

# **CAPITAL PROJECTS ADVISORY REVIEW BOARD**

---

## **Recommendations on SHB 1621**

**Report to the Legislature  
October 10, 2024**

## **CAPITAL PROJECTS ADVISORY REVIEW BOARD**

The Capital Projects Advisory Review Board (CPARB), authorized by RCW 39.10, reviews alternative public works contracting procedures and provides guidance to state policymakers on ways to further enhance the quality, efficiency and accountability of all public works contracting methods.

### **EXECUTIVE SUMMARY**

The 2023 Legislature passed Substitute House Bill 1621 standardizing a number of issues and limits for multiple public entities, including first and second-class cities, public utility districts (PUDs), water-sewer districts, and fire districts. The effective date of the bill was delayed to June 30, 2024, to allow CPARB to review and make recommendations to the legislature by December 31, 2023.

The CPARB created the SHB 1621 Review Committee with members of public, private industry and stakeholders to consider the impacts of this bill and identify recommendations. The Committee met biweekly from June to December 2023 and submitted their recommendations to CPARB.

CPARB recommendations dated December 19, 2023, were not incorporated to the law through legislative process and SHB1621 as originally written is in effect as of June 30, 2024. CPARB and the CPARB SHB 1621 Review Committee have continued meeting throughout 2024, continuing stakeholder work associated with this bill.

### **CPARB MAKES THE FOLLOWING RECOMMENDATION:**

1. Summarize results of committee voting – Reference SHB 1621 Committee Matrix of recommendation
  - a. Bidder Responsibility determination
  - b. Exceptions to work threshold up to 300K
  - c. Prudent Utility Management definition
  - d. Annual 10% of budget threshold

### **APPENDICES**

- A. Stakeholder work summary
- B. SHB 1621 Recommendations Matrix
- C. DRAFT amended SHB 1621 Act with changes noted October 10, 2024
- D. CPARB Members & SHB 1621 Review Committee Members & Stakeholders
- E. CPARB SHB 1621 Report Recommendations dated December 19, 2023 (not adopted)

## STAKEHOLDER WORK BY CPARB

1. Bidder responsibility determinations outside of criteria already set forth in RCW 39.04.010 and 39.04.350, **discuss deleting the bill paragraph, and modify the language to point to common reference in the law.**

SHB 1621 uses language currently granted to second-class cities, allowing them to refuse low bids by means of a responsibility determination, and extends the concept to PUDs, first-class cities, water/sewer districts, and fire districts.

The Board **will consider complete removal** of additional Lowest Responsible Bidder criteria in SHB 1621 as it would be applied to cities, water-sewer districts, and fire districts. **The Board will recommend inserting reference to existing RCW 39.04.010 and 39.04.350.**

The inclusion of additional Lowest Responsible Bidder criteria in SHB 1621 expands the responsibility criteria outside of the current statute governing general public works provisions for bidder responsibility in RCW 39.04.350. This additional language creates confusion for contractors. While this language pre-exists for the second-class cities in RCW 35.23.352(2), members of the committee expressed concerns regarding the provision to allow for the rejection of a low bidder in light of an issue with a bidder's responsibility or lack thereof.

2. Exceptions to the public employee work thresholds on projects up to \$300k. SHB1621 includes exceptions to what is included in the self perform 300K project limit. Notably materials and equipment defined and then excluded from the project costs. **The Board will recommend eliminating these exceptions and modify the language to state all project costs are included in the 300K threshold.**
3. Prudent Utility Management definition as applied to cities, water-sewer districts and fire districts.

**The Board will recommend modifying Prudent Utility Management as the definition for when the 300K self perform work can occur and instead include a new definition of Exigent circumstances in it's place.**

*Exigent public works needs are due to unforeseen circumstances that result in situations that compromise the proper performance of essential government functions and there is a need to avoid, prevent or alleviate serious impacts (financial or otherwise), harm or injury, and the use of a competitive procurement would prevent the urgent action required to address the situation.*

4. **The Board will recommend adding an annual maximum dollar limit threshold for the cumulative amount of individual 300K self perform projects the public entity can perform of no mor than 10% of the entities annual capital budget.**

**CPARB MEMBERS AND SHB 1621 REVIEW COMMITTEE MEMBERS AND STAKEHOLDERS****Committee Members:**[Liz Anderson](#), WA PUD Association[Sharon Harvey](#) (OMWBE)[Bruce Hyashi](#) (Architects)[Keith Michel](#) (General Contractors) - Co-Chair[Mark Nakagawara](#) (Cities) - Co-Chair[Diane Pottinger](#), North City Water District[Irene Reyes](#) (Private Industry)[Mark Riker](#) (WA State Building & Construction Trades Council)[Michael Transue](#) (Mechanical Contractors Association Western Washington)**Committee Stakeholders:**

Eric Alozie, NWE Construction Co.

Logan Bahr, Tacoma Public Utilities

Randy Black, Lakewood Water District

George Caan, WA PUD Association

Bill Clark, WA PUD Association

Joren Clowers, Sno-King Water District Coalition

Linda De Boldt, City of Bellevue

Brandy DeLange, Association of WA Cities

Judi Gladstone, WA Assoc. of Sewer and Water Districts

Scott Middleton, Mech. Contractors Assoc. Western WA

Paul Richart, Alderwood Water &amp; Wastewater District

Abigail Vizcarra Perez, MetroParks Tacoma

Rob Wettleson, Forma Construction

Maggie Yuse, Seattle Public Utilities

**CPARB Members:**

Janice Zahn (Chair), Ports

Keith Michel (Vice-Chair), General Contractors

Corey Fedie, Public Hospital Districts

Lehka Fernandes, OMWBE

Bobby Forch, Jr., Disadvantaged Businesses

Sen. Bob Hasegawa, Senate (D)

Bruce Hayashi, Architects

Janet Jansen, Dept. of Enterprise Services

Santosh Kuruvilla, Engineers

Karen Mooseker, School Districts

Mark Nakagawara, Cities

Matt Rasmussen, Counties

Irene Reyes, Private Industry

Mark Riker, Construction Trades Labor

Linneth Riley Hall, Transportation

John Salinas, II, Specialty Contractors

Kara Skinner, Insurance/Surety Industry

Rep. Mike Steele, House of Representatives (R)

Robin Strom, General Contractors

Josh Swanson, Construction Trades Labor

Rep. Steve Tharinger, House of Representatives (D)

Robynne Thaxton, Private Industry

Sen. Judy Warnick, Senate (R)

Olivia Yang, Higher Education

