

**Committee Members:** (11 positions, 7 = Quorum)

x	Keith Michel (General Contractors) – Co-Chair	x	Mark Nakagawara (Cities) – Co-Chair
	Liz Anderson (WA PUD Assoc)		Irene Reyes (Private Industry)
x	Sharon Harvey (OMWBE)	x	Mark Riker (Labor)
x	Bruce Hayashi (Architects)	x	Michael Transue (MCA)
x	Diane Pottinger (Water District Representative) (vacant) Fire District Representative	x	Olivia Yang (Higher Education)

**Guests & Stakeholders:**

	Eric Alozie		Judi Gladstone, WASWD
	Logan Bahr, Tacoma Public Utilities	x	Jack Donahue, MFA
	Talia Baker, DES/CPARB Staff	x	Monique Martinez, DES/CPARB Staff
	Randy Black, Lakewood Water District		Scott Middleton, MCAWW
x	John Bowman, Lake Haven Utility District		Roe Paulalasi-Gonzalez
	George Caan, WA PUD Association		Paul Richart, Alderwood Water & Wastewater District
	Bill Clark, WA PUD Association	x	Josh Swanson, Labor
x	Joren Clowers, Sno-King Water District Coalition		Abigail Vizcarra Perez, MetroParks Tacoma
x	Nancy Deakins, DES/CPARB Staff	x	Rob Wettleson, Forma Construction
x	Linda De Boldt, WA Cities	x	Maggie Yuse, Seattle Public Utilities
x	Brandy DeLange, Assoc. WA Cities		Janice Zahn, Port of Seattle
x	Roger Ferris, Washington Fire Commissioners Association		

**The meeting began at 11:33 a.m.**

**Welcome & introductions**

Co-chair Mark Nakagawara welcomed everyone to the meeting and noted the delay between meetings was a result of waiting for the legislative session to end. This was to understand the state of the bill and the new direction of the committee.

Committee members introduced themselves.

**Review/approve agenda**

Monique Martinez pulled up the meeting minutes from March 12, 2024

*Michael Transue moved to approve the minutes from March 12, 2024. Diane Pottinger seconded. The motion was approved by a voice vote.*

**Approve meeting notes (3/12/2024)**

*Michael Transue moved to approve the agenda. Sharon Harvey seconded. The motion was approved by a voice vote.*

**Report out from Michael Transue**

Co-Chair Nakagawara gave Michael Transue the floor for his report back to the committee. His report was shared on the screen for the committee to view.

Michael said that he hoped today would be a report back, and that at the next meeting they could discuss the report's findings in more detail. The goal was to put together options for the language they've been discussing on exigent work and the \$300k limit.

Michael stated that those in the construction world prefer the Design-Bid-Build method, however they acknowledge that in certain cases an alternate procurement method would be a valuable tool.

*Minutes prepared by Jack Donahue, Maul Foster & Alongi, Inc.*

He pointed out a section of the report where he quotes from the CPARB report to the legislature. It provided the language base for the rest of the report.

Michael then added that he hopes to get definitions around the words “exigency,” “efficiency,” and “financial needs.” The goal was to stick with this authority as the exception rather than the rule. He opened the floor for questions.

Co-Chair Nakagawara asked Michael whether he wanted definitions or examples for the above terms. Michael clarified he wanted definitions. Co-Chair Nakagawara said that definitions already existed for those words, and Mark Riker noted that certain terms needed specific parameters. He cited “financial needs” as an example. People complain that construction workers cost too much, and having proper parameters around the term is necessary.

Co-Chair Nakagawara responded that “financial need” comes from ratepayers and taxpayers. It is a guidance to seek out the most cost-effective ways of completing projects. Co-Chair Nakagawara then pointed out that “emergency” changes the definition of financial need, as the obligation to ratepayers and taxpayers would then change. Michael noted he thought the definition of “emergency” was rather broad, and that it’s useful to place sideboards around the terms mentioned previously.

Co-Chair Keith Michel said that he saw this as an actionable item. The expectation was that this committee would bring acceptable language to help define when this tool could be used by a public entity. Mark said that he would be happy to help draft definitions around the terms exigency, efficiency, and financial needs. It may take a while, since contract/statutory language takes a while, but he noted he would be happy to weigh in on it. Co-Chair Michel added that he’s had a chance to review this report ahead of time and asked if the goal was to build off what was previously in place. Michael answered that it seemed like a good goal, and noted he would also work on the definitions along with Mark.

Linda De Boldt added that the terms can be looked at separately, but that they also should work together. She gave an example of a water main break. Exigency demands prompt action to deal with the problem. The public utility would be most efficient if they were able to use their own staff to deal with the problem, and the utility’s way of paying for the work requires an efficient use of funds, establishing a financial need.

Mark stated that Labor’s view is that efficiency and financial need are still worth reining in. He noted Labor does not feel that allowing broad utilization of exigency and emergency and using all three in every case is appropriate, but he does see where those would interplay.

Michael moved on to the next bullet. His report pulled together several statutes that make mention of the word “emergency,” and could not find a threshold as it related to emergency. However, it gave states/counties/cities broad power in addressing them. While there was validity in allowing these entities flexibility, he noted there were parts that were too broad and could be brought in.

Co-Chair Nakagawara noted he was there when Cities introduced this language and said that sometimes “emergency” didn’t describe a scenario as much as a “need,” which is why “financial need” is included as well. When the language was proposed last year, the intent was that there would be different structures for both “emergencies” and “exigent needs.”

Diane then asked Co-Chair Nakagawara if he could provide any examples. Diane also noted she invited to this meeting John Bowman, chair of Lake Haven Utility District, who can help answer any questions as well.

Co-Chair Michel said his interpretation of the bill was about avoiding emergencies, allowing public utilities and municipalities to take a more active approach and address problems before they reach that level. He noted the importance of proposing language that labor and specialty contractors are comfortable with to help justify the circumstance, but that it isn’t worth connecting with an emergency declaration.

Co-Chair Nakagawara provided another example: the City of Seattle limits their work at the point of repair and does not carry out improvements. Work can be disruptive, and if an opportunity comes about to improve and prevent future breaks but the city cannot do more than the repair, this may be a lost opportunity. He added that using a contractor to make those improvements could take months and be incredibly costly.

Mark then said he appreciated that example and reiterated that it is important the language in the definition is strong, since everything Co-Chair Nakagawara described outside of the emergency repair encroaches upon the private sector. City workers do not make the same as what private sector employees make, and those constituents who live in the community and work in the community should also have the opportunity to work on these projects.

Co-Chair Nakagawara stated that the city employees work for the same union as private sector employees. Mark noted they are under different contracts, and thus their negotiated wages are different. Josh Swanson, also with Labor, spoke up and added that city employees are not under prevailing wage, according to their contracts.

Linda said that there was a balancing act that needed to be sorted out. There are clear benefits to city crews doing work, but the book isn't opened so wide that public works projects are encroached upon by city employees. She agreed with Mark that strong definitions are necessary, and pointed out that city crews have a limited capacity and also limited training for these projects. Cities don't want their crews doing improvement works, and there's a natural limitation there since they have maintenance work that needs to be done.

Mark noted that Labor has been met with proposals where work is brought to city employees instead of going to bid, which may negatively impact the workers.

John Bowman agreed with Linda about the limited capacity of city and utility employees, that maintenance is enough of an undertaking for them and that they would rather put work in the hands of people with expertise.

Michael moved on to the next bullet point. He mentioned Co-Chair Nakagawara's statute for first class cities, and wondered if that was worth addressing and couching with the exigency/efficiency/need language. Would it be worthwhile to extend that 10% limit on in-house work to other jurisdictions?

Diane answered that her jurisdiction doesn't have taxing authority.

Brandy DeLange pointed out that the statute applies to first class cities, but also asked Linda if those applied to code cities once they hit a certain population threshold. Linda said that it'd be a solid goal but wants to see how many agencies would benefit from that limitation. She added that the City of Bellevue does not use their crews very much at all, and that the City of Seattle used very strict bookkeeping to ensure they don't go over the 10% threshold.

Co-Chair Michel added that he supports this idea and that it makes sense as a way of ensuring there was a way of metering the work done by a city.

Co-Chair Nakagawara said, speaking as someone with the City of Seattle, that the 10% threshold works well. He was not sure, however, of the capital budgets of other municipalities, such as fire districts or utilities.

Michael added that his hope here was just that this drives conversation and that they hear from second-class cities. However, it's a solution that's worked in the past.

Public entities should review the 10% annual threshold and think of how that fits in with their budgets and be prepared to report back for the next meeting.

Michael moved on to the next bullet point. He called on those who get this authority to report back on how the three caveats (exigency, efficiency, and financial) are met. He did mention that CPARB doesn't necessarily have the budget for that, but that perhaps another organization has the space.

Diane mentioned that it would be a major educational lift to ensure everyone is aware of limitations and stays within those.

Brandy asked how that would look, and Michael suggested an annual report.

Co-Chair Nakagawara wondered if it would be better to make regular public notices, but Mark and Michael disagreed, noting that a report would be all that was needed. Co-Chair Michel asked public agencies if that would work. Linda answered that they shouldn't have to provide notice for every use of the 10%, and if what they're asking for is a report then it should be fine. Given the City of Bellevue's budget, they would have 16 opportunities to make use of that. Michael said that that does sound like a lot of opportunities, but if this use is proven to be the exception rather than the rule that he would not worry much about it.

Moving on to the next point, Michael said that in the past, authority was limited to larger jurisdictions at first, as a test run. He suggested it as a way of easing into this authority, and wondered what the interest in that concept would be.

Committee members noted they should go back and think about it before addressing that idea directly.

Michael mentioned best practices and noted that the committee has been discussing it a lot lately and that the committee should think about putting together a best practice document as this authority is established.

Brandy suggested that MRSC has a primer on bids that they could give out and would help get the ball rolling on establishing best practices.

Linda suggested that reportage back include suggestions and pro/con lists, and that there was room to maneuver there.

Keith thanked Linda for her contributions today, as a newer member of the committee.

### **Establish next meeting agenda**

Brandy asked Co-Chair Michel to provide committee members with action items, as well as with Michael's document. A deadline for notes would also be appreciated. Diane asked that the SHB committee move to a monthly cadence, so that members would have time to get the work done between meetings.

### **Meeting adjourned at 12:50pm.**

### **Action Items**

- 1) Mark Riker and Michael Transue will work on drafting language to create definitions for the following terms: exigency, efficiency, and financial needs.
- 2) Committee members representing public entities should review the 10% annual threshold and think of how that fits in with their budgets and be prepared to report back for the next meeting.