



STATE OF WASHINGTON
Capital Projects Advisory Review Board

January 21, 2020

Senator Phil Fortunato
Post Office Box 40431
Olympia, Washington 98504-0431

Re: *Response to Letter dated January 13, 2020*

Dear Senator Fortunato,

Thank you for your letter. We appreciate your questions about the Capital Projects Advisory Review Board (CPARB) and our Project Review Committee (PRC). Our letter addresses the areas of concern you identified including opportunities for industry to be involved in the process and compete for the work, access to meetings and meeting minutes, and oversight of budget and schedule performance. A response to the three specific, enumerated questions posed in your letter is addressed in an attachment that follows.

CPARB is a policy advisory board that represents a diverse group of stakeholders. It has improved the quality of public works procurement by recommending legislation, publishing best practices and providing education. Most importantly, it provides a forum that gives voice to a wide range of interests. The PRC reviews applications for project approval, and agency certification and recertifications, evaluating the ability of public bodies to utilize alternative project delivery methods based on the criteria set forth in [RCW 39.10.270](#) and [280](#). It is a unique process both in Washington State and the nation. In contrast, most of the public works executed in our state are procured under [RCW 39.04](#), typically called "Design-Bid-Build," for which there are no comparable opportunities for stakeholder dialogue or review of a public body's preparedness to manage public works.

Industry Participation

Our goal is to be inclusive. We would be happy to speak with anyone who wants to know how to get engaged and help them take advantage of opportunities to participate at CPARB and the PRC.

- Our twenty-three members include specialty contractors, general contractors, engineers, architects, construction trades labor, private sector, insurance, OMWBE and public owners. It includes two Senators and two Representatives representing Republicans and Democrats. Each of our members is charged with engaging the stakeholders they represent. Their contact information is available on the CPARB [Member Information and Bios](#) webpage. I encourage your stakeholders to reach out to the Board members that represent their interests to make sure that their concerns are expressed.
- The PRC's thirty members reflect the same stakeholder groups as the Board to ensure that a wide range of interests are represented in reviewing applications for project approvals, certifications and recertifications.
- CPARB's seven other committees address significant policy areas including reauthorization, business equity/diverse business inclusion, general contractor/construction manager, job order contracting, data collection, education and board development. Committees include non-board members and we encourage all interested stakeholders to participate. All meetings are conducted in accordance with the open public meetings act. Agendas and meeting minutes are posted on our [Current CPARB Committees](#) webpage.

Opportunities to Compete

CPARB promotes competition and fairness in the selection of consultants and contractors for alternative project delivery. Our efforts include creating public owner awareness about the issues at our Board meetings, policy recommendations to the legislature, and training programs for Design-Build (DB) and General Contractor/Construction Manager (GC/CM) methods that are taught at the AGC Education Foundation in Seattle. Over the years, we have helped increase the number of firms competing for GC/CM and DB projects and added contracting requirements related to small, minority, woman and veteran owned businesses. It would be helpful to understand your constituents' specific concerns so that we can convey them to the board.

Public Access to Meetings

Increasing public access to CPARB and PRC meetings is a focus for our Board. Meeting minutes are a record of board member and public comments and accurately reflect the discussion. We agree that posting the minutes as soon as possible is an important goal. Our challenge is that open public meetings in Olympia, which includes many branches of government, are recorded by a single entity. The limited resources mean that we have to wait, along with others, for our turn to receive the minutes. Nonetheless, we appreciate your comment and will endeavor to improve posting times.

You also suggested the possibility of broadcasting and recording Board meetings. We would be happy to discuss the idea with you. It would require funding, a space with the technical capacity to support broadcast and recording, and an agreement with TVW.

Budget and Schedule Oversight

CPARB and the PRC collect information based on [RCW 39.10.230](#), which defines the board's power and duties, and RCW 39.10.270 and 280, which provides criteria for PRC review of project approvals, agency certifications and agency recertifications. We also collect information on GC/CM self-performance in response to the [2013 JLARC Sunset Review of Alternative Public Works Procedures](#).

Our approach to data collection is further informed by the recommendations of the 2013 JLARC report that recommended the reauthorization of RCW 39.10 and stated,

...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... 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.

The report goes on to say,

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. 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.

PRC's application forms for project approvals, agency certifications and agency recertifications include questions about a public body's previous performance managing capital projects that includes budget and schedule information. However, the committee does not have the resources to collect information about the final budget and schedule for each project. That information is available directly from the public bodies that contract for the public works and are accountable to their respective taxpayers and elected officials for the cost and delivery of their projects, whether delivered under RCW 39.04 or RCW 39.10. CPARB does not supplant that role.

We hope these responses and the attached document help to answer your questions. We look forward to continuing the conversation.

Sincerely,



Walter Schacht, FAIA
Chair, CPARB



Rebecca Keith
Vice-Chair, CPARB

cc: Senator Judy Warnick, CPARB
Senator Bob Hasegawa, CPARB
Representative Mike Steele, CPARB
Representative Steve Tharinger, CPARB

RESPONSE TO ENUMERATED QUESTIONS

1. *What data is CPARB/PRC collecting and how it is readily available to the public in demonstrating that Alternative Works public contracting projects are on time and on budget?*
 - a. *Could you please compile a simple list of all GC/CM and Design Build projects over the last 5 years from all approved agencies and those that are one off approved projects that gained approval? A simple excel spreadsheet sorting projects first by agency, then project name showing engineers project estimate cost and the final cost. The projects actual start and end date along with the proposed start and end date.*

Following is a list of the information collected by CPARB and the PRC. All of the information is available to the public on the [Capital Projects Advisory Review Board](#) and [Project Review Committee](#) websites.

The PRC website includes:

- A list of [currently certified public bodies](#) and the dates of certification
- A summary of PRC applications and actions related to project approvals including total estimated project cost by delivery method from 2007 to the present can be located on the [PRC Meetings](#) webpage.
- A summary of PRC applications and actions related to agency certifications and recertifications by delivery method from 2007 to the present can be located on the [PRC Meetings](#) webpage.
- A record of PRC meetings from 2015 to the present on the [PRC Meetings](#) webpage. Meeting reports include applications for each request for project approval, agency certification and agency recertification, the public body's presentation at the meeting, questions from PRC and answers from the applicant, and the letter informing the applicant of the action taken by PRC.

Applications to the PRC require public bodies to provide information about their experience in utilizing the proposed alternative project delivery method that includes budgets and schedules. However, we do not compile this information. Information about final budgets and schedules are available from the public bodies that contract for the work.

Applications for project approval include:

- Identification of applicant
- Brief description of the proposed project
- Projected total cost for the project including a budget and funding status
- Anticipated project design and construction schedule
- An explanation of why the proposed contracting method is appropriate for the project
- A description of the public benefit
- The qualifications of the public body to use the proposed delivery method
- The public body's experience with construction projects
- Preliminary concepts, sketches or plans
- Resolution of audit findings on previous public works projects
- Subcontractor outreach to encourage small, minority and women-owned business participation

Applications for certification to use both DB & GC/CM include:

- Identification of applicant
- Experience and qualifications to determine whether projects are appropriate for alternative contracting procedure(s)
- Project delivery knowledge and experience
- Personnel with construction experience using the proposed contracting method
- Management plan for the contracting method
- Demonstrated success in managing public works projects that requires the public body to provide detailed information, including cost and schedule information, on up to 25 public works projects with a cost greater than \$5 million that the public body has managed over the past 10 years

- Demonstrated success in managing at least one project utilizing the proposed contracting procedure over the past 5 years including description of lessons learned
- Ability to properly manage the public body's capital facilities plan
- Ability to meet the requirements of RCW 39.10
- Resolution of audit findings on previous public works projects
- For applications for certification to use the GC/CM method, a report on GC/CM self-performance
- Subcontractor outreach to encourage small, minority and women-owned business participation

Applications for recertification to use both DB & GC/CM include:

- Identification of applicant
 - Experience and qualifications to determine whether projects are appropriate for alternative contracting procedure(s)
 - Project delivery knowledge and experience
 - Personnel with construction experience using the proposed contracting method
 - Resolution of audit findings on previous public works projects
 - Project data collection that requires the public body to provide a matrix listing all projects with a total value of greater than \$5 million awarded over the past 3 years and the public body's capital plan for the next 3 years
 - For applications for recertification to use the GC/CM method, a report on GC/CM self-performance
 - Subcontractor outreach to encourage small, minority and women-owned business participation
2. *CPARB/PRC is the authority to certify public agencies to use Alternative Works public contracting, how is past performance valued or de-valued when past performance may include project overruns in cost and project timeline?*

PRC review of applications for agency certification or recertification is based on the criteria defined in RCW 39.10.270 that includes demonstrated success in managing public works projects. As noted above, an application for certification requires the public body to provide detailed information, including cost and schedule information, on up to 25 public works projects with a cost greater than \$5 million that the public body has managed over the past 10 years budgets and schedules. An application for recertification requires the public body to provide a matrix listing all projects with a total value of greater than \$5 million awarded over the past 3 years and the public body's capital plan for the next 3 years. PRC reviews for recertification include questions from the committee to the applicant about projects that did not meet budget and/or schedule targets. In scoring the application the committee considers whether the public body has developed measures to deal with overruns.

3. *What are the reasons CPARB/PRC would decertify an agency of continued use of Alternative Works public contracting? In the grading process of certification and or recertification, what value is place on past performance of meeting project deadline and project budget? Is there a point system and if so, what is the value of protecting the taxpayer's pocketbook?*

[RCW 39.10.270 \(5\)](#) states that the PRC may revoke a public body's certification upon a finding, after a public hearing, that its use of DB or GC/CM contracting procedures no longer serves the public interest. As indicated above, the application includes information on schedule and budget. Applications are graded "pass/fail" for each criterion defined in statute. An applicant must receive a "pass" on all criteria defined in the regulation to be certified or recertified.