

**Capital Projects Advisory Review Board
Industry-Wide Issues Subcommittee
Northwest Carpenters Hall, Kent
January 22, 2007, 12:00 pm – 3:00 pm
Membership List/Sign In Sheet and Meeting Notes**

Initial if

Present	Name	Organization	Phone	e-mail
<i>Attendees</i>				
DJ	Dave Johnson	WA St Bldg & Construction Trades Council	360-357-6778	DJIW86@aol.com
Absent	Dan Absher	Absher Construction	253-845-9544	dra@abshernw.com
Absent	Butch Reifert	Design Industry	206-441-4151	breifert@mahlum.com
Absent	Jerry Schlatter	WSU	509-335-5571	schlatt@wsu.edu
AH	Arne Hedeem for Ed Kommers	Mechanical Contractors	206-612-7304	ekommers@comcast.net
JL	John Lynch	General Administration	360-902-7227	jlynch@ga.wa.gov
MIM	Miriam Israel Moses	REBOUND, A Building Trades Organization	206-441-0455	MIMoses@rebound.org
Absent	Tom Peterson for Lyle Martin	Hoffman Construction	206-286-6697	Lyle-martin@Hoffmancorp.com
Absent	Juan Huey-Ray	OMWBE (for Carolyn Crowson)	360-704-1188	JHuey-Ray@OMWBE.WA.GOV
MP	Mike Purdy	UW	206-221-4224	mpurdy@u.washington.edu
NH	Nora Huey	King County	206-684-2049	Nora.huey@metrokc.gov
Absent	Julie Murray	WA Assoc of Counties	360-753-1886	jmurray@wacounties.org
Absent	John Ahlers	Short Cressman Burgess	206-682-3333	jahlers@scblaw.com
RS	Rick Slunaker	Associated General Contractors	360-352-5000	rslunaker@agcwa.com
Absent	Dan Vaught	School Districts Project Review Board	425-489-6447	dvaught@nsd.org
JZ	Janice Zahn	Port of Seattle	206-728-3798	Zahn.j@portseattle.org
<i>Other Attendees</i>				
ND	Nancy Deakins	General Administration	360-902-8161	deakink@dshs.wa.gov
Absent	Ashley Probart	WA. Assoc. of Cities	360-753-4137, ext. 133	ashleyp@awcnet.org
Absent	Dick Lutz	Centennial Cont.	360-867-9443	dicklutz@agcwa.com
Absent	Ginger Eagle	WA Public Ports Association	360-943-0760	geagle@washingtonports.org
Absent	Mac Nicholson	Senate Government Operations Lead Staff/Counsel	360-786-7410	Nicholson.mac@leg.wa.gov
Absent	Marsha Reilly	House State Government Committee Research Analyst	360-786-7135	Reilly.marsha@leg.wa.gov
Absent	Michael Transue	Associated General Contractors	253-223-2508	Cmjtransue@comcast.net

Over →

	<i>Other Attendees (continued)</i>			
PB	Paul Berry	CM Consultant and Representative of CMAA (Construction Management Association of America)	206-772-1772	Pnberry1@earthlink.net
Absent	Stan Bowman	AIA WA Council	360-943-6012	bowman@aiawa.org
Absent	Thomas Kuffel	King County	206-296-9015	Thomas.kuffel@METROKC.GOV
BA	Bob Abbott	Laborers Dist Council	425-741-3556	RAbbott@nwlaborers.org
Absent	Brian Sweet	Port of Seattle	206-248-4846	Sweet.b@portseattle.org
Absent	Dorcas Nepple	Port of Tacoma	253-383-9414	dnepple@portoftacoma.com
JL	John Littel	Northwest Carpenters	206-465-9730	jlittel@nwcarpenters.org
LS	Larry Stevens	MCA/NECA	253-212-1536	lwstevens@wwdb.org
CC	Carolyn Crowson	OMWBE	360-753-9679	carolync@OMWBE.WA.GOV

MEETING NOTES

Nora Huey chaired the meeting and called the meeting to order at 12:10 p.m. She thanked everyone for coming to the meeting on short notice. We will go through the issues that we have identified as remaining.

Discussion: Draft Revision to Responsibility

Small Works Roster Responsibility Criteria

- The subcommittee discussed whether to remove the reference to RCW 43.19.1911 in the small works roster (SWR) process and substitute the responsibility definition and criteria developed in this draft legislation.
- Representatives from the general contractors, subcontractors and owners expressed interest in having one system (one definition) for responsibility that applied to construction procurements.
- Labor expressed concern about other cross references to 43.19.1911 and wanted to ensure that we did not eliminate 43.19.1911.
- Subcommittee voted unanimously to remove the reference to 43.19.11 from RCW 39.04.155 and replace with the reference to the 39.04.010 and the new section we are preparing.

Certificate of Registration - 5a

Subcommittee reaffirmed the requirement that a general contractor must possess at the time of bid submittal a certificate of registration in compliance with Chapter 18.27 RCW. This will not prevent specialty contractors from bidding.

State Excise Tax - 5b

- With regard to the state excise tax registration number, Mr. Purdy spoke with the Department of Revenue and learned that there are cases where a contractor might not

have or need a revenue number. Mr. Purdy recommended that the requirement for a state excise tax number be located in 5c with Industrial Insurance because it should be applied only if applicable.

- Mr. Slunaker recommended that we reference the applicable codes for UBI, industrial insurance, employment security and state excise tax.
- Subcommittee voted unanimously in favor of both revisions.

Licensing for Specialized Work

Labor recommended including addition responsibility criteria for licensing. Owners asked whether that would be limited to electrical and plumbing. Labor indicated maybe it could include all specialty licensing requirements. Owners, general contractors and subcontractor representatives expressed concern about what that would involve, isn't this really a matter of contract compliance, and raised concern about our understanding of the various licensing requirements. Mr. Slunaker recommended that owners be given opportunity to include this issue as supplemental responsibility criteria. Concern was expressed about opening the door to protests.

Subcommittee tabled the discussion for now. We need a better understanding of the requirement, why we should make it a requirement, and the licensing regulations.

Supplemental Criteria & Evaluation Method – New Section 1(a)

Mr. Slunaker recommended adding the requirement that owners explain the evaluation methodology in the invitation to bid in addition to the supplemental responsibility criteria. Contractors should understand how each criterion will be evaluated. Subcommittee unanimously supported this revision.

Timing of Responsibility Documents – New Section 2

Subcommittee discussed whether the RCW should indicate when responsibility documentation should be submitted (with the bid or after bid opening).

Mr. Berry indicated that the City of Auburn liked to ask for some responsibility information with the bid for expediency. The City does not ask for voluminous documentation, generally the information is limited to registration, recent projects, and bank information.

Owner representatives indicated they would like flexibility but also indicated many (UW, King County, GA) do not ask for responsibility documentation with the bid.

Mr. Hedeem expressed concern with turning matters of responsibility into responsiveness. Would an owner reject a bid if the information was not complete or there was a mistake in the information? Mr. Hedeem cautioned this may open up basis for protest.

Mr. Purdy asked the subcommittee if there were any concerns with being silent in the legislation and allowing owners to determine when they would receive the responsibility documents. Subcommittee members were in favor of being silent in the RCW.

Subcommittee members also requested that Section 2 be clarified to indicate that the responsibility determination be based on any information available “that is related to the supplemental responsibility criteria.”

Subcommittee unanimously voted to remain silent on when an owner may request responsibility documentation and change new section paragraph 2 to indicate that responsibility determination is based on any available information related to the supplemental criteria.

Forfeiture of Bid Guarantee – New Section 2 paragraph 3

Subcommittee discussed the need to have a forfeiture requirement if a bidder does not provide responsibility information. The reason this provision was originally included was to prevent the low bidder from looking at its bid, realizing its bid was too low, and failing to submit the information and thus get out from its bid. Subcommittee members did not think this was a big issue and that the perceived requirement to take a bid guarantee may make owners less likely to reject a bidder that otherwise could be found not responsible. Subcommittee voted unanimously to remove the provision in its entirety. If a problem comes to light in the future, we may need to address it at that time.

CPARB Guidelines – New Section 2, paragraph 4

All subcommittee members believe the existence of guidelines is a good idea. There was concern expressed whether CPARB has the authority to develop the guidelines. Issue will be brought up with CPARB.

Subcommittee agreed to revise language as follows: The Capital Projects Advisory Review Board shall write [suggested] guidelines to assist public bodies in developing supplemental bidder [responsibility] criteria, and shall make such guidelines available.

Subcommittee voted unanimously to send the language to CPARB.

Due Process

Mr. Hedeem expressed concern with ensuring that bidders are provided with some due process during the responsibility review. Contractor and subcontractor representatives proposed that (1) owner must provide written notice of why a bidder is determined to be not responsible; (2) opportunity be provided for the bidder to rebut the owner's decision with new information within a time frame established by the owner; (3) a written final determination be issued by the owner; and (4) the owner cannot execute the contract for a minimum of two days after the bidder receives the written notice. This will allow a bidder an opportunity to appeal the decision to the Superior Court.

Subcommittee voted unanimously to include this concept in the draft legislation.

Contractor/Subcontractor Responsibility - New Section 3

Mr. Slunaker asked why the requirement was placed in RCW 39.06 as oppose to RCW 39.04. Mr. Purdy explained that 39.06 deals with registration and licensing of contractors. This provision appears to be a contract compliance issue. Subcommittee agreed to ask code reviser's advice on placement.

Open Issues

- Mr. Purdy said that he needs more clarification regarding licensing
- There was some discussion regarding SB 5045: Licensing of Contractors, Section 41, Page 52 amends 39.04.155.

Next Steps

- Nora Huey and Mike Purdy will put the changes from this meeting in the draft and then Searetha Kelly will email it out to the board and subcommittee members.
- It was suggested that we ask the Code Reviser where to put the new section, is it appropriate to put it in 39.04 or 39.06?

Next Meeting

The next meeting was set for February 2nd, 12:00-2:00 p.m. Northwest Carpenters Building at 25120 Pacific Highway South, Kent, 98032. Heading Northbound, the exit is 272nd, just north of Federal Way. Heading Southbound the exit is Kent/DesMoines. Pacific Highway is just west of Interstate 5.

Meeting Adjournment

The meeting adjourned at 3:00 p.m.