



Construction Delivery Method Lease-Leaseback

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What are “Project Delivery Methods”?

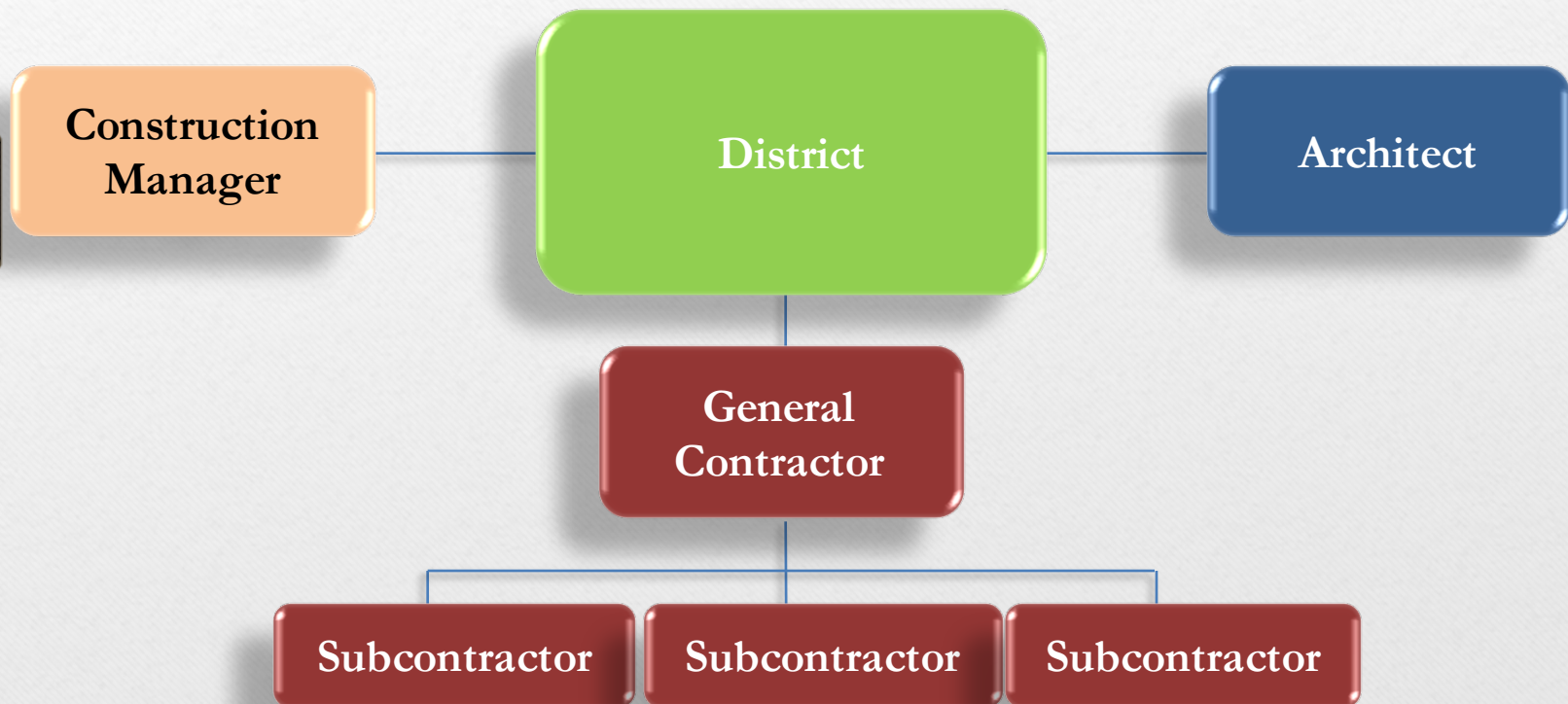
- Legal structure, contractual relationships among construction teams to complete a project
 - School District Owner
 - Architect
 - Construction Contractor
 - Construction Manager

Look at Design-Bid-Build, Design Build, Lease-Leaseback

Why are we talking about this?

- Construction industry is changing and construction market has exploded in our area
 - Experience with “hard bid” projects raises concerns
 - Districts looking for certainty related to price of work
 - Industry focus on early collaboration between Architect and Contractor
 - Shrinking pool of highly qualified Contractors and Subcontractors willing to hard bid school projects
 - More options available for Districts with changes in law

Design-Bid-Build

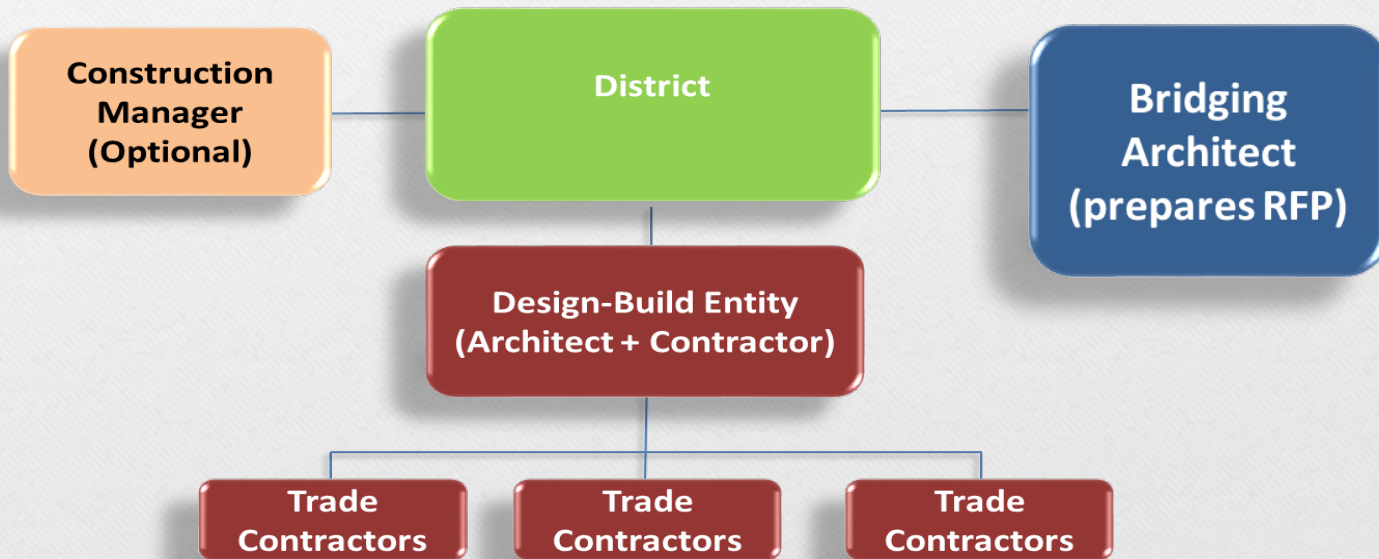


Design-Bid-Build

- This is the project delivery method used by BUSD
 - District's Architect completes plans and specifications
 - Project is publically bid
 - Requires award of contract solely based upon price
 - To the lowest “responsive, responsible” bidder
- **Pros + Cons**
 - Most common delivery method, everyone is familiar with it
 - Fully coordinated drawings are critical
 - Change Orders are more common
 - Lowest price going into the job (not necessarily at the end!)
 - No involvement of builder in defining project

Design-Build

- The ultimate in collaborative project delivery
 - District selects an Architect/Builder team



Design-Build

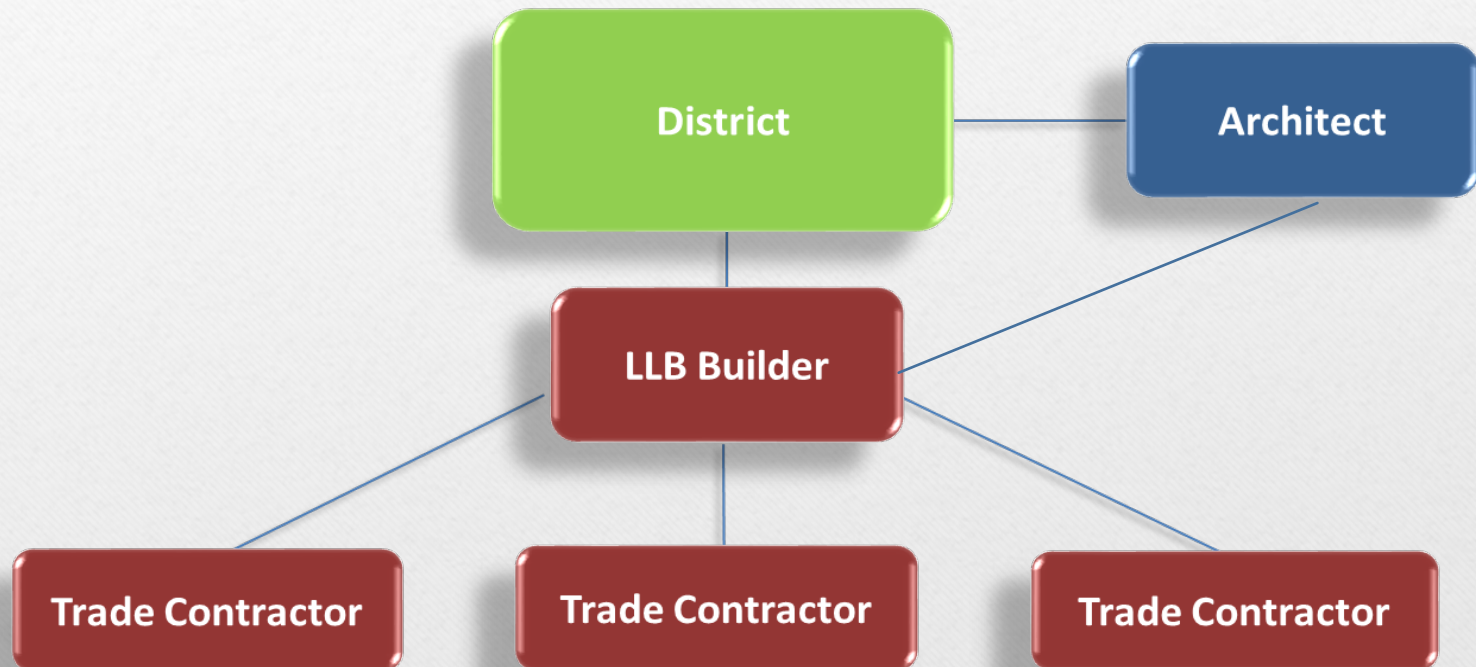
- This delivery method is increasingly used by Districts
 - Legislation refining the process and encouraging use
 - This method needs to be implemented early in any project to be effective
- **Pros + Cons**
 - Strong collaboration with Contractor/Architect team
 - Guaranteed Maximum Price at earliest possible stage
 - Places “risk” of the Architect under the Contractor
 - A very complex selection process—”Bridging Architect”
 - District gives up some control of design—no independent Architect
 - Strong assurances needed to maintain quality
 - Some concerns regarding perceptions of “cherry picking” a team
 - Upfront legal costs can be significant

Lease-Leaseback

- **Education Code 17406** allows District to lease property to a developer who will build project and leaseback to the District
 - Allows flexibility for the District to select a builder not solely on the basis of cost
 - “Best Value Selection” including experience, qualifications, team and cost
 - Legal structure clarified
 - Legislation effective 2017
 - More defined process
 - Used by many Districts

“Notwithstanding Section 17417... a school district, without advertising for bids, may let ... real property that belongs to the district if the [lease] requires the lessee ... to construct ... a building or buildings for the use of the school district.”

Lease-Leaseback



Lease-Leaseback

- Lease-Leaseback delivery method
 - Allows selection of Contractor early in the process
 - Pre-Construction Services agreement
 - Allows Contractor to validate plans, assist in value engineering and coordinate work in a team setting with District & Architect
 - Sub-Contractors selected by builder with a public bid process—open book process
 - Pricing for the project prior to DSA approval
 - General conditions, fees, subcontractor markups, financing
 - Final Guaranteed Maximum Price (GMP) when plans are approved by DSA

Lease-Leaseback

- **Pros + Cons**

- Allows for collaboration with builder early in project
- Best Value Selection—not just price
 - Some concerns regarding perceptions of “cherry picking” a team
- Ability to control costs in design and during construction with agreed upon contingencies in the contract
- Best value selection of Subcontractors—price and quality
- Somewhat complicated legal requirements at all stages
 - To ensure accountability and transparent selection
 - Upfront legal costs
- Still some possibility for claims and disputes

Why Lease-Leaseback for BUSD?

- Facilities Team and Program Management staff recommend Lease-Leaseback
 - Very successful experiences at multiple Districts
 - Good working relationships with Contractors
 - Very high quality of Contractors have participated in recent Lease-Leaseback selections
 - Recent LLB selections at three Districts
 - Very competitive GC fees—or markups 2.75% to 5%
 - Reasonable General Conditions costs
 - Affordable Pre-Construction Services

Why Lease-Leaseback for BUSD?

- BUSD has successfully used Design-Bid-Build for many years, but...
 - Very complex project at **Berkeley Community Theater**
 - Would benefit strongly from early builder involvement
 - Maintaining the budget
 - Developing and maintaining the schedule
 - Developing project strategies and logistics on constrained operating site

Next Steps

- If there is interest in considering then process includes
- Step 1: Board resolution approving Lease-Leaseback and adopting “Best-Value” Selection process
- Step 2: Issuing Request for Qualifications and Proposals
- Step 3: Scoring and Ranking of Firm Qualifications and Cost Proposals with Interviews in accordance with Best Value criteria
- Step 4: Board designation of Best Value selection for the project