

**CPARB Issues for Legislation
November 9, 2006**

Issue	CPARB as of 10-12-06/ Subcommittees as of 11-03-06	Location in 11-06-06 Draft Legislation (Code Reviser's S-0075.2/07 2 nd rough draft)	Next Action
<i>Reauthorization</i>			
<p>14. Centralized review/approval of eligible projects and owners for GC/CM and Design Build (DB) (excludes Job Order Contracting)</p>	<p>CPARB approved 1-3: 1. <u>Project Review Committee/Board</u> will exist & <u>review only GC/CM & DB</u> 2. <u>CPARB will appoint members</u> of Project Review Committee 3. Every entity proposing to use GC/CM or DB will come to the Project Review Committee for review or review & approval</p>	<p>Sec. 104 (1-2), p. 7, Sec. 105 (3), p. 8. Sec. 104 (2-3), p. 7. Sec. 105 (1), p. 8, Sec. 201 (1), p.16, Sec. 301 (1), p. 22.</p>	<p>CPARB review draft language GA ask AG about separation of powers issue CPARB review draft language</p>
<p>1. Don't use % of Maximum Allowable Construction Cost (MACC) for incentive payments to GC/CM</p>	<p>CPARB approved prohibiting use of MACC contingency for incentive payments to GC/CM.</p>	<p>Sec. 302 (2), p.27</p>	<p>CPARB review draft language</p>
<p>4. Timing for setting of the MACC (change to 90% CD)</p>	<p>CPARB approved 1-3 1. <u>MACC</u> may only be <u>negotiated</u> when design is sufficiently complete at 90%. 2. Major bid packages may be bid prior to agreement of MACC. GC/CM may issue intent to award. 3. Public body may authorize early bid packages to be bid & awarded.</p>	<p>Sec. 304 (1), p. 29. Sec. 304 (2), p. 29. Sec. 304 (3), p. 29.</p>	<p>CPARB review draft language</p>
<p>2. Change Order Administration: a. Response time b. Interest (% Mark-up?)</p>	<p>a. Subcommittee discussed <u>owner's lack of response by a certain time</u> is "deemed denied" & subcontractor can take to next level to resolve. b. Public bodies must process change orders</p>	<p>Sec. 302 (1) (g), p. 27. Sec. 302 (4), p. 28.</p>	<p>CPARB approved. CPARB review draft language. CPARB approved. CPARB review</p>

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	in 30 days or interest will accrue on completed work that has a price agreed to in writing (includes field authorizations).		draft language
3. Standard subcontract agreement/form	<p>CPARB recognizes that a standard subcontract form will not go into statute. Subcommittee recommends:</p> <ol style="list-style-type: none"> 1. <u>GC/CM may not hinder/delay subcontractors.</u> (w/provisions) 2. <u>GC/CM may not delegate mgmt duties to subcontractors.</u> (w/prov.) 3. Allow subs right to damages for changes to construction schedule or work. (w/provisions) 4. Subs must <u>pay for damage they caused to other subs work.</u> 5. <u>Waive bond & retainage rights</u> except for payments received or to be received. 	New Section 308, p.33	CPARB review draft language.
7. Pre-bid sub-contractor eligibility standards/requirements/qualifications RCW 39.10.061(a)-(h) and (post bid) Responsibility GC/CM self-performance	<p>When GC/CM wants to make <u>pre-bid determination of subcontractor eligibility</u> (prequalify subs) - require publishing of intent and screening criteria & provide hearing</p> <p>Responsibility shall be determined in accordance with criteria listed in the bid documents.</p> <p>Ed Kommers proposing to move this to a new section.</p>	<p>Sec. 307, p. 32</p> <p>Sec. 306 (2), p. 31</p> <p>Sec. 306 (7) and (8), p. 32?</p>	<p>CPARB review language for both issues.</p> <p>(Defining "responsible bidder" moved to Industry-wide issues sub-committee.)</p>

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8. General Conditions need to be better defined	Subcommittee agreed on <u>negotiated support services</u>	Sec. 101 (10), p. 3, Sec. 304 (4), p. 30, Sec. 306 (8), p. 32.	CPARB approved. CPARB review draft language.
11. Elimination of subcontractor listing requirements (39.30. 060) from 39.10.061 (6) for sub-bids	CPARB agreed to <u>eliminate/delete requirement to list subcontractors for sub-bids for GC/CM.</u>	Deleted from Sec. 306 (3).	CPARB approved.
SC Numbering for Sub-contractor added issues SC-1. &2. Create project mgmt specifics for GC/CM & DB	Subcommittee work addressed DB and GC/CM.	Sec. 202, p. 18. Sec. 302, p. 26,	CPARB approved. CPARB/ Expansion subcommittee to address DB in Nov.
SC-3. Public owner to employ staff with expertise	Discussion completed.	Sec. 105 (1) (d), p. 8, Sec. 202 (e), p. 19, Sec. 302 (1) (e), p. 27.	CPARB approved. CPARB review. “ ”
SC-4. Purchase of equipment cannot be assigned to subcontractors	Subcommittee consensus.	Sec. 306 (8), p. 32.	CPARB approved.
SC-5. Purchase of equipment is included in self-performed work	Subcommittee consensus.	Sec. 306 (7) & (8), p. 32.	CPARB approved.
SC-6. A review of design documents by public body	Subcommittee recommends new language.	Sec. 302 (1) (b), p. 26.	CPARB review.
16. Mandatory periodic legislative evaluation process of alter-native public works	CPARB proposing new sunset to additional six years.	Sec. 501, p. 42, and Sec. 505 new expiration date June 30, 2013.	CPARB review draft language.
19. Ongoing data collection & reporting (results of the data collection subcommittee)	CPARB agreed on concept of inserting reporting language into statute. Those that use RCW 39.10 must also submit	Sec 105 (2) (d), p.9 Sec. 202 (1) (g), p. 19, Sec. 302 (1) (h) (i), p. 27	CPARB review draft language. _____ provide

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	<p>info on DBB projects.</p> <p>Collect affirmative action data from subcontractors.</p>	<p>Not in statute yet.</p> <p>Indirectly in statute listed.</p>	<p>draft language for review.</p> <p>N/A – addressed in survey form.</p>
Expansion			
1. Owners/Users & Project Criteria	<ol style="list-style-type: none"> 1. CPARB approved Expansion subcommittee recommendations for <u>project criteria</u> 2. CPARB approved of <u>Total project cost definition</u> = Total project budget less financing and land acquisition costs. 3. Expansion subcommittee discussed <u>project \$ thresholds</u> for using GC/CM and Design Build. \$5 million? \$10 million? Exceptions for extraordinarily complex public health or safety projects? No consensus. 4. Expansion subcommittee discussed <u>who can use</u> Alt. Public Works methods (APW) and <u>who are “experienced owners.”</u> (for submitting to Project Review Committee) Completed 2 projects? Currently authorized public bodies? No consensus. 5. Owner Criteria 	<ol style="list-style-type: none"> 1. Sec. 105 (1) (a-d), p.8, DB Sec. 201 (1-2), p. 16, and GC/CM Sec. 301 (1-5), pp. 22 & 26. 2. Defns. Sec. 101 (15), p. 4. 3. DB Sec. 201 (1), p.16, and GC/CM Sec. 301, p. 22. 4. Sec. 101 (12) p. 3 “Public body,” (13a or b) p.3 “Experienced public body,” Sec. 201 (1) p. 16, Sec. 301 p.22. 5. Sec. 105 (1) (d), p. 8. 	<p>CPARB to Approve Final Language (more Task Force work?)</p> <p>--</p> <p>CPARB to decide.</p> <p>CPARB to decide.</p> <p>“ “</p> <p>Nancy & Rodney redraft (1a&b)</p>
2. New Alternative Public Works Methods	Explore best value after other expansion/ reauthorization issues, (when sufficient progress on 1-3).	No recommendation yet.	

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<p>20. Job Order Contracting - Expansion of the number of contracts; increase in the dollar amount of individual work orders</p>	<ol style="list-style-type: none"> 1. CPARB tentatively agreed for all public bodies to be authorized to use JOC. However, further sub-committee discussion will include more stakeholders this fall. 2. CPARB tentatively agreed for JOC contractor to <u>rotate use of subcontractors and include MWBE subcontractors</u>. More sub-committee discussion needed? 3. CPARB tentatively agreed for individual <u>work order limits</u> to be raised to \$350k, with <u>90% of work subcontracted</u> (currently \$150k, 80%). Further subcommittee work. 	<ol style="list-style-type: none"> 1. Sec. 401, p. 32. 2. Sec. 403 (4), p.40, distribute as equitably as possible 3. Sec. 404 (1) & (2), p.41, for \$350k limit, Sec. 403 (4) p. 40, for 90% subcontracted 	<p>CPARB to review.</p> <p>“ “</p> <p>“ “</p>
<i>OTHER+CODE REVIEW SUBCOMMITTEE</i>			
<p>CPARB Membership</p>	<ol style="list-style-type: none"> 1. Include Construction Manager 2. Public Hosp. & School District & cities, counties, & ports full voting 3. Separation of powers issue for legislators on CPARB 4. More private sector members. 	<p>Sec 102, pp. 4-6</p>	<p>CPARB discuss more in Nov.</p>
<p>CPARB Duties</p>	<p>Updated and improved</p>	<p>Sec. 103, p. 6</p>	<p>CPARB review language</p>
<p>Change Guaranteed Construction Cost to Total Contract Cost</p>	<p>9/14 Dan Absher proposed to change “guaranteed construction cost” to “total contract cost.”</p>	<p>Sec. 101, p. 2</p>	<p>CPARB review language</p>

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<i>Industry-Wide Issues</i> (Sorted in order of session year to address.)			
Bidder “responsibility criteria” (clarify)	2007. Top priority for the subcommittee.	HB 2024	Nov. subcommittee. Review HB 2024, GA’s & UW’s Respons. Criteria.
Trench excavation price rule on bid form (remove)	2007. Subcommittee recommending to CPARB to remove from RCW 39.04.180	RCW 39.04.180	CPARB approved to draft legislation.
Notice provisions (Mike M. Johnson case)	2007. Discussions started in July 06– AGC’s biggest priority.		Nov. subcommittee.
“Reject all bids” issue (resolve)	2007. Subcommittee members will pull last year’s bill for review.		Review last year’s bill.
Subcontractor Bid Listing Statute (repeal)/ Bid Shopping	2007. Labor wants all subs over \$ amt to be identified in bid; AGC disagrees; Owners concerned; Mech subs okay with current statute.	RCW 39.30.060	--
Apprenticeship Utilization	Future/ Possibly 2008. Committee will need more info & direction for change.		--
Appropriate contracting laws [only part is priority] (contracting out, hiring other public agencies, improve small works roster, develop proper day labor limits, etc.)	Future. Issue was not well defined in subcommittee meeting.		City/Counties (& contractors?) submit info for discussion at future meetings.
Environmental permitting process (streamline & standardize)	Future/ Not 2007. Subcommittee may be requested at a future date to review another group’s work & submit a letter of support or non-support.		None at this time.
G.C. Liability for prevailing wage deficiencies of subcontractors & for defaulting subcontractors	Future? Need to confirm if this is still an issue for AGC.		--