

# FINAL BILL REPORT

## HB 1197

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Synopsis as Enacted

**Brief Description:** Regarding alternative public works contracting procedures.

**Sponsors:** Representatives Haigh, Kristiansen, Hunt and Armstrong; by request of Capital Projects Advisory Review Board.

**House Committee on State Government & Tribal Affairs**  
**House Committee on Capital Budget**  
**Senate Committee on Government Operations & Elections**

### **Background:**

Alternative methods for constructing public works were first used on a very limited basis and then adopted in statute in 1994 for certain pilot projects. These alternative procedures include a design-build process, a general contractor/construction manager (GCCM) process, and a job order contracting process. Originally, the use of these alternative methods were limited to a handful of public entities.

The design-build procedure is a multi-step competitive process to award a contract to a single firm that agrees to both design and build a public facility that meets specific criteria. The contract is awarded following a public request for proposals for design-build services. Following extensive evaluation of the proposals, the contract is awarded to the firm that submits the best and final proposal with the lowest price.

The GCCM method employs the services of a project management firm that bears significant responsibility and risk in the contracting process. The government agency contracts with an architectural and engineering firm to design the facility and, early in the project, also contracts with a GCCM firm to assist in the design of the facility, manage the construction of the facility, act as the general contractor, and guarantee that the facility will be built within budget. When the plans and specifications for a project phase are complete, the GCCM firm subcontracts with construction firms to construct that phase. Initial selection of the GCCM finalists is based on the qualifications and experience of the firm.

In 2003 job order contracting was authorized as an alternative public works contracting procedure. Under a job order contract, a contractor agrees to perform an indefinite quantity of public works jobs, defined by individual work orders, over a fixed period of time. A

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public entity may not have more than two job order contracts in effect at any one time. The maximum total dollar amount that is awarded under a job order contract may not exceed \$2 million in the first year, \$5 million over the first two years, or \$8 million over a three-year period if the contract is renewed or extended. The authority to use job order contracting is limited to the Department of General Administration (GA), the University of Washington (UW), Washington State University (WSU), certain cities and counties, port districts, certain public utility districts, school districts, and the state ferry system.

In 2005 the Capital Projects Advisory Review Board (CPARB) was established to monitor and evaluate the use of traditional and alternative public works contracting procedures and to evaluate potential future use of other alternative contracting procedures. In 2007 the CPARB presented recommendations for the expanded use of these procedures and processes that were enacted into law. A project review committee (review committee) was created to certify public bodies to use either design-build, the GCCM, or both procedures, or to approve projects on a project-by-project basis. The use of the procedures is generally limited to projects with a total project cost of \$10 million or more. However, the GCCM process may be used on projects with a total project cost of less than \$10 million with the approval of the committee.

**Summary:**

The CPARB must develop guidelines to be used by the review committee for review and approval of design-build demonstration projects that include procurement of operations and maintenance services. In turn, the review committee may authorize two design-build demonstration projects that include operations and maintenance services for a period of longer than three years.

The review committee may approve up to 10 demonstration projects using the design-build process for projects with a total project cost between \$2 and \$10 million. Public bodies certified to use design-build must seek approval from the review committee for these projects. The review committee must report to the CPARB on recommendations for continued use of the design-build procedure for projects estimated under \$10 million.

Changes are made to clarify that public bodies seeking certification for the design-build procedure must demonstrate successful management of at least one design-build project within the previous five years, and those seeking certification for the GCCM process must demonstrate successful management of at least one GCCM project within the previous five years.

Honorarium payments for design-build projects are made to the finalists submitting responsive proposals rather than those submitting a "best and final" proposal. Sealed bids on final proposals for the GCCM projects must be opened and read in public, and all previous scoring must be made available to the public.

The GA, the UW, and WSU may issue job order contract work orders for the state regional universities and The Evergreen State College.

The statute regarding negotiated adjustments to the lowest bid or proposal for design-build projects is repealed.

**Votes on Final Passage:**

House	96	0
Senate	47	0

**Effective:** July 26, 2009