

**Capital Projects Advisory Review Board
Expansion Subcommittee Meeting, Draft Meeting Notes
“World Class” Conference Room, Kilroy Building, Sea Tac
November 3, 2006, 9:00 – 11:00 a.m.**

Initial if

Present	Name	Organization	Phone	e-mail
<i>Subcommittee Members</i>				
OY	Olivia Yang (Lead)	UW, Capital Projects	206-221-4224	oyang@u.washington.edu
BR	Butch Reifert	Design Industry	206-441-4151	breifert@mahlum.com
Absent	Ed Kommers	Mechanical Contractors	206-612-7304	ekommers@comcast.net
DJ	Dave Johnson	Wa. State Bldg. & Construction Trades Council	360-357-6778	DJIW86@aol.com
JL	John Lynch	General Administration	360-902-7227	jlynch@ga.wa.gov
RE	Rodney Eng	City of Seattle	206-684-8241	rodney.eng.@seattle.gov
MM	Michael Mequet	Port of Seattle	206-835-7637	mequet.m@portseattle.org
Absent	Nora Huey	King County	206-684-2049	norahuey@metrokc.gov
TP	Tom Peterson	Hoffman Construction	206-286-8697	tom- peterson@hoffmancorp.com
RS	Rick Slunaker for Tom Balbo	AGC	206-767-3810	tomb@fergusonconstruction. com
AP	Ashley Probart	Assoc. of Wash. Cities	360-753-4137	ashleyp@awcnet.org
Absent	Larry Byers	Contracts Bonding & Insurance Company	206-628-7221	larryb@cbic.com
DG	Dick Goldsmith	Assn of WA Hospital Districts	206-216-2528	richardg@awphd.org
DL	Dick Lutz	Centennial Cont.	360-867-9443	dicklutz@comcast.net
LS	Larry Stevens	MCA/NECA	253-212-1536	lwstevens@wwdb.org
RB	Rodger Benson	MA Mortenson	425-895-9000	Rodger.benson@mortenson.c om

<i>Other Attendees</i>				
ND	Nancy Deakins	General Administration	360-902-8161	deakink@dshs.wa.gov
BL	Brent L.	Centennial		
	Michael Transue	AGC	253-223-2508	cmjtransue@comcast.net
RP	Robynne Parkinson	Groff/Murphy Design Build Institute of America	206-678-9800	rparkinson@groffmuphy.co m
RB	Rick Benner	WWU		

Over →

Other Attendees (continued)

MR	Marsha Reilly	House of Reps	360-786-7135	Reilly.marsha@leg.wa.gov
DS	Diane Smith	Senate Gov Ops	360-786-7410	Smith.diane@leg.wa.gov
	Duke Schaub	AGC-Washington	360-352-5000	dschaub@agc.wa.com
SB	Stan Bowman	AIA/WA	360-943-6012	bowman@aiawa.org
SL	Syd Locke for Searetha Kelly	GA	360-902-7941	kellysj@dshs.wa.gov

Meeting Notes

Olivia Yang led the meeting and called the meeting to order at 9:05 am.

John Lynch was called upon to report on the work of Job Order Contract (JOC) task force. The task force included Mr. Lynch, Dave Johnson, Larry Stevens, and Rick Slunaker. Mr. Lynch brought a handout with draft language for legislation.

Some of the task force's key consensus recommendations are:

* \$250,000 maximum per work order.

* For each JOC, public bodies shall not issue more than two work orders greater than \$200,000 in a twelve month contract performance period.

* The maximum total dollar amount that may be awarded under a job order contract shall not exceed \$3 million per year and, if extended, \$9 million over three years.

* Advertising would be done in every county where the work is expected to be done.

In the discussion that followed, Dave Johnson said he did not want any increase in JOCs. Mr. Lynch said the Department of General Administration (GA) wanted to be able to do more than two JOCs and the task force recommended that GA may have four JOCs in effect at any one time.

Olivia Yang said that the UW and WSU will work with others on advertising JOC, but insists on higher work order amounts. The higher amount of \$350,000 would give them more leverage.

Dick Lutz also voiced support for setting the maximum dollar amount for a work order at \$350,000 rather than \$250,000.

Mr. Johnson said more data is needed and a data collection system should be in place before the committee recommends more expansion. He pointed out that JLARC recommended more data collection via a data collection system. Only after the data is in should expansion be considered. Mr. Johnson also stressed the importance of publicizing JOCs and wanted to make sure that publication requirements would be more than just publication in a local newspaper of general circulation.

Rodney Eng didn't share Mr. Johnson's views on data collection. He said that data collection is for CPARB to use to determine the efficacy of the process, -- how things are

working. CPARB's duties shouldn't include auditing. CPARB shouldn't be doing the job of the State Auditor.

Mr. Johnson said that violations of prevailing wage law are a serious concern and should be addressed by CPARB. There is an underground economy and violation of prevailing wage is a problem in all public works projects, even traditional public works.

Concern was expressed by members representing the private sector that JOC could become an administrative nightmare and only one or two contractors are going to want to use it. CPARB should not keep adding administrative requirements.

In the Work Orders section of the handout, Section 4 (7) (d) it was suggested that it be amended to read: a copy of the intent to pay prevailing wage and the affidavit of wages paid for each subcontract *if requested by CPARB*.

Mr. Lynch said he thought Section 3 (4) of his handout addresses the JOC fairness issue. It reads: At least **ninety** percent of work contained in a job contract must be subcontracted to entities other than the job order contractor. The job order contractor must distribute contracts as equitably as possible among qualified and available subcontractors **including minority and woman-owned subcontractors to the extent permitted by the Washington state civil rights act, RCW 49.60.400. Additionally, the job order contractor shall publish notification of intent to perform public works projects at the beginning of each contract year in a legal newspaper of general circulation published in every county in which the public works projects are anticipated.**

Mr. Eng said that the JOC limits are too low for the City of Seattle to use. For example, the City could spend up to \$50,000 on administrative costs for a \$200,000 job. It wouldn't make sense for the City to use JOC in most cases. Mr. Eng added that (counter to some people's impressions) the City doesn't have the in-house workforce to complete projects in a timely manner.

Dick Lutz proposed taking out the limitations on Public Hospital Districts.

Rick Slunaker said there are areas of agreement among the Expansion Subcommittee members. "Who is eligible" is agreed upon, so is the "definition of work". He said the "publishing availability of JOCs in newspapers" is also agreed upon.

There was a **straw vote** taken on three areas of controversy. The intent of the vote was to get a sense of how divided the subcommittee was on certain issues.

There were ten in favor and three opposed to raising the maximum dollar amount for a work order to \$350,000 (as opposed to \$250,000).

The vote was unanimous when proposing three years/JOC. When the length of time was increased to five years the vote was nine in favor and four opposed.

There were ten in favor and three opposed to establishing a JOC total amount of \$5 million/year.

The task force would continue to work on stakeholder issues and Mr. Lynch would present to the full CPARB committee at CPARB's next meeting.

Criteria for Experienced Owner status.

Rodger Benson said that Public Owners should be able to hire out expertise; it isn't necessary to have that expertise on permanent staff.

Ms. Yang discussed Senator Rockefeller's idea of having a simple certification process that would certify a public owner as an "experienced owner" for 3-5 years. This certification process would be available for public owners who did not want to come before CPARB approval on every job. The certification would be good for 3-5 years and then the public owner could apply for re-certification.

The subcommittee discussed Wendy Keller's draft document of suggestions on the definition of Experienced Owners and criteria for maintaining or removing that status. The subcommittee like her proposal but thought it was too comprehensive to put into statute.

Mr. Slunaker suggested that statute should spell out that CPARB must adopt rules to define "experienced owner". CPARB should be given rule-making authority.

Mr. Eng suggested that Section 105 (1) (d) should be used to write the rules:

Section 105 (1) (d) The public body has the necessary experience or qualified team to carry out the alternative contracting method, including, but not limited to: (i) Project delivery knowledge and experience; (ii) personnel with construction experience; (iii) clear and logical lines of authority/management plan; (iv) the necessary and appropriate funding and time to properly manage the job and complete the project; (v) continuity of project management team; and (vi) necessary and appropriate construction budget.

The subcommittee worked with a three-part outline of public owners/project review process: 1) a public owner that passed an "experienced owner certification process" would need only a *review* of a project. 2) A qualified public owner without experienced owner certification would need *approval* of a project. 3) An unqualified public owner would not be prohibited by statute from the project approval process, but would likely preclude themselves.

Stan Bowman believed that specificity was needed in statute and that a certified experienced public owner should have expertise on staff. It should not be able to hire out for expertise.

Mr. Eng disagreed and pointed out that the City of Seattle has different levels of expertise in different areas. It may be more efficient to bring someone in for the implementation of a project.

Robynne Parkinson thought that a public owner didn't need expertise on staff to be qualified.

Mr. Lynch said that “on staff” didn’t have to be permanent, full-time staff. Perhaps a public owner could hire staff for the length of a project.

A motion was made by Mr. Eng and seconded. The motion included three parts. First, that a Project Review Board be created with the authority to review and approve public works and that any public entity can bring a project before the Board. Second, based on Section 105 (1) (d), the Project Review Board can certify an Experienced Public Owner for 3-5 years so that body would not require Board approval for every project. Third, CPARB will develop guidelines and rules for the Board based on the criteria in Section 105 (1) (d).

During discussion, it was noted that CPARB is an advisory board with legislators on the board. In order not to violate separation of powers, CPARB can’t have the authority to approve projects; therefore the Project Review Board must have that power. The Governor would appoint members of the Project Review Board.

Mr. Slunaker raised his concern that CPARB would potentially have no control over the Project Review Board.

The motion passed 12-1. Butch Reifert voted no. Stan Bowman, a non-voting participant in the meeting, also expressed opposition.

The meeting adjourned at 11:25 a.m.