

**CPARB DECISION ISSUES**  
**for**  
**January 25, 2007**

1. Data Collection Report
2. Draft language revisions to RCW 39.10, including:
  - a. Project Review Committee
    - 1.) Public body certification requirement for “demonstrated success in managing at least one general contractor/construction manager or design-build project within the previous five years.” Sec. 107 (2) (b) (v) **changed “alternative public works” to general contractor/construction manager or design-build”**
    - 2.) Appeals (Sec. 109) – CPARB approved resolution of appeals within 30 days, however, the drafting subcommittee is proposing to change it to 45 days to not force a special meeting by the board. The board shall resolve an appeal within ~~thirty~~ forty-five days of receipt of the appeal
    - 3.) Address carry over projects – projects advertised for selection of GC/CM or DB teams do not have to go to Project Review Committee?

**Motion carried for 1) - 3) with changes. None opposed.**

**Dan’s motion b-f**

- b. Allow parking garages DB < \$10M**
- c. Reject all proposals reasons in writing from owners for DB only, and from GC/CM to subs.**
- d. MACC at 90% without early agreement clause**
- e. \$10M threshold for DB but not GC/CM**
- f. DB O&M as written in f.**

**Motion carried 8 to 2.**

- b. Allow parking garages for design build (Sec. 201) – Insert (2) Subject to the process in Section 107 or 108, public bodies may use the design build procedure for parking garages regardless of cost.; and renumber (2) and(3).**  
**See motion above.**

- c. **Reject all proposals, and provide reasons for rejection in writing to all proposers. Was this really intended for GC/CM selection, too? Sec 303 (4)? (It was initially discussed for design-build in Sec. 204 (2)) Notes from Dec 2006 CPARB meeting indicated approved for both sections, however, Code Review Subcommittee did not recall that it was discussed for both sections. [Previously noted as approved, but did not receive majority of 6 votes in Dec. 2006, only 5 to 2.]  
**See motion above.****
  
- d. **MACC set at 90% “unless parties agree to set it at a different time.” (Sec. 304 (1)) Public body may not consider the contractor’s willingness to agree to set the MACC earlier than 90% at all in the selection process.**  
[Previously noted as approved, but did not receive majority of 6 votes in Dec. 2006, only 4 to 3.] **January – also discuss Jan. 4<sup>th</sup> AGC letter.**  
**See motion above.**
  
- e. **DB threshold.**  
**Dec 2006: Motion: Eliminate \$10 million threshold.**  
**Tied at 4 to 4. Not carried.**  
**Amendment? let the project review committee determine the appropriate amount/threshold.**  
**Jan. 4<sup>th</sup> AGC letter re: eliminating \$10 million for GC/CM, too.**  
**See motion above.**
  
- f. **DB – Except utility projects, not for O&M > 3 years. Sec. 200 Except for utility projects, the public body shall not use this process for projects involving Operations and Maintenance services for longer than three years.**  
[Did not receive majority of 6 votes in Dec. 2006. only 5 to 3, previously noted as approved]  
**See motion above.**
  
- g. **JOC – Need to correct Sec. 404 (1) max work order \$300k, except that 2 work orders \$350k each are allowed in a 12-month contract period. & delete (2) as inconsistent with intent in (1).**  
**Motion carried unanimously.**

**3. Dave Johnson’s Jan 8<sup>th</sup> memo, issues:**

**“...inclusion of the following clarifying language should be incorporated into proposed legislation in order for the Washington State Building and**

Construction Trades Council, AFL-CIO to support an agreed to CPARB proposal.

Section 303, subsection (3) deals with evaluation factors for the selection of the GC/CM. The following language should be added:

No public body may disqualify or rate a proposal for general contractor/construction manager services on the basis of terms of a collective bargaining agreement to which the proposing entity is bound.

Section 305 deals with subcontracting. The following language should be added to Section 305, subsection (1):

In preparing subcontract bid packages, the general contractor/construction manager shall not be required to violate or waive terms of a collective bargaining agreement to which it is bound.

The Washington State Building and Construction Trades Council will not be able to support legislation that does not incorporate this language.”

**Motion carried 6 to 2, and 2 abstained.**

4. The Mechanical Contractors Association (1/23/07 e-mail):
  - a. Section 305: Add some “due process” for a bidder to protest.  
Allows a firm to prove it is responsible when determined not to be responsible.
  - b. Section 307: Add some “due process” for a firm seeking eligibility to protest
  - c. Section 308: Add “claims” to section 5. A sub would only have to waive bond, retainage and claims to the extent paid.

**305, 307, and 308 motion carried with amendment to 308, deleting “duty to coordinate subcontractors and.” No one opposed.**

- d. Section 403: Allow a “mechanical JOC” and require that it only sub 70% of the job.

**Motion failed 4 to 5, and 2 abstained.**

5. Draft language revision to RCW 39.04.180 – Trench Excavation  
**Motion carried unanimously.**

**6. Responsible Bidder language draft**

**Section 2, paragraph (3). Substitute the word "execute" for "award" in the last sentence. Nora's notes reflect that a contract could not be executed for two business days after the Owner has made a final decision. This language is also consistent with RCW 39.04.105.**

**Motion carried to draft bill with two changes: change "bidder" to "potential bidder" at Sec.2 (1)(b) and change "award" to "execute" in (3).**

**7. Items missed in the reviews:**

- a. From 39.10.061 (5) last sent. Do we need to add this back in to New Section 304 as (6)?**

**If MACC varies > 15% from bid est. MACC due to requested and approved changes in the scope by the public body, the percent fee may be renegotiated.**

**Motion carried unanimously to add back in and change shall to may.**

- b. RCW 39.10.100, Public Inspection of certain records – protection of trade secrets (Effective until July 1, 2007.) Need to delete the reference to July 1, 2007.**

**Motion carried unanimously.**

**8. Other suggestions approved by the Chair**

**Motion supporting bill as a whole carried unanimously.**