

Business Equity/Diverse Business Inclusion Committee Capital Projects Advisory Review Board

27 May 2022

Committee focus:

- Comprehensive review of RCW 39.10 with the lens of equity (include RCW 39.04 & 39.80).
- Create consistency in statutory language.
- Evaluate and bring forth effective strategies and opportunities for firms to compete.

| | | |
|--|-----------------------------|-------------------------|
| <input checked="" type="checkbox"/> Olivia Yang | Washington State University | CPARB /Committee Member |
| <input checked="" type="checkbox"/> Santosh Kuruvilla | Exeltech | CPARB /Committee Member |
| <input checked="" type="checkbox"/> Lisa Van der Lugt | OMWBE | CPARB /Committee Member |
| <input checked="" type="checkbox"/> Charles Wilson | DES | CPARB /Committee Member |
| <input checked="" type="checkbox"/> Irene Reyes | Excel Supply Company | CPARB /Committee Member |
| <input checked="" type="checkbox"/> Janice Zahn | Port of Seattle | CPARB /Committee Member |
| <input type="checkbox"/> Jackie Bayne | WSDOT OEO | Committee Member |
| <input type="checkbox"/> Cheryl Stewart | Inland Northwest AGC | Committee Member |
| <input checked="" type="checkbox"/> Chip Tull | Hoffman Construction | Committee Member |
| <input checked="" type="checkbox"/> Aleanna Kondelis | Hill International | Committee Member |
| <input checked="" type="checkbox"/> Brenda Nnambi | Sound Transit | Committee Member |
| <input checked="" type="checkbox"/> Linda Womack | MBDA | Committee Member |
| <input type="checkbox"/> Cathy Robinson | City of Lynnwood | Committee Member |
| <input checked="" type="checkbox"/> Shelly Henderson | Mukilteo School District | Committee Member |
| <input checked="" type="checkbox"/> Keith Michel | Forma | Committee Member |
| <input checked="" type="checkbox"/> Young Sang Song | Song Consulting | Committee Member |
| <input type="checkbox"/> Stephanie Caldwell | Absher Construction | Committee Member |
| <input type="checkbox"/> Bill Dobyns | Lydig | CPARB |
| <input type="checkbox"/> Bobby Forch | Forch Consulting | CPARB |
| <input type="checkbox"/> Lily Keefe | USDOT - Northwest SBTRC | |
| <input type="checkbox"/> Sarah Erdman | OMWBE | |
| <input type="checkbox"/> Van Collins | ACEC Washington | |
| <input type="checkbox"/> Cathy Ridley | Exeltech | |
| <input type="checkbox"/> Maja Huff | Washington State University | |
| <input type="checkbox"/> Jerry Vanderwood | AGC of Washington | |
| <input type="checkbox"/> Timolin Abrom | OMWBE | |
| <input checked="" type="checkbox"/> Melissa Van Gorkom | Senate Committee Services | |
| <input type="checkbox"/> Amy Stenvall | Mukilteo School District | |
| <input type="checkbox"/> Cindy Magruder | University of Washington | |
| <input checked="" type="checkbox"/> Carrie Whitton | Forma | |
| <input type="checkbox"/> Rachel Murata | OMWBE | |
| <input type="checkbox"/> John Rose | MRSC | |
| <input type="checkbox"/> Jolene Skinner | LnI | |
| <input type="checkbox"/> Curt Gimmestad | Absher Construction | |
| <input type="checkbox"/> Eric Alozie | NEW Construction | |
| <input type="checkbox"/> Jerry Vanderwood | AGC | |
| <input type="checkbox"/> Hans Hansen | Bailey Construction | |
| <input type="checkbox"/> Bill Frare | DES | |
| <input type="checkbox"/> Andrea Ornelas | Union | |
| <input type="checkbox"/> Rebecca Keith | Seattle City | |
| <input checked="" type="checkbox"/> Greg Bell | Pierce County | |
| <input checked="" type="checkbox"/> Kara Skinner | Integrity Surety | |
| <input type="checkbox"/> Julie Campos | OMWBE | |
| Emily Ho | Port of Seattle | |
| Bruce Hayashi | | |
| Leann Snyder | | |
| Scott Middleton | | |

DRAFT AGENDA

| Item | Purpose | Start |
|--|-------------|----------|
| Welcome and committee member introductions | Information | 10:00 am |
| Review & approve agenda | Action | 10:05 am |

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|---|------------|----------|
| Review & approve 5/6/2022 meeting minutes | Action | 10:10 am |
| CPARB Comments on Draft Section 20 Report | Discussion | 10:15 am |
| Further Discussion On: | | |
| SWR / Small Business Definition | Discussion | 10:45 am |
| Improving Prompt Pay for Diverse Business | Discussion | 11:10 pm |
| Next generation mentor protégé scenarios | Discussion | 11:40 am |
| "Final word" (from committee members) | Discussion | 11:45 am |
| Adjourn | Action | 12:00 pm |

DIGITAL CONFERENCE ACCESS

The committee meeting will be conducted entirely by Zoom digital conferencing.

Online <https://wsu.zoom.us/j/97615048848>

Meeting ID: 976 1504 8848

Join by telephone

Dial: US: +1 253 215 8782 or +1 669 900 9128 or +1 646 558 8656

Meeting ID: 976 1504 8848

Olivia Yang - Washington State University

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Santosh Kuruvilla – Exeltech Consulting

206 713 1241 santosh@xltech.com

Item: **Welcome and committee member introductions**

- Call to Order
- Quorum confirmed.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve agenda**

- Agenda Approved.

Action by: BE/BDI Committee

Status: Approved and complete

Item: **Review & approve 5/6/2022 meeting minutes**

- Correct courtesy spelling on page one of the minutes.
- Minutes approved with correction

Action by: BE/DBI Committee

Status: Approved

Item: **CPARB Comments on Draft Section 20 Report**

- Reported on the comments received to date, and shared the complied feedback form.
- Schedule reviewed, Next Friday the final version of the report is due as a pre-read.
- CPARB Meeting on June 9 is to vote.
- Request for Extension – June 15 for feedback/comments? To be included as appendix rather than an edit to the report.

- Final Report goes from a CPARB Document into a state government, stamped document. Janice will forward the email regarding publishing to Jacob, Rachel, Olivia and Maja.
- Clarify that the comments received after deadline, and were not incorporated into the content of the report, only as an appendix item?
- Report will be sent on behalf of CPARB by DES to the Legislature.
- Comments by the 3rd, so that the committee can review the comments.
- Concerns with how the legislature will consider the comments not approved or reviewed by committee or CPARB, because they were incorporated after the committees approved.
- Maybe provide an extended deadline of June 2nd? So that committee can review, but not for inclusion in the final edits.
- What will the additional time yield? Why allow? Is to be inclusive enough of an answer to the question?
- Add a footnote, or clarification to the report or the compiled comments to explain the comments received between the deadline and June 2nd?
- Committee voted to extend deadline of June 2, with caveat that comments received will be included in the appendices but not necessarily included as edits to the report, dependent upon complexity of the proposed comment.

Action by: Committee

Status: N/A

Item: **Further Discussion On: SWR / Small Business Definition, Improving Prompt Pay for Diverse Business, Next generation mentor protégé scenarios**

- Janice attended DBIA conference – Did we lift up the fact that we need to find more entrepreneurs? Are we talking about building the overall pipeline?
- Different ways we identify businesses. Spectrum of certified to self-identified. Apples and oranges.
 - Definition applied to Public Works. Borrow from Goods and Services RCW? Micro, Mini, Small? Federal Small Business definition.
 - In construction – we have a definition in Public Works that aligns with micro, mini and small based upon percentage of the federal definition. Calibrate the federal def down to ours?
 - If the idea is to build and support the pipeline would a new definition be helpful?
- Small Business Development definition?
- Procurement reform from 6 years ago. Irene will talk to the people who created that original definition and ask about the development of those original definitions in the Goods and Services Statutes.
- Try to avoid building loopholes. Don't make it too confusing for the actual small businesses.
- Prompt Pay: Size standard discussion... practical reality is that a small business has to obtain a line of credit. Personal net work constraint is there. SBA is 1.34 personal net worth. There is a disconnect between the personal net worth and the business receivables. The small continue to stay small due to these constraints.
- Maybe along the lines of a definition could include a size definition that allows access to capital.
- As we arrive at a definition we need to understand the consequences to capitalization, bonding, and other threads that need to be unraveled.
- Talked about the recently stood up Legislative Writing Committee.
- Is there a geographic aspect to this? Olivia discussed the pipeline aspect of this for Eastern Washington, all part of the same full conversation. Spoke to WSU's view on importing versus building up businesses in the area. Making sure that there is work in the pipeline to allow businesses to continue to exist east of the cascades.
- Having a good small business definition could help incubator projects concepts.
- Moved on to conversations around a different style of mentor protégé programs.
- Formal and informal discussion. Elements can be a turn off, and concern that it can be opportunities for big companies to market, when in reality it is not necessarily a growth opportunity.
- MCA is seeing members engaging as a second tier contractor, what they want to see the pool of qualified contractors more readily available. Forming partnership with enterprises where at the beginning it is more structured, and tool oriented for the long run. Some of their members have an interest in growing the pool. Initially a lot of oversight and then over time they can become independent.
- Niche market talent. Mentees comment that they do not get the trade secrets. Or that their

expertise is being stolen through the relationship. Fine line when we discuss this topic because it is complex and challenging and protection is often needed.

- Under the WSDOT example, having a third party involved provides the assessment and judgement of where the companies are at and helps match compatibility. Training is designed to get numbers of peoples in and people out. Training that works the most – is tailored and on the job specific. Get the classroom smaller and understand the construction business and are hands on in the training technique.
- Is there an NDA? No, Joint venture agreement – clause that states what is allowable. Don't think that there is one in the WSDOT? But Linda is the correct person to ask about that.
- Every business owner likes to swing at the baseball differently. The human aspect has to be taken into account.
- Mentor Protégé – is a complex thing! What is the outcome or objective of the program? Even in the federal side – there can be actual fraud. There is lessons learned from the WSDOT program.
- Idea that has not been tried before - having mentor protégé and large education programs combined.
- Back to Prompt Pay – Getting paid sooner than 60-90 days. Getting paid as soon as you have completed the work. Getting paid for work you have done, not work you have not completed.
- What are the challenges around getting them paid within 30 days of actually completing the work?
- Risk for General – overpay a subcontractor. You are not looking at the value of work complete that is in place. You are looking at the cost of completing the work if the subcontractor could not finish the work. Looking at Work Left versus Work Complete.
- Who takes the risk of businesses going out or not completing?
- Propose continue the prompt pay discussion that needs to have depth at our next meeting.

Action by: Committee

Status: None

Item: **New Business**

- Skipped

Action by: Committee

Status: in process

Item: **Final Word**

- Happy memorial day weekend everyone.
- Appreciate how hard this group works.

Action by: Committee

Status: N/A

Adjourn 11:58 pm

From Irene Reyes to Me (Direct Message) 10:10 AM

can you please send the sheet for all the comments

Me to Irene Reyes (Direct Message) 10:12 AM

I am glad to do that!

From Janice Zahn (She, her) CPARB Chair to Everyone 10:12 AM

Hello everyone. Sorry to be late.

From Brenda Nnambi to Everyone 10:19 AM

Can a link to the comments received to date be placed in the Chat?

Me to Rachel Murata (she/her) OMWBE (Direct Message) 10:24 AM

Do was want to share graphics???

I am not sure it is a good idea...

From Rachel Murata (she/her) OMWBE to Me (Direct Message) 10:26 AM

Yeah I don't think we should

And I agree with Keith about not allowing additions past June 9th

From Rachel Murata (she/her) OMWBE to Me (Direct Message) 10:31 AM

That is true, when the report is posted on the legislative website it'll be just a pdf and will be a little separated from the appendices.

From Me to Everyone 10:36 AM

The compiled comments have been sent to your emails.

From Chip Tull - Hoffman Construction Company to Everyone 10:47 AM

Will Maja & Rachel have sufficient time to incorporate comments if we extend the comment period to June 2nd while still meeting the CPARB meeting pre-read date of June 3rd?

From Rachel Murata (she/her) OMWBE to Me (Direct Message) 10:50 AM

I honestly don't see how any of this is feasible, but you're the one doing the hard part!

Me to Rachel Murata (she/her) OMWBE (Direct Message) 11:08 AM

If I can manage to keep them into the box I described, then I think we can pull it off.

Did senator hasagawa get us his stuff?

From Van Gorkom, Melissa to Everyone 11:09 AM

Just wanted to point out that the alternative public works statute points to the goods and services statute with regard to the definition of a small business entity. RCW 39.10.210 states in part: "(20) "Small business entity" means a small business as defined in RCW 39.26.010."

From Rachel Murata (she/her) OMWBE to Me (Direct Message) 11:10 AM

No. We have a meeting with him on the 31st though. And I just remembered I haven't finished that edit based on his idea. I got sucked into watching the legislative hearings and reading articles about the bills

From Aleanna Kondelis-Halpin to Everyone 11:11 AM

@melissa good point. Isn't the definitions there acceptable?

From Rachel Murata (she/her) OMWBE to Everyone 11:11 AM

Melissa, that definition is discussed in the report as well.

From Aleanna Kondelis-Halpin to Everyone 11:11 AM

(22) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that:

(a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either:

(i) Fifty or fewer employees; or

(ii) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or

(b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW.

From Van Gorkom, Melissa to Everyone 11:12 AM

Thanks for pointing that out Rachel, I might have just missed it.

From Aleanna Kondelis-Halpin to Everyone 11:13 AM

(16) "Microbusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross

revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue.

(17) "Minibusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than three million dollars, but one million dollars or more annually as reported on its federal tax return or on its return filed with the department of revenue.

Maybe moves these out of 39.26 and into a more accessible spot

From Santosh Jacob Kuruvilla to Everyone 11:23 AM

<https://wsdot.wa.gov/business-wsdot/equal-opportunity-contracting/capacity-building-mentorship>

<https://www.sba.gov/federal-contracting/contracting-assistance-programs/sba-mentor-protége-program>

From Olivia Yang to Me (Direct Message) 11:29 AM

Bill dobyns can't get in

I'm going to text u both ok

From Scott Middleton - MCAWW to Everyone 11:32 AM

I don't think our contractors are looking to take any work away from small & diverse businesses if that is what's being suggested. If an MCA contractor has a full mechanical contract and wants to sub out controls to a small or diverse 2nd tier, they want a bigger pool to draw from and our contractors have risk in whoever they engage at a 2nd tier level. It's in everyone's interest to make sure those sub tiers succeed.

From Janice Zahn (She, her) CPARB Chair to Everyone 11:33 AM

I need to take a call and will return as quickly as I can.

From Brenda Nnambi to Everyone 11:38 AM

Sound Transit is involved in the WSDOT capacity building mentoring program as a joint effort. ST has evaluation criteria for mentoring programs. Providing an incentive to participate is important; appropriate oversight and encouraging primes to use the proteges on their projects is important.

From Kara Skinner to Everyone 11:38 AM

Not sure this is 100% relevant, but there is a great organization (Build the Circle ArcadewayFinding.com) that partners with large contractors to sponsor scholarships for diverse individuals for foreman and PM training. This helps the industry as a whole, by bringing in more people and more diverse people. This could lead (eventually) to these people starting their own businesses.

From Scott Middleton - MCAWW to Everyone 11:42 AM

Olivia made the classroom/lab analogy. I liken mentoring to registered apprenticeships where you would have "classroom type" training offered and partnerships of some kind between a larger contractor and MBE contractor where they can learned "on the job/field"

From Kara Skinner to Everyone 11:46 AM

I believe banks have the option to offer contractors working capital lines based on and using the contract receivables as collateral. This is an option, not a solution to this issue.

From Scott Middleton - MCAWW to Everyone 11:48 AM

Funds help up unnecessarily in retainage may also need to be looked at. I've had members have to wait for "full" payment until well after final acceptance of their scope and even 1 project where it was after the warranty period had expired. That's a problem.

From Kara Skinner to Everyone 11:48 AM

Yes, Scott!