

Reauthorization Subcommittee Meeting
“World Class” Conference Room, Kilroy Building, Sea Tac
September 7, 2006, 1:00 – 3:00 p.m.
Draft Meeting Notes

Initial if

| Present | Name | Organization | Phone | e-mail |
|-----------------------------|-----------------------|---|----------------|--|
| <i>Subcommittee Members</i> | | | | |
| RE | Rodney Eng (Lead) | City of Seattle | 206-684-8241 | rodney.eng.@seattle.gov |
| DA | Dan Absher | Absher Construction | 253-845-9544 | dra@abshernw.com |
| BR | Butch Reifert | Design Industry | 206-441-4151 | breifert@mahlum.com |
| Absent | Rocky Sharp | Electrical Contractor | 253-383-4546 | rsharp@madsenelectric.com |
| EK | 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 |
| JP | John Palewicz | UW | 206-221-4223 | palewicz@u.washington.edu |
| JL | John Lynch | General Administration | 360-902-7227 | jlynch@ga.wa.gov |
| Absent | Wendy Keller | Public Hospital Project Review Board | 206-684-1912 | Wendy.Keller@metrokc.gov |
| Absent | Tom Peterson | Hoffman Construction | 206-286-8697 | tom-peterson@hoffmancorp.com |
| Absent | Ashley Probart | Assoc of WA Cities | 360-753-4137 | ashleyp@awcnet.org |
| Absent | Dick Lutz | Centennial Contractors | 360-867-9443 | dicklutz@comcast.net |
| LS | Larry Stevens | NECA/MCA | 253-212-1536 | lwstevens@wwbd.org |
| PB | Paul Berry | CM Consultant and Representative of CMAA (Construction Management Association of America) | 206-772-1772 | pnberry1@earthlink.net |
| Absent | Steve Goldblatt | University of Washington | 206-685-1676 | bconbear@u.washington.edu |
| SB | Stan Bowman | AIA WA Council | 360-943-6012 | bowman@aiawa.org |
| DS | G.S. “Duke” Schaub | Associated General Contractors | 360-352-5000 | dschaub@agcwa.com |
| <i>Other Attendees</i> | | | | |
| MM | Michael Mequet | Port of Seattle | (206) 835-7632 | Mequet.m@portseattle.org |
| ND | Nancy Deakins | General Administration | 360-902-8161 | deakink@dshs.wa.gov |
| LM | Lyle Martin | Hoffman Construction | 206-286-6697 | Lyle-martin@hoffmancorp.com |
| DG | Dick Goldsmith | AWPHD | 206-216-2528 | richardg@awphd.org |
| Abse nt | Michael Transue | AGC | 253-223-2508 | Cmjtransue@comcast.net |
| Abse nt | Dan Vaught | School District Project Review Board | 425-489-6447 | dvaught@nsd.org |
| Abse nt | Ginger Eagle | WA Public Ports Assoc. | 360-943-0760 | geagle@washingtonports.org |
| OY | Olivia Yang | UW | 206-221-4224 | oyang@u.washington.edu |
| MR | Marsha Reilly | House of Reps | 360-786-7135 | Reilly.marsha@leg.wa.gov |
| Abse | Kathryn Leathers | House of Reps | 360-786-7114 | Leathers.kathryn@leg.wa.gov |

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|------------|-------------------------|----------------|--------------|--|
| nt | | | | |
| DS | Diane Smith | Senate Gov Ops | 360-786-7410 | Smith.diane@leg.wa.gov |
| NH | Nora Huey | King County | 206-684-2049 | Nora.huey@metrokc.gov |
| Abse nt | Mike Grace | Groff Murphy | 206-628-4500 | mgrace@groffmurphy.com |
| Abse nt | Chris Hirst | Preston Gates | 206-370-8336 | Christ@prestongates.com |
| JHR | Juan Huey-Ray | OMWBE | 360-951-4916 | Jhuey-ray@omwbe.wa.gov |
| MIM | Miriam Israel- Moses | REBOUND | 206-441-0455 | mimoses@rebound.org |

Meeting Notes

References: Draft Legislation and CPARB Issues for Legislation Documents

- **Section 302. Project Management and Contracting Requirement.** Located towards beginning of draft legislation document. Within the CPARB Issues for Legislation, dated September 6, 2006, on Page 8 of 8: 4, 5 and 6. Mr. Lynch stated that there seems to be no conceptual problem with the issues.
- **Section 302.1.G. Regarding request for equitable adjustment, has been agreed upon by the Reauthorization Subcommittee.** Discussion regarding agreeing in writing, does not mean a change order, it means what the scope, amount of dollars agreed upon and authority issues too. Mr. Martin said that there are two different things involved here: change order or request for equitable adjustment. Ms. Huey said that the language needs additional work.
- **Section 306.1.2. Subcontracting.** Subsections one and two still isn't Mr. Kommers proposal, he stated that there are some major differences from what he stated previously. Ms. Reilly will adjust the draft legislation as Mr. Kommers had intended.
- **Section 307. Early Analysis of Bidder Responsibility.** Mr. Kommers said that is not the language that he and Ms. Huey came up with. He also stated that responsibility should be defined somewhere in the legislation.

Mr. Eng stated that we are balancing a lot of different interests.

Ms. Deakins stated that when publishing criteria up front subcontractors will know the rating criteria that they will be graded on.

Mr. Eng said that there needs to be a reason to do pre-qualification (example: Tunnel Projects – don't want a new person experimenting on your project). Another individual stated that most contractors that have the experience can do the job. We have a lack of definition for "responsible", it must be outlined what it really is.

A – H is the paired down version of what a responsible bidder should be. We should define what responsible is in their contracts and just pick most responsive bidder. There should be some criteria in statute.

Mr. Eng stated that we have to remember that we are talking about GC/CM:

- Responsibility Analysis (benefits and burdens)
- All bids should have criteria

- This is a general contractor and subcontractor issue

Mr. Lynch said there is a rule that says GC/M or CMGC may consider A – H in determining price, etc...(with no pre-qualification(s)).

Mr. Eng stated the example of the curtain wall subcontractor package (cannot do per pure low bid qualification) and demolition subcontractor package.

Mr. Martin said the bid document, clearly states it, if they pass all hurdles, we take it and go.

Mr. Absher stated that A – H cannot believe Mr. Kommers doesn't agree to this. Mr. Kommers said the contractor determines what subcontractor can handle the back log (number is worth 40% of the price). Mr. Kommers said that no subcontractor is in favor of the eligibility process.

- Show stoppers for Mr. Kommers (Document: CPARB Issues for Legislation dated September 6, 2006): *Page 4 of 8*, Task Force 3/Contractor Issues: 3.1 (GC/CM may not delegate management duties to subcontractors, 2 (Allow subs and compensation for resequencing of work) and 3 (Subs must pay for damage they caused to other subs work). Mr. Absher does not agree and they need to work this out.

CPARB Issues for Legislation, Dated September 6, 2006 (Page 5 of 8)

- Mr. Kommers stated that very few individuals follow A – H. The language is ambiguous. People change it to what they want. It costs more to go through eligibility than to bid a job. A – H (Task Force 3 Issue 7, should be located in Section 307 of the draft legislation) is the protesting of the ability to bid a job and it can be useless and often abused; can be used in some instances.

Hearings Discussion

In order to go through eligibility process, Ms. Huey proposed public hearing language. Mr. Kommers will not support if GC/CM continues in its current form (eligibility process). It is not applied uniformly and not well written.

Straw Vote

Mr. Eng took a straw vote on the concept of pre-qualification effort on the public hearings section 307 of draft legislation for GC/CM:

- 10 Yes
- 4 No

Mr. Lynch stated that the dilemma is how this will affect the public ownership.

Definitions

- Pre-qualification: Shortlist, but not a ranking
- Responsibility Criteria: Either responsible or not responsible (pass or fail process).

Mr. Eng said Section 307 allows potential for latter. That is why you have to go through the public hearing process.

Mr. Martin stated that design – assist process (if you pass the bar and you bid it). The bar changed the minimum points required.

Mr. Kommers said there are three GC/CM issues and subcontractor issues:

1. Subcontractors Bill of Rights (Subsection 8)
2. Lump Sum Bid
3. No damage for delay (he needs that language)
 - Task Force or sub Task Force
 - Mr. Kommers stated that he will schedule it (meeting with General Contractor and Subcontractors, we need to get through this)

Mr. Eng said that he is here to referee. Doesn't feel he can do anything to bridge gap of differing views. CPARB should suggest commitment that it will be done. This subcommittee cannot resolve these issues. Mr. Absher and Kommers needs to work on the legal and technical issues. They need to sort out their positions.

Mr. Lutz had some discussion on Page 4 of 8 (1-4). He stated that all of Section 400 should be separated from this at this time. He said that CPARB misunderstands Job Order Contracting. Ms. Reilly stated that she will put it under GC/CM and DB.

Ms. Yang suggested that at the Expansion Subcommittee meeting on October 5th we should ask Small Business Interests to attend.

Short Discussion regarding Task Force #1 (Owners)

Mr. Bowman said that we can finish the Task Force #1 discussion this afternoon. We can tackle the definition of experienced owner and finish the Task Force #1 discussion.

Closing Remarks/Comments

Mr. Lynch suggested that a list be developed showing all of the points that have been agreed too.

Mr. Eng stated he will make a status report at the CPARB Meeting on September 14th.

Mr. Bowman and Ms. Reilly will work together on some draft legislation.

Meeting Adjournment

The meeting was adjourned at 3:04 p.m.