

Potential RCW 39.10 Violation Reporting & Follow-up Process

The Capital Projects Advisory Review Board (CPARB), through the Project Feedback Process Workgroup, developed this pre & post incident reporting process to better educate and empower owner agencies to successfully follow RCW 39.10 in the use of Design-Build or General Contractor/Construction Management (GC/CM) alternative delivery procurement. The intent is to identify possible misapplication of the statutory process and educate the owner at the lowest level possible whenever possible.

If a potential RCW 39.10 violation is suspected regarding the use of Design-Build or GC/CM alternative delivery procurement, the individual who suspects this violation is encouraged to reach out to the owner directly in an attempt to resolve the issue at the lowest level possible. If the issue cannot be resolved upon this first contact, please fill out the Potential Violation Reporting form and submit it via email to the Project Review Committee (PRC) inbox at PRC@des.wa.gov.

Once a potential violation has been filed with the PRC:

1. PRC Chair/designee reviews the issue with the CPARB Chair and Administrative staff.
2. PRC Chair/designee makes a call to the potential violator to discuss the issue and to get more background to determine the nature of the issue (*e.g. a potential violation of an RCW, a potential violation of a Best Practice, or an issue to be resolved between Contractor and Owner.*)
3. PRC Chair/designee reviews the call with the CPARB Chair, Administrative staff, and, if the PRC Chair deems it necessary, CPARB's assigned Assistant Attorney General to discuss course of action. The CPARB Chair will determine whether there is a risk of a potential violation of an RCW.
4. PRC Chair/designee documents the call in a log and notes action taken (*e.g. Owner was not aware and will make corrections*). Log remains in effect for 3 years. After 3 years, issue drops off.
 - a. If PRC Chair/designee is satisfied with the owner's response or otherwise determines the issue was not a potential violation of RCW 39.10, issue will be closed.
 - b. If the PRC Chair determines the issue may be a potential violation of RCW 39.10, the issue is passed the to the CPARB Chair.

If issue is raised to CPARB:

1. CPARB Chair/designee discusses the issue with the PRC Chair and CPARB assigned AAG (*as necessary*) to confirm whether the issue is a potential violation of RCW 39.10.
2. CPARB Chair/designee will informally contact owner in question to talk through the issue.
 - a. If satisfied with Owner response, CPARB Chair will log it, and issue is considered closed.
 - b. If not satisfied with response, CPARB Chair/designee will engage with administrative staff and, if necessary, the CPARB assigned AAG to determine next steps.
3. If appropriate, the CPARB Chair writes letter to owner in question to document the issue.
4. If the issue is not resolved, CPARB Chair will follow up with a letter of concern with consultation with administrative staff and the CPARB assigned AAG (*if necessary*).

Please Note: CPARB has no legal authority to take action against an owner for violating RCW 39.10. This process is intended to educate owners and mitigate risk of future non-compliance with the statute. Nothing in this process precludes or limits any individual from bringing legal action against an owner for alleged violations of RCW 39.10.