

Design-Build Options for Public Projects

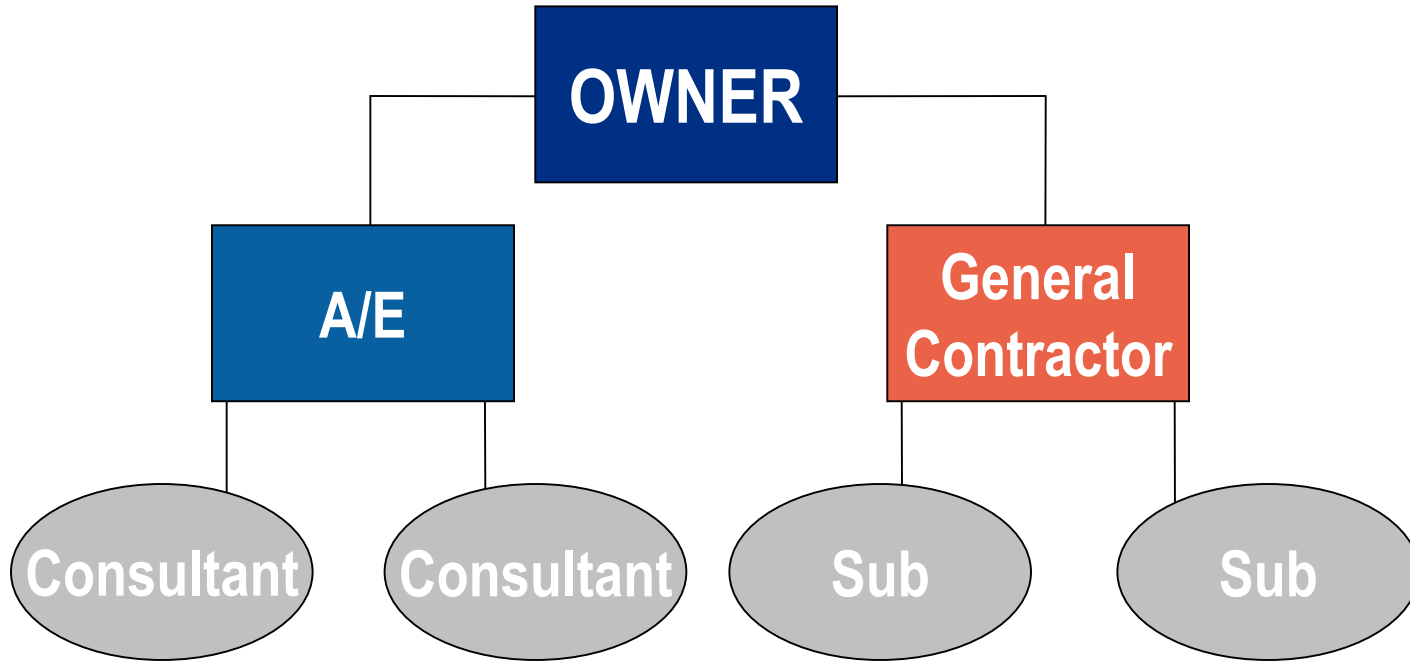
Mark C. Friedlander



TETRA TECH MPS

Most Municipal Construction

Design – Bid – Build



Design →

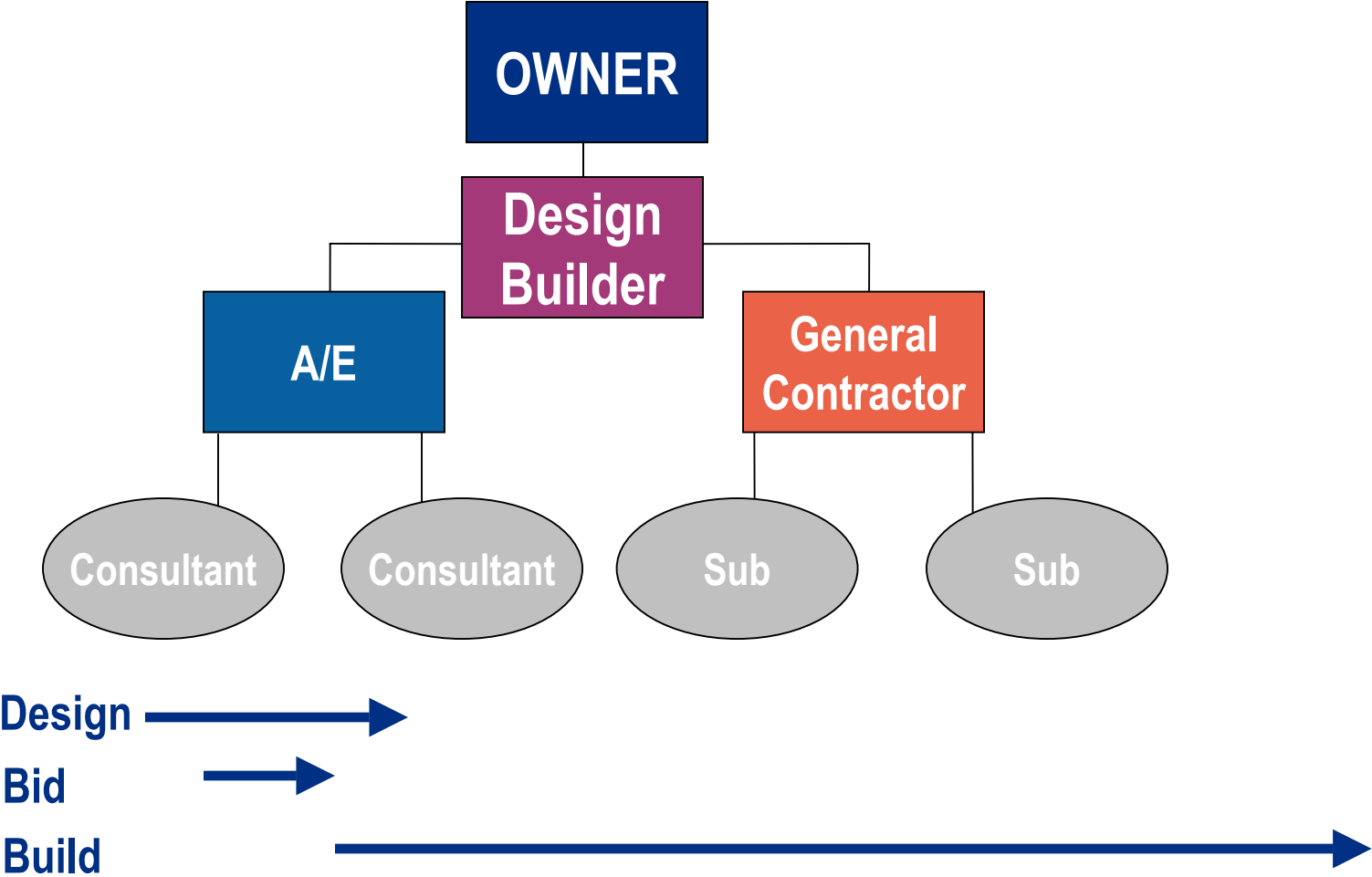
Bid →

Build →

Reasons Why Municipal Construction Does Not Work Well Today

- Lengthy project duration: back-to-back-to-back phases
- Cumbersome bidding process
- “Lowball” claims contracting
- Late pricing input: not until contract documents are complete (or nearly so)

Classical Design-Build



Advantages of Design-Build Over Other Project Delivery Methods

- Shortened project duration
- Reduced cost escalation
- Early determination of true costs
- Greater budgeting confidence
- Single point responsibility
- Claims litigation reduced 60%

The Two-Step Approach to Design-Build

- Selecting a short list based solely on qualifications
- Seeking and evaluating competitive proposals from the short-listed firms

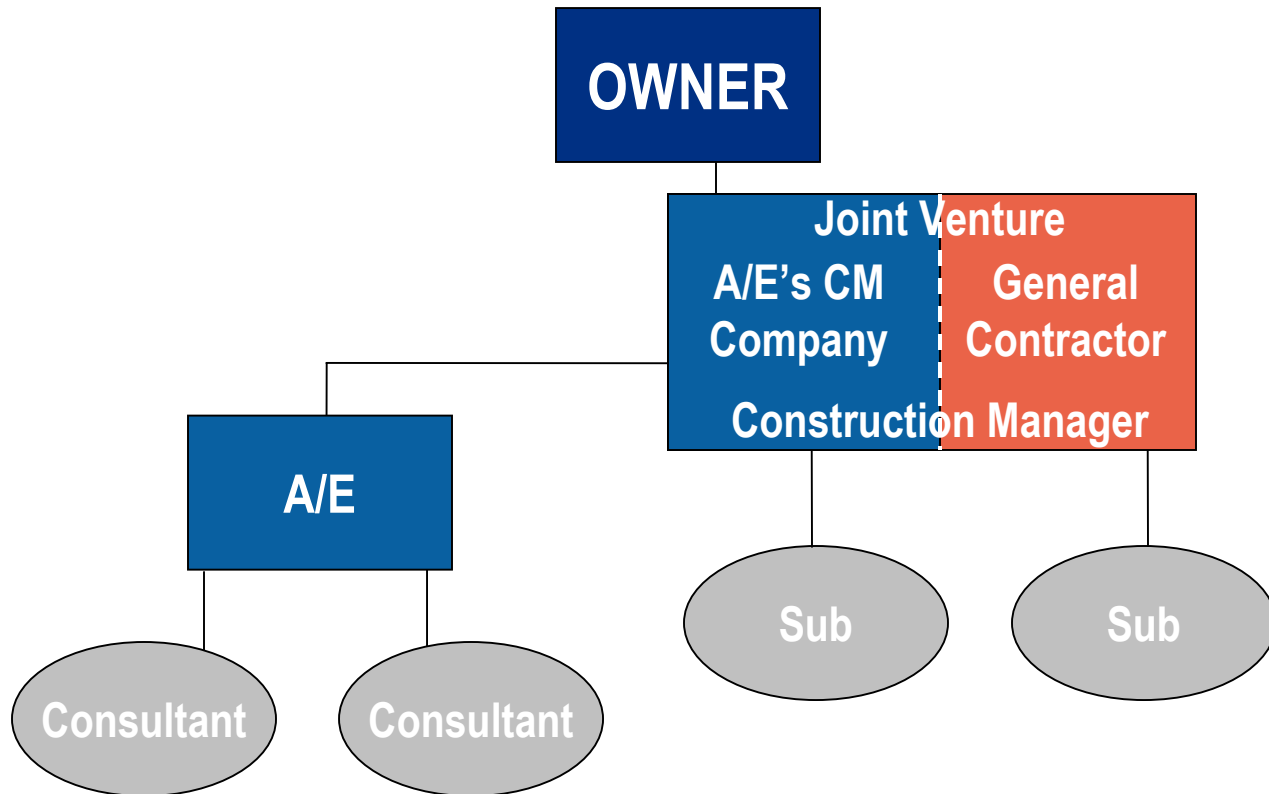
Problems Experienced by Public Bodies with Two-Step Approach

- Inefficiency from the change of teams — the “criteria professional” who helps to develop the RFP is not part of the design-build team
- There is still “lowball” claims contracting — the disputes concern scope of the project and errors or omissions in the RFP documents rather than in the construction documents
- There is still a cumbersome RFP process
- Many good companies/teams refuse to participate because the cost of preparing competitive proposals outweighs the profits from the percentage of projects actually awarded to them
- Most design-build teams are led by the contractor, so the A/E will owe its loyalty to the contractor rather than to the owner

The Private Sector's Solution

- Negotiated design-build contracts with the Design-Builder's "open book" allowing competitive pricing of subcontracts and material/equipment purchases
- This approach is possible because of the absence of a competitive bidding requirement for private work
- The private sector has determined that "it gets what it pays for"
 - It chooses this structure as the most efficient
 - The "open book" keeps everyone honest

The Public Sector Equivalent: Construction Management at Risk by the Design Professional

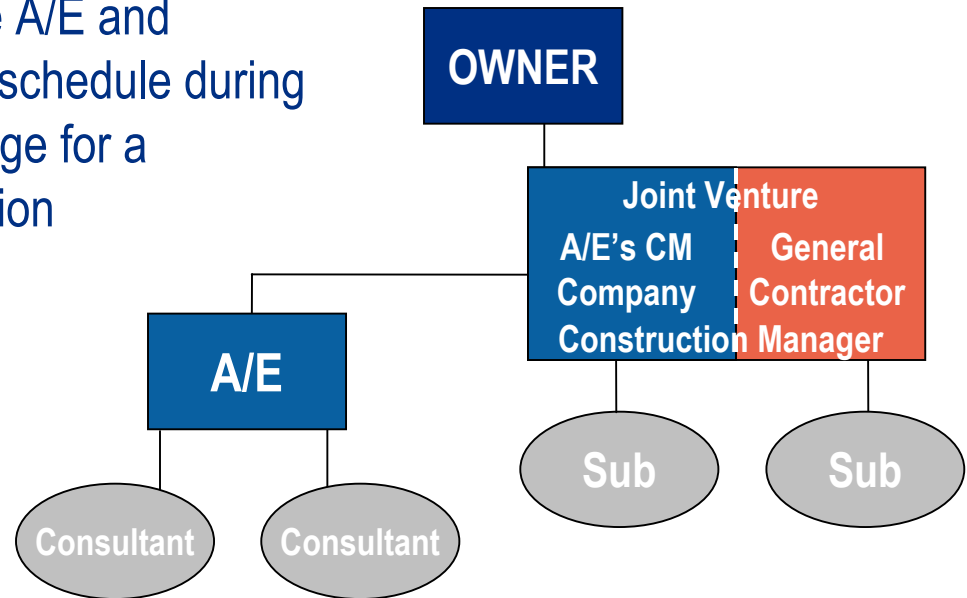


CM at Risk by the A/E is Legal Under Most States' Laws

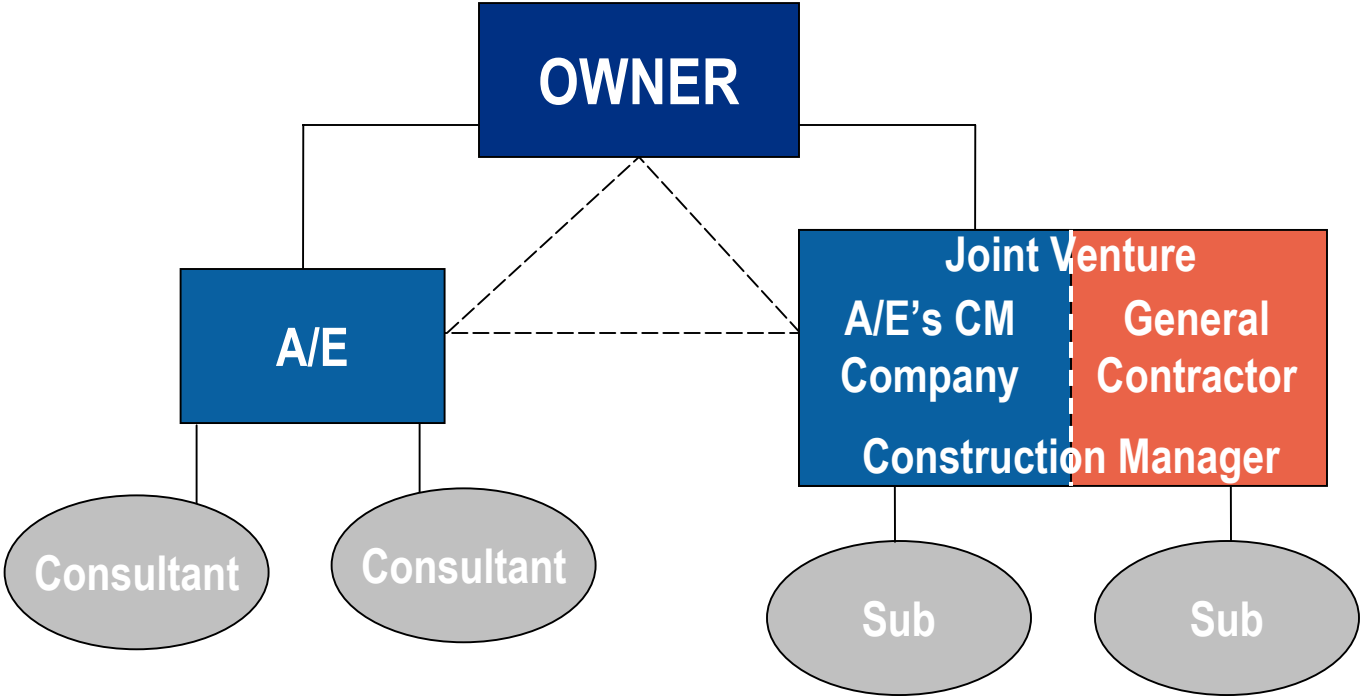
- Construction management is usually deemed to be a professional service for which competitive bidding is not necessary
- Competition occurs at the trade contractor level

Construction Management at Risk by the Design Professional is Essentially the Same as Design-Build With “Open Books”

- The construction bond comes from the general contractor member of the team
- The CM is affiliated with the A/E and guarantees the pricing and schedule during the design phase in exchange for a negotiated fee for construction management
- The CM is a joint business venture of the general contractor and a company affiliated with the A/E

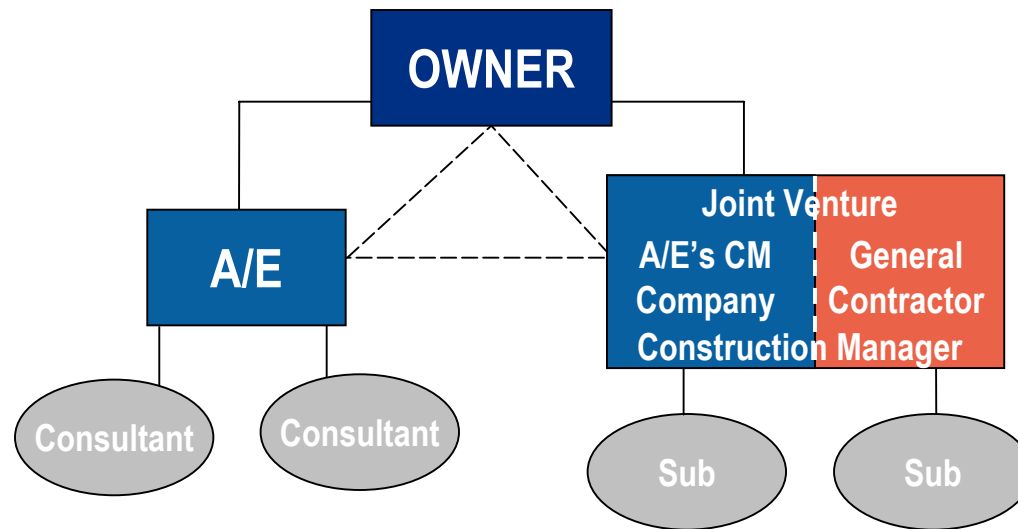


Sequential Design-Build Public Sector



The Most Practical Structure for CM at Risk by the A/E Involves Sequential Contracts

- Design contract
- Price/schedule guarantee
- Construction management agreement



Advantages of CM at Risk by the A/E

- Better design quality
- The owner has the flexibility in deciding whether and when to convert the project to design-build
- The A/E is prime to the owner, and does not owe its loyalties to the contractor
- Continuity: the design professional is involved from beginning to end of the project

Mark C. Friedlander