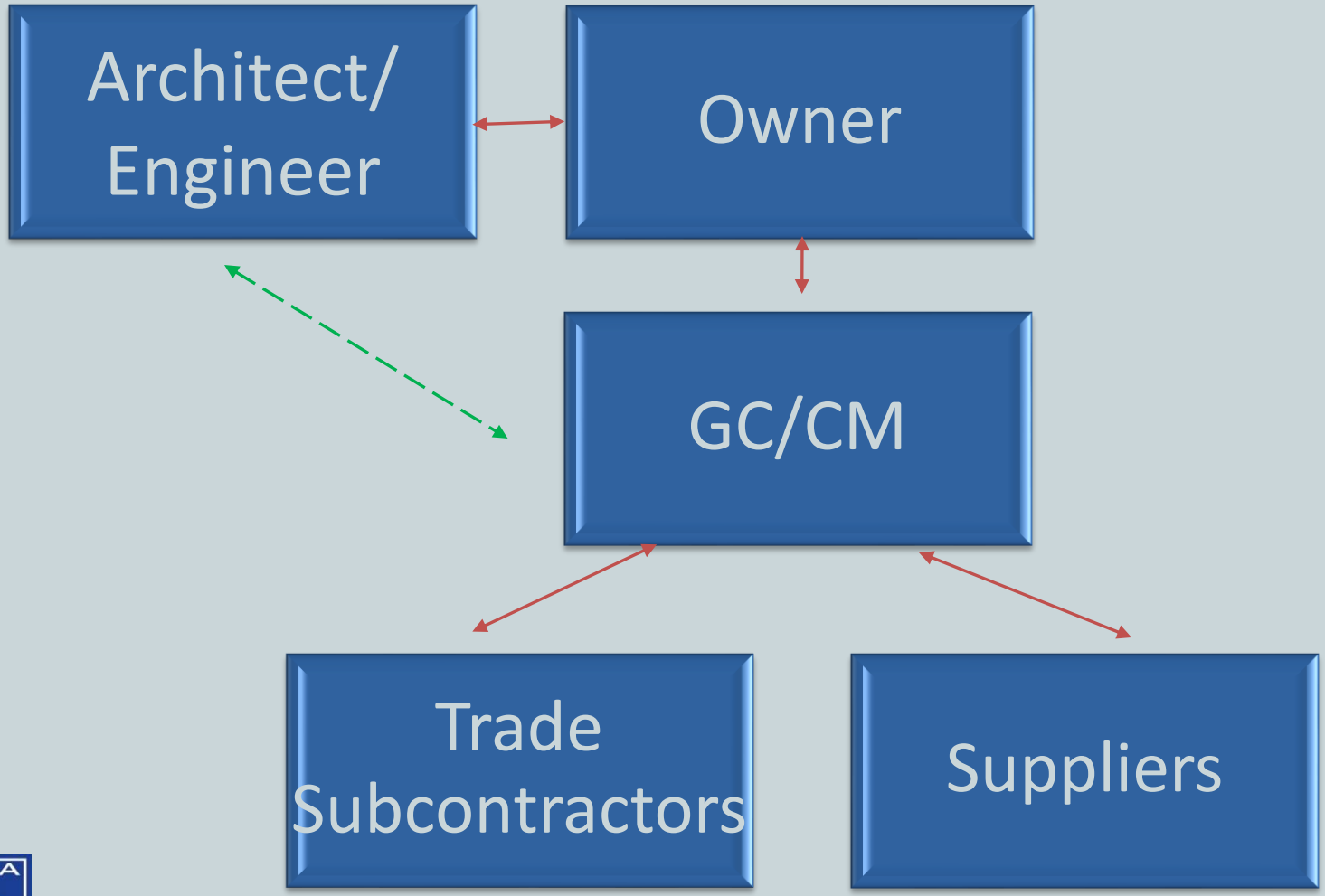
# Liability in Design-Bid-Build



# Alternative Public Works Processes

- Design Build (DB)
  - Bridging
  - Traditional
  - Progressive
- General Contractor/Construction Manager (GC/CM)
  - With EC/CM and/or MC/CM
  - Heavy Civil GC/CM
- Contract value must be $2mil or higher

# General Contractor/Construction Manager (GC/CM)



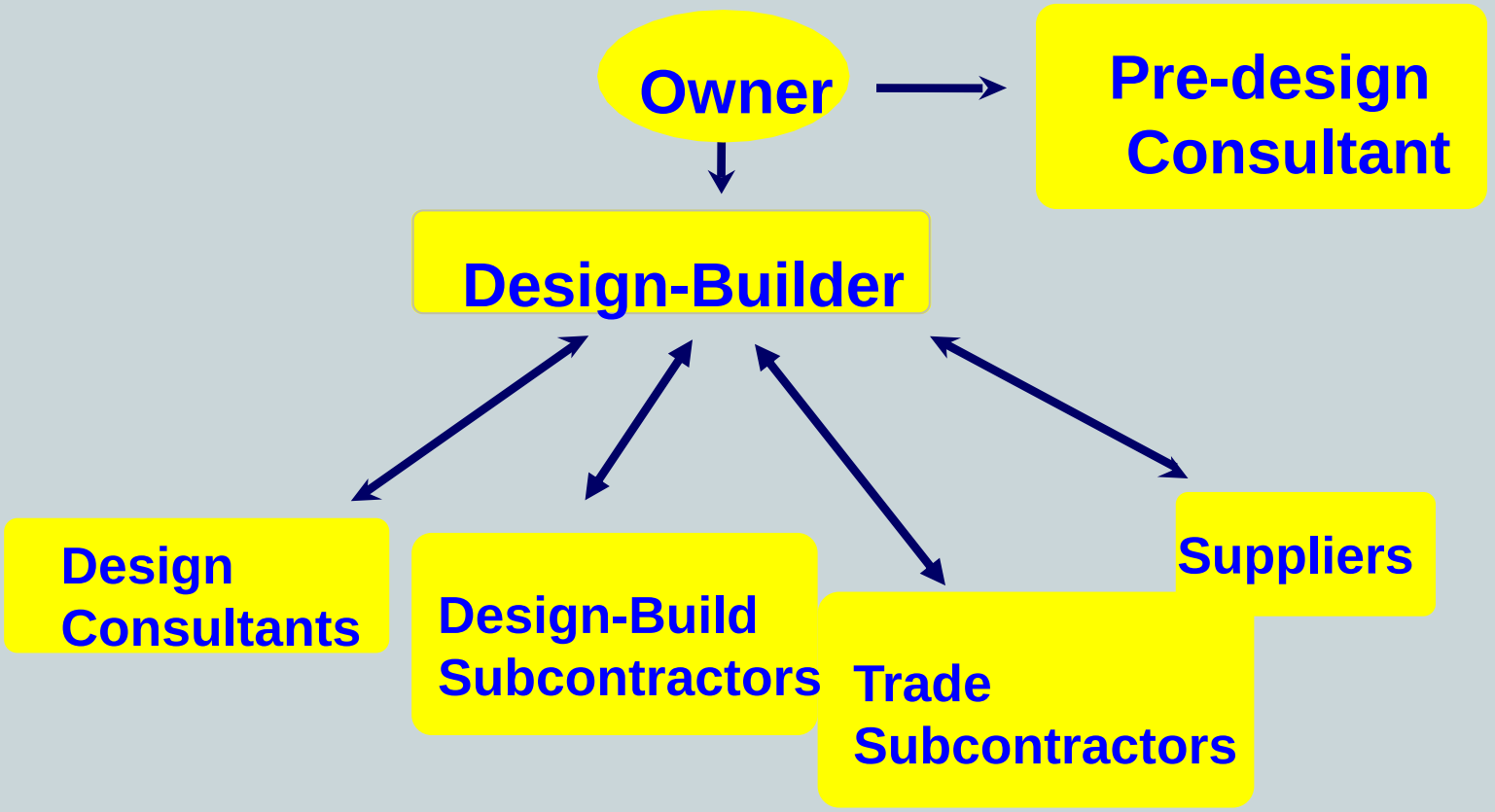
# GC/CM process

- Procurement:
  - Procure GC/CM early in the project
  - Contract awarded through competitive process:
    - Qualifications plus fee/general condition costs
- Maximum Allowable Construction Cost:
  - Negotiated when the construction documents and specifications are at least 90% complete
- Subcontract Packages
  - Publicly bid by GC/CM
  - GC/CM has self perform limits/requirements
  - Can select mechanical and electrical on qualifications, but cannot obtain design-build warranty, even if the work is performed design-build

# GC/CM

- Benefits:
  - Contractor involved at an early stage to provide phasing, value engineering and constructibility
  - Owner retains control over the design with direct relationship with designer
- Detriments:
  - Subcontract bid packages still low bid (with some exceptions)
  - Owner retains liability gap between designer and contractor

# Design Build



# Benefits of Design Build

- Performance warranty from Design Build team
  - Owner not liable for design errors and omissions
- Ability to select team based on qualifications rather than only price
- Faster schedule
- Fewer claims
- Able to fully utilize most advanced design and construction techniques
  - BIM
  - Lean construction
  - Leverage innovation
- Knowledge and guarantee of project cost earlier than any other procurement method

# Design Build Types

| Issue / DB Type | Progressive | Traditional | Bridging |
|---|---|---|---|
| Contract Scope and Cost | • Established after DB team is selected. | • Established at the time the DB team is selected. | • Established at the time the DB team is selected. |
| Selection Criteria | • DB team is selected based upon qualifications and cost factors. Qualifications play a larger role in selection than other DB types. | • DB team is selected based upon qualifications, design concept, and firm cost proposal. | • DB team selection is based upon qualifications, management plan to implement the owner's design concept, and a firm cost proposal. |
| Project Criteria Documents | • Owner provided detailed project criteria may be provided before DB team selection but not required. Project scope, budget, and schedule do not have to be aligned before selection process. | • Owner provided detailed project criteria required for selection process. Projects scope, budget, and schedule must be aligned before selection process.<br>• AE assistance to prepare project criteria and evaluating RFP submittals typically required. | • Owner provided detailed project criteria, including bridging document (at least schematic design), required for selection process. Projects scope, budget, and schedule must be aligned before selection process.<br>• AE assistance to prepare project criterial is required, and typically used for evaluating RFP submittals. |
| Opportunities | • Integration of owner and DB team during programming and planning phases.<br>• Effective method if scope and budget are not yet defined at time of DB team selection. | • Owner chooses between alternative proposals for design, cost, and value.<br>• Used extensively in WA state. | • Increased owner involvement and design control (bridging documents).<br>• Retains single point of responsibility for implementation. |
| Owner Risks | • No cost certainty at time of DB team selection – final cost negotiated.<br>• Cost estimating assistance required during final cost negotiation to ensure fair price. | • Additional costs for project criteria development, and honoraria for non-selected DB teams.<br>• Limited engagement between owner and DB team during development of design and cost proposals.<br>• Risk of setting a price prior to confirming selected alternative aligns with owners programmatic and operating needs. | • Owner is responsible for content of bridging documents.<br>• Prescriptive solutions reduce opportunity for innovation. |
| DB Team Level of Effort / Risk to Complete | • Reduced level of effort during selection process than other approaches. | • Costs for preparing design concept and cost proposal not covered by honoraria.<br>• DB Team owns risk for cost increases after firm cost proposal. | • Costs for preparing management plan and cost proposal are significant.<br>• DB Team owns risk for cost increases after firm cost proposal. |
| Contracting | • Flexibility for single DB contract, or two (design phase, construction phase).<br>• Separate contracts allows for termination if unsuccessful relationship during design phase. | • Typically a single contract for design and construction. | • Typically a single contract for design and construction. |

# Project Review Committee

- Project applications submitted for evaluation and approval
- PRC Evaluation Panel (6 to 8 members)
- Presentation and Question/Answer
- PRC Panel deliberation and vote
  - Based on RCW 39.10 evaluation criteria

# Design Build

## Appropriate Project requirements:

A. Provides substantial fiscal benefit or traditional delivery method is not practical.

B. Project meets qualifying criteria under RCW 39.10.300.
Public bodies may utilize the DB procedure for public works projects in which the total project cost is over two million dollars and where: *(Pass if meets 1 of 3)*

1. The construction activities are highly specialized and a DB approach is critical in developing the construction methodology, or
2. The projects selected provide opportunity for greater innovation or efficiencies between the designer and the builder; or
3. Significant savings in project delivery time would be realized.

# Design Build

## Public agency requirements:

C. Public Body has necessary experience or team:
*(**must meet all 6 to pass**; 1 fail fails all)*
1. Project delivery knowledge and experience
2. Sufficient contract administration personnel with construction experience
3. Written management plan with clear & logical lines of authority
4. Necessary & appropriate funding and time to carry out the project
5. Continuity of project management team with project type & scope experience
6. Necessary and appropriate construction budget

D. For Design-Build projects, construction personnel independent of the DB team is knowledgeable in DB process & capable to oversee & administer the contract.

E. Public Body has resolved any audit findings relative to previous projects.

# GC/CM

## Appropriate Project requirements:

A. Provides substantial fiscal benefit or traditional delivery method is not practical.

B. Project meets qualifying criteria under RCW 39.10.340.
Public bodies may utilize the GC/CM procedure for public works projects where at least one of the following is met: *(Pass if meets 1 of 6)*

1. Implementation of the project involves complex scheduling, phasing, or coordination, or
2. The project involves construction at an occupied facility which must continue to operate during construction; or
3. The involvement of the GC/CM during the design stage is critical to the success of the project; or
4. The project encompasses a complex or technical work environment; or
5. The project requires specialized work on a building that has historic significance; or
6. The project is, and the public body elects to procure the project as, a heavy civil construction project. However, no provision of this chapter pertaining to a heavy civil construction project applies unless the public body expressly elects to procure the project as a heavy civil construction project.

# GC/CM

## Public agency requirements:

C. Public Body has necessary experience or team: *(**must meet all 6 to pass**; 1 fail fails all)*

1. Project delivery knowledge and experience
2. Sufficient contract administration personnel with construction experience
3. Written management plan with clear & logical lines of authority
4. Necessary & appropriate funding and time to carry out the project
5. Continuity of project management team with project type & scope experience
6. Necessary and appropriate construction budget

D. Public Body has resolved any audit findings relative to previous projects.

# Alternative Public Works Processes

- Resources to help with using GC/CM or Design Build
  - Owners with experience for peer support
  - Hire outside consultant as Project, Construction and Contracts Manager
  - DB Best Practices Manual
  - AGC DB or DBIA Training
  - AGC GC/CM Training

# Alternative Public Works Processes

## Questions?

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