

# Resources to help you decide which method is right for you...



## LB 889 The Political Subdivisions Construction Alternatives Act

*What cities, villages, counties, state colleges, community colleges, and others need to know about new construction options.*



**NEBRASKA BUILDING CHAPTER**  
THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA  
Quality People. Quality Projects.



- *What benefits does LB 889 provide?*
- *What does it mean to me as a decision maker?*
- *How do I know which method is best for my project?*

### **Sources:**

LB 889, Political Subdivisions Construction Alternatives Act, Enacted 2008.

The Associated General Contractors of America. [Project Delivery Systems for Construction](#). 2004.

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Nebraska Design & Construction Industry Council

## What is LB 889?

In the past the Nebraska statutes have stated that most political subdivisions have had only one method to undertake a building construction project and that was design it, bid it, and then build it. With the passage of LB 889 in 2008 additional construction project delivery methods will be available to political subdivisions.



Starting in July, 2008 the law will allow cities, villages, counties, community colleges and state colleges to use Design-Build (D-B) and Construction Management at Risk (CM@R) contracts as delivery methods in addition to the traditional Design-Bid-Build (D-B-B) approach. Public Schools, who have had all three methods available to use since 2002, will continue to be covered in LB 889.

## What does all of this mean?

Political subdivisions will now have the opportunity to select between three project delivery methods to best meet the needs of the building project. The governing boards of the subdivisions will decide if D-B, CM@R, or D-B-B will be used. The governing board must adopt a policy identifying an alternative delivery method by a two-thirds vote.

If selecting D-B or CM@R for a building project, LB 889 specifies step-by-step selection and execution procedures to carry out the project.

into the contracts with the sub-contractors and the owner assumes the financial burden of delays and cost over runs. Agency Construction Management is not addressed in LB 889.

### QUALIFICATIONS-BASED SELECTION (QBS)

- Process based upon evaluation of the comparative qualifications of the competing companies.

### FIXED PRICE

- Contract awarded on the basis of a lump sum fixed contract if all parties agree. The agreement may occur at any point in the construction project.

### COST REIMBURSEMENT PLUS A FIXED FEE

- The CM@Risk is retained on a cost-reimbursement basis only. The CM@Risk's fee is a fixed amount within that cost. This method allows for an "open-book" approach so that the owner can monitor project costs.

### GUARANTEED MAXIMUM PRICE

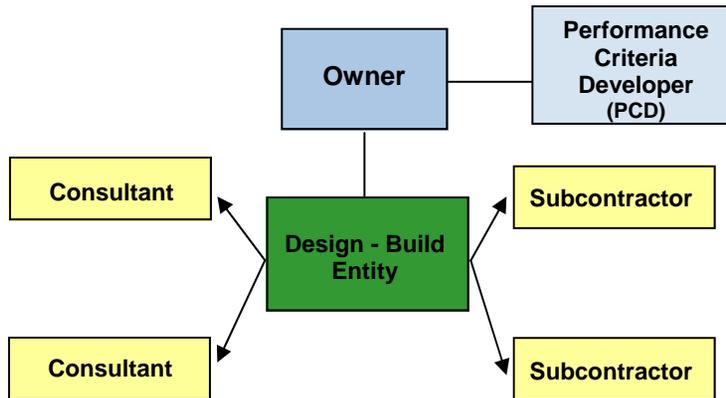
- GMP or G-Max is a price mechanism where the owner agrees to reimburse the costs of the work up to a prescribed ceiling amount - the GMP. There may also be a provision that creates an incentive for the contractor to minimize costs and share in the savings.

How do I know which method  
is best for my project?



## Design - Build

One Single Contract for Design and Construction



*Responsible for Design, Performance and Hold Trade Contracts*

If D-B is selected the public owner must first hire a “Performance Criteria Developer” (PCD). The PCD must be a licensed architect or engineer and will assist the public body in the development of project performance criteria and the request for proposals (RFP). The PCD will also assist in the evaluation of proposals, selection of the D-B firm, evaluation of the construction and any additional services requested by the owner.

If CM@R is selected for a building project the public owner issues two separate RFPs and hires a compatible Architect and General Contractor/Construction Manager, each under a separate contract with the owner.



LB 889 does not apply to the construction of road, street, highway, water, wastewater, utility, or sewer construction, except that Omaha may use a D-B or CM@R for contracts to meet state or federal requirements to control or minimize overflows from combined sewers.

## Definitions

### FAST-TRACKING

- Refers to any project or process in which there is overlap between two or more project phases. Used in CM@Risk and Design-Build. Useful when project time of completion is of essence and when commodity pricing is rising and in short supply.

### AGENCY CONSTRUCTION MANAGEMENT (CM/a, Agent CM, or CM-Advisor)

- Construction management not at risk. The CM/a represents the owner(s), does not enter into contracts with sub-contractors, and is not responsible for the cost of delays or overruns. The CM/a is paid a fee to manage



# Project Delivery Methods 101

## What is a Project Delivery System?

A project delivery system defines how a construction project will be organized in order to take it from concept (idea) to reality. The delivery method provides a common framework to work within and assigns responsibilities to all the people involved and defines the relationship between those people.

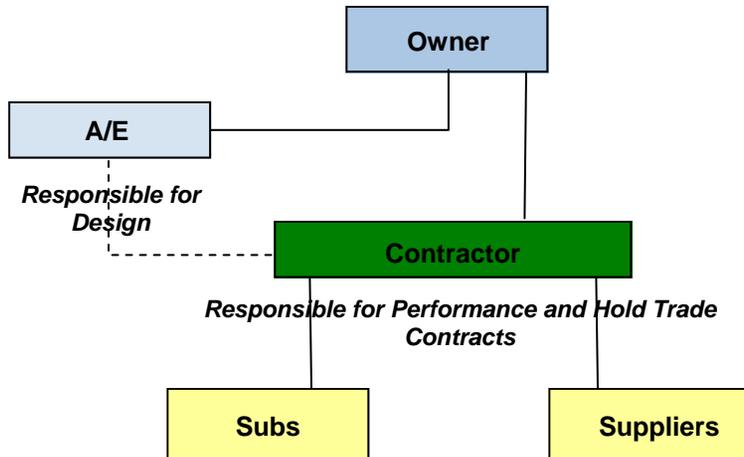
## Project Delivery Systems and the Defining Differences:

### DESIGN-BID-BUILD

- Design and construction are separate contracts.
- The only criterion for final selection is the lowest responsible bid.
- Payment is based on bid price.

### Design-Bid-Build

Two Separate Contracts for Design and Construction

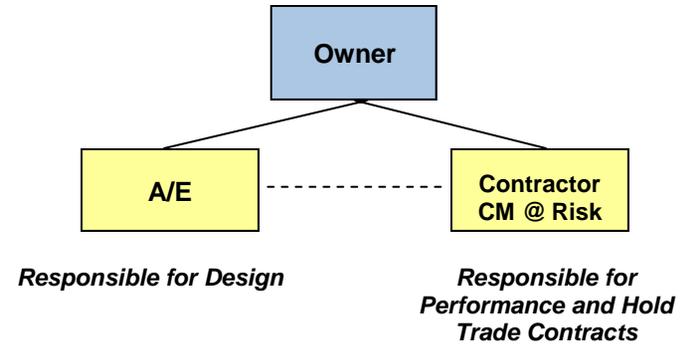


### CONSTRUCTION MANAGER @ RISK (CM@Risk)

- Design and construction are separate contracts.
- Criteria for final selection include factors other than just lowest total construction cost.
- Reimbursement option may be other than low bid option.

### CM @ Risk

Two Separate Contracts for Design and Construction



### DESIGN-BUILD

- Design and construction contracts are combined in one contract with a single point of responsibility.
- Criteria for final selection include factors other than just lowest total construction cost.
- Reimbursement option may be other than low bid option.

(D-B diagram on next page)