

Capital Projects Advisory Review Board  
**Project Feedback Process Workgroup**

Meeting Notes 02/15/2024

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**Committee Members:** (14 members, 8 = Quorum)

- |  |   |
|--|---|
| X Dave Johnson Co-Chair, General Contractors | X Art McCluskey, Owner General Public       |
| X Jeff Gonzalez, Co-Chair, Owners State      | X Karen Mooseker, School Districts          |
| X Kurt Boyd, Specialty Subcontractors        | X Mike Pellitteri, Specialty Subcontractors |
| X Marvin Doster, General Contractors         | X Irene Reyes, Private Industry             |
| X Lekha Fernandes, OMWBE                     | Linneth Riley Hall, General Owner           |
| Bobby Forch, Jr., Disadvantaged Businesses   | Robynne Thaxton, Private Industry           |
| X Thomas Golden, Design Industry-Architects  | X Olivia Yang, Higher Ed                    |

**Guests:**

- |                            |                          |
|----------------------------|--------------------------|
| Talia Baker, DES Staff     | Scott Middleton, MCA     |
| Ananda Gordon-Peabody, MFA | Janice Zahn, CPARB Chair |

**Co-Chair Jeff Gonzalez called the meeting to order at 11:05 a.m.** A quorum was established.

**1) Review and approve agenda - Action**

Co-Chair Gonzalez reviewed the agenda and asked the group for any edits before proceeding.

*Kurt Boyd moved, seconded by Marvin Doster, to approve the agenda. The motion was approved by a voice vote.*

**2) Approve minutes from 1/18/2024 – Action**

Co-Chair Gonzalez asked the group for any edits to the meeting minutes from January 18, 2024. Talia Baker noted there was one correction to be made and added in the chat: "There is a correction to add 'based on outside CM' before the representation that is highlighted."

*Tom Golden moved, seconded by Kurt Boyd to approve the minutes as amended. The motion was approved by a voice vote.*

**3) Define "Issue" – Discussion/Action**

- a) Co-Chair Gonzalez shared on screen a document that captured many of the points that had been discussed with this group and outlined the reporting process and definition of "issue." He noted on the document the current definition of "issue" as discussed by this group is: *Non-compliance with RCW 39.10 or CPARB published DB or GC/CM Best Practices.*
- b) Over the last several meetings, Co-Chair Gonzalez and Co-Chair Johnson noted trends and common points in the discussions and compiled them into this reporting process. They wanted to minimize the drain on existing resources and keep the process manageable and at the lowest possible level.
- c) Co-Chair Gonzalez walked through the document providing an overview of the various sections: preventative measures, draft proposed process for post-incident occurrence, and the definition of "issue."
- d) Related to the definition of "issue," a concern was noted with the specific line of "noncompliance with a best practice" as best practices are only guidance, not mandatory standards. It was suggested that noncompliance was limited to RCW 39.10. The charge of the PRC is to determine whether an entity follows the RCW requirements as it relates to Design-Build or GC/CM, and it was noted that this definition does not fit within that role.
- e) Another member agreed with this point, adding that this may impact those who do have good judgement and are making a decision that makes sense for the project but doesn't explicitly "comply" with best practices.

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- f) There is a need to consider what is explicitly indicated in best practices guidance, as well as what is missing. This would impact whether someone violates the best practices or whether there are no best practices. Additionally, there is some validity in the fact that there is a community consensus that developed the best practices and there should be some weight to that.
- g) Another member pointed out that there is a reason that the best practices were published by CPARB and as such makes sense to include them in the definition of “issue.”
- h) In terms of best practice, there may be various ways of interpreting these best practices. It’s also important to consider the fact that best practices are always changing, and some best practices may now be standard practice. There is a need to define best practices and create a separation between the RCW and guidelines.
- i) There was a question about why best practices are called best practices and not common practices. The way that it appears in the definition on the document was specifically calling out the CPARB-approved Design-Build or GC/CM best practices guidelines.
- j) Context was provided around the origin of the development of best practices guidelines. Much of the RCW 39.10 includes negotiations between different parties and stakeholders, and it is a particular type of effort to get an agreed upon idea into legislation. There is a level of flexibility in being able to change something when it is best practice. While there is statutory weight given to RCW compared to best practice, a violation of the RCW has graver consequences compared to a violation of an approved CPARB best practice. There may be an opportunity to have different approaches to address a violation of each of those. For example, if someone violates a best practice after a project is approved, this may be an educational/learning opportunity to address this.
- k) There is a need to understand where the regulatory authority lies and that addressing violations of best practices may be beyond that scope. Additionally, there is a need to define and understand best practices, common practices, etc. There are some published guidelines by CPARB but those are dynamic resources. Concern was noted about straying away from what CPARB was created to do and relying on a set of documents that may not be up to date.
- l) In terms of what is considered an issue and the discussion of noncompliance, one important thing to note is that some issues may slip through the cracks if noncompliance is limited to the RCW. However, it may be more meaningful to document and address noncompliance issues with the RCW, which would then lead to a best practice.
- m) There is also a need to create a forum to vet the issues that are being reported and determine whether they are a best practice issue or violation of the RCW. This would also include review of and resolution for issues with best practices so that accountability and consistency can still be tracked. However, there is a need to ensure that the PRC and CPARB are not straying beyond their statutory authority.
- n) There is limited capacity for CPARB to draft and update best practices documents. Perhaps one of the results from this committee could be to accelerate the efforts of reviewing and updating the best practices documents. As a result, members of this committee could be supporting those efforts to update the best practice documents.
- o) It was noted that best practices have been a sticking point for this committee and based on the discussion, the definition of “issue” may be contracted rather than expanded. One question was asked about whether there should be a forum to resolve issues with best practices.
- p) It was noted that best practices are important and there is a desire to not lose the ability to use the best practices as a means to enforce the RCW. Additionally, there may be an opportunity for a forum to discuss best practices, separate from the group that updates them.
- q) One member shared that at their agency there is a Design-Build working group that serves as a forum to discuss issues, lessons learned, and best practices related to Design-Build. This may be an opportunity to replicate this forum and bring this idea to the Education Connections Committee.

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- r) One member noted that, as part of the Education Connections Committee, there were Design-Build classes out of the AGC's Education Foundation. There are currently GC/CM classes offered twice a year, and throughout those classes they incorporate discussion around best practices. It's helpful to be able to leverage those existing resources and opportunities for education.
- s) Perhaps there would be an opportunity to add a question in the PRC application that asks about training, and with that start sending people to some of the training sessions so that the problems with violations decrease overall. Then maybe RCW violations can be dealt with more diligently and best practices can be dealt with more informally.
- t) It was suggested that in addition to drafting a summary of what has been discussed by this group, the Committee Chairs should also include their observations and recommendations. That way, when it gets elevated to CPARB, Janice and other board members can share their thoughts on direction and priorities for this committee.
- u) There is also a need to account for applications who may be misinformed or not do not understand the RCW. Additionally, one member pointed out that a lot of people have questions and that there is often confusion around best practices and requirements; there is a need to direct people to the right places to get answers.
- v) A question was posed of "what is our role as a workgroup"? Additionally this group was asked about whether there a desire to keep this workgroup open as a forum to hear issues as it relates to best practices. Should it be kept within this group, or place it elsewhere and if so, where would that be? There is a need to have a place to discuss these issues.
- w) One answer was that the group just take on the role of being the clearinghouse for these issues since this committee is already formed. However, some felt that their job had been done and that this task should go towards different committees.
- x) Another suggestion was that the group take a step back and look at the other committees that exist because there may be a better place to take on these conversations. The CPARB chairs could be a better option. There is a need to consider who has time and what their qualifications are because everyone has other responsibilities. One thing to note is that not everyone in CPARB fully understands construction procurement so it may be difficult to appoint people with time.
- y) There have been past discussions about CPARB sponsoring some sort of open forum about best practices. It was suggested that establishing these forums may be a good next step.

#### 4) Questions on PRC Applications – Discussion

- a) There is a need to update questions for applications. For a long time, PRC was focused on the project itself, but it may be time to shift the focus to the owner. Owners should be asked open ended questions, for example: are you a 39.10? Is this your first time? The focus should now be on owner-preparedness.

#### 5) Next Meeting Agenda – Discussion

- Thursday, March 21, 2024 from 11:00am – 12:30pm
- Approve Agenda
- Define Issue
- Roles and Responsibilities of Workgroup
- Forums to address issues
- Next Meeting Agenda

**Meeting Adjourned at 12:28 p.m.**

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### Action items

- a) Co-Chair Jeff Gonzalez and Co-Chair Dave Johnson to ask Curt Gimmestad to attend the next Committee meeting.

### Workgroup Parking Lot:

- a) Who can stakeholders reach out to when they identify an issue or grievance? (*Clearinghouse, Discussion Forum*)
- b) What are the steps to take once an issue has been identified? **Create a Form with guidelines and protocols? Follow-up form when a complaint has been identified?** (*1:1, contacting local trade association, bring to CPARB, use legislation changes only as a last resort*)
- c) Who has the accountability authority? (Auditor's Office? AG?)
- d) What are the metrics/issues? (*How/what to track*)
- e) What are the consequences of not complying with the statute? (*Levels of Escalation: Delay in project\cert approval by 30-60 days? Attend CPARB meeting to report on how resolved issue/complaint?*)
- f) What is the best way to educate the community? (*Best Practices, Lessons Learned, Education Conn. Comm. resources*)
- g) How can the information regarding feedback\grievances and consequences of noncompliance be distributed? (*Clearinghouse/Library of Issues for future reference if applicant comes back to PRC*)
- h) Owner Preparedness – examples what an ideal application will look like, what to avoid, links to best practices documents, etc.