

**Capital Projects Advisory Review Board
Small Business Task Force
Report & Request for CPARB Action #1
February 2011**

Submitted by Dan Seydel, Chair of SBTF

CPARB Background

The following background on the creation of Capital Projects Advisory Review Board (CPARB) is provided for context and direction for the Small Business Task Force (**SBTF**).

CPARB was created by the 2005 Legislature to provide an evaluation of public capital projects construction processes, including the impact of contracting methods on project outcomes, and to advise the legislature on policies related to public works delivery methods. Per RCW 39.10.230 CPARB shall:

- Develop and recommend to the legislature policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods in Washington, and make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods.
- Evaluate the use of existing contracting procedures and potential future use of other alternative contracting procedures including competitive negotiation contracts.
- Establish a Project Review Committee (PRC) to review and approve GC/CM and Design-Build public works projects.
- Develop and administer questionnaires designed to provide quantitative and qualitative data on alternative public works contracting procedures on which evaluations are based.

Since the establishment of the subcommittee at the November 2010 CPARB meeting, **SBTF** has held two subcommittee meetings (December 29th, 2010 and January 10th, 2011) and two **SBTF** legislative development committee meetings (January 20th and 26th, 2011). **SBTF** has engaged a number of small businesses, agencies and elected officials across the State of Washington in discussion regarding the challenges of small businesses to access perform and succeed on public works contracts.

The focus of the discussion is on small businesses' access to public contracting opportunities and barriers to inclusion. Also discussed, are the difficulties small public entities have in achieving inclusion because of lack of staff and recourses necessary to implement policy, programs and procedures legislated to generate opportunities for small business. The **SBTF** refers to the CPARB purpose (identified above) to confirm authority and direction in the development of recommendations to the general body.

Small Business Task Force (SBTF) Purpose

The **SBTF's** purpose is to explore public opportunities for small businesses, identify barriers to small business inclusion, and provide recommendations to CPARB. Recommendations will include the following categories:

CATEGORY	RELATIONSHIP TO CPARB PURPOSE
<p>1. <u>Legislated Requirements/Process</u> – small businesses indicate that some legislated requirements are prohibitive to small business participation on public works. Small public agencies also indicate that there are legislated requirements that make it difficult, if not impossible for them to contract in a way that encourages small business participation and success.</p>	<p>Develop and recommend to the legislature policies to <u>further enhance the quality, efficiency, and accountability of capital construction projects</u> through the use of traditional and alternative delivery methods in Washington, and <u>make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods.</u></p>
<p>2. <u>Agency Policy</u> – In addition to those processes that are legislated by the State, agencies often layer on additional processes further complicating access to public works for small businesses.</p>	<p><u>Evaluate the use of existing contracting procedures and potential future use of other alternative contracting procedures including competitive negotiation contracts.</u></p>
<p>3. <u>Agency Practices by Individuals and/or Groups</u> – Legislated requirements and agency policy is often interpreted in the narrowest way possible by individuals and groups within the agency. Additionally, these same people apply their own biases or preferences to the process and over time these become common practices that challenge the small businesses ability to participate in public works.</p>	<p>Develop and recommend to the legislature policies to <u>further enhance the quality, efficiency, and accountability of capital construction projects</u> through the use of traditional and alternative delivery methods in Washington, and <u>make recommendations regarding expansion, continuation, elimination, or modification of the alternative public works contracting methods</u></p>

SBTF Report#1

The **SBTF** recognizes the unique and challenging economic environment the State is faced with and has taken this into consideration in the establishment of small business priorities. **SBTF** has been tasked to address the state of emergency small businesses are experiencing across the State. With this in mind, **SBTF** has established *short term, midterm and long term* issues and objectives.

Our focus on short term priorities includes areas in which we believe there is an opportunity to immediately improve the contracting and procurement environment for small businesses. Below are short term recommendations that correspond to the overall CPARB purpose. The number in parenthesis is related to the categories(s) in the above chart and the corresponding CPARB purpose.

Short Term

Practices (3) – The following recommendations and requests are made for the purpose of examining practices that may create barriers to the inclusion of small businesses in capital projects.

- ❖ **SBTF** recommends a minimum of one “small business” representative be added to the CPARB board. This request is also supported by the statement made in CPARB statement that “**CPARB members come from various parts of the industry and provide a wide perceptive on the issues**”. The **SBTF** suggests that without small business representation **CPARB** is not receiving a broad perceptive.
- ❖ **SBTF** requests agencies to produce a set of boiler plate capital project specifications for divisions 1 through 17. The specifications will be reviewed and analyzed by **SBTF** to identify where there are requirements, policy or practices that create barriers to small business participation on public works capital projects.
- ❖ **SBTF** requests CPARB endorsed training programs on Alternative Public Works Methods be expanded to include small businesses (i.e. GCCM, etc.)
- ❖ **SBTF** requests CPARB original position, discussion and comments on Job Order Contracting proposed legislation, ESB 5041 and HB 1196.
- ❖ Incorporate small business into evaluation criteria of public contracts.
- ❖ **SBTF** will work with OMWBE to harmonize 1328 Limited Small Works.

Procedures and Internal Policy (2) – The following recommendations and requests are related to internal policy (not legislated by the State) that may create barriers to small business participation on public works capital projects:

- ❖ **SBTF** requests all agencies establish goals for small business participation and report small, minority, women and veteran owned business participation at least annually and that those number be made public.

- ❖ **SBTF** requests all low performing agencies develop remediation programs which include but are not limited to the development and implementation of an Oversight or Advisory Committee.
 - *Best Practice Seattle Housing Authority Section 3 Oversight Committee/Chairman Grover Johnson, Director Tom Tierney, Deputy Director Andrew Lofton*
- ❖ **SBTF** requests that contractors, services providers and material suppliers provide agencies with job creation, retention reporting on all capital projects and that those numbers be reported to the public at the completion of the project and annually as part of an agency annual report.

Legislative (1) – In support of small business inclusion in public works capital projects, the agencies needs legislation and/or tools that will assist the agency.

- ❖ **SBTF** recommends CPARB support of the following bill language and/or bill numbers;
 - **Small Works under \$5k** - streamline projects and authorize agencies to waive bonding. This will create a small business friendly environment for small contractors and reducing the paperwork and cost of reporting for small contracts and provide agencies with a tool for including small businesses. Agencies assume the legal responsibility normally covered by a bond. **(bill language found as Attachment 1 to this document)**
 - **Job Order Contracting** – increase the dollar size of individual work orders, increase number of agencies utilizing and increase contract maximums. (precedence CPARB supported of HB 1196 which increase limits of small works **(bill language found as Attachment 2 to this document)**)
 - **Application Process** - Adopt one multi-agency central application to minimize time and expense incurred by small businesses and provide agencies the ability to use a shared list thus expanding small business access to multiple agencies and agency access to an increased number of small businesses. **(bill language pending)**
 - HB 1165 – Providing support for small business through loan guarantee program
- ❖ **SBTF** received interest from small businesses across the State to track and create discussion around the following bill language and/or bill numbers and/or to add to CPARB 2011 bill tracking report;
 - HB 4601 – Recognizing Dr. Martin Luther King for his efforts
 - HB 1475 – Closes loopholes in construction lien laws
 - HB 1150 – Extending the time in which a small business may correct a violation without penalty
 - HB 1196 - Requires several state agencies to consider "economic development" when deciding how to manage and dispose of land
 - HB 1258 – Establishes a training wage. Allows employers to pay 75% of the minimum wage during a training period
 - HB 1457 – B&O tax credit for business to locate in vacant buildings
 - HB 1458 – B&O tax credit to businesses hiring unemployed workers, instead of people switching jobs. Doesn't prohibit the hiring of anyone, just gives a tax incentive to hire someone currently out of a job
 - HB 1300 - Charges a person the costs of a public records request if the state agency has to spend more than 5 hours in a calendar month to produce it

- SB 5107 - Consolidates governing boards in higher education programs (UW, WSU, etc.)
- HB 1173 - Creates set asides for "small" or "micro" businesses on construction projects
- HB 1587 - Preserving and advancing communication service and connectivity in the state.
- HB 1384 – Withhold of retention, concerning public improvement contracts involving certain federally funded transportation projects
- HB 1175 – Transportation appropriations
- HB 1355 – Creates 3% Washington business preference
- SB 5358 – Eliminates prevailing wage to be paid for maintenance on public buildings
- HB 1433 – Limits prevailing wage complaint timeframe
- SB 5068 – Addressing the abatement of violations during appeal
- HB 1090 – Responding to the current economic conditions by temporarily modifying the unemployment insurance program
- HB 1091 – Modifying the unemployment insurance program
- HB 1152 – Providing technical assistance to achieve voluntary compliance with water pollution statutes
- HB 1151 Reducing the regulatory burden for Washington businesses
- HB 1154 Extending the business and occupation tax credit for research and development
- HB 1161 Regarding the payment of compensation to small forest landowners participating in the forest riparian easement program
- HB 1434 Concerning compliance with sales, use and business and occupation tax requirements.
- SB 5503 - reorganizing and streamlining central service functions, powers, and duties of state government
- HB 1144-Concerning renewable energy investment cost recovery program.
- HB 1513-Promoting the development and construction of nuclear energy facilities
- HB 1440-building communities fund
- HB 1320 Establishing the Washington investment trust

SBTF recognizes that some of the bills and efforts are outside the authority of CPARB; however participants requested stakeholders know all matters that deserved attention and could impact small businesses across the State.