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## The Legislature Should Confirm that CPARB’s Project Oversight Does Not Apply to Public Housing Authorities

October 26, 2009

Washington’s public housing authorities (PHAs) ask the legislature to confirm that the project oversight function of the Capital Projects Advisory Review Board (CPARB) does not apply to PHAs.

### Some Background

In 2007, the Legislature authorized CPARB to oversee the use by state and municipal governments of alternative forms of procurement for construction projects, such as design/build and general contractor/construction manager. Chap. 39.10 RCW, amended by SSHB 1506.

In 2009, CPARB asked the Attorney General for an opinion whether this project oversight function governs PHAs. The AG recently issued an opinion that it does. AGO 2009 No. 2. This opinion would change a long standing interpretation exempting PHAs from such rules. This interpretation comes from the Housing Authority Law that says “no provision of law with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to an authority unless the Legislature shall specifically so state.” RCW 35.82.070(10). Accordingly, previous informal AG opinions had concluded that PHAs are exempt from state procurement rules. Instead, other procurement rules govern PHAs from HUD, USDA-Rural Development, and other funders.

PHAs seek to restore this understanding with this one change to the Housing Authority Law:

No provision of law with respect to the acquisition, **development**, operation, or disposition of property by other public bodies shall be applicable to an authority unless the Legislature shall specifically so state. RCW 35.82.070(10)

### Reasons to Continue PHAs’ Exemption from CPARB Project Review

<p><b>PHAs are not like other public builders:</b></p> <ul style="list-style-type: none"> <li>• HUD and USDA-Rural Development, which provide most financing for PHA development, impose extensive and detailed regulation on procurement.</li> <li>• PHAs have no taxing or levy authority.</li> <li>• They must borrow or compete for financing like private builders.</li> </ul>	<p><b>PHAs Did Not Participate in Drafting SSHB 1506</b></p> <p>The drafting of SSHB 1506 admirably included all public stakeholders, including the state, UW, cities, counties, parks, school districts, and ports. Testimony to the House Committee reported the process to be one of “collaboration and negotiation”, “there was unanimous support on the bill” and “no one was left out of the process.” House Bill Report, pages 7 -8. Except PHAs did not participate. This did not seem strange because of the widespread understanding that PHAs were exempt. The issue arose only after the bill passed and the AG issued its opinion. By this opinion, PHAs now find themselves subject to a law they had no part in drafting, that does not account for their needs, and that would impose oversight already imposed by the federal government and other funders.</p>
<p><b>CPARB project oversight would duplicate federal oversight.</b></p>	
<p><b>Additional rules would make affordable housing construction more expensive.</b></p>	
<p><b>Does Not Affect Prevailing Wages</b></p> <p>PHAs’ exemption from CPARB would <b>not</b> change the prevailing wage requirement, which applies unless preempted by Davis-Bacon wage levels.</p>	