

**CPARB Issues for Legislation  
October 12, 2006**

		<b>Issue</b>	<b>CPARB as of 9-14-06/ Subcommittees as of 10-06-06</b>	<b>Location in 10-10-06 Draft Legislation (Code Reviser's S-0075.1/07)</b>	<b>Next Action</b>
<b>Reauthorization</b>	<b>Task Force 1</b>	<b>5. Clarify definition of eligible projects and owners</b>	Moved to Expansion Subcommittee list because that is where they were addressed.	--	--
		<b>12. A/E part of the GC/CM selection team</b>	CPARB agreed this would not be put into statute, but may be a recommended practice.	N/A	--
		<b>14. Centralized approval of eligible projects and owners for GC/CM and Design Build (DB) (excludes Job Order Contracting)</b>	<p>CPARB approved 1-3:</p> <ol style="list-style-type: none"> <li>1. <u>Project Review Committee will exist &amp; review only GC/CM &amp; DB</u></li> <li>2. <u>CPARB will appoint members of Project Review Committee</u></li> <li>3. Every entity proposing to use GC/CM or DB will come to the Project Review Committee for review or review &amp; approval</li> </ol> <p>Expansion subcommittee discussed "<u>experienced users</u>" and potential for a "grandfather" system, as well as <u>project \$ threshold</u> to be reviewed by Project Review Committee.</p>	<p>Sec. 104 (1-2), p. 7, Sec. 105 (3), p. 8.</p> <p>Sec. 104 (2-3), p. 7.</p> <p>Sec. 105 (1), p. 8, Sec. 201 (1), p.15, Sec. 301 (1), p. 21.</p> <p>See references to experienced public body and project threshold above in item 5.4.</p>	<p>CPARB review draft language</p> <p>GA will ask AG about separation of powers issue</p> <p>CPARB review draft language</p> <p>--</p>
		<b>17. Mandatory training for public agencies - widen eligibility of owners and number of projects</b>	<p>CPARB agreed training will not go into statute now.</p> <p>Pilot training sessions for GC/CM - 2 in fall at Seattle/AGC (Jan or Feb 07) by UW &amp; AGC Educ. Foundation, 28 to 32-hr training. Would like faculty &amp; four major groups talking best practices.</p>	N/A	Pilot training. Future subcommittee work for best practices manual?

**CPARB Issues for Legislation  
October 12, 2006**

		Issue	CPARB as of 9-14-06/ Subcommittees as of 10-06-06	Location in 10-10-06 Draft Legislation (Code Reviser's S-0075.1/07)	Next Action
Reauthori- zation	Issues around the MACC	<b>20. Job Order Contracting</b>	Moved to Expansion Subcommittee below		
		<b>1. Maximum Allowable Construction Cost (MACC) contingency incentive prohibition (don't use % of MACC for incentive payments to GC/CM)</b>	CPARB approved prohibiting use of MACC contingency for incentive payments to GC/CM.	Sec. 306 (10)	CPARB review draft language.
		<b>4. Timing for setting of the MACC (change to 90% CD)</b>	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.	Sec. 304 (1), pp. 27-28.  Sec. 304 (2), p. 28.  Sec. 304 (3), p. 28.	CPARB review draft language.
Reauthori- zation	Task Force 2	<b>6. Uniformity in use of MACC contingency</b>	CPARB agreed training will not go into statute now, but may be put into best/recommended practices manual.	N/A	--
	<b>9. Unforeseen market conditions</b>	CPARB agreed this is mostly solved through timing of setting of the MACC. However, further subcommittee discussion needed on <u>guarantee, and relief timing</u> .  9/14 Dan Absher proposed to change	N/A  Poss. future draft  (Sec. 304 (4), p.28.)	--  style="color: blue;">CPARB consider Dan Absher's proposal. (More	

**CPARB Issues for Legislation  
October 12, 2006**

		Issue	CPARB as of 9-14-06/ Subcommittees as of 10-06-06	Location in 10-10-06 Draft Legislation (Code Reviser's S-0075.1/07)	Next Action
<b>Reauthori- zation</b>	<b>Contractor Issues</b>		"guaranteed construction cost" to "total contract cost."		subcommittee work?)
		2. <b>Change Order Administration:</b> a. Response time b. Interest (% Mark- up?)	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. Basic subcommittee discussion.	Sec. 302 (1) (g), p. 26.  Sec. 305, p. 28.	CPARB approved. CPARB review draft language.  CPARB approved. CPARB review draft language Consider adding to 302 as sub (3).
		3. <b>Standard subcontract agreement/form</b>	CPARB recognizes that a standard subcontract form will not go into statute. Subcommittee recommends:  1. <u>GC/CM may not hinder/delay subcontractors.</u> (w/provisions)  2. <u>GC/CM may not delegate mgmt duties</u> to subcontractors. (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</u> to other subs work.  5. <u>Waive bond &amp; retainage rights</u> except for payments received or to be received.	New Section 308? (not in 10-10 draft)	CPARB review language.
	<b>Task Force 3</b>				

**CPARB Issues for Legislation  
October 12, 2006**

		Issue	CPARB as of 9-14-06/ Subcommittees as of 10-06-06	Location in 10-10-06 Draft Legislation (Code Reviser's S-0075.1/07)	Next Action
		<p><b>7. Pre-bid sub-contractor eligibility standards/requirements/qualifications RCW 39.10.061(a)-(h)</b></p> <p><b>and (post bid) Responsibility</b></p> <p><b>GC/CM self-preformance</b></p>	<p>Subcommittee recommends : when GC/CM wants to make <u>pre-bid determination of subcontractor eligibility</u> (prequalify subs) - require publishing of intent and screening criteria &amp; 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> <p>Sec. 306 (2)</p> <p>Sec. 306 (7) and (8)</p>	<p><b>CPARB review language for both issues.</b></p> <p>(Defining “responsible bidder” moved to Industry-wide issues subcommittee.)</p> <p><b>CPARB review.</b></p>
		<p><b>8. General Conditions need to be better defined</b></p>	<p>Subcommittee agreed on <u>negotiated support services</u></p>	<p>Sec. 101 (10), p. 3, Sec. 304 (4), p. 28, Sec. 306 (8), p. 30.</p>	<p>CPARB approved. <b>CPARB review draft language.</b></p>
		<p><b>11. Elimination of subcontractor listing requirements (39.30.060) from 39.10.061 (6) for sub-bids</b></p>	<p>CPARB agreed to <u>eliminate/delete requirement to list subcontractors for sub-bids for GC/CM.</u></p>	<p>Deleted from Sec. 306 (3).</p>	<p>--</p>
	(continued)	<p><b>SC Numbering for Sub-contractor added issues</b> <b>SC-1. &amp;2. Create project mgmt specifics for GC/CM &amp; DB</b></p>	<p>Subcommittee work addressed DB and GC/CM.</p>	<p>Sec. 302, p. 25, Sec. 202, p. 17.</p>	<p>CPARB approved. <b>Expansion subcommittee to address DB in Nov.</b></p>
		<p><b>SC-3. Public owner to employ staff with expertise</b></p>	<p>Discussion completed.</p>	<p>Sec. 105 (1) (d), p. 10, Sec. 202 (e), p. 18, Sec. 302 (1) (e), p. 25.</p>	<p>CPARB approved. <b>CPARB review.</b> “ “</p>

**CPARB Issues for Legislation  
October 12, 2006**

		<b>Issue</b>	<b>CPARB as of 9-14-06/ Subcommittees as of 10-06-06</b>	<b>Location in 10-10-06 Draft Legislation (Code Reviser's S-0075.1/07)</b>	<b>Next Action</b>
		<b>SC-4. Purchase of equipment cannot be assigned to subcontractors</b>	Subcommittee consensus.	Sec. 306 (8), p. 30.	CPARB approved.
		<b>SC-5. Purchase of equipment is included in self-performed work</b>	Subcommittee consensus.	Sec. 306 (7) & (8), p. 30.	CPARB approved.
		<b>SC-6. A review of design documents by public body</b>	Subcommittee recommends new language.	Sec. 302 (1) (b), p. 26.	CPARB review.
	<b>Qualification Issues</b>	<b>10. GC/CM contractor eligibility</b>	CPARB agreed this will not go into statute, but will report to Legislature no additional requirements should be added to statute.	N/A	Report to 2007 Legislature
		<b>13. Standardized RFP selection criteria</b>	CPARB agreed this will not go into statute. This may go into a best/recommended practices manual.	N/A	
	<b>first 4 TFs</b>	<b>15. Resolution of Expansion Subcommittee Issues</b>	CPARB agreed not a specific statute issue. Overlap being dealt with.	N/A –not specific statute issue	
		<b>16. Mandatory periodic legislative evaluation process of alternative public works</b>	CPARB proposing new sunset to additional six years.	Sec. 501, p. 39, and Sec. 505 new expiration date June 30, 2013.	CPARB review draft language.

**CPARB Issues for Legislation  
October 12, 2006**

		<b>Issue</b>	<b>CPARB as of 9-14-06/ Subcommittees as of 10-06-06</b>	<b>Location in 10-10-06 Draft Legislation (Code Reviser's S-0075.1/07)</b>	<b>Next Action</b>
		<b>18. User funded evaluations of projects</b>	CPARB agreed current approach for data collection taking care of this.	N/A – not specific statute issue	Fund requested for future annual data collection work.
		<b>19. Ongoing data collection &amp; reporting (results of the data collection subcommittee)</b>	CPARB agreed on concept of inserting reporting language into statute.  Those that use RCW 39.10 must also submit info on DBB projects.  Collect affirmative action data from subcontractors.	Sec. 202 (1) (g), p. 18, Sec. 302 (1) (h), p. 26  Not in statute yet.  Indirectly in statute listed.	CPARB review draft language.  _____ provide draft language for review. N/A – addressed in survey form.
Expansion		<b>1. School Districts' Issues -</b>	Addressed # of projects & supported proposed legislation in 2006. This was passed in 2006 session.	N/A	None.
		<b>2. Owners/Users &amp; Project Criteria</b>	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.	1. Sec. 105 (1) (a-d), p.8, DB Sec. 201 (1-2), p. 15, and GC/CM Sec. 301 (1-5), pp. 21 & 25.  2. Defns. Sec. 102 (15), p. 4.  3. Sec. 105 (3a), p.8, DB Sec. 201 (1), p.15, and GC/CM Sec. 301, p. 21.	CPARB to Approve Final Language (more Task Force work?)  --  CPARB to decide.

**CPARB Issues for Legislation  
October 12, 2006**

Expansion	Issue	CPARB as of 9-14-06/ Subcommittees as of 10-06-06	Location in 10-10-06 Draft Legislation (Code Reviser's S-0075.1/07)	Next Action
		<p>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.</p> <p>5. Owner Criteria</p>	<p>4. Sec. 101 (12) p. 3 "Public body," (13a or b) p.3 "Experienced public body," Sec.105 (3a-b),p.8, Sec. 201 (1) p. 15, Sec. 301 (1d),p.21.</p> <p>5. Sec. 105 (1) (d), p. 10.</p>	<p>CPARB to decide.</p> <p>“ “</p> <p>Nancy &amp; Rodney redraft (1a&amp;b)</p>
	<p>3. <b>New Alternative Public Works Methods</b></p>	<p>Explore best value after other expansion/ reauthorization issues, (when sufficient progress on 1-3).</p>	<p>No recommendation yet.</p>	
	<p>4. <b>Contractors – expand to use more</b></p>	<p>CPARB agreed there is nothing in statute to restrict contractors.</p>	<p>N/A – will not go into statute</p>	

**CPARB Issues for Legislation  
October 12, 2006**

		<b>Issue</b>	<b>CPARB as of 9-14-06/ Subcommittees as of 10-06-06</b>	<b>Location in 10-10-06 Draft Legislation (Code Reviser's S-0075.1/07)</b>	<b>Next Action</b>
<b>Expansion</b>		<b>20. Job Order Contracting - Expansion of the number of contracts; increase in the dollar amount of individual work orders</b>	<ol style="list-style-type: none"> <li>1. CPARB considering strategy and definitions for JOC to be separate bill from reauthorizing GC/CM and DB.</li> <li>2. CPARB tentatively agreed for all public bodies to be authorized to use JOC. However, further subcommittee discussion will include more stakeholders this fall.</li> <li>3. CPARB tentatively agreed for JOC contractor to <u>rotate use of subcontractors and include MWBE subcontractors</u>. More subcommittee discussion needed?</li> <li>4. 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.</li> </ol>	<ol style="list-style-type: none"> <li>1. N/A</li> <li>2. Sec. 401, p. 32.</li> <li>3. Sec. 403 (4), p.37, distribute as equitably as possible</li> <li>4. Sec. 404 (1) &amp; (2), p.38, for \$350k limit, Sec. 403 (4) p. 37, for 90% subcontracted</li> </ol>	<p style="color: blue;">More JOC Task Force and subcommittee work to draft language.</p> <p style="text-align: center;">“ “</p> <p style="text-align: center;">“ “</p>
<b>Other</b>		<b>CPARB Membership</b>	<ol style="list-style-type: none"> <li>1. Include Construction Manager</li> <li>2. Public Hosp. &amp; School District &amp; cities, counties, &amp; ports full voting</li> <li>3. Separation of powers issue for legislators on CPARB</li> <li>4. More private sector members.</li> </ol>	(Sec 102, pp. 4-6)	CPARB discuss more in Oct.

## CPARB Issues for Legislation October 12, 2006

	Issue	CPARB as of 9-14-06/ Subcommittees as of 10-06-06	Affected or Draft Legislation	Next Action
<b>Industry-Wide Issues</b>  <i>(Sorted in order of session year to address.)</i>	<b>Bidder “responsibility criteria” (clarify)</b>	2007. Top priority for the subcommittee.	HB 2024	<a href="#">Review HB 2024, GA’s &amp; UW’s Respons. Criteria.</a>
	<b>Trench excavation price rule on bid form (remove)</b>	2007. Subcommittee recommending to CPARB to remove from RCW 39.04.180	RCW 39.04.180	<a href="#">CPARB rvw &amp; draft legislation.</a>
	<b>Notice provisions (Mike M. Johnson case)</b>	2007. Discussions started in July 06– AGC’s biggest priority.		
	<b>“Reject all bids” issue (resolve)</b>	2007. Subcommittee members will pull last year’s bill for review.		<a href="#">Review last year’s bill.</a>
	<b>Subcontractor Bid Listing Statute (repeal)/ Bid Shopping</b>	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	--
	<b>Apprenticeship Utilization</b>	Future/ Possibly 2008. Committee will need more info & direction for change.		--
	<b>Appropriate contracting laws [only part is priority] (contracting out, hiring other public agencies, improve small works roster, develop proper day labor limits, etc.)</b>	Future. Issue was not well defined in subcommittee meeting.		<a href="#">City/Counties (&amp; contractors?) submit info for discussion at future meetings.</a>
	<b>Environmental permitting process (streamline &amp; standardize)</b>	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.
	<b>G.C. Liability for prevailing wage deficiencies of subcon- tractors &amp; for defaulting subcontractors</b>	Future? Need to confirm if this is still an issue for AGC.		--