

# memo

Date: 14 June 2018  
From: Walter Schacht, FAIA – Chair, CPARB  
To: CPARB Data Collection Committee  
Re: **Thoughts on Data Collection**

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It appears that we are much closer to meeting the recommendations for data collection in the 2013 JLARC Reports than I had previously imagined. I believe that we are in good position to demonstrate that we have met our obligations as a board and be prepared for the 2020 Sunset Review and reauthorization process.

- I believe that we are already complying with JLARC's recommendations regarding refocusing our overall efforts on data collection.
- I believe that we have a modest amount of work to do to meet JLARC's recommendations regarding information on GCCM subcontract awards.
- I am concerned, however, the 2015 CPARB Data Collection Proposal contradicts JLARC's recommendations. The relationship between the proposal and the report should be clarified in writing before the proposal is implemented.

## JLARC RECOMMENDATIONS FOR DATA COLLECTION

Two of the four recommendations made in the 2013 JLARC Report apply to CPARB's data collection process.

### Recommendation 3

*Public bodies using GCCM should obtain information on project subcontract awards and payments and provide a final project report on their GCCM subcontracting to CPARB.*

### Recommendation 4

*CPARB should refocus its efforts and limited resources on collecting information that will more readily assist the Board in developing recommendations to improve public works delivery methods.*

The report indicates that data collection is less effective than other tools that CPARB employs to inform and develop its recommendations on public works delivery methods. Information on GCCM subcontract awards is the only quantitative data collection required to fulfill JLARC's recommendations. The report does not indicate the need for other data to be collected. It could be interpreted as recommending against it.

JLARC indicates that the board's task forces and subcommittees are a model for providing timely, informed recommendations. They draw on the experience and expertise of public owners and the construction industry to develop recommendations for statutory and policy changes that enhance public works contracting. It indicates that CPARB's involvement in educational programs, such as the AGC Education Foundation's GCCM training program, are also of value. JLARC indicates that the board could assist project owners and contractors by soliciting and disseminating "lessons learned" information about completed projects. It states that although the information is not quantitative, it could promote greater understanding about the experience of using alternative procedures in Washington.

## COMPLYING WITH JLARC'S RECOMMENDATIONS

### Recommendation 3

Public owners are required to provide data on GCCM subcontracts to CPARB. Collecting the data could be done by distributing a preformatted spreadsheet or by an online survey. To confirm that public owners meet the requirement, compliance could be required as a prerequisite to submitting an application for project approval and/or agency certification. Data collection for this issue may sunset in 2021.

### Recommendation 4

CPARB is already complying with JLARC's recommendations.

The development of CPARB's Design-Build Best Practices Guidelines is one example. The collaboration among public owners and the construction industry led to a document that enhances public works contracting. The guidelines provide a syllabus for an AGC Education Foundation design-build training program that is taught twice a year (or more, depending upon demand) and other educational sessions which have been conducted across the state. Annual events such as the WSU Design-Build Forum attract a statewide audience of public owners and industry professionals and might be considered to be part of this effort, especially if they are co-sponsored by CPARB. The current Design-Build Statute Review Committee is following through on the development of regulatory improvements that were identified as part of developing the guidelines.

The P3 Committee was another example. There is potential to identify other committees with a specific focus on evolving trends in alternative project delivery to inform the board's policy recommendations.

- For example, a committee could be organized to evaluate why public owners are moving away from GCCM and towards design-build as a preferred delivery method. The committee could recommend changes to the GCCM provisions of the statute that would increase its utilization.
- A "Lessons Learned Committee" could organize presentations about project successes and challenges that are made during regular board meetings or organize an annual CPARB Lessons Learned Symposium.

## SUMMARIES

Summaries of the 2013 JLARC Report and the 2015 CPARB Data Collection Proposal follow.

## **RCW 39.10 – REGULATORY REQUIREMENTS FOR DATA COLLECTION**

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### **RCW 39.10.230**

#### Board—Powers and duties.

The board has the following powers and duties:

- (5) Develop and administer questionnaires designed to provide quantitative and qualitative data on alternative public works contracting procedures on which evaluations are based.

### **RCW 39.10.460**

#### Job order procedure—Required information to board.

Each year, a public body shall provide to the board the following information for each job order contract for the period July 1st through June 30th:

- (1) A list of work orders issued;
- (2) The cost of each work order;
- (3) A list of subcontractors hired under each work order;
- (4) If requested by the board, a copy of the intent to pay prevailing wage and the affidavit of wages paid for each work order subcontract; and
- (5) Any other information requested by the board.

## 2013 JLARC REPORT - EXCERPTS

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### REPORT SUMMARY

- This review also recommends that public bodies maintain information to demonstrate compliance with a key statutory requirement and that the Capital Projects Advisory Review Board (CPARB) provide guidance for that purpose. CPARB should also clarify reporting for job order contracts and rethink how to monitor and evaluate the use of alternative procedures.

### CPARB Should Rethink Its Approach to Collecting Project Information

- CPARB's effort to collect project data for evaluating public works contracting has not produced an accurate and reliable database. Even if data problems are corrected, differences among project characteristics limit the comparability of any quantitative results based on this data. For these reasons, this sunset review does not use the CPARB data to evaluate project performance and relies instead on case studies of selected projects and follow up interviews.
- In addition to collecting project data, CPARB has used task forces, subcommittees, and other methods for obtaining information needed to fulfill its statutory responsibility to evaluate contracting procedures and recommend policies to the Legislature. These methods are more likely to provide timely, accurate, and reliable information needed to develop recommendations about public works contracting.

### Recommendations

- The Legislature should reauthorize the alternative public works, Chapter 39.10 RCW.
- CPARB should revise job order contract reporting to clearly identify separate contracts with the same contractor during the annual July 1-June 30 reporting period.
- Public bodies using GCCM should obtain information on project subcontract awards and payments and provide a final project report on their GCCM subcontracting to CPARB.
- CPARB should refocus its efforts and limited resources on collecting information that will more readily assist the Board in developing recommendations to improve public works delivery methods.

### PART THREE –

### CPARB NEEDS TO RETHINK ITS APPROACH TO COLLECTING PROJECT INFORMATION

- The Capital Projects Advisory Review Board (CPARB) should rethink its approach to fulfilling its statutory duty to collect information for use in advising the Legislature on public works delivery methods. The Board collects project information in a variety of ways, including building a database of project information. However, the project database is not sufficiently accurate or reliable for evaluating project performance.

### Project Database Is Not Accurate or Reliable

- JLARC reviewed the project database for use in assessing the performance of the various delivery methods. This review shows that the information in the CPARB database of major projects is not complete, contains inaccurate data, and is unlikely to provide a reliable basis for assessing and comparing project performance.
- Data Problems Create Potential for Inaccurate Results

- Corrected Data May Not Produce Meaningful Results

#### CPARB Has Options for Obtaining More Useful Information About Contracting Procedures

- Alternative procedures are no longer unusual in public works construction. Washington has over 20 years' experience using alternative procedures, which are also widely used in other states. The widespread use of alternative procedures indicates that the issue is no longer whether to allow the procedures, but rather when and how to best use them in the public interest.
- CPARB's experience using task forces and subcommittees to address issues of concern in public works contracting provides a model for strengthening its ability to provide timely, informed recommendations. As noted previously, the Board has initiated a variety of task forces and subcommittees to address issues of concern in public works contracting. These task forces draw on the experience and expertise of the construction industry and public owners to develop recommendations for statutory and policy changes that enhance public works contracting. In addition, CPARB has been active in educating public owners and contractors about the use and requirements of alternative procedures. Since 2007, CPARB has participated in annual workshops to educate contractors and public owners about GCCM contracting. CPARB participated in a 2012 workshop to assist public owners in developing criteria for determining bidder responsibility and eligibility.
- The Board could further assist project owners and contractors by soliciting "lessons learned" information about completed projects and disseminating that information to the various stakeholders. Although this information is not quantitative, it could promote greater understanding about the experience of using alternative procedures in Washington.
- Recognizing both the limitations of the existing project database and the role that CPARB plays, JLARC's fourth recommendation is that CPARB refocus its efforts and limited resources on collecting information that will more readily assist the Board in developing recommendations to improve public works delivery methods.

# 2015 CPARB DATA COLLECTION PROPOSAL

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## GOALS

1. Is the process fair and open to a broad range of business in Washington State?
2. Is there correlation between outreach plans and the level of participation of S/DB?
3. Do the project reports identify trends that would drive proposals for statutory changes? (modified for clarity)
4. Are there best practices or training needs that would improve outcomes in the utilization of alternative delivery methods? (modified for clarity)

## DATA COLLECTION

### 1. Project Set Up

- Name of Public Body
- Name of Project
- Project Budget
- Does this project plan to use a Small Business/DBE outreach plan?
- Construction Period (m/year to m/year)

### 2. Design Build or GC/CM Selection

- Number and names of firms responding to RFQ
- Number and names of firms selected for interviews
- Names of firms selected to submit to RFP
- Name of awarded contract

### 3. Subcontractor Identification - GC/CM- Design Build

- Number and names of firms responding to subcontract bid requests
- Names of the selected firms.
- Information on project contractor and subcontractors submitted to Labor & Industries regarding intents and affidavits.

### 4. Post Project Team Report

- What were the best practices on this project?
- Are there any suggested modifications to Public Works Legislation (RCW 39.10) that would have helped the project be more successful?
- Did the project team discover there were areas/topics where additional training would have helped the project be more successful? What were those areas/topics?