

**CAPITAL PROJECTS ADVISORY REVIEW BOARD**

**John L. O'Brien Building  
504 15<sup>th</sup> Avenue, Hearing Room A  
Olympia, Washington  
October 12, 2006  
9:00 AM**

**Final Minutes**

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<b><u>MEMBERS PRESENT</u></b>	<b><u>REPRESENTING</u></b>	<b><u>MEMBERS ABSENT</u></b>	<b><u>REPRESENTING</u></b>
Gerald "Butch" Reifert	Design Industry	Sen. Dave Schmidt	Senate (R)
Rocky Sharp	Specialty Contractor	Dan Kristiansen	House of Representatives (R)
Ed Kommers	Specialty Contractor		
Juan Huey-Ray	OMWBE		
John Lynch (Chair)	General Administration		
Rodney Eng	Cities/Counties/Ports		
Michael Mequet	Cities/Counties/Ports		
Larry Byers	Insurance/Surety Industry		
Daniel Absher	General Contractor		
David Johnson	Construction Trades Labor		
Olivia Yang	Higher Education		
Dan Vaught	School District Project Rvw Bd		
Nora Huey	Cities/Counties/Ports		
Wendy Keller	Public Hospital Project Rvw Bd		
Kathy Haigh (Vice Chair)	Senate (D)		
Sen. Phil Rockefeller	Senate (D)		

**STAFF & GUESTS**

Nancy Deakins, GA	Marsha Reilly, OPR
Syd Locke, GA	Dick Lutz, Centennial Contractors
Cheri Lindgren, Puget Sound Meeting Services	Larry Stevens, MCA/NECA
Julie Murray, Association of Counties	Darlene Septelka, King County
Michael Transue, AGC	Ashley Probart, AWC
Rick Benner, Western WA University	Dick Goldsmith, AWPFD
Stan Bowman, AIA WA Council	Rick Slunaker, AGC
Diane Smith, OPR	Charlie Brown, King County Schools
Tom Peterson, Hoffman Construction	Ginger Eagle, WPPA
Alan Lawrence, GA	Gary Baldasary, Washington State Ferries

**Welcome & Introductions – Chair's Comments**

Chair John Lynch called the Capital Projects Advisory Review Board (CPARB) meeting to order at 9:14 a.m. A meeting quorum was attained. Everyone present provided self-introductions. Chair Lynch introduced Syd Locke who is filling in for Searetha Kelly during her absence.

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 2 of 12**

**Approve Agenda**

**The agenda was accepted as presented.**

**Approval of September 14, 2006 Meeting Minutes**

Ms. Deakins noted within the “Staff and Guests” attendance, and on page 7 of the minutes, the correct spelling for “Jerry Schlottman” is “Jerry Schlatter.”

**Ed Kommers moved, seconded by Rocky Sharp, to approve the September 14, 2006 minutes as amended. Motion carried.**

**Public Comments**

There were no public comments.

**Brief Reports from Subcommittees**

***Data Collection – Darlene Septelka***

Ms. Deakins reviewed a “Data Collection Surveys” project milestones document dated 10/12/06. Contact information is needed from a number of cities, ports, counties, higher education, and public facilities districts (specifics are listed on the timeline document). A draft report is anticipated for the Board’s December meeting. Staff will update members at the November meeting. Ms. Deakins provided the most recent owner project survey on an overhead slide.

*Senator Rockefeller arrived at 9:29 a.m.*

Ms. Septelka and Ms. Deakins reviewed the “CPARB Finish Project Survey” containing sample data with Board members. Chair Lynch reported when the survey is completed it will include both alternative delivery methods and Design Bid Build (DBB).

Mr. Eng questioned the purpose for asking the claim settlement amount. The question will draw attention and the dollar value could be misleading. There are non-monetary considerations that are resolved. Release of any claim is also important. Parties will have a different perspective of a settlement value. It is more complex than simply a dollar amount. Ms. Septelka replied there is a sense that there are more claims with the DBB delivery method that are often times settled in the courts.

Ms. Keller suggested adding a bullet point so the owner can define the type of settlement. King County’s concern is DBB carries more claims and disruptions due to a lack of relationship building. King County is also looking at the number of claims.

Discussion ensued about the purpose of the data, how it will be compiled, and that the person filling out the survey may not have been involved with drafting a settlement agreement. Mr. Eng emphasized there are other considerations and a number of ways disputes are settled that a dollar amount cannot accurately reflect. The data should be meaningful to use and not misleading where someone can point to a project and say the project was a failure when it wasn’t. Ms. Septelka asked if the Board believes a “yes” or “no” is sufficient or whether the Board wants to know the dollar amount so it can provide a percentage report. Chair Lynch said a question could be added

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 3 of 12**

asking if there were other considerations with a “yes” or “no” option. Reporting should be short and simple and the reports provided to the legislature should be simple, short, and high level.

Ms. Yang said knowing the distinction between the survey itself and the report format would help to address concerns. Ms. Septelka responded the Board previously approved the benchmarks. However the information could be resent for additional review.

Mr. Johnson said he agrees with Ms. Keller’s suggestion to ask for the number of claims, the dollar amount, and add another box with some examples such as, are there any other additional costs associated with the project such as extended warranties, etc. The data collected will be used to create an accurate report and not single out one project or public agency.

**Dick Lutz, Centennial Construction**, suggested the question could read, “settlement amount/issue” with a drop down box with several options, rather than leaving a “blank” space for the evaluator to fill in. It would provide consistency in reporting.

Mr. Mequet asked if the person completing the survey could check more than one box for “claims settlement.” It was determined the evaluator could check multiple boxes. He noted “Design Review Board” should read “Dispute Review Board.”

Chair Lynch asked Ms. Septelka to revise the survey page.

Ms. Septelka and members reviewed the balance of the survey populated with test data. She said she noticed something unusual in the quality section. She indicated she will follow up with members at the next meeting. She asked if anyone could access the project information. Ms. Deakins replied passwords have not been set up for each agency and doesn’t believe it will be a problem.

The Team Evaluation Survey was presented and discussed. Collection of the data will begin with the main program.

Mr. Byers questioned how the cost can be evaluated without a number. Ms. Septelka said the word “cost” could be changed to “budget.” Mr. Byers said the ability to relate feelings and beliefs back to performance of the job makes sense to him.

*Representative Haigh arrived at 10:04 a.m.*

Mr. Johnson said that his understanding of the team survey is based on the concept that the Board wants to know how well the relationship building works within GC/CM. Hopefully it works well. Ms. Septelka said the first page is a “temperature” test on the team and the community’s feel for the process. It would be completed by the owner, architect, contractor, and CM consultants. The second page consists of the subcontractor survey. Mr. Kommers said he might have additional comments once he’s had an opportunity to review the subcontractors’ survey.

Chair Lynch said Mr. Byers’ concerns could be addressed by expanding the instructions for Part 3.0, Project Performance; i.e., that it’s subjective in how well that part of the project worked rather than an objective measure of cost control. He said staff will refine the survey based on the comments this morning and bring it back to the Board.

Chair Lynch recessed the meeting from 10:10 a.m. to 10:24 a.m.

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 4 of 12**

***Reauthorization of Alternative Public Works - Rodney Eng***

Mr. Eng referred to the meeting minutes, and a memorandum from Mr. Absher dated October 5, 2006. Mr. Eng reported subcontractors and contractor representatives met and reached tentative agreements (approved in principle subject to wordsmithing) on five provisions. The provisions provide guidance and limitations as to what can be put in subcontract agreements used by the GC/CM process. The works represents the last major subcommittee assignment. Chair Lynch suggested reviewing the provisions when the Board goes through the issues spreadsheet later in the meeting.

*Mr. Huey-Ray arrived at 10:32 a.m.*

The subcommittee was able to resolve some remaining housekeeping and other issues as outlined on page 2 of the October 5, 2006 minutes. He noted the current statute has criteria for contractors and owners that want to do pre-qualification. A concern is the language does not work well in all situations. It is interpreted differently and creates substantial work for subcontractors with no negligible benefit. The subcommittee approved a suggestion drafted by Ms. Huey that provides for a public hearing process where one can comment on the use of pre-qualification. Assuming there is no protest, the pre-qualification effort can be implemented by the GC/CM and owner with the concept that all protests concerning the use of the pre-qualification process be filed within seven days of the final determination to use the process.

Mr. Eng reported the subcommittee has identified the issues, their positions, and sought to reach a common ground; however, he doesn't see the subcommittee making further progress on the issues. It does not make sense to continue with the same debates.

Chair Lynch conveyed Mr. Eng has done a great job managing the subcommittee. CPARB will review the remaining issues when it goes through the issues matrix.

***Expansion - Olivia Yang***

Ms. Yang reported the subcommittee invited small business owners to the last meeting to talk about Job Order Contracting (JOC); however, they were unable to attend. Labor raised issues concerning notice of the work when JOC contractor bids out work with an individual work order. Chair Lynch, Mr. Johnson, Mr. Kommers, Mr. Byers, and Mr. Dick Lutz agreed to participate on a task force to discuss issues such as an equitable distribution of work to different subcontractors, reporting back to CPARB about performance of each JOC in terms of the number of subcontractors used. The task force will report its findings to the Expansion Subcommittee in November as well as draft statute language for consideration. She reviewed the consensus issues. Chair Lynch said the task force will revisit the consensus items as well.

The subcommittee discussed project owner criteria, dollar thresholds, and the definition of experienced owner. The subcommittee needs to revisit the language for Design Build (DB) to ensure it is appropriate. There was consensus among the private sector that the concept for owner criteria was good, but representatives wanted a more specific definition for owner. There is some support of expansion, but it should be calibrated slowly. Developing measurable owner criteria makes review easier for the project review committee. There is some consensus on the \$10 million threshold in Section 106. Experienced owners with projects of \$10 million or more would go to the review board for informed review and comment. For owners not experienced with projects over \$10 million, approval is required. All owners, experienced or not, go before the review board for approval for projects under

## **CPARB FINAL MINUTES**

**October 12, 2006**

**Page 5 of 12**

\$10 million. The subcommittee discussed a “floor” in addition to the \$10 million. There is no consensus around a definition for experienced owners. Ms. Yang reviewed several definitions members are considering.

Mr. Johnson clarified a comment within the second paragraph on page 4 of the subcommittee minutes. What he meant was that by removing some threshold, there may be some that see GC/CM as a preferred method and invest money to put a package together only to learn from the review board that its team is not qualified, or there are other restrictions prohibiting use of the GC/CM delivery method. He said he is concerned that there is a lack of awareness about the process.

Mr. Kommers clarified that lowering the \$10 million threshold is an issue for many in the construction community. Concerns have to do with who can do the work, tools available to the project review committee, and experienced owners don’t feel they should have to go before the committee because they’re familiar with the process. Additional work is needed.

Ms. Keller said she agrees. She said she previously submitted additional project and owner criteria. There are owners that have authority to do work under \$10 million and she is more than willing to continue working on the qualifications.

Chair Lynch agreed there is interest to refine statute language to restrict projects under \$10 million.

Representative Haigh suggested CPARB and/or both subcommittees consider the issue. Ms. Yang said having the discussion at the Board level is not a bad idea. Mr. Eng said the same people serve on the subcommittees. Representative Haigh said the Board could collapse its agenda, or hold a special meeting to resolve the “sticky” issues. Chair Lynch said the Board might be able to make some progress today.

Ms. Deakins said perhaps a set of guidelines for the project review committee could be drafted that is adequate to appease some of the concerns, rather than drafting additional statute language.

### **Draft Legislation**

Ms. Smith pointed out the “code reviser draft” has fewer pages than previous drafts. The code reviser does not include sections that have not changed. A reconciliation chart was provided to members. She reviewed the changes since the last meeting. Ms. Deakins noted an additional change within lines 14 and 15 on page 29 that should read, “Responsibility shall be determined in accordance with criteria listed in the bid documents.”

Ms. Smith suggested a further revision to the first paragraph of Section 307 on page 31 stating, “The GC/CM, with written approval by the public body, may perform a determination of the subcontractor’s eligibility before seeking bids and before issuing a subcontractor bid package.” Mr. Eng offered that “before seeking bids and before issuing a subcontractor bid package” is redundant. Ms. Smith said staff will strike “and before issuing a subcontractor bid package.”

Ms. Huey suggested the second sentence within subsection (5) at the bottom of page 31 should read, “All protests must be filed within seven calendar days of the final determination.” Members generally agreed.

Discussion of the new wording, “the construction of” within line 15 on page 32 followed. Mr. Reifert stated the intent is that the wording applies to the entire section. Placing it under subsection (a) could be misinterpreted that it only applies to that subsection. He suggested line 11 should read, “Public bodies may use a job order contract for

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 6 of 12**

construction of public works projects when:” Including the wording clarifies JOC is limited to construction and not design.

Discussion ensued about the word “when” as it is used in line 11. Senator Rockefeller asked if the determinations will be documented and whether the determinations are subject to audit. There is no standard for objectivity. If public bodies are empowered with making determinations, there is no information or requirement to justify the decision. The Legislature will ask for standards. Mr. Johnson replied a smaller group of the subcommittee plans to discuss the issues with the expansion of JOC. Transparency of the process is critical. Members don’t want a closed system. JOCs should be advertised, a review process and/or an auditing function is necessary, with annual submission of owner data to CPARB for review. Chair Lynch conveyed a task force will look at JOC specifically. An issue is how the process is supposed to work, who makes the determination, and why. Senator Rockefeller asked if the Board thinks it’s in the public interest to have transparency associated with the determination even if the current statute doesn’t provide for that.

Further dialogue concerning the \$10 million threshold and the appropriate section for the language followed. Mr. Kommers said the wording at the bottom of page 8 should be deleted and the references for thresholds should be stated in each of the sections where it applies.

Representative Haigh suggested retaining the language in Section 105 stating, “subject to the conditions in 105, you can do JOC.” Ms. Yang said that during previous subcommittee meetings it was conveyed that the project review committee would review DB and GC/CM, and not JOC.

**Julie Murray, Association of Counties**, said there are two concepts in the bill. One is retaining the \$10 million limit for all authorizations as well as a review for projects above and below. Mr. Kommers said the bill drafters are not authorized to change the language. The intent is to include the language in one section.

**Stan Bowman, AIA WA Council**, reported that when drafting the language within section 105, there was a debate about authorizing projects under \$10 million. The task force decided to leave it open. At a prior meeting, the public bodies conveyed that if the authority is expanded below \$10 million, they were comfortable with receiving approval for projects under \$10 million. Dependent upon CPARB action concerning the \$10 million threshold, the language may or may not apply.

Ms. Smith emphasized the draft in front of the Board is based on formal motions voted on by the Board, or CPARB direction, and not on discussions the bill drafters have heard.

Regarding JOC, Mr. Eng expressed a concern about adding the word “construction of public works.” Repair, maintenance, and renovation all fall within the definition of “public works.” Ms. Huey said she agrees, but individuals have approached her and indicated that “construction of public works” also includes design. Mr. Eng said design is restricted by Chapter 39.80. He suggested it read similar to, “... for public works projects as defined in 39.04.010.” Ms. Yang said some public owners believe it’s some kind of DB. Members could define what it is not. Additional discussion about plans drawn up by the owner’s architect or JOC contractor and unit price books ensued. Chair Lynch said it appears there’s no disagreement about the principle. The issue is crafting language around the concept.

Discussion followed about how to move forward with the review of draft legislation and outstanding issues and the definitions for “experienced public body.” Ms. Deakins asked members to consider the original statute and revisions and determine if there are items in the original statute that should be changed. Representative Haigh suggested the Board create a subcommittee to thoroughly review the proposed language. Senator Rockefeller said

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 7 of 12**

policy discussions are necessary. A listing of major policy features that have not been resolved to everyone's satisfaction would be helpful.

Mr. Kommers said some members did go through the draft line by line and tried to refine some of the language without making policy changes. He asked what happened to the markups members submitted. Ms. Deakins replied she has the markups. A subcommittee to help her go through the marked up copies would be helpful.

**Mr. Absher moved, seconded by Ms. Yang, to form a small language review committee to look at the technical aspects of the bill on a line-by-line basis and bring a recommendation back to CPARB.**

Mr. Eng volunteered to chair a language review committee. Representative Haigh said a side-by-side comparison of the original and proposed language would help. Mr. Eng said at some point the major and philosophical issues need to be resolved. Once that's done, then the Board can work on technical changes.

Senator Rockefeller conveyed that there are more than just minor issues; there are also major issues. The Board could focus and discuss the major differences and try to reach a consensus, which could then be advanced into the subcommittee process. The Board could then begin to translate or revise the language as necessary.

Ms. Reilly acknowledged there are inconsistencies within the draft language. The writers have worked to draft the policy issues the Board has agreed to. The writers could work with the review committee on the issues as well.

**Motion carried unanimously.**

The following members will serve on the language review committee chaired by Mr. Eng: Ms. Deakins, Ms. Reilly, Ms. Smith, Mr. Kommers, Mr. Absher, and/or Mr. Slunaker. It was determined the language review committee would meet the first Thursday of the month from 1:00 p.m. to 3:00 p.m. Mr. Mequet will follow up with a meeting place.

Ms. Yang reported the AGC Education Foundation, in conjunction with the University of Washington, is hosting GC/CM training on Monday, October 30, 2006 from 8:00 a.m. to 3:00 p.m. at the AGC Conference Center in Seattle. A two-day session in the winter to teach GC/CM concepts is anticipated. GA staff will forward the training announcement to those on the stakeholders' list.

Chair Lynch recessed the meeting from 12:02 p.m. to 12:50 p.m. for lunch.

**Continuation Draft Legislation**

Members reviewed the five provisions outlined on the back of Mr. Absher's October 5, 2006 memorandum. In response to an inquiry from Mr. Absher about the process, Chair Lynch requested Mr. Absher and Mr. Kommers review the issues and provide a status report.

Mr. Absher reported it was suggested to add the word "abrogate" to section (8a). He conveyed the word "abrogate" makes him nervous. The subcontractors prepared a "bill of rights." The five issues on the document represent what the generals could not agree to. The issues remain controversial. The generals and subs agree with the wording as proposed in #1; however, he doesn't like adding the word "abrogate" and further discussion is needed.

Senator Rockefeller questioned the source of the implied duty; i.e., RCW or case law. Mr. Absher replied case law. Senator Rockefeller asked whether the Board doesn't want it removed from the responsibilities of the generals in a

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 8 of 12**

GC/CM situation. Mr. Absher replied he'd prefer not to have it at all. Mr. Kommers provided examples of contract language where subcontractors have delegated and/or coordinated work among themselves.

Mr. Absher said the coordination issue is discussed in #2, and again the word "abrogate" is added to the first sentence to read as follows: "(8a) abrogate, delegate or assign the general contractor/construction manager's *duty and* authority to resolve ~~trade~~ *subcontractor* conflicts." He said he is reluctant to add "duty and."

Regarding #3, "they" want to add the words "or another subcontractor" to the third line following general contractor/construction manager. He said he is reluctant to put in law a duty that "we're" responsible for all delays caused by another subcontractor.

Related to item #4 (8c) the subcontractors want to add, "provided, however, that nothing in this subsection shall prohibit the GC/CM from specifying the manner in which subcontractors shall protect its work from trade damage." "We" don't like the language because it puts the onus on the GC/CM to specify the method of protection. The subs are in a better position to know how best to protect their work. Mr. Absher said he prefers language similar to, "provided, however, that the subcontractor shall take reasonable steps to protect its work from trade damage." Mr. Kommers added some GC/CMs have said the subs can hire an armed guard if they want the work protected from damages. His position is if the GC/CMs want the subs to have an armed guard, they need to tell them that. "Take reasonable steps" works better than "properly protect."

Mr. Absher said #5 started out as the most controversial issue, but members now pretty much agree. There are a couple of minor word changes, such as replacing the word "and" between "bond" and "retainage" with the word "or."

Chair Lynch said it appears the owners are fine with the language as long as there is an agreement between the owners and the subcontractors. Owners want the issues resolved so there is no stumbling block for the reauthorization of GC/CM. Mr. Kommers said he's confident he and Mr. Absher can work out the language and present it to the Board at the next meeting.

Further dialogue followed about the intent of replacing the word "trade" with "subcontractor" in the second sentence of issue #2, and the relationship between the contractor and subs. Chair Lynch requested Mr. Kommers and Mr. Absher complete refining the wording for the five issues and e-mail the language to Ms. Deakins. Ms. Deakins will e-mail the results to members prior to the November meeting for review. Mr. Eng said he'd like to see the changes in the next bill draft document.

**Ms. Yang moved, seconded by Mr. Kommers, to direct the bill drafters to incorporate the language changes subject to the next set of revisions by Mr. Kommers and Mr. Absher, and place the wording in the appropriate sections of the statute with language review subcommittee input.**

Mr. Kommers said the changes should be part of Section 302. Ms. Deakins said Section 302 consists of project management duties of the public body.

**The motion carried. It was noted that Mr. Mequet and Ms. Huey are voting for Cities/Counties/Ports.**

The Board discussed "experienced owner." Chair Lynch outlined two options articulated by Ms. Yang:

- Anyone who is currently authorized would be considered experienced by definition
- An owner that has completed two projects within a defined timeframe with a graduation provision

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 9 of 12**

The difference between how an experienced owner and new owner are treated has to do with whether the review committee approves the project or not, versus simply review and comment. Ms. Yang said “experienced owner” is linked to “owner criteria.”

In response to an inquiry from Representative Haigh, Ms. Yang and Mr. Kommers outlined which owners are authorized if the Board chooses to adopt the “grandfather” option. Mr. Eng added there’s a statute that added public facilities districts with no size limitations on project size. Public facilities districts have used GC/CM on \$4 million projects and less. Representative Haigh said her concern is that the legislature deals with “grandfathering” on many items (such as taxes and school district levies) and as time goes on, it becomes a bigger and bigger problem.

Mr. Absher said contractors will have a problem with the grandfathering concept even though it might be convenient now. The Board should develop a definition for experienced owner that works over the long term.

Senator Rockefeller said in the public sector, “experience” is tested through fiscal and performance internal and external audit processes. He suggested if members want to rely on experience that the Board qualifies it by saying, “experience as demonstrated by the successful completion of two projects and the satisfactory resolution of any outstanding fiscal or audit issues associated with the projects.” The Legislature would have confidence that the owner(s) completed the project right the first time, or learned from the experience and took the corrective steps necessary to meet standards identified by an auditor. Experience then means something.

Chair Lynch said at the Expansion Subcommittee meeting members heard from several cities. Politically, it is hard for those that currently have the authority to give something up. There is an interest to clarify the language and not draft grandfather language.

**Ashley Probart, Association of Washington Cities**, said at the last meeting some cities stated they have completed two or more projects, while others have completed one or more. A consideration is that owners do most of the learning the first time through. The issue is why the arbitrary number of two versus one. Bigger cities have looked at the process and chosen not to use it because it’s not the right tool for them and feel they’re penalized for not using the process.

Mr. Kommers said assuming the Board has agreed to the project review committee, the discussion about the privilege of an experienced owner is that their project goes before the review board for review and comment and not approval. Cities feel the project review committee is unnecessary because they have the experience to proceed and don’t see value of going through the committee. Discussion ensued concerning the process for new users and when new owners would move into the “review and comment” procedure.

Mr. Huey-Ray agreed with Senator Rockefeller’s approach to resolving the issue.

Representative Haigh said data collection is a critical component. Ms. Septelka said the data cannot be used to determine whether a project is successful or not. The Board needs to exercise caution in how the data is used to determine who’s in and who is not. Chair Lynch noted there is a distinction between simply completing a project versus successfully completing a project. The Board would have the ability to look at the owner and projects before they move from new to experienced owner.

Discussion ensued about focusing instead upon a common set of variables that demonstrate an owner’s capacity or capability, and that prior experience is relevant and should be taken into consideration.

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 10 of 12**

Mr. Huey-Ray asked if that's what the school board did in practice. Chair Lynch replied yes. Senator Rockefeller asked if it worked in practice. Chair Lynch and Mr. Vaught replied yes. Ms. Keller said the difference is that the school district went to the Board.

Additional discussion followed about creating a common set of owner standards that everyone has to meet to use the alternative method.

Ms. Yang reported experienced owner is a sensitive issue. UW and WSU believe they are competent. The universities have completed a number of projects successfully. UW is audited at least annually. UW would have a concern about having to go to the review board. There is the fear of the unknown. Some projects are funded with ICR grants and gifts that often specify tight timelines. Senator Rockefeller said the Legislature is moving towards a common set of standards and transparency with the process that's not onerous and that the CPARB needs to consider that. Mr. Eng asked if the Senator sees "it" as a one-time issue. Senator Rockefeller replied yes. Ms. Yang said higher education is reacting to having to go to the review board with each project. Senator Rockefeller clarified that his position is that there would be a one-time qualification process. After that, an owner can use the authority on its own with review and comment.

Mr. Absher said he's not sure how the contractors will feel about the Senator's proposal. However, the proposal would no longer include project qualification. The ability to use alternative procurement should not be permanent. A renewal provision every two or three years appears appropriate.

Mr. Kommers said the subcommittee talked about making the project review committee more available to owners. It was his understanding that every project would come to the committee for review. Chair Lynch replied that's correct. Mr. Kommers said that's the way an owner can build its record to support renewal.

Conversation followed about what the process might look like and the amount of time review would take. Chair Lynch stated review would probably only take an hour or so for each project. Mr. Kommers asked to take the matter back to the subcommittee to outline in language capabilities public bodies have to demonstrate. Mr. Eng said it appears a major criteria is the number of projects completed. He said he is not sure an audit reveals whether a project is successful or not. As an example, a project that goes over budget might have nothing to do with the process. It could be the result of a poor design.

Senator Rockefeller said that qualifications outlined in Section 105 could be more robust and contain a reference to prior experience and that the results and/or resolutions are from audits. Periodic renewal is a good suggestion.

Discussion followed about "qualified team" as articulated on page 8 of the draft and that the next project an owner pursues could be very different.

Ms. Huey said she has not talked to the counties yet about a certification process. She suggested advancing the matter back to the Expansion Subcommittee to identify how to evaluate owners in a certification process. The certified owner would still have to bring projects to the committee for review and comment.

Ms. Yang said it is an intriguing approach that she'd like to take back to the universities.

Further dialogue followed about the review and comment process, thresholds, and self-screening of projects under \$10 million. Mr. Kommers said lowering the threshold discussion is a different matter.

## **CPARB FINAL MINUTES**

**October 12, 2006**

**Page 11 of 12**

Mr. Johnson said completion of one project might be enough to qualify an entity as an experienced owner. An experienced owner has to demonstrate it worked through the GC/CM method successfully. Ms. Keller said there has to be criteria. A small public hospital could have gone through the process successfully, but has hired its help.

In response to an inquiry from Representative Haigh, Ms. Huey said the subcommittee needs to evaluate the suggestion for a certification process in place of experienced/grandfathered owner language. Mr. Johnson said it makes sense from the perspective that some owners are experienced bodies, but hire their own teams that could be different from one project to another.

Mr. Eng said he'd like to take the proposal back to his constituents as well. Discussion ensued of the two-tier concept, full data collection of all projects, and the threshold. Chair Lynch summarized prior discussions about the \$10 million threshold.

Representative Haigh stated she's more comfortable with legislation that speaks to capacity and capability criteria.

Mr. Johnson asked when the determination is made that an owner is experienced, who makes the determination, and what criteria is used to make the determination. Chair Lynch conveyed the criteria should be listed so the Board knows what it's screening for. Based on member input, he said the expansion subcommittee could take the issues and draft language around a common set of variables that demonstrate an owner's capacity or capability and that prior experience should be taken into consideration, recognizing the details need to be worked out.

Mr. Eng suggested the Board discuss how the project review committee is created and its focus if the Board appoints the committee. Chair Lynch said prior discussions indicate the Board will appoint the committee with multiple members so it can convene quickly. Mr. Eng said his concern is related to separation of issues when the Board consists of legislative members and creation of a committee that has executive powers. CPARB is resolving industry issues through a legislative forum. He said he prefers the Governor appoint project review committee members rather than the Board.

Chair Lynch said one way to accomplish that is to include in the bill that the project review committee is established as a separate entity with separate appointments. Mr. Huey-Ray said at the last meeting, GA was going to talk to the AG's office about the issue. Chair Lynch said GA has not yet heard back from the AG's office. Ms. Deakins conveyed at the break, Senator Rockefeller suggested approaching the legislative ethics board about the matter. Ms. Smith has agreed to follow up and report back at the next meeting. Representative Haigh said she will approach the Governor's office about review committee appointments.

Ms. Deakins said legislators might find it difficult to participate if they're not CPARB members. Representative Haigh said legislative appointees should remain nonvoting.

Ms. Yang asked if a Governor appointed project review committee is able to break up into advisory groups. Senator Rockefeller responded there is nothing that prohibits a Governor appointed board breaking up into advisory groups. He suggested leaving the discretion about the matter with the Board.

### **Industry-wide Issues**

Ms. Huey reported a subcommittee held a planning meeting to evaluate the 10 industry-wide issues. The subcommittee recommended writing legislation repealing the trench excavation bid item. The subcommittee identified its top four priorities for the 2007 session:

**CPARB FINAL MINUTES**

**October 12, 2006**

**Page 12 of 12**

- Establishment of responsibility criteria
- The Mike M. Johnson matter
- Reject all bids issue
- Subcontractor bid listing statute

There are two items identified as no action needed - environmental permitting and general contractor liability for prevailing wage deficiency of subcontractors. Ms. Huey reviewed topics the subcommittee identified for 2008 legislation.

The industry-wide issues subcommittee will meet the first Friday of the month from noon to 2:00 p.m. at the Port of Seattle. The first meeting is scheduled for November 2, 2006. The two issues scheduled are responsibility criteria and the Mike M. Johnson matter.

In response to comments from Chair Lynch and Ms. Huey about the trench excavation bid item, Mr. Kommers suggested simply dropping the words "and bidding forms" from 39.04.180 of the statute. He read the relevant section of the code. Discussion ensued about notifying utility contractors about the proposed action.

**Mr. Absher moved, seconded by Ms. Yang, to move forward with draft language to repeal the trench excavation price rule, that the proposed language come back to the Board for review, and that the Board should forward the proposal to the utility contractors for comment. Motion carried unanimously.**

Chair Lynch suggested the subcommittee also discuss the other four issues it identified for the 2008 session.

Ms. Keller asked those members that have ideas about the certification process to mail them to Ms. Yang in time for the expansion subcommittee meeting on November 3, 2006. The meeting will be held from 9:00 a.m. to 11:00 a.m. at the Port offices in SeaTac.

Ms. Yang said she'd like to preface Ms. Keller's suggestion by sending a notice out to the subcommittee letting members know the topic is scheduled for discussion. That way everyone can come prepared to talk about it.

**Adjournment**

Chair Lynch adjourned the meeting at 2:48 p.m.

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John Lynch, Chair, CPARB

Prepared by Cheri Lindgren, Recording Secretary  
Puget Sound Meeting Services