

Committee Members: (12 members, 7 = Quorum)

x	Keith Michel, Co-Chair, General Contractors	x	Mark Nakagawara, Co-Chair, Cities
x	Liz Anderson WA PUD Association	x	Diane Pottinger Water District Representative
x	Linda De Boldt, WA Cities		Irene Reyes Private Industry
x	Roger Ferris, Fire District Representative		Mark Riker Labor
x	Sharon Harvey OMWBE	x	Michael Transue MCAWW
	Bruce Hayashi Architects	x	Olivia Yang Higher Education

Stakeholders:

	Eric Alozie	x	Jessica Letteney, MFA
	Logan Bahr, Tacoma Public Utilities	x	Monique Martinez, DES/CPARB Staff
x	Talia Baker, DES/CPARB Staff		Scott Middleton, MCAWW
	Randy Black, Lakewood Water District		Roe Paulalasi-Gonzalez
	George Caan, WA PUD Association		Paul Richart, Alderwood Water & Wastewater District
	Bill Clark, WA PUD Association		Abigail Vizcarra Perez, MetroParks Tacoma
x	Joren Clowers, Sno-King Water District Coalition		Rob Wettleson, Forma Construction
x	Nancy Deakins, DES/CPARB Staff	x	Maggie Yuse, Seattle Public Utilities
x	Brandy DeLange, Assoc. WA Cities		Janice Zahn, Port of Seattle
	Judi Gladstone, WASWD		

The meeting began at 11:32 a.m.

Call to order and roll call for quorum

A roll call of members confirmed the meeting quorum.

Review/approve agenda – Action

Co-Chair Keith Michel asked the group to review and provide any edits to the agenda.

Michael Transue moved to approve the agenda, seconded by Sharon Harvey. A voice vote approved the motion unanimously.

Approve meeting notes for December 19, 2023, and February 13, 2024 – Action

Co-Chair Michel asked the group to review and provide any edits to the minutes from the meetings on December 19, 2023, and February 13, 2024.

Diane Pottinger moved to approve the minutes from the meetings on December 19, 2023, and February 13, 2024. Olivia Yang seconded the motion. A voice vote approved the motion unanimously.

SB 6167 Bill Discussion and Next Steps – Discussion

Co-Chair Michel sought feedback from the group regarding the bill's return to the Senate Rules Committee for a third reading.

Michael Transue provided an update, stating that the bill had been referred to the Senate Committee on Local Government, Land Use & Tribal Affairs, chaired by Representative Duerr. He mentioned that Representative Duerr received a critical email about the bill without sufficient time to investigate before the Executive Session's conclusion on February 21. Consequently, the bill was returned to the Senate Rules Committee for a third reading via resolution.

Brandy DeLange highlighted inconsistencies between the agreements of the CPARB SHB 1621 Review Committee (subcommittee) and CPARB itself. Brandy and Michael made adjustments to the bill in the Senate to address these discrepancies. While there was consensus within CPARB, Brandy noted that discrepancies between the subcommittee's agreements and CPARB's led to the changes aimed at resolving inconsistencies.

Brandy further mentioned that at least one party privately expressed concerns about the bill to a legislator. She communicated with Senator Lovelett, who expressed surprise at the bill's return to the Senate Rules Committee for a third reading. Senator Lovelett encouraged CPARB to continue its work and propose something in the future. Brandy suggested that the bill's technicalities and complexities could be improved through redrafting the language. She recommended revising the bill language to aid legislators' understanding and collaborating more closely with a sponsor in the Senate to advocate for the bill's passage. Brandy proposed considering a different senator as a potential bill sponsor.

Michael emphasized that it's the responsibility of CPARB members to ensure legislators are well-informed about the technical aspects of the issues at hand. With upcoming changes in the legislature for the next session, he expressed his intent to discuss these matters with legislators. Michael noted that legislators have previously participated in CPARB meetings, highlighting the importance of addressing the technical nature of the language between now and October.

Brandy suggested that the Association of Washington Cities (AWC) proposed a list of items for workgroup sessions within the Local Government Committee. She recommended developing a concise presentation on Procurement 101 to assist legislators in understanding the bill's impact on various entities. Brandy believed that such information could aid members of the Local Government Committee as SB 6167 progresses through the Senate and the House of Representatives, providing a roadmap to the processes utilized by cities, counties, and public utility districts.

Co-Chair Michel shared that upon the bill's return to the Senate Rules Committee for a third reading, Janice Zahn advised him to focus on CPARB's agenda and drafting bill language by the October 31, 2024, deadline. He agreed with this approach and emphasized the importance of CPARB continuing its work and having recommendations prepared for the 2025 legislative session, which may require multiple meetings to finalize. Co-Chair Michel noted the different recommendations between the subcommittee and CPARB and the need for CPARB to resume its recommendation process for 2025.

Michael concurred, supporting the notion that CPARB should persist in its efforts.

Establish road map to develop and review bill language – Discussion

Olivia Yang requested a review of key issues as part of outlining a road map for developing bill language. She highlighted the threshold limits of \$75,500 for a single trade and \$150,000 for multiple trades (\$75.5K/\$150K), clarification on what the prudent utility management (PUM) section encompasses—whether it includes equipment and materials or just one of those, and the nuanced bidding issue.

Michael noted that the subcommittee had recommended accepting the PUM language and the language regarding the second-lowest responsive or responsible bidder. However, this group recommended accepting neither. He emphasized ongoing discussions on what constitutes equipment versus material and how agencies distinguish between the two. Michael suggested that, for the road map leading to the October deadline, CPARB could request cities to draft language concerning exigent or emergent circumstances as exceptions to the \$300,000 threshold for project costs (\$300K limit). He viewed this as CPARB's task to resolve before the next session.

Liz Anderson confirmed CPARB's agreement on the \$75.5K/\$150K threshold limits and noted the longstanding inclusion of PUM language and its relevance to water-sewer districts, cities, and fire districts.

Co-Chair Michel highlighted the five categories of entities affected by the PUM language: water-sewer districts, fire districts, first-class cities, second-class cities, and potentially adjusting language differently for each.

Olivia inquired whether CPARB intended for all five entity types to have PUM authority, prompting questions about what the \$300K limit encompasses.

Brandy noted the need for nuanced language for identifying all five entities. In her last interaction cities said that the use of the term "prudent utility management" may be a confusing definition for cities. The entities she represents have no opinion on how PUM would apply to water-sewer, irrigation, or fire districts. She agreed that it is not the intention of CPARB to usurp the authority of public utility districts (PUDs). One of the issues before CPARB is to develop a nuanced approach to the emergency application of the \$300K limit and the self performed work that is in the original definition of PUM. In addition, she indicated that CPARB will need to focus on the bid threshold amount and when that can be used for self performed work.

Brandy emphasized the need for nuanced language to address all five entities, noting that cities found the term "prudent utility management" potentially confusing. She reiterated that CPARB's intention isn't to infringe upon the authority of public utility districts (PUDs). Brandy identified the need for a nuanced approach to emergency application of the \$300K limit and self-performed work outlined in the original definition of PUM. Additionally, she highlighted the focus on determining the bid threshold amount and its application to self-performed work. Olivia expressed agreement with Brandy's remarks.

Roger Ferris highlighted procurement as a critical issue for fire districts, noting that the bill was still in committee based on information from his lobbyist, Ryan Spiller. He conveyed appreciation for CPARB's efforts thus far.

Co-Chair Michel identified a pivotal issue as the \$300K limit and the circumstances under which it can be utilized. He tasked Brandy and Michael with gathering input from Mark Riker regarding the self-performed bid limit and its application. Co-Chair Michel anticipated further discussions and negotiations during the legislative session, suggesting a review of potential concessions and their acceptability to CPARB, thereby narrowing down the remaining sticking points.

Liz emphasized that entities don't necessarily require identical language. Representatives of entities seeking changes to the PUM language could propose suggestions for discussion in future meetings to determine the most suitable approach.

Michael agreed with starting from that point, suggesting a review of the December 2023 Report to the Legislature, particularly focusing on Appendix A, point 4, regarding exigency efficiency and financial needs language. He emphasized the need to prioritize this aspect, leaving out discussions on PUM extension and language surrounding the second-lowest responsive/responsible bidder, as those were previously discussed and decided upon. Michael highlighted the lack of discussion or negotiation on the exigency language during the legislative session, indicating that it should be the next focus. Brandy expressed reluctance to revisit past issues already voted on, a sentiment shared by Liz, who stated her constituents' satisfaction with the current statutory language.

Michael proposed revisiting the language with stakeholders and reengaging with labor partners.

Olivia suggested two key issues for the road map: defining the \$300K provisions for different entities and refining language around self-performing work, potentially addressing concerns regarding PUM in an alternative manner.

Michael indicated that the language recommended was consistent with the CPARB recommendations in the Report to the Legislature, focusing on self-performing and the \$300K in-house work, as proposed by Brandy and stakeholders. Olivia sought clarification on whether the \$300K encompassed labor and material costs. Michael noted that he thought that was the total cost.

Brandy requested that the materials with the bill language be resent out to members.

Olivia sought clarity on whether the language implied that the \$300K constituted a single-effort transaction covering both labor and materials. She inquired whether that statement addresses the main problem that CPARB is trying to solve when discussing PUM.

Brandy affirmed this interpretation, explaining that the legislation aimed to grant jurisdictions the authority to self-perform work, addressing various stakeholders' concerns. However, there were disagreements regarding some language points proposed by cities. The negotiation parties agreed to reconvene and discuss the emergency application language surrounding the \$300K limit. Brandy clarified that "emergency application" was broadly used to consider the \$300K limit's potential scope of application.

Brandy shared two example scenarios that highlighted potential instances where the \$300K limit would come into play: (a) when a project is put out for bidding but receives no bids, necessitating the jurisdiction to undertake the work, or (b) in emergency situations such as a water main break requiring immediate fixing, where costs might escalate due to the urgency. The understanding was to acknowledge the current environment, focusing on defining emergency situations and when a jurisdiction could exercise its authority. Brandy recommended that CPARB concentrate on the emergency application of the \$300K limit, determining when it would be appropriate and under what circumstances the emergency authority could be invoked, rather than revisiting the definition of PUM.

Michael acknowledged the shared concerns, proposing that the group draft language to recommend for the 2025 legislative session. He expressed readiness to revisit the previously proposed language and seek input from stakeholders, including the National Electrical Contractors Association (NECA) and Labor.

Olivia inquired whether discussions encompassed all five types of public agencies or solely Brandy's stakeholders.

Brandy clarified that the intent was to establish uniformity for all entities except PUDs, although PUDs were included due to the underlying bill's scope. She emphasized that she was not advocating for other organizations and couldn't speak to their willingness to accept the proposed language. She suggested presenting straw proposal language to all entities to gauge its acceptability given their governing statutes.

Diane raised concerns about documenting issues raised by entities and sought clarification on the process of confirming the acceptability of language with other entities.

Olivia clarified the suggestion of taking language applicable to cities and seeking confirmation of its acceptability from other entities.

Diane emphasized the need to address practical implementation issues, such as how emergency situations are initiated and documented, and their financial management implications.

Roger highlighted fire districts' concerns regarding the sunset clause on threshold limits, believing it has been resolved.

Another issue is articulating how the entity documents the event and costs. When there is a contractor, they get a project completion report, but not for a situation like that emergency. The issue also extends to financial management, and one question is whether the emergency is a separate line item in a financial statement, as well as how people will be educated about this. There are a lot of unknowns about having the set amount in the statute and there are concerns about taking work away from people.

Michael reiterated CPARB's agreement on the permanent increase of threshold limits.

Olivia noted Michael's intention to gather feedback from stakeholders before the next CPARB meeting. She also highlighted concerns from water district stakeholders regarding the \$300K limit and fire districts' concerns about the permanence of bid limits.

Diane emphasized the importance of clarifying the mechanics of implementing the statute to address potential controversies among represented entities.

Michael emphasized that the bill's intention isn't to dictate how entities report on projects; rather, it's crucial to understand the authority granted by the current statute in normal circumstances and emergencies. He emphasized the need to clarify what is and isn't allowed during emergencies for various entities, including cities, counties, and port districts. Michael committed to consulting legal experts to provide insights, suggesting CPARB analyze this issue.

Co-Chair Mark Nakagawara clarified that cities have a maximum limit of \$150K, irrespective of emergencies, with a provision for competitive bid waivers.

Olivia highlighted the challenge where providers may not respond even after an emergency declaration, contributing to the difficulty.

Co-Chair Michel proposed outlining a rough agenda for the next meeting, with Diane suggesting the meeting be held in a month to allow time for stakeholder consultations. The group agreed to convene on April 9.

Linda suggested that members reread the bill to refresh their memory and proposed compiling a synopsis of CPARB's current position and decisions, with Sharon echoing the need for documenting concerns and decisions.

Co-Chair Mark Nakagawara moved to convene the next meeting in a month, on April 9. Michael Transue seconded the motion. A voice vote approved the motion unanimously.

Sharon also echoed that a list of all of the concerns and where CPARB left off would be helpful. Something that documents the different votes and decisions.

Michael recommended reviewing meeting minutes and the CPARB Report to the Legislature, particularly Appendixes A and D, to understand the current status.

Brandy highlighted that the bill digest lacks comprehensive information due to CPARB's progress in negotiations.

Members agreed that reviewing meeting minutes and the CPARB report would provide essential context.

Co-Chair Michel emphasized the challenge of navigating technical details, especially concerning different entity types, adding layers of complexity to drafting legislation.

Nancy suggested linking meeting notes to the CPARB Fact Sheet to focus on key areas.

Co-Chair Michel solicited input for the next meeting's agenda.

Michael committed to reporting on his conversations with stakeholders and proposed updating language, brainstorming alternative language, and discussing it at the next meeting.

Olivia emphasized that she believes the unresolved issues raised by Diane regarding water-sewer districts remain significant.

Diane expressed uncertainty about her constituents' stance on CPARB's progress to date, particularly concerning water-sewer districts' usage of the provision.

Co-Chair Michel highlighted that the discussion on the \$300K self-perform limit stems from its substantial impact on small businesses, Labor, and general contractors, urging for caution to narrow circumstances to retain bidding opportunities.

Diane mentioned Randy Black's valuable contributions from Lakewood Water District and pledged to network with neighboring districts for insights.

Co-Chair Michel encouraged members to leverage networking opportunities and involve stakeholders in discussions for enriched perspectives. He concluded by expressing the importance of having Michael's input for the next agenda item and appreciated Brandy's insights into emergency circumstances, recalling Mark Riker's emphasis on developing precise wording in the past.

Establish next meeting agenda – Discussion

Report out from Michael about consultation with his stakeholders

Refine wording in sections about emergency circumstances and the \$300K limit

Olivia Yang moved to adjourn the meeting; Michael Transue seconded the motion. The motion was approved by a unanimous voice vote.

Meeting adjourned at 12:35 p.m.

Next meeting: April 9, 2024, 11:30 a.m.

Action items:

1. DES will resend the bill language and provide a link to the CPARB Fact Sheet and Report to the Legislature (see below).
2. Michael Transue will engage with his stakeholders to discuss the recommendations.
3. Brandy DeLange and Michael Transue will seek input from Mark Riker of Labor regarding the self-performed bid limit and its utilization.
4. Members are encouraged to review the CPARB Fact Sheet, meeting minutes, and the CPARB Report to the Legislature.
5. Diane Pottinger will talk to John at Alderwood Water & Wastewater.

References/Resources:

CPARB *Fact Sheet: SB 6167 Adopting the Recommendations of CPARB Regarding Local Government Procurement Rules*
[DES Fact Sheet Template \(wa.gov\)](#)

CPARB *Capital Projects Advisory Review Board Recommendations on SHB 1621. Report to the Legislature.* December 31, 2023. <https://des.wa.gov/sites/default/files/2024-01/2023-12-31-SHB1621-legislative-recommendations-report.pdf>

[RCW 35.22.620](#) – First-Class Cities / Public Works

[RCW 39.04.350](#) – Responsible Bidder

[RCW 54.04.070](#) – PUD General Provisions/Contracts for work or materials